



Kyløe Terms for Services in Americas

Before we start working with you, we need you to read and accept these terms

1. Definitions

- 1.1. "Agreement" means the whole of these terms and any other documents attached and referred to herein, together with fully executed Statements of Work as agreed between Kyløe and the Client, and any other fully executed written agreements or variations as agreed between Kyløe and the Client where applicable;
- 1.2. "Billing Stages" means agreed invoice milestones between parties, specifically set out in a Statement of Work;
- 1.3. "Cancellation Template" means the document to be signed by both parties in the event the Client requests Services to be terminated or postponed;
- 1.4. "Charges" mean the charges payable by the Client to Kyløe as set out in fully executed Statements of Work or Change Order;
- 1.5. "Client" is as set out in this Agreement, the organization requiring the "Services", including its subsidiaries, linked companies or holding companies ("Affiliates") who are beneficiaries;
- 1.6. "Client Data" is all data (including Personal Data) of the Client that is processed by Kyløe on behalf of the Client under or in connection with this Agreement, in whatever form that data and information might exist;
- 1.7. "the Company/Kyløe" is Kyløe Partners Inc as set out in the Agreement, the company providing the "Services";
- 1.8. "Client Personnel" means employees, officers, agents and contractors of the Client;
- 1.9. "Custom Code" means any code developed pursuant to or in connection with the Statement of Work or any other fully executed written agreements or variations as agreed between Kyløe and the Client, or otherwise arising from the performance of Services;
- 1.10. "Data Privacy Laws" means laws, regulations, guidance and codes of practice relating to data privacy and data protection, information security and privacy as required by law or as agreed between the parties. This may include Regulation (EU) 2016/679 (the "EU General Data Protection Regulation" or "EU GDPR"), UK GDPR and other international or state laws as applicable;
- 1.11. "Go-Live" means the date(s) or event(s) as agreed between parties, set out in a Statement of Work and (or) project plan. For the avoidance of doubt, Go -Live relates specifically to the Services delivered by Kyløe to the Client as set out in a Statement of Work and is not linked to any services being received by the Client from any third party;
- 1.12. "IPR" means intellectual property rights, including copyright and all other intellectual property (including, without limitation, patents, trademarks, service marks, domain names, database rights, and design rights, in each case subsisting at any time in any part of the world (whether registered or unregistered));
- 1.13. "Service" or "services" means the systems consultancy, project, support, hosting and professional services provided by Kyløe to the Client as specified in a Statement of Work or any other fully executed written agreement or variation as agreed between Kyløe and the Client, together with all tasks reasonably considered to be an implied part of or adjunct to such services together with any additional services as may be agreed in writing between the parties from time to time;
- 1.14. "the Schedule" is any or all appendices, attachments or enclosures to this Agreement;
- 1.15. "Kyløe Personnel" mean employees, officers, agents and contractors of Kyløe engaged in the provision of any of the Services;



- 1.16. "Working Hours" shall mean 08:30 to 17:30 Monday to Friday, EST, excluding US Public Holidays.

2. **Contract and Term**

- 2.1. This Agreement, including these terms, forms a contract between Kyloe and the Client upon being fully executed by both parties.
- 2.2. The Agreement shall commence on the Start Date (which shall be date of signing unless otherwise specified) and shall remain in effect during the course of Kyloe's delivery of Services (if applicable) or as defined in clause 7.1
- 2.3. Subject to clause 2.2, or unless expressly specified otherwise in writing, or unless notice of termination is given by either party, these terms shall govern any number of Statements of Work, or any subsequent fully executed written agreements or variations for the provision of Services, as agreed between Kyloe and the Client.
- 2.4. Variations can be made to the Agreement (including Statements of Work) in writing only, and will be valid if signed by both an authorised signatory of Kyloe and an authorised signatory of the Client. The exception is the terms, which may be updated from time to time with updates taking effect after notification to the Client, and the Client consenting by continuing to use the Service after a specified period of time has passed. If a change is of a minor nature and is not material, it may be made without notification.

