



## TERMS AND CONDITIONS OF USE

Set out below are the Terms and Conditions to become a Supplier to the Customers within Lea Marston Hotel and The Abbey Hotel Marketplace.

You can accept the terms by clicking the "Accept" icon at the bottom of the page. If you do not accept these terms and conditions you will be not be able to access Customers within Lea Marston Hotel and The Abbey Hotel Marketplace. Once you have accepted these terms you will only be required to accept them again if there are any changes. Lea Marston Hotel and The Abbey Hotel reserve the right to change these Terms and Conditions from time to time.

Should you have any questions regarding any of these Terms and Conditions set out below, please contact Tom Kirkham, Managing Director, on 01675 471 274 or via email on [tom.kirkham@leamarstonhotel.co.uk](mailto:tom.kirkham@leamarstonhotel.co.uk).

### 1. TERMS AND CONDITIONS

1.1. The Supplier is given access to Lea Marston Hotel and The Abbey Hotel Marketplace subject to these Terms and Conditions.

1.2. Lea Marston Hotel and The Abbey Hotel may amend these Terms and Conditions from time to time. It is the obligation of the Supplier to check the conditions from time to time. Continued use of Marketplace, by accepting orders from Customers within Lea Marston Hotel and The Abbey Hotel Marketplace constitutes acceptance of these amended terms.

1.3. Access to Lea Marston Hotel and The Abbey Hotel Marketplace and Customers within Marketplace is offered only to entities that can make legally binding contracts. Access to Lea Marston Hotel and The Abbey Hotel Marketplace and Customers within Marketplace is not available to persons under the age of 18 and any persons who are legally prohibited from entering into legally binding contracts. Failure to comply with this requirement, you may be liable to civil and criminal prosecution.



## 2. SERVICE

2.1 Lea Marston Hotel and The Abbey Hotel Marketplace are made available to Supplier to:

- (a) provide their Supplier Catalogue to the Customers within Lea Marston Hotel and The Abbey Hotel Marketplace; and
- (b) enable Customers within Lea Marston Hotel and The Abbey Hotel Marketplace to transmit orders and otherwise conduct business with Supplier.

2.2 Lea Marston Hotel and The Abbey Hotel do not:

- (a) accept responsibility for the acts or omissions of any Customer within Lea Marston Hotel and The Abbey Hotel Marketplace including without limitation the delay or failure to pay for goods or services provided to a Customer; or
- (b) warrant the accuracy, completeness, merchantability, currency or fitness for purpose of any goods, services or information provided by any Customer.

2.3 Any order for or purchase of goods or services made through Lea Marston Hotel and The Abbey Hotel Marketplace will be a separate contract between a Supplier of that good or service and the Customer within Lea Marston Hotel and The Abbey Hotel Marketplace. Lea Marston Hotel and The Abbey Hotel is not a party to such contract.

2.4 Supplier of the goods or services will impose its own Terms and Conditions to govern the relationship arising by virtue of an order of goods or services from a Customer within Lea Marston Hotel and The Abbey Hotel Marketplace. It will be that Customer's responsibility to find out the terms and conditions imposed by Suppliers on any transactions the Customer may enter into.

2.5 Supplier agrees to actively participate with Lea Marston Hotel and The Abbey Hotel's online purchasing system (which is powered by Marketboomer, [www.marketboomer.com](http://www.marketboomer.com)) and to use the Supplier Application known as ActiveSupplier (made available by Marketboomer) or other integrated means (directly with the suppliers back end systems and via Marketboomer) to communicate electronically with Lea Marston Hotel and The Abbey Hotel. Where Supplier does not have an Internet capability, Supplier can be supported directly by Marketboomer. Please see Marketboomer's Supplier Agreement for details of Marketboomer's fees and charges.



2.6 Customer may use any supplier for the supply of goods and services on Lea Marston Hotel and The Abbey Hotel Marketplace subject to the supplier enabling Customer as one of Supplier's customers in ActiveSupplier.

