

# TERMS & CONDITIONS

## SNAPSHOT ON DEMAND SOFTWARE AS A SERVICE (SAAS)

### Preamble

- P.1 SCOPE: These Terms and Conditions apply for all legal transactions, which Shiji Deutschland GmbH, Tassiloplatz 27, 81541 Munich, Germany, (hereinafter referred to as "Shiji") will conclude with the customer, using a standardised „Order Confirmation Form“ or the Shiji commerce web-shop (SnapShot Marketplace). These Terms and Conditions also apply for other legal transactions if it is agreed between the contractual parties. If any individual agreements have been made in writing between the contracting parties, those individual agreements have priority over these general agreements on a case-by-case basis. The customer's contractual conditions shall not apply. We hereby expressly object to any counter provisions by the customer, referring to his own Terms and Conditions.
- P.2 SOFTWARE: The Software / The Applications are provided as a SaaS solution. The scope of functions of the ordered software / application is described in the respective product description section of this document. The customer notes with approval that the scope of functions as well as the requirements for the customer's terminal device can change due to the constant technical development. The customer is able to use the software, which is stored and hosted on the provider's servers or on servers of contracted providers commissioned by Shiji, for his own purposes and to process and store data by using the software, via an internet connection, for the duration of this contract.
- P.3 MARKETPLACE: Those "Terms & Conditions - SnapShot On Demand Software as a Service (SaaS)" shall only apply for the use of the software product SnapShot On Demand. The contractual terms for the use of SnapShot Marketplace remain unaffected by this contract and are available online under <https://www.snapshot.travel/terms>.
- P.4 MODIFICATION: Shiji is entitled, through simple notification, to change or supplement these terms and conditions if the changes or supplements are necessary and if the changes or supplements will not inflict a substantial disadvantage on the customer. A change is necessary if it is necessary to comply with the legal requirements. The customer notes this with approval. The currently valid version of this document is available online under <http://snapshot.travel/terms/snapshotondemand>.
- P.5 STRUCTURE OF THIS DOCUMENT:
- Paragraph I - Administrative
  - Paragraph II - Data Protection, SnapShot on Demand, etc.,
  - Paragraph III - Specific obligations of Shiji
  - Paragraph IV - Specific obligations of the customer
  - Paragraph V - Miscellaneous
  - APPENDIX A - SnapShot on Demand product description
  - APPENDIX B - SLA (Service Level Agreement)
- P.6 RELATED DOCUMENTS:
- DPA personal Data (Data Processing Agreement – Order Data with personal Data)
  - Data Protection Declaration

## I. Administrative

I.1 **CONTRACTUAL OBJECT:** The subject of this contract is, depending on which software was ordered via the Store, the use of the software SnapShot On Demand by the customer. The operation of those SaaS-Services is based on this contract.

Shiji grants to customer and customer accepts from Shiji and for the duration of the term, a limited, non- exclusive, non-transferable, right to access and use and permit authorized users to access and use the services solely for customer's internal business use. The customer may allow authorized users to use the services for this purpose and is responsible for authorized users' compliance with the agreement.

I.2 **TERM (DURATION, CANCELLATION)**

a. If nothing else has been agreed in the order form, the contract shall enter into force on the day on which the order form has been received by Shiji. The contract ends because of cancellation. The contract can be terminated by complying with a notice period of 14 days respective at the end of each month (quarterly subscription 30 days & annual subscription 90 days), this cancellation can be made by either Party. Shiji shall be entitled to adjust the prices above for inflation. The „Consumer price index from Destatis Germany, CPI 2015“ counts as having been agreed as basis for the calculation. The reference month for calculation is the month of contractsignature.

b. Shiji is entitled to lower or to raise the third-party costs described in the order forms if the respective third- party provider lowers or raises the costs.