3. **Services**

- 3.1. Kyloe will deliver the agreed Services to the Client with due skill and care.
- 3.2. The delivery of agreed Services will be under the exclusive control, management and supervision of Kyloe, giving due consideration to the requests of the Client.
- 3.3. Kyloe reserves the right to use subcontractors to deliver Services under this Agreement and shall be responsible for their management and supervision.
- 3.4. Throughout the term of the Agreement, Kyloe will communicate relevant information to the Client about the Services, or any other connected matter.
- 3.5. Kyloe retains the right to perform the same or similar type of services for third parties during the term of this Agreement.
- 3.6. In the event the Client requests a change to the scope of Services detailed in an applicable Statement of Work, the Change Control Process shall be followed as set out in the applicable Statement of Work.
- 3.7. For the avoidance of doubt, the Client understands that the Services agreed between the Client and Kyloe under this Agreement is independent to any other Services being received by the Client from any other party. Kyloe is not responsible, and accepts no liability, for any services being received by the Client from any other party, including Bullhorn and its group related companies.

4. **Client's Responsibilities**

Client accepts that it has responsibility for:

- 4.1. The actions of Client Personnel.
- 4.2. Meeting the responsibilities and obligations it has in a timely manner.
- 4.3. Arranging for Kyloe to have appropriate access to its internal computer networks and systems so it can perform the Services.
- 4.4. Taking all reasonable steps to ensure the safety of any of Kyloe's staff, where reasonably practicable.
- 4.5. Not granting or allowing any party other than the Client to use or access the Services being delivered.



- 4.6. The accuracy and security of any data uploaded on to any part of the Services being delivered (see Data Security clause).
- 4.7. Not attempting to reverse engineer, disassemble, decompile, decode or adapt, or otherwise attempt to derive or gain access to any source code which may form part of the Services, in whole or in part.
- 4.8. Not using any part of the agreed Services in any manner or for (i) any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Right (IPR) or other right of any Person, or that violates any applicable law; (ii) any purpose or application not expressly permitted by this Agreement; or (iii) any other purpose that is to Kyloe's detriment or commercial disadvantage.
- 4.9. Complying with applicable laws and legislation during this Agreement (including but not limited to Data Privacy Laws).
- 4.10. Using the Services for legitimate business purposes, and not using the Service for any unlawful purpose or in contravention of any law, or in a way which is likely to cause damage or adversely affect the operation of the Service or interfere with or disrupt Kyloe's sites, servers or networks.

5. **Warranties and Liability**

- 5.1 Kyloe warrants to the Client that it will perform the agreed Services using generally recognized commercial practices and standards, and that the Services will substantially conform to the agreed Statement of Work, or any subsequent written agreement, signed by both parties.
- 5.2 Kyloe will remedy any non-conforming Service provided the Client notifies Kyloe of non-conformance, in writing, within thirty (30) calendar days after the Go -Live delivery date of the non-conforming Service.
- 5.3 If, in Kyloe's opinion, Kyloe is unable to remedy the non-conforming Service, Kyloe will refund the applicable portion of the Charges to the Client for the specific part of the Service which was non-conforming.
- 5.4 Client understands that Kyloe is not responsible for any electronic communications or content of electronic communications, including Client Data, which are delayed, lost, altered, intercepted or stored without authorization during transmission over the internet or various other networks that are not owned or operated by Kyloe.
- 5.5 Client understand that Kyloe is not responsible and shall not be liable for events outside of its reasonable control (including delays caused by a third party) which impacts Kyloe's ability to meet any specified targets as set out in an Agreement or Project plan between the Client and Kyloe.
- 5.6 Client must pay all invoices as set out in agreed Statement of Work or other applicable documentation before Go-Live. If the Client has not paid invoices due, Go-Live will not take place, and Kyloe will not be liable for not meeting Go -Live or any subsequent specified target.
- 5.7 Notwithstanding any other clauses of this Agreement, neither party excludes or reduces its liability under or in connection with this Agreement to the extent that it arises in respect of any of the following matters:
 - 5.7.1 For death or personal injury resulting from negligence proved against either party
 - 5.7.2 For fraud or fraudulent misrepresentation; or
 - 5.7.3 For any other matter for which it would be unlawful for either party to exclude or limit to attempt to exclude or limit its liability.
- 5.8 Subject to clause 5.7, neither party shall have any liability to the other party under or in connection with this Agreement or its subject matter for:
 - 5.8.1 loss of profits;
 - 5.8.2 loss of the use of money or anticipated savings;

