

The Guestscan Association

Membership Agreement (the Membership Agreement)

1. Name

The Association shall carry on under the name ‘The Guestscan Association’ (‘the Association’)

2. Administration

Subject to the matters set out below, the Association and its property shall be administered and managed in accordance with this constitution by the Members of the Executive Committee constituted entirely of Executive Members (the Executive Committee).

3. Commencement and Duration

3.1 The Association shall come into being when a resolution is passed at a meeting of Members of the Association to form the Association and to adopt this Membership Agreement as the constitution of the Association.

3.2 The Association shall operate until terminated in accordance with clause 17 below.

4. Objects

The Association’s Objects are:

- (a) To establish and maintain directly or indirectly, a data-sharing facility to enable Members to manage risk of abuse from clientele;
- (b) To foster the improvement in clients behavior;
- (c) To negotiate and promote to Members any relevant services, offers, information or products; and
- (d) To do any lawful thing which in the reasonable opinion of the Executive Committee, will benefit the commercial interests of short term holiday accommodation owners in the UK.

5. Powers

The Members of the Association confer on the Executive Committee, the powers to do all lawful things necessary for the furtherance of the Objects.

6. Membership

Membership of the Association shall be divided into the following classes:

6.1 Executive Members

- (a) The first Executive Members shall be Neil Campbell and Barry Smith and any other person nominated by them in writing to serve as an Executive Member, for such duration and on such terms as are agreed between the parties from time to time.
- (b) The Executive Members shall be entitled to attend and vote at any meeting of the Association.

6.2 Associate Members

- (a) Any Member who applies for Membership of the Association in accordance with clause 7.1 shall join as an Associate Member.
- (b) Associate Members are not entitled to attend or vote at meetings of the Association.
- (c) Associate Members hereby agree to be bound by the terms of this Membership agreement which for the avoidance of doubt shall include all provisions contained in the Membership Handbook in force from time to time.

6.3 In this Membership Agreement, references to 'Members' shall mean Executive Members and Associate Members together.

7. Membership Applications and Subscriptions

- 7.1 Applications for Membership should be made to the Executive Committee by the completion of the online application form and payment of the subscription. Admittance to Associate Membership is at the sole discretion of the Executive Committee, who reserve the right to decline Membership applications without explanation.
- 7.2 All Members of the Association will renew membership by paying the subscription fee for the next membership period within four weeks prior to the end of the current membership period (or as the Executive Committee may from time to time determine) and individual Membership shall automatically terminate if the Member fails to make such payment before the first day of the next membership period.

8. Resignation of Membership

- 8.1 Any Member of the Association may resign its Membership by giving the Executive Committee (or any secretary to it) written notice to that effect,

provided that such resignation will not be subject to refund or compensation.

- 8.2 The Executive Committee may, by resolution passed at a committee meeting, terminate or suspend the Membership of any Member without compensation, if in its opinion their conduct is prejudicial to the interests and Objects of the Association.

9. The Membership Handbook

- 9.1 The Members of the Association undertake to adopt all documents and follow business practices contained in the Membership Handbook in force from time to time.

- 9.2 The Membership Handbook consists of the suite of documents in the form contained at Schedule One of this agreement including but not limited to:

- (a) the Terms and Conditions
- (b) the Reporting Form
- (d) the Data Protection Guidance

as amended from time to time in accordance with clause 10.3

- 9.2 Changes to the Membership Handbook shall be notified to Members by e-mail.

10. The Executive Committee

- 10.1 The policy and general management of the affairs of the Association shall be directed by the Executive Committee.

- 10.2 The Executive Committee shall have the power to enter into contracts for the purposes of the Association on behalf of and as agents for, all Members, and may do all lawful things necessary to conduct business in furtherance of the Objects of the Association.

- 10.3 The Executive Committee shall have the power to amend the terms of this Membership Agreement and the provisions of the Membership Handbook and to adopt and issue rules from time to time for the conduct of Association business which Members agree to adhere to in all material respects. Such amendments shall come into operation immediately

- 10.4 The Executive Committee shall be comprised of Executive Members whose number shall not be limited provided that at all times there shall not be less than two. In the event that there are fewer than two Executive Members, the Executive Committee shall not take any decision or pass any resolution other than to appoint a new Executive Member.