I.3 **ACCOUNTING**

a. Invoice recipient. The invoice recipient is the customer. (All services are invoiced to the customer directly).

b. Accounting period: The accounting period is equal to the chosen subscription model in the order form. If nothing else has been agreed in the order form (for example: if a monthly or yearly accounting period was agreed on), the accounting period of the first settlement starts with the day of the order, but at the earliest after the agreed free- trial expires, and ends on the last days of the quarter where the purchase was made. If the contracting parties agreed on a monthly accounting, the accounting period ends on the last day of the month. If the contracting parties agreed on a yearly accounting, the accounting period ends on the last day of the calendar year. The invoices are due for payment in advance.

c. Payment terms: 14 days from invoice date.

d. Sales Taxes: The customer declares to be a company, which will be evidenced by a tax number. The contract will only be concluded if the customer discloses such tax number. If the customer is located in Germany, the invoice will include the statutory sales tax. If the customer is located in another European Union country, the invoice will be raised net of tax as intra community service provision and will be marked as reverse charge. If the customer is located in a non- EU country and if the service is not tax-relevant in Germany, the invoice will not include VAT, however it will be marked as reverse charge, provided that the legal requirements are met, and customer has submitted a "Certificate of Business-Registration" to Shiji. The customer is obligated to pay VAT if a tax inspection proves that the transaction is taxable. If the customer has not submitted a valid "Certificate of Business-Registration" and/or a valid VAT-number, the statutory sales tax will be included to the invoice.

e. Withholding Taxes: National Withholding Taxes, also called retention taxes, will be borne by the customer in addition to the invoice amount. The customer is not entitled to deduct the Withholding Tax from the invoice amount. For example: The invoice amount is EUR 100. In accordance to the national tax regulations which are applicable for the customer, a Withholding Tax in the amount of 10% has to be paid. The customer has to pay the full invoice amount (EUR 100) to Shiji and the Withholding tax in the amount of EUR 10 to the relevant tax authority.

f. Setup-Fee: In case a Setup-Fee was agreed the following applies: The Setup-Fee will be due for payment within 14 days after date of invoice. Accounts are rendered after the setup process is completed and after the agreed training. The monthly costs will be due for payment from the first of the month after the installation has been performed.

- g. Account adaptations / Software Up- and Downgrades: If nothing else has been agreed in the order form, the customer is entitled to use the ordered software for one hotel. Any changes concerning the number of hotels leads to adjustments of the monthly costs. The same applies if an upgrade to another version was initiated (for example: Upgrade from "Snapshot Analytics" to "SnapShot Analytics Pro"). If the customer raises the number of hotels or initiates an upgrade to another version, the changed monthly costs will be due for payment on the first of the month following the date of changes. If the customer lowers the number of hotels or if the customer downgrades the used version, the changed monthly costs will be due for payment on the first of the month following the accounting period.
- h. Currency: The agreed invoicing currency is in Euro, if not specifically agreed differently between parties. The Currency conversion is based on the exchange rate on the day of the invoice. Euro <-> National currency.

## II. Data Protection, SnapShot On Demand, storage of data, secrecy

II.1 DATA PROTECTION LAW(S): Both contract parties are committed to complying with the data protection clause which applies in each case. Both contract parties know that the EU-GDPR and the use of the national data protection laws are to be complied to. Storage and processing of personal data will take place under applicable law. Furthermore, both contract parties agree on safety standards to prevent unauthorized users from accessing data.

The contracting parties note with approval that they have to comply with the provisions of the General Data Protection Regulation (Directive 95/46/EC). The customer expressly agrees that the EU-GDPR will be applied.

- a. In the following, we distinguish between "Customer Master Data" and "Order Data". The term "Customer Master Data" describes those data, which relate to the customer. The term "Order Data" describes those data which are processed by Shiji, on behalf of the customer. The "Order Data" are processed in accordance with Data Processing Agreements, which was concluded pursuant to Art. 28 GDPR. The "Order Data" will be processed in accordance with Point II.5.
- b. "Customer master data" are: name of the customer's company, legal form, company register number (FN), VAT number (UID), data of subsidiaries, contact person (power user), address, phone number, fax number, e-mail address, etc. Each power user is capable of creating new user accounts within the system. However, power user is responsible for collecting the consent of other users to do so. Those customer master data are required for the fulfillment of this contract (Art. 6 para. 1 lit. b GDPR).
- c. This data is stored due to the provisions of the German Commercial Code (HGB), the German Fiscal Code (AO), the Money laundering Act (Geldwäschegesetz).
- d. I N F O R M A T I O N: If you are a current or former employee of our customer and if you assume that Shiji has stored information about you (name, e-mail address) as a contact partner, please contact us at [gdpr@snapshot.travel](mailto:gdpr@snapshot.travel). We will provide you with all relevant and necessary information and we will delete or correct the data in accordance with the GDPR (Art. 16, Art. 17, Art. 21 GDPR) or other applicable laws.
- e. Transparency and Accountability (Art. 5 para. 2 GDPR)
- f. Type and extend of the stored personal data are described in the Data Protection Declaration. The current version of the Data Protection Declaration if available at [www.snapshot.travel/data-protection-declaration](http://www.snapshot.travel/data-protection-declaration); A "Data Protection Impact Assessment" is not necessary.
- g. Purpose Limitation (Art 6 Para. 4 GDPR): personal data will only be processed in order to fulfill the contract, for example: if it is necessary for the accounting. Those data can be used as a tool in the enforcement of claims. The e- mail address of the customer can be used for the transmission of invoices, information material or for correspondence.

