

## COMPLETED ACQUISITION BY PUG LLC (viagogo) OF THE STUBHUB BUSINESS OF EBAY INC.

Final Undertakings given by PUGNACIOUS ENDEAVORS, INC., PUG LLC, and StubHub, Inc., StubHub (UK) Limited, StubHub Europe S.à.r.l., StubHub India Private Limited, StubHub International Limited, StubHub Taiwan Co., Ltd., StubHub GmbH, and Todoentradas, S.L. (StubHub Group) to the Competition and Markets Authority pursuant to section 82 of the Enterprise Act 2002

### Background

- A. On 13 February 2020, PUG LLC (**PUG**), a subsidiary of Pugnacious Endeavors, Inc. (**viagogo**) purchased the entire issued share capital of StubHub, Inc., StubHub (UK) Limited, StubHub Europe S.à.r.l., StubHub India Private Limited, StubHub International Limited, StubHub Taiwan Co., Ltd., StubHub GmbH, and Todoentradas, S.L. (together, **StubHub Group**) (the **Merger**).
- B. On 7 February 2020, the Competition and Markets Authority (the **CMA**) made an initial enforcement order (**IEO**) pursuant to section 72(2) of the Enterprise Act 2002 (the **Act**) for the purpose of preventing pre-emptive action in accordance with that section. On 30 March 2020, the CMA issued directions under the IEO for the appointment of a monitoring trustee in order to monitor and ensure compliance with the IEO.
- C. On 25 June 2020, the CMA, in accordance with section 22(1) of the Act, referred the Merger to a group of CMA panel members (the **Reference**) to determine, pursuant to section 35 of the Act:
- (i) whether a relevant merger situation has been created; and
  - (ii) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (SLC) in any market or markets in the United Kingdom (UK) for goods or services.
- D. On 3 July 2020, the CMA imposed an interim order (the **Interim Order**) upon viagogo and StubHub Group (the **Parties**) requiring the Parties to hold the StubHub business separate from the viagogo business until the Reference was fully determined. The IEO consequently ceased to be in force under section 72(6) of the Act. The appointment and work of the monitoring trustee

under the IEO was extended under the Interim Order to monitor and ensure compliance with the Interim Order.

- E. On 2 February 2021, the CMA published a final report pursuant to section 38 of the Act (the **Report**) which concluded that:
- (i) the Merger has created a relevant merger situation;
  - (ii) the creation of that situation has resulted in, or may be expected to result in, a SLC in relation to the supply of uncapped secondary ticketing platform services for the resale of tickets to UK events; and
  - (iii) the CMA should take action to remedy the SLC and any adverse effects resulting from it.
- F. The CMA, having regard to its findings in the Report, requires the divestiture of the StubHub International Business (the **Remedy**).
- G. The implementation of the Remedy will be subject to the following safeguards:
- (a) the Parties will be subject to regular reporting requirements;
  - (b) the Monitoring Trustee appointed in accordance with paragraph 6 will monitor compliance with these Final Undertakings, including the progress of the implementation of the Remedy;
  - (c) the purchaser must be an Approved Purchaser in accordance with the Purchaser Approval Criteria in Annex 3; and
  - (d) these Final Undertakings include provisions enabling the CMA to direct the appointment of a Divestiture Trustee to effect the final disposal of the StubHub International Business in accordance with the conditions set out in paragraph 10.
- H. The Interim Order ceases to be in force on the date of acceptance by the CMA, pursuant to section 82 of the Act, of these Final Undertakings.
- I. Now therefore each of viagogo and StubHub Group gives to the CMA on behalf of itself and, where relevant, its Subsidiaries and Affiliates, the following Final Undertakings pursuant to section 82 of the Act for the purpose of remedying, mitigating or preventing the SLC identified in the Report and any adverse effects resulting from it.

## 1. Interpretation

- 1.1 The purpose of these Final Undertakings is to give effect to the Remedy identified in the Report and they shall be construed in accordance with the Report.
- 1.2 Any word or expression used in these Final Undertakings or the recitals to these Final Undertakings shall, unless otherwise defined herein and/or the context otherwise requires, have the same meaning as in the Act or the Report (as appropriate).

- 1.3 The headings used in these Final Undertakings are for convenience and shall have no legal effect.
- 1.4 References to any statute or statutory provision shall be construed as references to that statute or statutory provision as amended, re-enacted or modified whether by statute or otherwise stated.
- 1.5 References to recitals, paragraphs, subparagraphs and annexes are references to the recitals, paragraphs and subparagraphs of, and annexes to, these Final Undertakings unless otherwise stated.
- 1.6 Unless the context requires otherwise, the singular shall include the plural and vice versa and references to persons includes bodies of persons whether corporate or incorporate.
- 1.7 The Annexes form part of these Final Undertakings.
- 1.8 The Interpretation Act 1978 shall apply to these Final Undertakings as it does to Acts of Parliament.
- 1.9 Further, in these Final Undertakings:

‘the Act’	means the Enterprise Act 2002;
‘Active Listing’	means an inventory listing live and available for purchase as at the Completion Date on any StubHub website, the associated data (comprising the listing date, the seller’s User Data, the event, the ticket quantity, the seat number/s where this is known and the ticket price) and rights to offer the inventory for sale;
‘Affiliate’	means a person who is an affiliate of another person if they or their respective enterprises are to be regarded as being under common control for the purposes of section 26 of the Act;
‘Analytics Data’	means any analytics data generated by or in relation to the StubHub Platform;
‘Approved Purchaser’	means any purchaser approved by the CMA pursuant to the Purchaser Approval Criteria set out in Annex 3;
‘Approved Timetable’	means the divestment timetable approved by the CMA in accordance with paragraph 9.1;
‘Asset Maintenance Undertakings’	mean those undertakings set out in paragraph 4;
‘Associated Listing’	means the record of a historical inventory listing, the ticket/s in respect of which were