- 10.5 The proceedings of the Executive Committee shall not be invalidated by any failure to elect or any defect in the election, appointment, co-option or qualification of any Member.
- 10.6 A Member of the Executive Committee shall cease to hold office if he or she:
- (a) becomes incapable by reason of mental disorder, illness or injury of managing his or her own affairs; or
 - (b) is absent without the permission of the Executive Committee from all meetings held within a period of 3 months and the Executive Committee resolves that they shall cease to hold office; or
 - (c) notifies the Executive Committee in writing of its resignation, provided that at least two Member of the Executive Committee will remain in office when the notice of resignation is to take effect.

11. Procedure of Meetings

- 11.1 Any question arising at a meeting of the Executive Committee shall be decided by a simple majority of those present and voting. No Executive Member shall exercise more than one vote and in the case of an equality of votes, the Chair shall have a second or casting vote.
- 11.2 The quorum for a meeting of the Executive Committee shall be 2.

12. Finance

- 12.1 All money raised by or on behalf of the Association shall be applied to further the Objects of the Association and for no other purpose provided that nothing herein contained will prevent the payment of remuneration to any employee or contractor of the Association or the repayment of reasonable out-of-pocket expenses incurred on behalf of the Association by employees or the payment for professional services to the Association which are deemed to further the Objects of the Association at the discretion of the Executive Committee.
- 12.2 An account shall be opened in the name of the Association with the Royal Bank of Scotland or with such other financial institution as the Executive Committee may from time to time decide and shall be accessible by such signatories as the Executive Committee shall decide.
- 12.3 The Association's financial year shall be from 1st July to 30th June

13. Insurance

The Executive Committee shall arrange and maintain on behalf of and for the benefit of all Members, such policies of insurance for such amounts as they shall decide, at the expense of the Association.

14. Restrictions on Members

Without the prior written consent of the Executive Committee, no Associate Member may engage in any contract or commitment on behalf of the Association or make any representation on behalf of the Association to any third party.

15. Indemnity and Expenses – your attention is specifically drawn to this section

Any Member who is in breach of any of the provisions of this Membership Agreement or the Membership Handbook as set by the Executive Committee from time to time under section 1 shall keep indemnified the other Members, their estates and successors from and against all losses, liabilities, expenses and payments resulting from that breach, without prejudice to any other right or remedy of the other Members, howsoever arising.

16. Property

16.1 The Executive Committee shall cause the title to all land, assets and investments held by or in trust for the Association (Trust Property) to be vested either in a corporation entitled to act as custodian trustee, or in not less than two named Executive Members appointed by the Executive Committee to act as holding trustees (the Trustees), who shall not be liable for the acts and defaults of the Association which relate to the Trust Property.

16.2 In the execution of the trusts in accordance with clause 16.1 above, no Member of the Executive Committee shall be liable:

- (a) for any loss to the property of the Association by reason of any improper investment made in good faith (so long as he/she have sought professional advice before making such investment); or
- (b) for the negligence or fraud of any agent employed by him/her or by any other Member of the Executive Committee in good faith (provided reasonable supervision shall have been exercised);

and no Member of the Executive Committee shall be liable by reason of any mistake or omission made in good faith by any Member of the Executive Committee other than wilful and individual fraud, wrongdoing or wrongful omission on the part of the Executive Member who is sought to be made liable.

17. Dissolution

If the Executive Committee decides by a simple majority at any time, that on the grounds of expense or otherwise it is necessary or advisable to dissolve the Association it shall have the power to dispose of any assets held by or in the name of the Association. Any assets remaining after the satisfaction of any debts and liabilities shall be donated to an appropriate registered charity whose business objectives relate to the hospitality industry.

18. Confidentiality

- 18.1 In this clause, confidential information shall include without limitation, guest data shared between Members, any information relating to other Members or the Association, information relating to prospective business opportunities presented by the Association, inside industry information, any documents papers, property or computer software which have been made or supplied by the Association.
- 18.2 The Members undertake that they shall not use, divulge or communicate to any person, (except as required by law or any legal or regulatory authority), any confidential information concerning the Association and its affairs.

19. Severance

19.1 If any provision of this Membership Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

19.2 If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Members..

19.3 The Members agree, in the circumstances referred to in clause 18.1 to attempt to substitute for any invalid, unenforceable or illegal provision a valid, enforceable and legal provision which achieves, to the greatest extent possible, the same effect as would have been achieved by the invalid, unenforceable or illegal provision.