The "Customer Master Data" will be processed in order to provide those data to the customer. The customer can process those data by using his own or external applications. Those data will be stored for the purpose of analysis and long-term statistics. The customer notes with approval that external tools (for example: Woopra) are used for

creating those analysis and long-term statistics. Type and extend of the stored personal data are described in the Data Protection Declaration.

- h. Data minimization (Art. 5 para. 1 lit c GDPR): Shiji does not store any personal data which is not listed in the Data Protection Declaration. "Customer Master Data" will be stored for 7 years. Order data will be deleted 8 weeks after this contract has ended.
- i. Shiji will not employ third party providers according to the will of the contracting parties. The customer notes that it has to conclude own agreements with third party providers if necessary.
- j. Data processing location: The data processing is performed in the data processing center of the Amazon Web Services, located in EU-Region (Frankfurt, London, Dublin).
- k. Privacy by Design / Privacy by Default (Art 25 GDPR): If the SnapShot Software or Shiji Services are used based on the standard settings, the legal requirements are complied with.
- l. Transmission in order to fulfill the contract: "Customer Master Data": "Customer Master Data" will only be transferred if it is necessary to fulfill the contract. The "Customer Master Data" will be transferred to:
  - Shiji Subsidiaries (Shiji GmbH, Shiji Poland z.o.o.)
  - Microsoft Office 365, Microsoft Corporation. One Microsoft Way, Redmond, Washington 98052, United States, <https://products.office.com/en/business/office-365-trust-center-privacy>
  - Microsoft Azure, Microsoft Corporation. One Microsoft Way, Redmond, Washington 98052, United States. <https://www.microsoft.com/en-us/TrustCenter/Privacy/default.aspx>
  - Amazon Web Services Inc. 1200 12th Avenue South, Suite 1200, Seattle, WA 98144, United States <https://aws.amazon.com/privacy/>
  - Salesforce CRM, Salesforce.com Inc. The Landmark at One Market, Suite 300, San Francisco, CA 94105, United States, <https://www.salesforce.com/company/privacy/>
  - Atlassian Cloud (JIRA, Confluence), Atlassian Pty Ltd c/o Atlassian Inc. 1098 Harrison Street, San Francisco, CA 94103, United States, <https://www.atlassian.com/legal/privacy-policy>
  - Dropbox, Dropbox Inc. 333 Brannan Street, San Francisco, CA 94107, United States, <https://www.dropbox.com/privacy>
  - Woopra Analytics, Woopra Inc. 300 Montgomery St. Suite 208, San Francisco, CA 94104, United States, <https://www.woopra.com/privacy/>
  - Zuora, Zuora Inc. 3050 South Delaware Street, Suite 301, San Mateo, CA 94403, United States, <https://www.zuora.com/privacy-statement/>
  - Adyen, Adyen B.V. Simon Carmiggelstraat 6-50, 1011 DJ in Amsterdam, Netherlands, <https://www.adyen.com/policies-and-disclaimer/privacy-policy>
  - GoCardless, GoCardless Ltd. Sutton Yard, 65 Goswell Road, London, EC1V 7EN, United Kingdom, <https://gocardless.com/en-eu/legal/privacy/>
  - Hubspot, Hubspot Inc. 25 First Street, 2nd Floor Cambridge, MA 02141 United States, [https://legal.hubspot.com/privacy-policy?\\_ga=2.166238909.2093295324.1525526960-1064276107.1519204914](https://legal.hubspot.com/privacy-policy?_ga=2.166238909.2093295324.1525526960-1064276107.1519204914)
  - Freshdesk, Freshworks Inc. 1250 Bayhill Drive, Suite 315, San Bruno, CA 94066, United States, [https://www.freshworks.com/privacy/?\\_ga=2.51684585.1920727499.1525526993-459645676.1525436993](https://www.freshworks.com/privacy/?_ga=2.51684585.1920727499.1525526993-459645676.1525436993)
  - Mailchimp, The Rocket Science Group LLC. 675 Ponce de Leon Ave NE, Suite 5000, Atlanta, GA 30308, United States, <https://mailchimp.com/legal/privacy/>
  - Appcues, Appcues Inc. 54 Canal Street, 5th Floor, Boston, MA 02114, United States, <https://www.appcues.com/privacy>
  - Sendgrid, SendGrid Inc. 1801 California Street, Suite 500, Denver 8020, United States, <https://sendgrid.com/policies/privacy/>