### **3. SUPPLIER CATALOGUE AND PRICING**

3.1 Suppliers are responsible for the accuracy and timeliness of prices for Supplier Products listed on the Supplier Catalogue uploaded to the Host Server in Marketboomer.

3.2 Lea Marston Hotel and The Abbey Hotel are not liable for loss or damage of any sort with respect to the prices or price changes of Suppliers, including where price changes have not been reflected on Supplier Catalogue within Lea Marston Hotel and The Abbey Hotel Marketplace.

3.3 Lea Marston Hotel and The Abbey Hotel Marketplace provide a price comparison facility. The information given by this facility is based on the most recent price information provided by Supplier to Lea Marston Hotel and The Abbey Hotel. The information supplied through the price comparison facility is believed to be accurate, but Lea Marston Hotel and The Abbey Hotel will not warrant or guarantee such accuracy.

3.4 Supplier reserves the right to decline to fulfill orders received from a Customer, in particular, if that Customer has exceeded credit limit or otherwise previously failed to pay within agreed terms and conditions between Supplier and Customer.

### **4. RULES OF USE**

4.1 Supplier must not:

- (a) use, allow any other party to use Lea Marston Hotel and The Abbey Hotel Marketplace, or transact with Customers within Lea Marston Hotel and The Abbey Hotel Marketplace in connection with any activities that breach any laws, infringe a third party's rights, or breach any standards, content requirements or codes promoted by any relevant authority;
- (b) use Lea Marston Hotel and The Abbey Hotel Marketplace and its content for any purpose other than commercial use
- (c) post or transmit on or through Lea Marston Hotel and The Abbey Hotel Marketplace any information or material of any kind that may be, or that may encourage conduct that may be, unlawful, threatening, abusive, defamatory, obscene, vulgar, pornographic, profane or indecent;



- (d) post or transmit on or through Lea Marston Hotel and The Abbey Hotel Marketplace any material of any kind that contains a virus or other harmful component; or
- (e) use Lea Marston Hotel and The Abbey Hotel Marketplace for the purpose of or as a means to send "flame" or "spam" emails.

4.2 Supplier agrees to assume full responsibility for any costs associated with maintaining computer equipment, including ability to access the Internet.

4.3 Lea Marston Hotel and The Abbey Hotel reserve the right to cooperate with and list fully any law enforcement authority in any jurisdiction in relation to any lawful direction or request to disclose the identity or other information about the Supplier or any other user of Lea Marston Hotel and The Abbey Hotel Marketplace.

## **5. TRANSACTION FEES AND BILLING**

5.1 In addition to the Usage Fees charged by Marketboomer International Limited for access to Marketboomer's ActiveSupplier application in accordance with the Marketboomer Supplier Agreement signed by Supplier, there will be no charges by Lea Marston Hotel and The Abbey Hotel to the Supplier for an order sent by a Customer within Lea Marston Hotel and The Abbey Hotel Marketplace:

As a Supplier of Lea Marston Hotel and The Abbey Hotel Marketplace, you will be charged Usage Fees in accordance with the Marketboomer Supplier Agreement. Usage Fees levied by Marketboomer are independent of any additional fee charged in accordance with these Terms & Conditions

5.2 Lea Marston Hotel and The Abbey Hotel may change the Charges in clause 5.1 at any time. Lea Marston Hotel and The Abbey Hotel will provide 30 days written notice to Supplier of any changes to the Charges identified in clause 5.1.

## **6. SECURITY OF SUPPLIER ACCESS TO MARKETPLACE**

6.1 Supplier must not:

- (a) provide access to Lea Marston Hotel and The Abbey Hotel Marketplace to any person or entity outside the Supplier's organisation; and
- (b) re-sell or re-distribute any information contained on Lea Marston Hotel and The Abbey Hotel Marketplace, without Lea Marston Hotel and The Abbey Hotel prior written consent.