- 5.8.3 loss of revenue;
 - 5.8.4 business interruption costs or expenses;
 - 5.8.5 loss of or damage to reputation or goodwill;
 - 5.8.6 loss of opportunity or the benefit of contracts;
 - 5.8.7 wasted management or other staff time;
 - 5.8.8 losses or liabilities under or in relation to any other contract;
 - 5.8.9 loss of, damage to or corruption of data or information;
 - 5.8.10 punitive damages or fines;
 - 5.8.11 indirect or special loss, damage or expense of any kind; or
 - 5.8.12 consequential loss, damage or expense of any kind.
- 5.9 Subject to clauses 5.7 and 5.8, each party's maximum aggregate liability in contract, tort (including negligence), misrepresentation and/or otherwise howsoever arising under or in connection with this Agreement (including all losses, liabilities, claims, actions, demands, proceedings, damages, charges and expenses in respect thereof or in relation thereto) shall be limited to the sum of the total value of the Services agreed between Kyloe and the Client as detailed in the Statement of Work or any subsequent written agreement, together forming this Agreement (not including ongoing Hosting & Support fees). For clients receiving ongoing Hosting & Support Services only, the maximum aggregate liability shall be the sum of the last 12 months of invoices for Hosting & Support Services from the time that a notice of liability is received by the other party.
- 5.10 Kyloe's sole liability, and the Client's sole and exclusive remedy for all claims under this Agreement is limited to the express remedies set out in this clause 5.

6. Charges and Payment

- 6.1 Client shall pay Kyloe the Charges in accordance with the Payment Schedule as set out in the Statement of Work or any subsequent fully executed written agreement or variation for the provision of Services, as agreed between Kyloe and the Client.
- 6.2 Unless specified otherwise in the Statement of Work, any payment should be made by the Client to Kyloe within 14 days of the invoice date and, in this regard, time is of the essence.
- 6.3 The Charges do not include sales, use and excise taxes, and any other similar taxes, duties and charges imposed by any federal, state or local governmental entity, which (if payable) must be paid by the Client at the appropriate rate.
- 6.4 Payment is by bank transfer (ACH or wire), and must be received as cleared funds on the due date. Bank charges, international transfer fees, or equivalent, are payable by the Client. Kyloe reserves the right to recharge the Client for any fees it incurs to receive payment of the Charges.
- 6.5 Payments not made as agreed may lead to suspension of delivery of the Services, and therefore Kyloe not being able to meet any specified targets, for which Kyloe shall not be liable.
- 6.6 Kyloe will inform the Client in writing if suspension of delivery of the Services referenced in Clause 6.5 is to be invoked.
- 6.7 In the event the Client requests a change to the schedule of delivery of Services after project timescales have been agreed in the applicable Statement of Work or project plan, Kyloe reserves the right to invoice the Client: (i) to the next Billing Stage as detailed in the applicable Statement of Work (ii) a fee for the time spent reworking and rescheduling project plan (iii) any other costs incurred by Kyloe as a result of this request.
- 6.8 In the event the Client requests a change to Go-Live on or less than 14 business days from the agreed date or event as set out in Statement of Work or project plan, Kyloe shall invoice the Client to the next Billing Stage as if Go-Live had taken place on previously agreed date or event, together with: (i) a fee for time spent reworking and rescheduling the project plan (ii) costs already incurred by Kyloe for pre-agreed travel and other expenses (iii) any other costs



- incurred by Kyløe as a result of this request (including the delivery of Services to a new Go-Live).
- 6.9 Kyløe reserves the right to charge interest at the FED Federal Funds Rate plus 2% for late payment.
- 6.10 In the event of an agreed Suspension of the delivery of Services (set out in clause 10) Kyløe reserves the right to invoice the Client (i) to the next Billing Stage as detailed in the applicable Statement of Work or other written document, (ii) a fee for the time spent reworking and rescheduling the project and (iii) any other costs incurred by Kyløe as a result of the requested suspension.
- 6.11 In the case of additional project work where that work is outside the scope of the Services or Statement of Work, Charges will be agreed with the Client prior to any work being undertaken.
- 6.12 Reasonable travel and accommodation expenses incurred when Kyløe visits Client's premises will be recharged for any of the projects detailed within a Statement of Work. This will be agreed with the Client in advance.
- 6.13 Unless otherwise expressly agreed between the parties, the Charges and such other amounts expressed to be payable by the Client under the Statement of Work or subsequent written agreement shall constitute the Client's entire payment liability to Kyløe.