20. Governing law and jurisdiction

20.1 This Membership Agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

20.2 The Members irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Membership Agreement, its subject matter or formation (including non-contractual disputes or claims).

21. Dispute resolution

21.1 Except as otherwise provided, any dispute arising out of or in connection with this Membership Agreement, including any question regarding its existence, validity or termination, or the legal relationships established by this agreement, shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this clause.

21.2 This clause shall be without prejudice to the rights of any Member to seek any injunctive or similar relief from the Courts to protect its intellectual property rights, confidentiality obligations, restrictions on the activities of any Member or former Member or other rights of any description.

Schedule One

The Membership Handbook

1. Terms and Conditions

In order to comply with the Association's obligations under the Data Protection Act 1998, you must ensure that your guests consent to the way that the Association will use their information. You can do this by inserting the text below into your conditions of booking, booking form or check-in form and ensure that the form contains a tick box or similar system whereby guests can expressly consent to the terms:

'How We will use your Information'

- We are members of The Guestscan Association, who maintain a database of information about guests whose behaviour is unacceptable. We may share your information with members of the Guestscan Association and Guestscan Limited. This may result in our members refusing to accept bookings from you in the future. Further information about how we will use your information is available on the Guestscan Association website at www.guestscan.co.uk or by asking for a copy of the Guestscan Privacy Policy at reception.*

2. Data Protection Guidance

Guestscan Association ('the Association')

INTRODUCTION

The way in which the Association uses personal data is regulated by the Data Protection Act 1998 ('the Act'). Please read this document very carefully as it will make you aware of your responsibilities under the Act.

If you fail to comply with the requirements of this guidance note, you risk exposing yourself and the Association to enforcement action by the Information Commissioner. Further, certain breaches of the Act can give rise to personal criminal liability for *you* and for the Association. At the very least, a breach of the Act could damage our reputation and affect our ability to use personal data which would have serious consequences for our business.

The Association has a nominated Compliance Officer who is responsible for ensuring that the Association operates in adherence with the Data Protection Principles and to help Members do the same. The Compliance Office is Neil Campbell, who is contactable at info@guestscan.co.uk.

WHAT IS PERSONAL DATA?

Personal data means information which relates to a living, identifiable individual such as names, addresses and account numbers. Images caught on CCTV cameras and recorded telephone conversations are also personal data. Personal data refers to the total volume of information held by the Association in respect of any data subject. In our case, this will include the personal information given to you by guests at the time of booking, as well as your report about any adverse behaviour your guest displays whilst staying with you.

1. You must begin by complying with the eight data protection principles that are contained in the Act. These are described in more detail in the next section.
2. You must make sure that you do not obtain or disclose personal data without clear authority from the Association to do so. For example, you must not disclose information about your guests or their behaviours to anyone. Where someone other than the guest requests information about a report you have made, you must check with the Compliance Officer whether this is authorised. Where a guest requests information about a report you have made, you should direct them to the Compliance Officer.
3. The obligation not to disclose personal data without clear authority from the Association applies even if requests are received from the police or any other government body. There are only limited circumstances in which we can disclose personal data to these organisations and each request must be considered carefully. Check with your Compliance Officer before making any disclosure.

THE DATA PROTECTION PRINCIPLES

You must comply with each of the following data protection principles. There are eight in total and these determine the way in which the Association may process personal data. The Act contains a very wide definition of processing which covers everything that you could possibly think of doing with the personal data, from collection to destruction.

- 1. Personal data must be processed fairly and lawfully, and must not be processed without legal justification.**

The Association must be able to justify any processing activity which it carries out. All decisions about what data will be processed must be taken by the Compliance Officer, who will decide whether or not to add a report to the database. It is particularly important to ensure we have such justification whenever we process information about an individual's behaviour, physical or mental health or condition, or criminal record or alleged criminal activity. The Compliance Officer will at its discretion decide whether or not to process the information once you have made a report.

When you take booking information from a guest, you must ensure that they consent to the data protection notice. This is because you may need to use the booking information in order to make a report. You should ensure that the clause contained at paragraph 2 of the Membership Handbook is incorporated into your booking form. This is a short description of how you will use guest data. You must also ensure that a *full* version of the Guestscan Privacy Notice is available to your guests on request. This document is available from the Association at www.guestscan.co.uk. A hard copy will be supplied to you. If the Association fails to give a data protection notice at the appropriate time, we may be severely restricted as to what we can do with the data. It is therefore very important that you follow these instructions precisely.