	purchased in part or in full (i.e. associated with at least one transaction) and the associated data (comprising the listing date, the seller's User Data, the event, the ticket quantity and the ticket price);
'Associated Person'	means a person who is an associated person within the meaning of section 127 of the Act;
'business'	has the meaning given by section 129(1) and (3) of the Act;
'Catalogue Data'	means any data or dataset about events and venues, as distinct from Active Listings, Associated Listings, Unassociated Listings, User Data, Transaction Data and Analytics Data;
'CMA'	means the Competition and Markets Authority;
'Commencement Date'	means the date on which these Final Undertakings are accepted by the CMA in accordance with section 82(2)(a) of the Act;
'Completion Date'	means the date on which the Final Disposal is implemented;
'Confidential Information'	means business secrets, know-how, commercially sensitive information, intellectual property or any other information of a confidential or proprietary nature;
'control'	includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise, as defined in section 26 of the Act;
'Directions'	means written directions given by the CMA as set out in paragraph 4.1;
'Divestiture Period'	means the period beginning on the Commencement Date and ending [✂] after the Commencement Date, or such longer period as the CMA may approve in accordance with paragraph 18.1;
'Divestiture Trustee'	means a person appointed in accordance with paragraph 10;
'Divestiture Undertakings'	means those undertakings set out in paragraph 3;

‘Duplicate Platform’	means the copy of the StubHub Platform created in accordance with the terms of paragraph 5.2 of Annex 2;
‘Duplicate StubHub Mobile App’	means the copy of the Original StubHub Mobile App created in accordance with the terms of paragraph 5.4 of Annex 2;
‘eBay’	means eBay Inc.;
‘Final Disposal’	means completion of the divestiture of the StubHub International Business in accordance with the Final Undertakings to an Approved Purchaser;
‘Final Undertakings’	means these final undertakings given by each of the Parties and accepted by the CMA, including the Annexes hereto, and as may be varied in terms of paragraph 14;
‘Google Cloud Platform’	means the suite of cloud computing services owned and run by Google LLC or its Subsidiaries;
‘IEO’	means the initial enforcement order made by the CMA on 7 February 2020;
‘IFOT’	means IFOT Services Ltd, a UK incorporated company with company number 07881174;
‘Interim Order’	means the interim order made by the CMA on 3 July 2020;
‘International Analytics Data’	means any Analytics Data related to an International Buyer, an International Seller, a StubHub International Licensed Domain, a Ticketbis Domain or a StubHub UK Licensed Domain;
‘International Buyer’	means a named buyer of tickets to live events whose Registered Address is outside of North America;
‘International Catalogue Data’	means Catalogue Data to the extent about any event occurring outside North America and any venue located outside North America;
‘International Seller’	means a named reseller of tickets to live events whose Registered Address is outside of North America;
‘Key Staff’	means those staff who are in positions of executive or managerial responsibility

	and/or whose performance affects the viability of the relevant business;
‘Merged Entity’	means the merged viagogo business and StubHub NorAm Business and all entities carrying on that business, as appropriate;
‘Merger’	means the completed acquisition by viagogo of StubHub Group;
‘Monitoring Trustee’	means a person appointed or retained in accordance with paragraph 6;
‘NorAm Buyer’	means a named buyer of tickets to live events whose Registered Address is in North America;
‘NorAm Catalogue Data’	means Catalogue Data to the extent about any event occurring in North America and any venue located in North America;
‘NorAm Seller’	means a named reseller of tickets to live events whose Registered Address is in North America;
‘North America’	means the United States of America and Canada;
‘ordinary course of business’	means matters connected with the day-to-day supply of goods and services by the StubHub business or the viagogo business but does not include matters involving significant changes to the organisational structure of or related to the post-merger integration of StubHub and viagogo / PUG;
‘Original StubHub Mobile App’	means the StubHub branded mobile application, including its associated data and app store reviews, in the form existing immediately prior to the Completion Date that will be retained by the Merged Entity;
‘Parties’	means viagogo and StubHub Group;
‘Platform Data’	means any data or dataset used in the functional operation of the StubHub Platform, as distinct from Active Listings, Associated Listings, Unassociated Listings, User Data, Transaction Data, Analytics Data and Catalogue Data;
‘Primary Ticketing Partnerships’	means the primary ticketing partnerships listed in Annex 4;

‘Primary Ticketing Platforms’	means the following primary ticketing platform services currently used by the StubHub International Business: [X];
‘PUG LLC’	means PUG LLC, a Delaware limited liability company with file number 7688148;
‘Purchaser Approval Criteria’	means the criteria set out in Annex 3;
‘Registered Address’	means the postal address of a customer that is indicated as the primary contact address of the customer’s StubHub profile page as at the date 10 Working Days prior to the Completion Date;
‘Related Person’	means any Subsidiary, Affiliate or Associated Person;
‘Relevant Market’	means the supply of uncapped secondary ticketing platform services for the resale of tickets to UK events;
‘Remedy’	means the divestiture by viagogo of the StubHub International Business as set out in Chapter 10 of the Report;
‘Report’	means the report entitled ‘Completed acquisition by PUG LLC (viagogo) of the StubHub business of eBay Inc.’ published by the CMA on 2 February 2021;
‘SLC’	means a substantial lessening of competition and adverse effects identified by the CMA in the Report;
‘Specified Period’	means the period beginning on the Commencement Date and terminating on the Completion Date;
‘StubHub Group’	means StubHub, Inc., StubHub (UK) Limited, StubHub Europe S.à.r.l., StubHub India Private Limited, StubHub International Limited, StubHub Taiwan Co., Ltd., StubHub GmbH, and Todoentradas, S.L.;
‘StubHub Brand’	means the mark “StubHub” and associated intellectual property and materials, trade names, tag lines, logos, corporate names, service marks and descriptors;
‘StubHub business’	means the business of the StubHub Group and its Subsidiaries;
‘StubHub International Business’	means the assets and activities of the StubHub business carried on outside of