7. **Hosting and Support**

- 7.1 To the extent that the delivery of Services requires on-going Hosting and Support of Custom Code, the Client agrees to pay Kyløe a monthly fee for the period that any Custom Code is enabled for the Client, in accordance with clause 6 (Charges and Payments) of these terms.
- 7.2 The Hosting and Support fee will commence when the Functional Specification is signed off by the Client, and will be invoiced each month in advance for a minimum period of twelve (12) months.
- 7.3 Following the initial 12-month period, the Hosting and Support services will rollover for 12 month periods at a time, unless notice of termination is provided by either party.
- 7.4 Hosting and Support services may be terminated by either party, by notice in writing (to support@kyløepartners.com if the Client is terminating), 3 full months prior to the end of a 12-month period (regardless of whether it's the end of the initial 12-month period, or a rollover 12-month period) or within 30 days of the Client receiving notification of a monthly hosting and support fee increase as set out in clause 7.7, not including the automatic increase. By continuing to use the service without giving notice, the Client is expressly accepting the increase.
- 7.5 If the Hosting and support services are terminated by the Client with less than 3 full months' notice prior to the end of a 12-month period, the Client shall pay 50% of the Hosting and Support fees due to the end of the next 12-month period before the Agreement shall terminate.
- 7.6 If Hosting and Support is terminated by the Client, access to the Custom Code will terminate.
- 7.7 Hosting and Support fees are subject to an annual review on the anniversary of the monthly fee start date and will automatically increase by a minimum of 5%. We'll set out the increase on your invoice at the annual renewal. Any other Hosting and Support fee increases will normally be due to increased complexity of support requirements or an external (third party) cost increase to Kyløe, and notice of an increase above the automatic increase will be provided to the Client in writing.
- 7.8 Hosting and Support services are defined as: Kyløe's investigation and troubleshooting of Kyløe developed Custom Code for the delivery of Services as defined in an applicable Statement of Work, Functional Specification, or other written documentation as agreed between both parties. Hosting and Support expressly does not include Kyløe's investigation and troubleshooting of issues caused by: (i) the Client making changes to its



internal systems following the delivery of Custom Code, which is not compatible with the Custom Code, and without prior written approval from Kyloe; (ii) the Client making changes to its internal systems following commencement of the delivery of Services to the Client by Kyloe, without prior written approval from Kyloe, which makes the Custom Code incompatible with the Client's systems; (iii) Changes by Bullhorn and its group related companies to its platform following the delivery of Services to the Client by Kyloe; or (iv) Client requesting enhancements to Custom Code not detailed in the applicable Statement of Work, Functional Specification or other written documentation as agreed between both parties.

8. External Partners

8.1 Kyloe's Services shall not and are not intended to affect or replace any new or pre-existing maintenance and support from any of the Client's third party suppliers or partners, including, without limitation, Bullhorn and its group related companies.

8.2 Whilst Kyloe's Service may contain elements of system support, Bullhorn and its group related companies ultimately remains the database support provider and will act (under the terms of their support contract) to provide assistance in the event of any database related program or database issues.

9. Confidential Information

9.1. Each party shall keep and procure to be kept secret and confidential all commercial, financial and technical information, trade secrets, personal data and other information whatsoever and in whatever form or medium and whether disclosed orally or in writing, which the other party, its agents or employees, has acquired as a result of the Service delivery ("the confidential information"). Neither party shall disclose the confidential information to any third party unless delivery of the Services cannot be performed without such disclosure and in such circumstances the appropriate party shall notify the other party and subject to the other party's approval and the third party entering into obligations of confidentiality equivalent to those accepted by each party under the Agreement shall be permitted to disclose the information to the extent of any such approval, or when required by the other party to do so. Each party shall use commercially reasonable endeavors to prevent the disclosure of confidential information and any unauthorized access, except as permitted by Agreement.

9.2. The obligations of confidentiality under the Agreement shall not extend to any fact or matter which relevant party can show:

9.2.1. was in or entered into the public domain otherwise than by reason of breach by the party;

9.2.2. was in the receiving party's written records prior to the commencement of the Agreement;

9.2.3. was disclosed to the receiving party by a third party independently entitled to disclose it.

9.3. The obligations of confidentiality shall continue notwithstanding the termination or expiry of the Agreement, until it can be shown by the party that the confidential information has entered the public domain.

9.4. Client shall keep and procure to be kept secret any information regarding pricing of Kyloe's Services.

9.5. Each party shall promptly notify the other party in the event it becomes aware of any loss or disclosure of any of the confidential information of the other party.