6.2 Without limiting clauses 5.1, Lea Marston Hotel and The Abbey Hotel will be entitled to assume that any user who accesses Lea Marston Hotel and The Abbey Hotel Marketplace has the Supplier's authority, except for any use occurring after the Supplier has given Lea Marston Hotel and The Abbey Hotel or Marketboomer International Limited notice to the contrary.

## **7. TRADEMARKS, LINKS AND ADVERTISING**

7.1 The trademarks on Lea Marston Hotel and The Abbey Hotel Marketplace are the intellectual property rights of the relevant owner of such trademarks. Nothing on Lea Marston Hotel and The Abbey Hotel Marketplace should be construed as granting the Supplier any right to use any trademark without the express permission of Lea Marston Hotel and The Abbey Hotel or any other owner of the trademarks listed or set forth on the marketplace.

7.2 Lea Marston Hotel and The Abbey Hotel Marketplace may contain advertisements, links and other pointers to websites of third parties. In such case, Lea Marston Hotel and The Abbey Hotel:

- (a) are not responsible for the contents of any third party's linked website; and
- (b) do not recommend or endorse the contents of any third party's website.

## **8. MARKETING OBLIGATIONS**

8.1 Lea Marston Hotel and The Abbey Hotel will actively promote Lea Marston Hotel and The Abbey Hotel Marketplace to Customers within Lea Marston Hotel and The Abbey Hotel Marketplace in order to facilitate and increase transactions with Suppliers established to trade within Lea Marston Hotel and The Abbey Hotel Marketplace.

8.2 Lea Marston Hotel and The Abbey Hotel reserve the right to endorse Supplier's participation within Lea Marston Hotel and The Abbey Hotel marketplace. This includes the right to publish Supplier Name, Mark or any Logo on the Lea Marston Hotel and The Abbey Hotel website and in Marketing Materials. Lea Marston Hotel and The Abbey Hotel will seek written consent of Supplier, such consent not being unreasonably withheld.



## **9. LIMITATION OF LIABILITY**

9.1 Other than warranties and conditions implied by relevant legislation including the Trade Practices Act 1974 (Cth), the exclusion of which from an agreement would contravene a statute or cause part or all of this clause to be void ("Non-excludable Condition"), Lea Marston Hotel and The Abbey Hotel exclude all terms, conditions and warranties in relation to the service provided to Customers through Lea Marston Hotel and The Abbey Hotel Marketplace.

9.2 Except where Lea Marston Hotel and The Abbey Hotel liability cannot be excluded by virtue of relevant legislation including the Trade Practices Act, Lea Marston Hotel and The Abbey Hotel exclude all liability to the Supplier for any loss or damage, including without limitation liability arising in contract, tort or bailment. For breach of any Non-excludable Condition, Lea Marston Hotel and The Abbey Hotel limit their liability to:

(a) where the breach relates to goods:

- i. the replacement of the goods;
- ii. the repair of the goods;
- iii. the payment of the costs of replacing the goods; or
- iv. the payment of the costs of repairing the goods; and

(b) where the breach relates to services:

- i. the supplying again of those services; or
- ii. the payment of the costs of having those services supplied again.

9.3 Lea Marston Hotel and The Abbey Hotel exclude all liability to the Supplier for any consequential or indirect loss or damage, including without limitation loss of profits, arising out of or in relation to the Supplier's use of or access to, or any inability to use or access, Lea Marston Hotel and The Abbey Hotel Marketplace or any content on Lea Marston Hotel and The Abbey Hotel Marketplace, or any Customers within Lea Marston Hotel and The Abbey Hotel Marketplace whether in contract, tort or otherwise.

9.4 Lea Marston Hotel and The Abbey Hotel are not liable for opinions or behaviour of other users of Lea Marston Hotel and The Abbey Hotel Marketplace, including any information or advice provided by them or any defamatory statement made by them or any offensive conduct on their part. No advice or information, whether oral or written, obtained by or from Lea Marston Hotel and The Abbey Hotel Marketplace creates any warranty not expressly made in this agreement.