North America or directed towards all regions outside of North America and including all activities involving the resale or marketing of tickets to UK live events in any region (including for the avoidance of doubt North America), including the 23 StubHub companies listed in Annex 1 and including those matters listed in Annex 2;

‘StubHub International  
Licensed Domains’

means the website domain names listed in Table 2 of Annex 5 together with all rights to use the domain names, control of the domain name registrations, the IP addresses associated with the domain names via DNS, and the collection of web pages and related content that is associated with each of those website domain names as at the Completion Date, which shall be exclusively licensed to the Approved Purchaser;

‘StubHub NorAm’

means StubHub, Inc. and its subsidiaries retained by the Merged Entity following the Final Disposal;

‘StubHub NorAm Business’

means the StubHub Group, excluding the assets and activities of the StubHub International Business. For the avoidance of doubt, the StubHub NorAm Business includes the assets and activities of the StubHub business carried on in North America or directed towards North America, which shall be retained by viagogo, excluding activities involving the resale or marketing of tickets to UK live events;

‘StubHub NorAm Domains’

means the website addresses <https://www.stubhub.com> and <https://www.stubhub.ca>, and all other StubHub website addresses not listed in Annex 5, together with all rights to those domain names, control of those domain name registrations, the IP addresses associated with those domain names via DNS, and the collection of web pages and related content including but not limited to all IP in the webpages and code and all information related to search engine optimisation of those webpages (for



example but not limited to Google Search console data and analytics data) that is associated with each of those website domain names as at the Completion Date, which shall be retained by viagogo;

‘StubHub Platform’

means the secondary ticketing platform operated under the “StubHub” brand which includes but is not limited to all Platform Data, documentation, intellectual property and other assets necessary in order to operate this platform as at the Completion Date, as well as details of all platform developments and enhancements underway or in preparation up to the Completion Date;

‘StubHub UK Licensed Domains’

means the website domain names listed in Table 1 of Annex 5 together with all rights to use those domain names, control of those domain name registrations, the IP addresses associated with those domain names via DNS, and the collection of web pages and related content including but not limited to all IP in the webpages and code and all information related to search engine optimisation of those webpages (for example but not limited to Google Search console data and analytics data) that is associated with each of those website domain names as at the Completion Date, which shall be exclusively licensed to the purchaser of the StubHub International Business;

‘Subsidiary’

unless otherwise expressly stated has the meaning given by section 1159 of the Companies Act 2006;

‘Ticketbis Brand’

means the mark “Ticketbis” and associated intellectual property and materials, trade names, tag lines, logos, corporate names, service marks and descriptors;

‘Ticketbis Domains’

means the website domain names listed in Table 3 of Annex 5 together with all rights to those domain names, control of those domain name registrations, the IP addresses associated with those domain names via DNS, and the collection of web pages and related content that is associated with each of those website domain names

	as at the Completion Date, which shall be transferred or exclusively licensed to the Approved Purchaser;
‘Ticketbis Platform’	means the secondary ticketing platform owned by Ticketbis S.L.;
‘TicketUtils’	means the ticket broker software for the secondary ticketing market used by the StubHub NorAm Business;
‘Transaction Agreements’	means the sale agreement and all other agreements to be concluded between viagogo and the Approved Purchaser which are necessary in order to effect the Final Disposal;
‘Transaction Data’	means the record of a past transaction (i.e. the sale and purchase of a ticket/s) between a named seller and a named buyer and the associated data (comprising the transaction date, the seller’s User Data, the buyer’s User Data, the event, the quantity of tickets and the ticket price) irrespective of whether the event has been cancelled or postponed, together where applicable with details of the cancellation or postponement;
‘Trustee Divestiture Period’	means a period as the CMA may direct for the Divestiture Trustee to meet the Trustee Obligation commencing from the date of appointment of the Divestiture Trustee;
‘Trustee Obligation’	means bringing about the Final Disposal, and includes the performance of all ancillary tasks as are necessary or desirable for the purpose of effecting the Final Disposal promptly and, in any event, within the Trustee Divestiture Period;
‘UK’	means the United Kingdom of Great Britain and Northern Ireland;
‘UK live event’	means an event of any type including but not limited to a sports, concert or theatre event which takes place within the UK irrespective of the location of the buyer or seller of the ticket, or the entity responsible for organising or promoting the event. For the avoidance of doubt, this includes a sports event conducted in the UK pursuant to partnership agreements negotiated by

	the StubHub NorAm Business or the Merged Entity with North American [X];
‘Unassociated Listing’	means the record of a historical inventory listing, the ticket/s in respect of which were never purchased (i.e. associated with no transactions) and the associated data (comprising the listing date, the seller’s User Data, the event, the ticket quantity and the ticket price);
‘User Data’	means active and historic contact details, addresses and payment methods relating to a named customer;
‘VGL’	means VGL Services Ltd, a UK incorporated company with company number 07882020;
‘viagogo’	means Pugnacious Endeavors, Inc., a Delaware corporation with file number 3899246, and PUG LLC;
‘viagogo business’	means the business of viagogo, VGL, IFOT and their Subsidiaries but not including the StubHub NorAm Business or the StubHub Group;
‘Working Day’	means a day that is not a Saturday or Sunday or a bank holiday in England; and
‘written consent’	means a consent given in writing, including by email.

## 2. **Commencement**

These Final Undertakings will come into force on the Commencement Date in accordance with section 82(2) of the Act.