10. Termination

10.1 This Agreement may be terminated by either party at any time upon giving the other party 30 days' notice in writing prior to the effective date of termination (not including Hosting and Support services – see section 7). In the event the Client terminates the Agreement

- under this clause, it should give notice to the project manager or designated Kyloe contact, and is required to sign a Cancellation Agreement which will set out the Charges due by the Client to effect Termination.
- 10.2 Unless otherwise agreed between the parties, in the event this Agreement is terminated under clause 10.1 (before the Services have been delivered), Kyloe will invoice the Client to the next Billing Stage as set out in an applicable Statement of Work and the Cancellation Agreement to be signed by the Client.
- 10.3 On the date of termination all previous outstanding invoices will become immediately due.
- 10.4 Suspension: In the event the Client wishes to Suspend the delivery of Services (put on hold for a specific, short term period of time for a specific business reason) after project timescales have been agreed in the applicable Statement of Work or Project Plan, it should let Kyloe know in writing at the earliest opportunity. The Client should explain the reason for the requested suspension, the date it wishes the suspension to start, and the date it wishes the suspension to end.
- 10.4.1 Kyloe must formally agree to a requested suspension in writing. It shall be a condition of an agreed suspension that a Suspension Agreement is signed by both parties, which shall set out the terms of the suspension, and the invoice value payable as set out in section 6.10.
- 10.4.2 For the avoidance of doubt, Kyloe shall not be liable for not meeting any specified targets or outstanding deliverables as agreed between the parties in any written document in the event the Client requests to suspend the delivery of Services.
- 10.4.3 At the end of an agreed suspension, the continuation of the delivery of Services shall be by mutual agreement and a new project plan and delivery schedule shall be agreed in writing. Additional costs may be incurred, and any pre-agreed costs shall be subject to an inflation based increase.
- 10.5 This Agreement may be terminated immediately by Kyloe if the payment terms are not met, or by either party if any other obligation of either party, as defined in the Agreement, is not met, including if:
- 10.5.1 That other party commits any breach of its obligations under the Agreement which (if remediable) is not remedied within 14 calendar days after the service of written notice specifying the breach and requiring it to be remedied; or
- 10.5.2 That other party ceases to trade or becomes insolvent or unable to pay its debts within the meaning of insolvency law applicable to that party; or a person (including the holder of a charge or other security interest) is appointed to manage or take control of the whole or part of the business or assets of that party; or the ability of that party's creditors to take any action to enforce their debts is suspended, restricted or prevented or some or all of that party's creditors accept, by agreement or pursuant to a court order, an amount of less than the sums owing to them in satisfaction of those sums; or any process is instituted which could lead to the Client being dissolved and its assets being distributed to its creditors, shareholders or other contributors (other than for the purposes of solvent amalgamation or reconstruction).
- 10.6 In the event of termination or expiry of the Agreement for any reason each party shall promptly at the other party's election either (A) return to the other party (in a form capable of delivery) or (B) delete (as appropriate) all equipment, materials and property belonging to the other party, including, without limitation, Confidential Information.
- 10.7 In the event of termination or expiry of the Agreement for any reason, subject to clause 15 (Intellectual Property), all licenses granted under or in connection with the Agreement shall immediately terminate.
- 10.8 For the avoidance of doubt, the provisions of clauses 5 (Warranty and Liability), 9 (Confidential Information), 10 (Termination), 12 (Non-Solicitation), 13 (Professional



Insurance), 14 (Data Security), 16 (Intellectual Property and Copyright) and 18 (General) shall survive expiry or termination of this Agreement.

11. **Force Majeure**

- 11.1 Kyloe will not be liable or responsible for any failure to perform, or delay in the performance of, any of its obligations under these terms that are caused by events outside its reasonable control ("Force Majeure Event").
- 11.2 In a Force Majeure Event, Kyloe will use all reasonable efforts to continue to provide satisfactory Services to the Client. If Kyloe is unable to continue providing Services to the Client, either party will be entitled to terminate this Agreement without prejudice and without paying termination fees or any other penalty.
- 11.3 In the event the Client is affected by a Force Majeure Event, the Client will remain liable to Kyloe for the Charges set out above as long as it continues to receive the benefit of the Services until such time as this Agreement expires. Kyloe may suspend the delivery of the Services for the Client and subsequently suspend the Charges due under this Agreement. Any suspension will start no earlier than the date of receipt and acceptance of appropriate evidence by Kyloe from the Client of the Force Majeure event. Subsequent delivery of the Services will be subject to available scheduling and project planning to be agreed between both parties.