## II.2 SNAPSHOT ON DEMAND

If SnapShot on Demand stores or processes personal data (Art 4 Z1 EU-GDPR), Shiji will process those data as "Order Data" in accordance with Point II.5.

As described in the product description, the functionality of SnapShot on Demand is also based on those data which are provided by the customer via automated upload. SnapShot on Demand transfers personal data in accordance with Point II.5.

## II.3 STORAGE / DELETION OF APPLICATION DATA / WARNING



If the contract for one application expires, Shiji will delete the respective "Order Data". The user data will be deleted, two months after the contract has been expired, at the latest. Shiji is not obligated or entitled to store the user data after the contract expired. The customer notes that it is not possible to restore deleted data.

Warning: The deletion of application data (for example: SnapShot On Demand) can result in a loss of functions of other applications. This applies, in particular, if the application (for example: a third party application) has to access the application data of the contractual application.

#### II.4 SECRECY

- a. Both contracting parties agree on not passing on any business information or technical information concerning the other party to third parties. Information which is generally known or available is excluded from this contract. The transmission of information to affiliated companies or subcontractors is permitted, provided that the transmission is necessary for the proper provision of the performances agreed on and provided that the transmission is permitted by law.
- b. Notwithstanding the agreements pursuant to Point II.1 and II.2. Shiji is allowed to disclose information to government authorities and state authorities if the disclosure was ordered by an ordinary court or by a competent public authority.

#### II.5 DATA PROCESSING AGREEMENT (Art. 28 Para 3 GDPR)

The contracting parties conclude this Data Processing Agreement for the purpose of processing the customers data (Hereinafter referred to as "Order Data").

The customer commissions Shiji to process "Order Data". Normally the "Order Data" processing does not include personal data within the meaning of Article 4 (1) GDPR. As described in Point II.2, the processed data are pseudonymized data. The customer declares that he has the right to transfer and store those data. The purpose of the processing is described in point II.2.

Warning: Shiji offers solutions to transfer personal data. If personal data are stored by any of the Shiji's product, Shiji will conclude a separate Data Processing Agreement to process personal data. In accordance with Art. 30 GDPR, Shiji will maintain a record of the above mentioned processing activities.

Shiji is obligated to comply with instructions concerning the processing of data if those instructions are necessary for the compliance with legal requirements. The customer is entitled to monitor the compliance with legal requirements.

Shiji is entitled to engage the following subcontractors to process the Order Data. The engagement of other subcontractors requires the customer's consent.

Shiji Subsidiaries (Shiji GmbH, Shiji Poland z.o.o.)

The list of the external vendors which can be found at: [www.snapshot.travel/list\\_of\\_vendors](http://www.snapshot.travel/list_of_vendors)

The contract duration of this Data Processing-Agreement matches the contract duration of the SaaS Agreement.

Transmission of data to third countries for the purpose of processing. The contracting parties agree that only European countries or countries, which provide an adequate level of data protection within the meaning of Art. 45 GDPR, are allowed to process those data.