## 3. **Divestiture Undertakings**

### 3.1 The Parties each give the following undertakings:

- (a) to give effect to and implement the Final Disposal within the Divestiture Period having due regard to the findings in the Report and procure that their Subsidiaries do all things necessary to ensure the Parties are able to comply with these Final Undertakings;
- (b) to comply with any written directions given by the CMA under these Final Undertakings and to procure that their Subsidiaries also comply, and to take such steps as may be specified or described in the directions for complying with these Final Undertakings, in particular the appointment of a Divestiture Trustee;

- (c) to inform the CMA as soon as practicable, and in any event, within six weeks of the Commencement Date, of a shortlist of potential purchasers of the StubHub International Business being drawn up for the CMA's formal approval against the Purchaser Approval Criteria;
  - (d) to provide the CMA with sufficient information regarding each potential purchaser for which the Parties seek formal approval from the CMA, having regard to the Purchaser Approval Criteria to enable the CMA to give its approval of that potential purchaser, which shall not be unreasonably withheld.
- 3.2 The Parties shall give effect to and implement the Final Disposal in accordance with this clause 3 and Annex 2, and otherwise in compliance with these Final Undertakings.
- 3.3 The CMA will advise the Parties whether any potential purchaser is an Approved Purchaser within a reasonable period from the time the CMA concludes it has received sufficient information about the potential purchaser. The CMA will promptly inform the Parties where it considers it has received insufficient information about the potential purchaser.
- 3.4 Wherever these Final Undertakings require the Parties to "transfer" an asset, they shall not be in breach of such obligation if, and to the extent that, prior to the Final Disposal, they have used [X] to secure: (i) where the counterparty is not one of the entities listed in Annex 1, a new contract, novation or assignment to the Approved Purchaser of the [X] contracts for third-party vendor services required by the Approved Purchaser and to the extent currently used in the StubHub International Business; and (ii) where the counterparty is one of the entities listed in Annex 1, the consent of the counterparty to the [X] contracts for third-party vendor services required by the Approved Purchaser and currently used in the StubHub International Business, to the change in control of the relevant entity (insofar as such consent is required). Where the Parties are unable to secure a novation or assignment, viagogo undertakes to provide equivalent services [X] until the Approved Purchaser is able to enter into a contract for those services, provided that the Approved Purchaser at all times and at its cost uses [X] to enter such contract [X].
- 3.5 viagogo undertakes to inform the CMA as soon as practicable, and in any event within two Working Days of the date when: (i) viagogo has agreed heads of terms (if applicable); (ii) the Transaction Agreements have been agreed; and (iii) the Final Disposal has been completed.
- 3.6 viagogo undertakes to seek CMA approval of the final terms of the divestiture prior to the Final Disposal and provide all Transaction Agreements or other information the CMA may require.
- 3.7 viagogo undertakes to inform the CMA as soon as practicable, and in any event within three Working Days of becoming aware, if it will not, or believes it is unlikely to, achieve the Final Disposal within the Divestiture Period.

#### **4. Additional Obligations**

- 4.1 Each of the Parties undertakes to comply and, where necessary, to procure that its Subsidiaries comply, with all Directions the CMA may issue relating to these Final Undertakings and will promptly take such steps as may be specified or described in the Directions.
- 4.2 The parties acknowledge that the CMA may choose not to issue directions immediately upon becoming entitled to do so, and recognise that any delay by the CMA in making a written Direction shall not affect the obligations of each of the Parties at such time as the CMA makes any written Direction.
- 4.3 Each of viagogo and the StubHub NorAm Business undertake that for a period of ten years from the Final Disposal, they will not, and shall procure that any Related Person will not, bring under common ownership or control in whole or in part the StubHub International Business without the prior written consent of the CMA.

#### **5. Asset Maintenance Undertakings**

- 5.1 Except with the prior written consent of the CMA (which, for the avoidance of doubt, includes any derogations already granted by the CMA pursuant to the IEO and Interim Order, which shall remain applicable during the Specified Period), the Parties undertake not to take any action and to procure that their Subsidiaries do not take any action during the Specified Period which might:
  - (a) lead to the integration of the StubHub business with the viagogo business;
  - (b) transfer the ownership or control of all or any part of the StubHub business or any of its Subsidiaries except in the course of complying with these Final Undertakings; or
  - (c) otherwise impair the ability of the StubHub business and the viagogo business to compete independently in any of the markets affected by the Merger.
- 5.2 Further and without prejudice to the generality of paragraph 5.1, the Parties undertake during the Specified Period to procure that, except with the prior written consent of the CMA (which includes any previous derogations granted pursuant to the IEO and Interim Order, which will remain applicable during the Specified Period):
  - (a) the StubHub business is carried on separately from the viagogo business and the StubHub business' separate sales or brand identity is maintained;
  - (b) the StubHub business and the viagogo business are each maintained as a going concern and sufficient resources are made available for the development of the StubHub business and the viagogo business to enable them to continue to compete independently in any of the markets affected by the Merger;

- (c) except in the ordinary course of business and for the purpose of complying with these Final Undertakings, no substantive changes are made to the organisational structure of, or the management responsibilities within, the StubHub business or the viagogo business;
- (d) the nature, description, range and quality of goods and/or services supplied by each of the StubHub business and the viagogo business are maintained and preserved;
- (e) except in the ordinary course of business:
  - (i) all of the assets of the StubHub business and the viagogo business are maintained and preserved, including facilities and goodwill;
  - (ii) none of the assets of the StubHub business and the viagogo business are disposed of; and
  - (iii) no interest in the assets of the StubHub business and the viagogo business is created or disposed of;
- (f) there is no integration of the information technology of the StubHub and viagogo businesses, and the software and hardware platforms of the StubHub business shall remain essentially unchanged, except for routine changes and maintenance, except where strictly necessary to comply with these Final Undertakings;
- (g) the customer and supplier lists of the StubHub business and the viagogo business shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the StubHub business will be carried out by the StubHub Group alone and, for the avoidance of doubt, the viagogo business will not negotiate on behalf of the StubHub business;
- (h) all existing contracts of the StubHub business and the viagogo business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to the Key Staff of the StubHub business or the viagogo business;
- (j) no Key Staff are transferred between the StubHub Group or its Subsidiaries and viagogo or its Subsidiaries or Related Parties;
- (k) all reasonable steps are taken to encourage all Key Staff to remain with the StubHub business and the viagogo business, including the retention packages currently in place in respect of the StubHub business; and
- (l) no Confidential Information shall pass, directly or indirectly, from the StubHub Group (or any of its employees, directors, agents or Related Persons) to viagogo (or any of its employees, directors, agents, or Related Persons), or vice versa, except where strictly necessary in the ordinary course of business (for example, where required for compliance with external regulatory and/or accounting obligations).