## **10. PRIVACY**

10.1 Lea Marston Hotel and The Abbey Hotel will not provide to any third parties any information that could reasonably identify any party who uses Lea Marston Hotel and The Abbey Hotel Marketplace. Company information, including name, address, mailing address, shipping address, email address, telephone numbers, fax numbers, account details, and transaction history within Lea Marston Hotel and The Abbey Hotel Marketplace remain private to us and strictly confidential.

8.2 Lea Marston Hotel and The Abbey Hotel Inc may share, licence or sell data to affiliates and third parties, where such data cannot reasonably identify any Suppliers, Customers within Lea Marston Hotel and The Abbey Hotel Marketplace or any other third parties who may otherwise use Lea Marston Hotel and The Abbey Hotel Marketplace.

## **11. SUSPENSIONS AND TERMINATION**

11.1 Lea Marston Hotel and The Abbey Hotel may:

- (a) suspend the Supplier's access to Lea Marston Hotel and The Abbey Hotel Marketplace at any time for any period if the Supplier is in breach of these Terms and Conditions; and
- (b) terminate this agreement and the Supplier's access to Lea Marston Hotel and The Abbey Hotel Marketplace at anytime without notice.

11.2 Supplier may terminate this agreement at any time with 30 days written notice provided to Lea Marston Hotel and The Abbey Hotel. Upon termination, the Supplier's name and details will be removed from the list of available Lea Marston Hotel and The Abbey Hotel Marketplace Suppliers.

11.3 On termination of this agreement or suspension of the Supplier's access to Lea Marston Hotel and The Abbey Hotel Marketplace, all restrictions placed on the Supplier including all disclaimers and limitations of liability will survive.

## **12. GOVERNING LAW**

12.1 These Terms and Conditions and all aspects of the Supplier's access to and use of Lea Marston Hotel and The Abbey Hotel Marketplace are governed by the laws applicable in United Kingdom and the parties agree to submit to the non-exclusive jurisdiction of the courts of that state.



## Schedule A – Definitions and Interpretations

**ActiveMarket** means the software application used to administer the Marketplace, as modified from time to time.

**ActivePurchaser** means the software application used to send orders from Lea Marston Hotel and The Abbey Hotel to Suppliers within the Marketplace as modified from time to time.

**ActiveSupplier** means the software application used by Supplier to maintain their catalogue and pricing and to receive orders from Lea Marston Hotel and The Abbey Hotel as modified from time to time.

**Business Days** means Monday to Friday excluding public holidays in United Kingdom.

**Business Hours** mean the hours between 9:00am to 5:30pm during Business Days.

**Catalogue Issue** means any Incident that is not a result of any defect in the technology and related to the availability or integrity of Supplier catalogues stored on Marketboomer technology.

**Confidential Information** means all the information obtained or exchanged between the parties pursuant to these Terms and Conditions

**Data and Information** means all information stored on the Host Server and generated within the Marketplace, and includes all Lea Marston Hotel and The Abbey Hotel Information and all Supplier Information.

**Dynamic Trading Engine** means the Marketboomer business-to-business trading platform on which purchasers and suppliers conduct transactions.

**Fees** means the Usage fees and other fees set out in Marketboomer's Supplier Agreement and these Terms and Conditions.

**Force Majeure** means an event such as an act of God, war, government action, storm, fire, tempest, strike, lock out of any other circumstance beyond a parties' reasonable control which causes that party to fail to perform or to delay in performing any of its obligations under this Agreement.

**Host Server** means the data storage facility on which the Marketplace is hosted.

**Lea Marston Hotel and The Abbey Hotel Material** means all Lea Marston Hotel and The Abbey Hotel Materials including Lea Marston Hotel and The Abbey Hotel product and service documents in any formats and any material that has been developed for the Marketplace by Marketboomer, the development of which has been paid for by Lea Marston Hotel and The Abbey Hotel.