If the customer's headquarter is not located in a European Country, the customer agrees that Shiji is allowed but not obligated to transfer the data ("Customer Master Data" and "Order Data") to the country in which the customer's headquarter is located; however, this shall apply only if

- the transmission of data is necessary in order to fulfill the contract.
- the transmission of data is required for the pursuit if legal claims.

Data Portability (Art. 20 GDPR): Shiji will provide stored data in electronical readable form within the meaning of Art. 20 GDPR. Shiji does not warrant that those provided data can be imported into other applications.

Right to submit a complaint to the supervisory authorities: The customer notes that they are entitled to submit a complaint to the supervisory authorities. The competent supervisory authority is :

#### Deutschland

Aufsichtsbehörde Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit

Anschrift: Husarenstraße 30, D-53117 Bonn

Telefon: +49 228 997799 - 0

Pressestelle: +49 228 997799 - 916

Telefax: +49 228 997799 - 550

E-Mail: [poststelle@bfdi.bund.de](mailto:poststelle@bfdi.bund.de)

Internet: <http://www.datenschutz.bund.de>

### III. Specific obligations of Shiji

- III.1 SnapShot On Demand: A prerequisite for the use of SnapShot On Demand is a suitable interface for automated data import. In the event that Shiji will not provide suitable interfaces for the customers in the future, the customer is entitled to extraordinarily terminate this contract.

### III.2 Service Level Agreement, Accessibility to Service, Support

- a. Shiji points out to the customer that the functionality of the SaaS-Services can be affected by factor that are beyond Shiji sphere of influence. Shiji will neither be liable for lack of availability of its services nor for other restrictions or errors which arise from such factors. The following factors are beyond Shiji's sphere of influence:
- any actions of third parties who do not act by order of Shiji
  - a fault or failure of the internet or any public telecommunicationsnetwork
  - denial of service attacks or similar attacks or
  - a fault or failure of the customer's computer systems or networks
  - any unforeseen cause beyond Shiji reasonable control or any force majeure events set forth in this Agreement.
- b. The customer is obligated to report functional failure and other technical problems of the system immediately and as precisely as possible.
- c. Shiji expressly agrees to provide a support for application questions.
- d. Shiji expressly agrees to the data processing as shown in "SLA – Service Level Agreement". The SLA – Service Level Agreement is available in Appendix B. This document describes how to process, store and secure the data.
- e. Shiji is obligated to take all appropriate measures to avoid data loss. The contractor has been instructed that despite this care the loss of data is possible. Unless the loss of data is due to the gross negligence of Shiji, the contractor will assume the liability directly. The same applies to the availability of the software.
- f. Shiji is obligated to exclusively use certified systems and certified data centers for the operation of its software.

### III.3 Updates, Warranty and binding commitments

- a. Shiji shall maintain the Software and/or Services and provide all patches and fixes to the Software and/or Services at no additional cost. Provided, however, said maintenance shall not include any major releases of new versions of the Software, additional functionality, or custom programming, which Shiji, at its discretion, may provide at an additional cost as otherwise agreed between the parties.
- b. Shiji warrants that the software has the complete functionality as described. Any changes concerning the scope of service caused by software releases will be announced 7 (seven) days in advance by e-mail. If the time of day is undisclosed, the updates will be made at six o'clock (18:00) or at seven o'clock CET (19:00). In the event that the software release causes any significant restriction on the scope of service, the customer is entitled to terminate the contract with a notice period of 14 days until the last day of the month. This right does not apply if the significant restriction on the scope of service is caused by third party provider.
- c. The customer acknowledges that complex software is never wholly free from defects, errors and bugs, security vulnerabilities and subject to the other provisions of this Agreement, Shiji gives no warranty or representation that the services will be wholly free from defects, errors and bugs or uninterrupted and will be entirely secure. Customer acknowledges that Shiji does not control the transfer of data over communications facilities, including the internet, and that the service may be subject to limitations, delays, and other problems inherent in the use of such communications facilities. Shiji is not responsible for any delays, delivery failures, or other damage resulting from such problems. Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings or any loss of revenue or income or any loss of use or production, or any loss of business, contracts or opportunities or any losses arising out of a force majeure event or in respect of any special, indirect or consequential loss or damage.
- d. In no event shall Shiji be liable for any damages in excess of the total amount paid and payable by the customer to Shiji under this Agreement in the 12-month-period preceding the commencement of the event or events.
- e. Shiji is obligated to install and develop required hotfixes if any software errors or security holes became known. The contractor needs to inform the customer about the installation of those hotfixes by e-mail. The contractor must notify the customer of any defects corrected and amendments implemented.
- f. Shiji is not allowed to pass on customer data or stored data to third parties. Furthermore, he is obligated to engage his employees and providers to sign a secrecy declaration, in which they declare to keep silence about all information concerning the customer. Excluded from this are information which are in the public domain.
- g. Shiji is obligated to issue internal security guidelines and to comply with them. In this respect reference is made to point II.2
- h. In case of termination, for whatever reason, Shiji is obligated to immediately delete all stored customer data