- 5.3 The Parties each undertake that until the Final Disposal, they will keep the CMA updated of any material developments (and, with the consent of the CMA, such updates may be provided through the Monitoring Trustee) relating to the StubHub business or the viagogo business, which include but are not limited to:
- (a) details of Key Staff who leave or join the StubHub business or the viagogo business;
  - (b) any interruption of the StubHub or viagogo business (including, without limitation, procurement, processing, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
  - (c) all substantial customer volumes won or lost for the StubHub or viagogo business including any substantial changes in customers' demand;
  - (d) substantial changes in the StubHub or viagogo business' contractual arrangements or relationships with key suppliers; and
  - (e) substantial adverse changes in any material litigation or regulatory enforcement action;
  - (f) the initiation, defence, progress and resolution of any material litigation or regulatory enforcement action; and
  - (g) the financial position and/or performance of the StubHub business.
- 5.4 The Parties each undertake that within a period of two weeks from the Commencement Date, they will provide written compliance statements to the CMA in the form set out in Annexes A and B to the Interim Order, confirming compliance with their respective obligations under paragraph 5 of these Final Undertakings (subject to any granted derogations). Each Party shall set out any details of material developments for the purposes of paragraph 5.3 of which they are aware. Thereafter, each of the Parties will provide similar compliance statements to the CMA (or, with the consent of the CMA, such statements may be provided through the Monitoring Trustee) every two weeks until the Completion Date.
- 5.5 If any of the Parties has any reason to suspect that this paragraph 5 might have been breached, it shall immediately notify the CMA and the Monitoring Trustee appointed in accordance with the terms of paragraph 6.
- 5.6 The CMA may give Directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with this paragraph 5 or do or refrain from doing any specified action in order to ensure compliance with this paragraph 5. The CMA may vary or revoke any Directions so given.
- 5.7 The Parties shall comply and procure compliance by their Subsidiaries where necessary in so far as they are able with such Directions as the CMA may from time to time give to take such steps as may be specified or described in

the Directions for the purpose of carrying out or securing compliance with this paragraph 5.

**6. Monitoring Trustee – Appointment**

- 6.1 viagogo undertakes to secure the appointment or retention of an independent Monitoring Trustee to perform the functions set out in paragraph 8 on behalf of the CMA. Provided that the other conditions set out in this paragraph 6 are complied with, the Monitoring Trustee may be the same as already appointed pursuant to the written directions made by the CMA on 30 March 2020 under the IEO and extended on 3 July 2020 under the Interim Order.
- 6.2 In the event that viagogo proposes to retain the current monitoring trustee, appointed pursuant to the Interim Order, viagogo shall provide the CMA with a copy of the updated agreed terms and conditions of appointment and the revised mandate that reflect these Final Undertakings no later than five Working Days after the Commencement Date.
- 6.3 The Monitoring Trustee must possess appropriate qualifications and experience to carry out its functions. The Monitoring Trustee must be under an obligation to carry out its functions to the best of its abilities.
- 6.4 The Monitoring Trustee must neither have nor become exposed to a conflict of interest that impairs the Monitoring Trustee's objectivity and independence in discharging its duties under these Final Undertakings, unless it can be resolved in a manner and within a time frame acceptable to the CMA.
- 6.5 viagogo shall remunerate and reimburse the Monitoring Trustee for all reasonable costs and professional fees properly incurred in accordance with the terms and conditions of the appointment and in such a way so as not to impede the Monitoring Trustee's independence or ability to effectively and properly carry out its functions.
- 6.6 Unless paragraph 6.2 applies:
- (a) the appointment of the Monitoring Trustee and its terms and conditions must be approved by the CMA. viagogo shall inform the CMA as soon as is reasonably practicable and in any event by no later than two Working Days after the Commencement Date of the identity of the Monitoring Trustee that it proposes to appoint and provide the CMA with draft terms and conditions of appointment. Once the Monitoring Trustee has been approved by the CMA and appointed by viagogo, viagogo shall provide the CMA with a copy of the agreed terms and conditions of appointment.
  - (b) If the proposed Monitoring Trustee is rejected by the CMA, viagogo shall submit the names of at least two further persons within five Working Days starting with the date on which it was informed of the rejection, in accordance with the requirements and the procedures set out in paragraphs 6.3 to 6.5 above.
- 6.7 The provisions of paragraph 6.8 below shall apply if:
- (a) paragraph 6.2 does not apply; and



- (b) viagogo fails to nominate persons in accordance with paragraphs 6.1 or 6.6 above; or
  - (c) those further persons nominated by viagogo in accordance with paragraphs 6.1 or 6.6 above are rejected by the CMA; or
  - (d) viagogo is unable for any reason to conclude the appointment of the Monitoring Trustee within the time limit specified by the CMA.
- 6.8 The CMA shall nominate one or more persons to act as Monitoring Trustee, and viagogo shall appoint or cause to be appointed such Monitoring Trustee within two Working Days starting with the date of such nomination under the term of a Monitoring Trustee mandate approved by the CMA.
- 6.9 The Monitoring Trustee's mandate shall specify that the Monitoring Trustee will carry out the functions set out in paragraph 8 below and that the Monitoring Trustee will monitor the compliance of the Parties with their obligations under these Final Undertakings. The mandate shall provide that the Monitoring Trustee shall take such steps as it reasonably considers necessary to carry out its functions effectively and that the Monitoring Trustee must comply with any reasonable requests made by the CMA for the purpose of carrying out its functions under these Final Undertakings.
- 7. Monitoring Trustee – replacement, discharge and reappointment**
- 7.1 viagogo acknowledges that if the Monitoring Trustee ceases to perform its duties, or for any other good cause, including the exposure of the Monitoring Trustee to a conflict of interest, the CMA may, after consulting the Monitoring Trustee, require viagogo to replace the Monitoring Trustee.
- 7.2 If the Monitoring Trustee is removed under paragraph 7.1 above, the Monitoring Trustee may be required to continue in its post until a new Monitoring Trustee is in place to whom the Monitoring Trustee has effected a full handover of all relevant information. The new Monitoring Trustee shall be appointed in accordance with the procedure contained in paragraph 6 above.
- 8. Monitoring Trustee Functions – Divestiture of the StubHub International Business**
- 8.1 The Monitoring Trustee's functions as set out in this paragraph 8 are to monitor and review compliance with these Final Undertakings and progress towards the Final Disposal, and shall in particular include:
  - (a) Monitoring on-going compliance with the Divestiture Undertakings set out in paragraph 3 above and the Asset Maintenance Undertakings set out in paragraph 5 above; and
  - (b) monitoring the progress made against the Approved Timetable towards the Final Disposal, and the steps that have otherwise been taken to comply with these Final Undertakings including:
    - (i) the steps that have been taken towards the preparation of agreements for the transfer of the StubHub International