12. **Non-Solicitation and Non-Competition**

- 12.1 Subject to clause 12.2, each party undertakes not to solicit any employees of the other for employment, directly or indirectly at any time during this Agreement or for a period of 12 months after its termination or expiry.
- 12.2 If either party employs any of the other party's Personnel prior the expiry of the 12 month period in breach of clause 12.1 the employing party agrees to pay the other party the full replacement cost of an equivalent employee or agent for 12 months, or a fixed recruitment fee of \$30,000, whichever is higher. This fee will be due as part of the normal terms under this Agreement, and cannot be disputed or withheld.

13. **Professional Indemnity**

- 13.1 Kyloe will provide adequate Professional Indemnity Insurance. A copy of this certificate, stating the extent of the cover, will be forwarded to the Client upon request, for inspection and retention, and in this case the copy will become an appendix to this Agreement.
- 13.2 Client shall fully indemnify Kyloe against any and all claims, costs and expenses which Kyloe may incur resulting from the Client's acts or omissions in respect of the Service and the Client's use of it, and the Client's breach of any of its obligations under this Agreement.

14. **Data Security and Privacy**

- 14.1 Kyloe warrants that it has in place appropriate technical and organizational measures to preserve the integrity of the Client Data (including Personal Data), it processes during the delivery of agreed Services, to ensure the Client Data it processes is protected and secure, and to prevent any corruption or loss of and unauthorised access to it.
- 14.2 Kyloe shall only process the Client Data (i) for the purpose of performing its obligations under this Agreement; (ii) for such other purpose as may be instructed by or agreed with the Client as otherwise notified in writing from time to time; and (iii) in accordance with applicable Data Privacy Laws.
- 14.3 Kyloe's access to the Client Data (including Personal Data) will be limited to relevant persons only for the purpose of delivering the agreed Services. Any relevant person



accessing the Client Data will respect and maintain the confidentiality and security of the information.

- 14.4 Kyloe shall at all times use industry leading cloud service providers accredited with industry leading certifications on availability and security ("Data Centres"). Where possible, Kyloe shall select the most appropriate Data Centre location based on the location of the Client. Kyloe shall only use Data Centres which have the appropriate protections in place to comply with Data Privacy Laws and to keep Client Data protected and secure. By signing this Agreement, the Client is giving consent to Kyloe to process data as set out in this clause 14.4.
- 14.5 During the delivery of Services, Client Data may be processed by Kyloe's UK entity (Angus Kyloe Partners Limited). All Kyloe entities comply with applicable Data Privacy Laws when handling Client Data, and follow Kyloe's information security policy. By signing this Agreement, the Client gives Kyloe consent to process Client Data in this way.
- 14.6 Client should provide Kyloe with any specific data security requests in advance of the Services being undertaken.
- 14.7 Unless otherwise required by Data Privacy Laws, Client Personal Data provided by the Client and temporarily stored by Kyloe to provide the Services, shall be deleted 60 days after it is no longer needed, or as otherwise set out in Statement of Work or agreed in writing between Kyloe and Client. Kyloe shall, on the Client's written request, confirm to the Client in writing when Personal Data has been deleted.
- 14.8 Client must obtain, or procure, all consents or waivers of rights from all relevant persons that are necessary in order for Kyloe to provide the Services. Such consents or waivers of rights include, but are not limited to, Kyloe's use and storage of personal and/or financial information or data in connection with the provision of the Services. Client acknowledges and agrees that Kyloe depends and relies entirely and exclusively on the Client to obtain or procure all such consents or waivers of rights in accordance with this clause 14. 8. Accordingly, the Client shall indemnify and save Kyloe harmless from any liability, damages, loss, debt, expense, fine or other pecuniary obligation that Kyloe suffers or incurs as a direct or indirect result or consequence of any breach of this clause 14. 8 by the Client.
- 14.8 Kyloe shall notify the Client without undue delay if it becomes aware of a data breach that affects Client Personal Data. Kyloe shall provide the Client with the necessary information it can reasonably obtain so the Client can meet reporting obligations as set out by applicable Data Privacy Laws.

15. Dispute Resolution

- 15.1 The parties shall co-operate in good faith to promptly resolve any disputes arising out of this Agreement.
- 15.2 If a dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, cannot be resolved first between the parties, it shall be referred to and finally resolved by arbitration (administered by the American Arbitration Association).
- 15.3 The number of arbitrators shall be one.
- 15.4 The seat, or legal place of arbitration shall be Delaware.
- 15.5 The language to be used in the arbitral proceedings shall be English and the governing law shall be the substantive laws of the state of Delaware.