without prior notice nor permission from the customer.

#### IV. Specific obligations of the customer

##### IV.1 Obligations of the customer

- a. The customer is responsible for punctual payment. If the customer is in full or partial default of payment for more than 30 days, the contractor is entitled to discontinue its services.
- b. The customer is obligated to comply with applicable legislation during the use of the software. It is not allowed to use the software to store sensitive personal data as meant in the data protection law in particular. Example: It is not permitted to store the sexual orientation or the denomination of guests. If Shiji is sentenced to pay an administrative penalty due to such an offence, the customer is obligated to reimburse the payment and all related costs within 14 days. Shiji is allowed to cancel the contract if the customer violates legal requirements during the use of the software.
- c. The customer is liable for the misuse of user names and passwords. The customer shall use reasonable endeavors, including reasonable security measures relating to account access details, to ensure that no unauthorized person may gain access to the services.
- d. The customer undertakes to use the provided user names and passwords responsibly and to prevent abuse by employees.
- e. Viruses and Security. It is customer's responsibility to have and maintain in place virus protection software and security for all of its systems and data, which such security includes firewalls, passwords, physical security, and access control policies. If customer's systems have persistent connections to the Internet, or transmit credit card or gift card transactions over the Internet, or 3rd-party-SSL to transmit credit card or gift card transactions, or otherwise have persistent connections to any network where there is potential for unauthorized access, customer acknowledges that the security and protection of the network and the data and applications on that network, including protections against unauthorized access, is solely and entirely customer's responsibility. A properly configured firewall is required for each site using a persistent connection to the public Internet or any private network where there is a potential for unauthorized access to the Provider Network. Customer acknowledges that, to be effective, virus protection software, system passwords, and other security software require periodic and routine updates, which customer must obtain from its supplier or the manufacturer, as appropriate. Shiji disclaims any warranty, express or implied, that, after the initial installation by Shiji of any Shiji-proprietary software, the software or customers data will remain virus-free. Support or services hereunder necessitated by computer viruses, or by any failure or breach of customer's security for its systems or data, including, without limitation, damage caused by persons lacking authorized access, are not covered under this agreement, and will be supplied only upon customer request and on a reasonable efforts basis, on a time-and-materials basis at standard Shiji rates. Customer waives any claims hereunder against Shiji to the extent arising from customers failure to have or maintain current virus protection, or to the extent arising as a result of a failure or breach of customers security for its systems or data, or as a result of any unauthorized access to customers systems. If requested by customer, Shiji shall provide, on a reasonable efforts and on a time-and-materials basis, support or services to address damage caused by, but not limited to, any of the following: customers failure to have current virus protection; customers failure to maintain virus protection; damage arising as a result of a failure of customers security for its systems or data; damage arising as a result of a breach of customers security for its systems or data; or damage as a result of any unauthorized access to customers systems. Such support and services shall be billed at the prevailing standard Shiji rates.

##### IV.2 IPR - Intellectual Property Rights

- a. Customer acknowledges that all rights, title and interest in and to the services and the Software, together with its codes, derivative works, organization, structure, interfaces, any documentation, data, trade names, trademarks, trade secrets, proprietary information or other related materials is, and at all times shall remain, the sole and exclusive property of Shiji. Except the right to use the software, as expressly provided herein, this Agreement

does not grant to customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered) or any other rights or licenses with respect to the services or the Software.