Business and the persons to whom such agreements have been distributed;

- (ii) where the Monitoring Trustee reasonably deems necessary, requesting and reviewing copies of communications (save where those communications are subject to legal privilege) between viagogo and its financial or other advisers and possible purchasers or their financial or other advisers in connection with the disposal process; and
- (iii) in instances where the Monitoring Trustee reasonably considers there to be a material risk that viagogo or StubHub Group or any of their Subsidiaries will not meet a step in the Approved Timetable, the Monitoring Trustee may attend meetings between viagogo and possible purchasers in connection with the disposal process.

8.2 The Monitoring Trustee will promptly inform the CMA of any material developments in connection with these Final Undertakings and will provide a written report to the CMA every four weeks, the first report to be submitted no later than three weeks from the Commencement Date.

## **9. Divestiture Reporting Obligations**

9.1 viagogo undertakes that within the period of five Working Days from the Commencement Date, or such other period as may be agreed by the CMA, it will provide a timetable that it proposes to adopt to ensure the Final Disposal. The CMA will as soon as reasonably practicable either approve this timetable as proposed or require reasonable amendments to it and will notify viagogo of the Approved Timetable.

9.2 The proposed timetable provided under paragraph 9.1 will outline the progress that viagogo has made towards the Final Disposal, and the steps that have otherwise been taken to comply with these Final Undertakings and shall in particular report on:

- (a) the status of any discussions that have been held with potential purchasers of the StubHub International Business;
- (b) the progress that has been made towards agreeing heads of terms (if applicable);
- (c) the steps that have been taken towards reaching transaction agreements and the persons to whom any draft agreements have been distributed; and
- (d) such other matters as may be directed by the CMA from time to time.

9.3 Thereafter, viagogo will provide similar reports to the CMA every four weeks, or at such other interval as required by the CMA, until the Final Disposal has been completed. The reports will include an update on the progress that has been made against the Approved Timetable and, with the consent of the CMA, such reports may be provided through the Monitoring Trustee.

- 9.4 viagogo undertakes that in the proposed timetable and subsequent reports to the CMA provided pursuant to paragraphs 9.1 to 9.3, it shall provide to the CMA:
- (a) details of the efforts taken by viagogo and its financial advisers to solicit purchasers for the StubHub International Business.
  - (b) the total number of persons who have lodged a formal bid with viagogo for the acquisition of the StubHub International Business since the publication of the Report;
  - (c) the name, address, email address, contact point and telephone number of each person who has lodged a formal bid with viagogo since the publication of the Report and subsequently been short-listed by viagogo as a preferred purchaser; and
- 9.5 In the event that viagogo or the StubHub Group or any of their Subsidiaries do not meet or are unlikely to meet a step as set out in the Approved Timetable or is otherwise delayed in implementing the Final Disposal, viagogo undertakes to inform the CMA promptly in writing of the occurrence, the reasons for the failure and any remedial steps, but not later than three Working Days from becoming aware that a step in the Approved Timetable has not been or is unlikely to be met.

## **10. Divestiture Trustee – Appointment**

- 10.1 The Parties recognise and acknowledge that the CMA may direct the appointment of a Divestiture Trustee following the expiration of the Divestiture Period if the Parties fail to achieve the Final Disposal within the Divestiture Period, or prior to the expiry of the Divestiture Period including where:
- (a) the CMA reasonably believes that there is a risk that the Final Disposal would be delayed or fail to be completed within the Divestiture Period; or
  - (b) the CMA reasonably believes after raising its concerns with the Parties that the Parties are not engaging constructively with each of their respective obligations under these Final Undertakings or that either of the Parties has otherwise failed to comply with each of their respective obligations under these Final Undertakings.
- 10.2 viagogo undertakes that on the direction of the CMA and in accordance with such directions given as to timing, viagogo shall submit to the CMA for approval a list of persons from which it proposes to appoint a Divestiture Trustee with sufficient information for the CMA to verify that each proposed person fulfils the requirements set out in paragraph 10.3 below and shall include among other things:
- (a) the full terms of the proposed mandate, which shall include all provisions necessary to enable the Divestiture Trustee to perform its duties; and
  - (b) a schedule of the steps to be taken to give effect to the mandate.