16. Intellectual Property and Copyright

- 16.1 All IPR belonging to each party prior to entry into this Agreement shall remain vested in such party. Nothing in the Agreement is intended to transfer any IPR from either party to



- the other party. Each party warrants that the use of information and materials received from the other party shall not cause infringement of third party rights.
- 16.2 Except as may be expressly agreed otherwise, all right, title and interest in and to all IPR with respect to any code, functionality, software, products, deliverables, ideas, documentation or information resulting from or arising during performance of the Services under Agreement to Client ("Materials") will be retained by Kyløe. The Agreement grants no ownership rights to the Client. No license is granted to the Client except as to access and use the Services expressly stated in the Agreement.
- 16.3 With respect to any IPR created by Kyløe or Kyløe Personnel as part of the Services under the Agreement that may or may not qualify as "work made for hire" as defined in 17 U.S.C. §101, these will be retained by Kyløe except as may be expressly agreed otherwise. This will include all right, title and interest with respect to any code, functionality, software, products, deliverables, ideas, documentation or information resulting from or arising during performance of the Services under the Agreement to the Client.
- 16.4 In the event ownership of Materials does not automatically vest to Kyløe, and unless otherwise agreed, the Client agrees to (i) transfer and assign all right, title and interest in and to the Materials to Kyløe without further consideration and (ii) waive all moral rights in or to all Materials.
- 16.5 Kyløe hereby grants to the Client a non-exclusive, royalty free license to use the Materials subject to the Agreement solely to enjoy the benefit of the Services.
- 16.6 Client shall grant Kyløe a non-exclusive, royalty-free license to use, copy, make derivative works of, distribute, display, perform, and transmit the Client's supplied IPR during the delivery of Services to the extent necessary for Kyløe to perform its obligations under any Statement of Work or other written document under the Agreement.
- 16.7 The Kyløe name, the Kyløe logo, and branding associated with the delivery of the Services are trademarks of Kyløe or third parties and they may not be used without Kyløe's prior written consent.
17. **Entire Agreement**
- 17.1 This Agreement and schedules, appendices and documents referred to herein or annexed constitute the entire contract between the parties hereto and supersede all previous discussions, negotiations, terms and conditions, warranties and proposals howsoever and whenever made and whether orally or in writing (with the sole exception of any pre-existing Non-Disclosure Agreement) relating to the subject matter of this Agreement.
- 17.2 Each party acknowledges that no other party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this Agreement, except for representations or inducements expressly set out in this Agreement. Each party also acknowledges and confirms that it does not enter into this Agreement in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this Agreement. Nothing in this clause shall limit or exclude either party's liability for fraud or fraudulent misrepresentation.
- 17.3 This Agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.
18. **General**
- 18.1 In this Agreement any reference to a statute, statutory provision or any subordinate legislation shall be construed as including a reference to that provision as amended, consolidated, superseded, re-enacted or replaced from time to time.
- 18.2 No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any

- contractual terms will be deemed to be a waiver of any other right or of any later breach. In particular, but without limitation to the generality of the foregoing, any prior acceptance or approval communicated by the Client to Kyloe in respect of the Services or any omission on the part of the Client to communicate such prior acceptance or approval shall not relieve Kyloe of its obligations to deliver the Services in accordance with the provisions of Agreement.
- 18.3 Subject to the specific limitations set out in the Agreement, no remedy conferred by any provision of the Agreement is intended to be exclusive of any other remedy except as expressly provided for in the Agreement and each and every remedy shall be cumulative and shall be in addition to every other remedy given thereunder or existing at law or in equity by statute or otherwise.
- 18.4 If any of the provisions of the Agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.
- 18.5 Nothing in the Agreement shall be construed as constituting a partnership between the parties or as constituting either party as the agent of the other for any purpose whatsoever except as specified by the terms of the Agreement.
- 18.6 The Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted Assigns. References to a party to the Agreement include its successors and permitted Assigns, which shall, without limitation, include any person, firm, corporation or other business entity which directly or indirectly acquires all or substantially all of the assets of the business of either party.
- 18.7 Notices shall be in writing, and shall be sent to the other party marked for the attention of the person at the address set out for such party in the Agreement. Notices may be sent by first-class mail or by email. Correctly addressed notices sent by first-class mail shall be deemed to have been delivered 72 hours after posting. Correctly addressed emails shall be deemed to have been received the next business day after email is sent, provided there is nothing to suggest the message has failed to be delivered. It shall be sufficient to prove, in the case of a letter, that the letter was properly addressed, stamped and placed in the post, and in the case of an email, that such email was sent to the specified email address of the addressee.
- 18.8 The Agreement shall be governed by and construed in accordance with the laws of Delaware without giving effect to (a) any choice or conflict of law principles that would apply the substantive laws of another jurisdiction to the parties' rights or duties (b) the 1980 United Nations Convention for the International Sale of Goods and the Uniform Computer Information Transactions Act; or (c) other international laws. The parties consent to the personal and exclusive jurisdiction of the general and state courts of Delaware for the purpose of any action or proceeding brought in connection with the Agreement.
- 18.9 Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to the Agreement or the transactions contemplated hereby.