- b. The customer shall not remove or modify any program markings or any notice of Shiji or its licensors' proprietary rights. Customer shall not attempt, or directly or indirectly allow any authorized user or other third party to attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, reverse compile, disassemble, reverse engineer, download, transmit or distribute all or any portion of the Services and/or Software in any form or media or by any means.
- c. The provisions of this paragraph IV.2 shall survive termination of this Agreement.

## V. Miscellaneous

- V.1 The contractor shall be entitled to transfer this contract to associated companies.
- V.2 As long as the applicability of the customer's rights is not mandatory, German law shall apply.
- V.3 Alterations and additions to this contract agreed by the parties must be made in writing.
- V.4 If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).
- V.5 Shiji is entitled to advertise with the fact that the customer is using the software, if the customer concludes a contract with Shiji. In this context, Shiji is entitled to use the customer's logo in an appropriate way. All uses beyond this must be coordinated with the customer. It is permissible that Shiji advertises online with the customer using its software.
- V.6 Shiji guarantees that Shiji is the owner of the software and that the allocation of the software does not infringe the rights of use of a third party.
- V.7 The contracting parties mutually waive the right to set-off their claim against the claim of the other party.
- V.8 German Law shall apply for legal disputes which may arise from or in connection with this Agreement, unless the application of national law is mandatory.
- V.9 The application of the "UN-purchase Law" is excluded. Place of jurisdiction is the district court Munich, regardless of the height of the amount in dispute.

## Appendix A – Product Description

Product description: .

The following data will be processed through SnapShot On Demand:

- Customer, Property, Property set and user details and their respective relationship(s)
- Blocks (room types, rate codes, revenue)
- Reservations (reservations details, main guest details, company name, travel agent name)
- Financial transactions (gross/net revenue, transaction purpose)
- Facebook content of posts, number of posts, comments, shares, reactions, impressions and followers
- Instagram content of posts, number of posts, comments, shares, reactions, impressions and followers
- Twitter tweet content, number of tweets, retweets, comments, favorites and followers
- Google Analytics Number of visits, sessions, revenue, conversion rate and related breakdowns
- TripAdvisor rank, rating, number of reviews and related breakdowns



- STR own and competitors' occupancy, ADR, RevPAR, performance indexes, rank
- Fairmas own and competitors' occupancy, ADR, RevPAR, performance indexes, rank
- OTA Insight LOS, occupancy, room type, cancellation fee
- ReviewPro global review index, rating, number of reviews and related breakdowns
- HolidayCheck number of reviews, recommendation rate, rating
- POS(Point of Sale) - Check detail
- POS(Point of Sale) – User Detail
- POS(Point of Sale) – Table Resevation detail
- POS(Point of Sale) – Events
- POS(Point of Sale) – Financial transactions
- POS(Point of Sale) – Menu Items Details

## Appendix B - Service Level Agreement

### Service Levels

Shiji shall use commercially reasonable efforts to make his app or content available to the customer on a 24/7 (twenty-four hours per day/seven days per week) basis, excluding downtime due to any of the following (collectively Excusable Downtime):

- Scheduled network, hardware, software, or service maintenance;
- A failure of the internet or other telecommunications networks.

Shiji shall provide the Support Services described in the table below.

Classification	General Description	Support Hours
Severity Level One Error	The app or content is down and immediate resolution steps are required. Shiji shall use its highest level of effort to respond to this severity level instantly.	24 hours / 7 days a week
Severity Level Two Error	The app or content functioning but at impaired rate. Shiji shall respond to this severity level assigning staff within 2 hours.	08:00 – 17:00 (See Exclusions)
Severity Level Three Error	There is known error that does not prevent your app or content from functioning but impairs non- production operations. Shiji shall assign staff within 1 business day.	08:00 – 17:00 (EMEA time zone)
Severity Level Four Error	Applicable to all other errors. Shiji shall use commercially reasonable efforts based on current staffing assignments and priorities to resolve the error.	08:00 – 17:00 (EMEA time zone)

### Exclusions

Shiji shall not be liable for or responsible for correcting:

- Errors or problems resulting from revision or modification of the SnapShot Marketplace data structure or format;
- Errors or problems resulting from negligence, or improper use of the app or content or any portion thereof by Shiji;
- Problems caused by any data, network, database, software (except the app or content), hardware or other operational environmental factors not within Shiji direct control (unless data your actions or omissions created such problems).