- 10.3 Each person on the list referred to in paragraph 10.2 shall possess the qualifications necessary for the performance of the mandate, shall be independent of and unconnected to the Parties and free of any conflict of interest including any conflict of interest that might arise by virtue of the terms of remuneration, on appointment or thereafter.
- 10.4 The CMA may approve or reject any or all of the proposed Divestiture Trustees (such approval not to be unreasonably withheld or delayed) and may approve the proposed mandate subject to any modifications it deems necessary for the Divestiture Trustee to fulfil its duties. If only one name is approved, viagogo shall use its best endeavours to appoint, or cause to be appointed, the individual or institution concerned as Divestiture Trustee in accordance with the mandate approved by the CMA. If more than one name is approved, viagogo shall be free to choose among the approved names the Divestiture Trustee to be appointed. viagogo undertakes to appoint the Divestiture Trustee within three Working Days from the CMA's approval and on the terms of the mandate approved by the CMA.
- 10.5 If all the proposed Divestiture Trustees are rejected by the CMA, viagogo shall submit the names of at least two further persons within five Working Days starting with the date on which it was informed of the rejection, in accordance with the requirements and the procedure set out in paragraphs 10.2 to 10.4 above.
- 10.6 The provisions of paragraph 10.7 below shall apply only if:
- (a) viagogo fails to nominate persons in accordance with paragraph 10.2 above;
  - (b) those further persons nominated by viagogo in accordance with paragraph 10.5 above are rejected by the CMA;
  - (c) viagogo is unable for any reason to conclude the appointment of the Divestiture Trustee within the time limit specified by the CMA.
- 10.7 The CMA shall nominate one or more persons to act as a Divestiture Trustee, and viagogo shall appoint or cause to be appointed such Divestiture Trustee within two Working Days starting with the date of such nomination under the terms of a Divestiture Trustee mandate approved by the CMA.

## **11. Divestiture Trustee – Functions**

- 11.1 The provisions of this paragraph 11, as well as paragraphs 12 and 13 are only relevant to the extent that the CMA appoints a Divestiture Trustee in accordance with paragraph 10 above.
- 11.2 The Parties undertake to enable the Divestiture Trustee to carry out its duties and to provide such co-operation and resources as the Divestiture Trustee may reasonably require.
- 11.3 The Parties recognise and acknowledge that:
- (a) the CMA may, on its own initiative or at the request of the Divestiture Trustee, give written directions or instructions to the Divestiture Trustee

in order to assist it in the discharge of its duty to implement the Trustee Obligation;

- (b) in order to implement the Trustee Obligation, the CMA may, on its own initiative or at the request of the Divestiture Trustee, give written directions or instructions to the Divestiture Trustee to amend the scope of the StubHub International Business, where the CMA has reasonable grounds for believing that the divestiture of the StubHub International Business cannot be achieved within the Divestiture Period;
- (c) the Divestiture Trustee may include in such agreements, deeds, instruments of transfer and other instruments and documents as are necessary to implement the Trustee Obligation and such terms and conditions as the CMA considers appropriate; and
- (d) the Divestiture Trustee shall protect the legitimate financial interests of viagogo subject to the Divestiture Trustee's overriding obligation to implement the Trustee Obligation.

11.4 The Parties recognise and acknowledge that the Divestiture Trustee shall take such steps and measures as it considers necessary to implement the Trustee Obligation and to that end, the Divestiture Trustee may give written directions to the Parties. The Parties undertake to comply with such directions or to procure compliance with such directions as are within their respective powers and to take such steps within their respective competence as the Divestiture Trustee may specify.

11.5 The Parties recognise and acknowledge that in the performance of the Trustee Obligation, the Divestiture Trustee shall act solely on the instructions of the CMA and shall not be bound by any instruction of the Parties. The Parties undertake that they shall not seek to revise the obligations and duties of the Divestiture Trustee except with the CMA's prior written consent.

## **12. Divestiture Trustee – duties and obligations of viagogo and the StubHub Group**

12.1 The Parties undertake to provide the Divestiture Trustee with such cooperation, assistance and information (including the production of financial or other information, whether or not such information is in existence at the time of the request that is relevant to the divestiture, excluding any material properly the subject of legal privilege) as the Divestiture Trustee may reasonably require in the performance of the Trustee Obligation.

12.2 The Parties recognise and acknowledge that the Divestiture Trustee shall be entitled, subject to the duty of confidentiality, to full and complete access to the books, records, documents, management or other personnel, facilities, sites and technical information necessary for the fulfilment of the Trustee Obligation (save where material is properly the subject of legal privilege). The Parties also undertake to provide the Divestiture Trustee upon reasonable request with copies of any such items. Upon the reasonable request of the Divestiture Trustee, the Parties undertake to make available to the Divestiture Trustee one or more offices on their respective premises and ensure that the necessary viagogo and/or StubHub Group personnel are available for

meetings in order to provide the Divestiture Trustee with all information reasonably necessary to discharge the Trustee Obligation, subject in each case to the Divestiture Trustee's compliance with the Parties' respective internal policies.

- 12.3 The Parties undertake to grant reasonable comprehensive powers of attorney, duly executed, to the Divestiture Trustee to enable it to discharge the Trustee Obligation, including by the appointment of advisers to assist with the disposal process. The Parties undertake that upon the reasonable request of the Divestiture Trustee, they shall execute the documents required to give effect to the Trustee Obligation.
- 12.4 The Parties undertakes to hold the Divestiture Trustee, its employees, agents or advisers harmless against any liabilities arising out of the proper performance of the duty to divest the StubHub International Business and the Parties recognise and acknowledge that the Divestiture Trustee, its employees, agents or advisers shall have no liability to the Parties or any of its Subsidiaries or Affiliates for any liabilities arising out of the proper performance of the duty to divest the StubHub International Business, except to the extent that such liabilities result from the wilful default, recklessness, negligence or bad faith of the Divestiture Trustee, its employees, agents or advisers.
- 12.5 viagogo shall be entitled to a monthly statement from the Divestiture Trustee of all professional fees and expenses properly incurred by the Divestiture Trustee and its advisers, appointed in accordance with paragraph 12.6. Any individual items of costs or expenses in excess of an amount at a level set in advance by the CMA in consultation with the Divestiture Trustee shall not be properly incurred unless with the prior written consent of the CMA, viagogo having had prior opportunity to comment to the CMA on both the level to be set in advance and any individual items of cost or expense that exceed that amount, on the condition that viagogo shall provide such comments to the CMA within a timescale specified by the CMA that shall be reasonable in all the circumstances.
- 12.6 viagogo shall remunerate and reimburse the Divestiture Trustee for all professional fees, expenses and reasonable costs properly incurred in accordance with the terms and conditions of its appointment. This may include all costs, expenses and professional fees of financial or legal advisers appointed to assist with the fulfilment of the Divestiture Trustee Obligation if the Divestiture Trustee reasonably considers the appointment of such advisers necessary or appropriate. Before appointing any such advisers, the Divestiture Trustee will consider using the advisers already appointed by viagogo. Should viagogo refuse to approve the advisers proposed by the Divestiture Trustee, the CMA may, after consulting with viagogo, approve and direct the appointment of such advisers.
- 12.7 The Parties undertake to make no objection to the Final Disposal save on the grounds of bad faith, wilful default, recklessness or negligence by the Divestiture Trustee or failure of the Divestiture Trustee to reasonably protect the legitimate financial and business interests of viagogo. Where the Parties wish to make an objection, they shall submit to the CMA a notice setting out

the objection within three Working Days from the day on which they became aware of the fact or facts giving rise to the objection.