- 2. Personal data may only be processed for specific and lawful purposes and may not be used for any other purpose.**

The data protection notices which the Association uses state our specified lawful purposes for collecting the information. The Compliance Officer will be responsible for seeing that the Association uses this information lawfully.

- 3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.**

You are advised to resist any temptation to start collecting any personal data for reporting purposes which is not required by the Reporting Form, even if you think it may assist the Association. You should check with the Compliance Officer before you start collecting any additional personal data.

- 4. Personal data must be accurate and up to date.**

You should attempt to avoid using guess work to decipher any documents which you cannot read clearly, or collect information based on hearsay as this could result in the Association holding inaccurate information.

- 5. Personal data must not be kept for longer than is necessary.**

Any information submitted in your report will be destroyed by the Compliance Officer at the appropriate time. You should not keep any copies of the report.

- 6. Personal data must be processed in accordance with the rights of the data subject.**

Please see next section which sets out these rights in more detail.

- 7. Personal data must be kept secure and protected against unauthorised or unlawful processing and against accidental loss, destruction or damage.**

Your report must be submitted in accordance with the online process via the Association Website. You should ensure that you take adequate security measures when using your computer to make a report, such as using a password and physical security measures to ensure that unauthorised staff members/the public are unable to access your machine. You should not keep any printed copies of any information you submit in a report.

- 8. Personal data must not be transferred to a country outside the European Economic Area unless the country provides an adequate level of protection for those personal data.**

It is unlikely that you will have any cause to transfer any data when using the Guestscan facility.

THE RIGHTS OF DATA SUBJECTS

- 1. The right of access**

Your guests have the right to apply for a copy of any personal data which the Association holds about them. If you receive anything that looks like a request, either by letter, telephone, face to face interview, fax, email, etc, as before, you must pass this request immediately to the

Compliance Officer. The Association is under a very strict time limit to meet this request and any wasted time may harm our business.

2. **Right to prevent processing**

Data subjects now have the right to object to processing which they think might cause them substantial damage or distress which is unwarranted. **You should advise your guests that you intend to submit a report before you do so.** If you receive anything that looks like a request to prevent such processing, pass it to the Compliance Officer. Once again, the Association is under very strict time limits for dealing with such requests.

3. **Right to compensation**

The Act has also given individuals the right to claim compensation if they believe that the Association has committed a breach of the Act and they have suffered damage or damage and distress as a result. Once again, if you receive such a claim you should pass it to the Compliance Officer immediately.

SUMMARY

Both the Association and you have responsibilities under the Act. If you follow the procedures set out in this document and the Membership Handbook it is likely that your activities in respect of personal data will comply both with the Act and this policy and you will have helped to protect the Association and yourself from the risk of legal liability.

FURTHER INFORMATION AND CONTACT DETAILS

If you have any questions regarding your responsibilities, please seek advice from your Compliance Officer

3. **The Reporting Form**

***NB: This form is for information only. All reports must be made via the Association Website, <http://www.guestscan.co.uk>**

It is important that any reports you make about guests' behaviour is accurate, proportionate and justified. Making a false or vexatious report risks exposing the Association and you to legal action from clients for defamation and may be a criminal offence under the Data Protection Act 1998.

In order to minimise these risks, you may only make a report about guest behaviour using the Reporting Form. This will require you to send us the following information:

Name of Main Booking Contact:

Guest Address:

Guest Mobile Telephone:

Guest Landline Telephone:

Dates of Stay:

Reason for Report:

- Non-payment (please stipulate amount unpaid)
- Damage to property (please state value of damage)
- Abusive behaviour towards staff/guests
- Smoking in room
- Excessive Noise
- Extra Unauthorised Guests
- Theft of Property (please stipulate value of stolen property)
- Fraud
- Other (please provide details):

Crime Reference Number: (required in all cases for damage or theft of items over £50 in value)

What evidence do you have?

Have you advised the guest that you are making this report? (if you are unable to do so please tell us why):

N.B You should not make a report if you do not have sufficient evidence to substantiate your claim. Evidence may take the form of written and signed statements from witnesses, photographs, receipts/ledgers or a housekeeping record.

By submitting this report you confirm that the information given in it is a true, fair and accurate account of damage or loss you have suffered in relation to a booking made by a lead booking contact or a member of their party.