**Lea Marston Hotel and The Abbey Hotel User** means any Lea Marston Hotel and The Abbey Hotel party who accesses the Marketplace, including, but not limited Lea Marston Hotel and The Abbey Hotel Purchasers, Lea Marston Hotel and The Abbey Hotel Administrators, Lea Marston Hotel and The Abbey Hotel Super Users and other Lea Marston Hotel and The Abbey Hotel users using third party technology.



**Law** means all laws including rules of common law, principles of equity, statutes, regulations, proclamations, ordinances, by-laws, rules, regulatory principles and requirements, mandatory codes of conduct, writs, orders, injunctions, judgments, determinations, statutory licence conditions.

**Level 1 Support** means support relating to user names and passwords to access the Marketplace or navigational assistance within the Marketplace, Trading Zone or any Marketboomer application.

**Level 2 Support** means support relating to training issues and Catalogue Issues, but does not include Technology Issues.

**Level 3 Support** means support relating to Marketboomer Technology Issues. Issue resolution in this level may revert to Marketboomer technical development staff.

**Marketboomer Material** means all material provided to Lea Marston Hotel and The Abbey Hotel or Supplier by Marketboomer.

**Marketboomer Supplier Agreement** means the agreement between Marketboomer and Supplier which sets forth Marketboomer's Fees and Charges and terms and Conditions for use of their ActiveSupplier Application and access to Purchasers using Marketboomer Trading Technology.

**Material** means Marketboomer Material and Lea Marston Hotel and The Abbey Hotel Material.

**Purchaser** means a User within Lea Marston Hotel and The Abbey Hotel using the ActivePurchaser application to access the Marketplace.

**Marketplace** means an online marketplace powered by Marketboomer Trading Technology where buyers and sellers come together to trade goods and services, including, without limitation:

- (a) allowing Lea Marston Hotel and The Abbey Hotel to:
  - (i) conduct its procurement online;
  - (ii) create user accounts for its staff;
  - (iii) place orders online with its Suppliers; and
  - (iv) post its standard terms and conditions for trade with its Suppliers; and
- (b) allowing Lea Marston Hotel and The Abbey Hotel's Suppliers to:
  - (i) build product lists;
  - (ii) manage pricing; and
  - (ii) receive orders from Lea Marston Hotel and The Abbey Hotel.



**Release** means any new Version, Update, Upgrade or Fix of the Trading Technology.

**Supplier** means an organisation that has a product catalogue established on the Host Server and supplies goods and services within the Marketplace or any other Trading Zone.

**Supplier Establishment Process** means the process whereby a Supplier Catalogue and Supplier Information are uploaded to the Host Server.

**Supplier Information** means the contact information, product catalogue and any other information required to enable a Supplier to supply goods and services within the Marketplace or any Trading Zone.

**Trading Technology** means Marketboomer's ActivePurchaser, ActiveMarket, ActiveSupplier, the Dynamic Trading Engine and any other software, hardware or other technology or Intellectual Property Rights in the Marketplace and Trading Zone from time to time.

**Transmission** means the event where an order, invoice or any other document or file is electronically sent from Lea Marston Hotel and The Abbey Hotel to a Supplier via Marketboomer.

**Updates** means any minor addition or variation to the Marketboomer Trading Technology, including bug fixes and performance enhancements, but does not include the provision of new functionality.

**Upgrade** means any major addition or variation to the Marketboomer Trading Technology, including new modules, new or significantly enhanced functionality and is indicated by a change in the version number of the Marketboomer Trading Technology provided to Lea Marston Hotel and The Abbey Hotel.

**Usage Fee** means the amount specified in Marketboomer's Supplier Agreement.

**Version** means a major update of the Trading Technology incorporating enhanced or new functionality or corrections.