Appendix 1

Form W9 attached for Kyloe Partners Inc

<p>Form W-9 (Rev. October 2018) Department of the Treasury Internal Revenue Service</p>	<p>Request for Taxpayer Identification Number and Certification</p> <p>► Go to www.irs.gov/FormW9 for instructions and the latest information.</p>	<p>Give Form to the requester. Do not send to the IRS.</p>																				
<p>1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. Kyloe Partners Inc</p>																						
<p>2 Business name/disregarded entity name, if different from above</p>																						
<p>3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC</p> <p><input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____</p> <p>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <p><input type="checkbox"/> Other (see Instructions) ► _____</p>	<p>4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p> <p><small>(Applies to accounts maintained outside the U.S.)</small></p>																					
<p>5 Address (number, street, and apt. or suite no.) See instructions. 4470 Cox Road, # 350</p>		<p>Requester's name and address (optional)</p>																				
<p>6 City, state, and ZIP code Glen Allen, Virginia, 23060</p>																						
<p>7 List account number(s) here (optional)</p>																						
<p>Part I Taxpayer Identification Number (TIN)</p> <p>Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i>, later.</p> <p>Note: If the account is in more than one name, see the instructions for line 1. Also see <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.</p>																						
		<p>Social security number</p> <table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 20px;"> </td> <td style="width: 20px;"> </td> <td style="width: 20px;"> </td> <td style="width: 20px;">-</td> <td style="width: 20px;"> </td> <td style="width: 20px;"> </td> <td style="width: 20px;">-</td> <td style="width: 20px;"> </td> <td style="width: 20px;"> </td> <td style="width: 20px;"> </td> </tr> </table> <p>OR</p> <p>Employer identification number</p> <table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 20px;">8</td> <td style="width: 20px;">1</td> <td style="width: 20px;">-</td> <td style="width: 20px;">1</td> <td style="width: 20px;">7</td> <td style="width: 20px;">6</td> <td style="width: 20px;">9</td> <td style="width: 20px;">7</td> <td style="width: 20px;">6</td> <td style="width: 20px;">9</td> </tr> </table>				-			-				8	1	-	1	7	6	9	7	6	9
			-			-																
8	1	-	1	7	6	9	7	6	9													
<p>Part II Certification</p> <p>Under penalties of perjury, I certify that:</p> <ol style="list-style-type: none"> The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and I am a U.S. citizen or other U.S. person (defined below); and The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct. <p>Certification instructions. You must cross out Item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.</p>																						
<p>Sign Here</p>	<p>Signature of U.S. person ► </p>	<p>Date ► 1/1/24</p>																				
<p>General Instructions</p> <p>Section references are to the Internal Revenue Code unless otherwise noted.</p> <p>Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.</p> <p>Purpose of Form</p> <p>An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.</p> <ul style="list-style-type: none"> Form 1099-INT (interest earned or paid) Form 1099-DIV (dividends, including those from stocks or mutual funds) Form 1099-MISC (various types of income, prizes, awards, or gross proceeds) Form 1099-B (stock or mutual fund sales and certain other transactions by brokers) Form 1099-S (proceeds from real estate transactions) Form 1099-K (merchant card and third party network transactions) Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition) Form 1099-C (canceled debt) Form 1099-A (acquisition or abandonment of secured property) <p>Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.</p> <p><i>If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.</i></p>																						
<p>Cat. No. 10231X</p>		<p>Form W-9 (Rev. 10-2018)</p>																				