**13. Divestiture Trustee – replacement, discharge and reappointment**

- 13.1 The Parties acknowledge that if the Divestiture Trustee ceases to perform its duties, or for any other good cause, including the exposure of the Divestiture Trustee to a conflict of interest, the CMA may, after consulting the Divestiture Trustee, require viagogo to replace the Divestiture Trustee.
- 13.2 If the Divestiture Trustee is removed under paragraph 13.1 above, the Divestiture Trustee may be required to continue in its post until a new Divestiture Trustee is in place to whom the Divestiture Trustee will have effected a full handover of all relevant information. The new Divestiture Trustee shall be appointed in accordance with the procedure contained in paragraph 10 above.
- 13.3 The Parties recognise and acknowledge that, other than in accordance with paragraph 13.1 above, the Divestiture Trustee shall cease to act as Divestiture Trustee only after the CMA has discharged it from its duties at a time at which all the obligations with which the Divestiture Trustee has been entrusted have been met.

**14. Variations to these Final Undertakings**

- 14.1 The terms of these Final Undertakings may be varied with the prior written consent of the CMA in accordance with sections 82(2) and 82(5) of the Act.
- 14.2 Where a request for consent to vary these Final Undertakings is made to the CMA, the CMA will consider any such request in light of the Report and will respond in writing as soon as is reasonably practicable having regard to the nature of the request and to its statutory duties.
- 14.3 The consent of the CMA shall not be unreasonably withheld or delayed.

**15. General obligations to provide information to the CMA**

- 15.1 The Parties each undertake to cooperate with the CMA in good faith and to promptly provide to the CMA such information as the CMA may reasonably require for the purpose of performing any of its functions under these Final Undertakings or under sections 82, 83, 93(6) and 94 of the Act.
- 15.2 The Parties each undertake that should they at any time be in breach of any provision of these Final Undertakings, the relevant party will notify the CMA within three Working Days, starting with the date it becomes aware of the breach or relevant circumstances of that breach.
- 15.3 Where any person, including a Monitoring Trustee or a Divestiture Trustee must provide information to the CMA under or in connection with these Final Undertakings, whether in the form of any notice, application, report or otherwise, the Parties each undertake that they will take reasonable steps within their respective power to procure that that person shall hold all information provided to it as confidential and shall not disclose any business-

sensitive information of the Parties to any person other than to the CMA, without the prior written consent of both the CMA and the Parties.

**16. Acceptance of service**

- 16.1 viagogo hereby authorises its legal representatives, Freshfields Bruckhaus Deringer, whose address for service is c/o Alastair Chapman / Rod Carlton / Simon Priddis, Freshfields Bruckhaus Deringer LLP, 100 Bishopsgate, London EC2P 2SR, to accept service of all documents, orders, requests, notifications or other communications connected with these Final Undertakings (including any such document which falls to be served on or sent to viagogo or its Subsidiaries or Affiliates in connection with proceedings in court in the UK).
- 16.2 The StubHub Group hereby authorises its legal representatives, Quinn Emanuel, Urquhart & Sullivan, LLP, whose address for service is c/o Stephen Mavroghenis / Marixenia Davilla, Quinn Emanuel, Urquhart & Sullivan, LLP, 90 High Holborn, London WC1V 6LJ, to accept service of all documents, orders, requests, notifications or other communications connected with these Final Undertakings (including any such document which falls to be served on or sent to the StubHub Group or its Subsidiaries or Affiliates in connection with proceedings in court in the UK).
- 16.3 Unless viagogo or the StubHub Group informs the CMA that their legal representatives have ceased to have authority and have informed the CMA of an alternative to accept and acknowledge service on their behalf, any document, written directions, order, request, notification or other communication connected with these Final Undertakings shall be deemed to have been validly served, as applicable, on viagogo or the StubHub Group, if it is served on their applicable respective legal representatives, and service or receipt shall be deemed to be acknowledged by email from viagogo's and the StubHub Group's legal representatives to the CMA.
- 16.4 Paragraph 16.1 has effect irrespective of whether, as between viagogo and its legal representatives, or the StubHub Group and its legal representatives, their respective legal representatives have or continue to have any authority to accept and acknowledge service on their behalf (unless they inform the CMA that viagogo's or the StubHub Group's legal representatives have ceased to have authority to accept and acknowledge service on their behalf), and no failure or mistake by viagogo's or the StubHub Group's legal representatives (including a failure to notify, as applicable, viagogo or the StubHub Group, of the service of any document, order, request, notification or other communication) shall invalidate any action taken in respect of these Final Undertakings, including any proceeding or judgment pursuant to these Final Undertakings.

**17. Effect of invalidity**

- 17.1 The Parties undertake that should any provision of these Final Undertakings be contrary to law or invalid for any reason, they shall continue to observe the remaining provisions.



**18. Extension of time**

- 18.1 The Parties recognise and acknowledge that the CMA may, where it considers it appropriate, in response to a written request from either of the Parties showing good cause, or otherwise at its own discretion, grant an extension of any period specified in these Final Undertakings within which the Parties, the Monitoring Trustee and the Divestiture Trustee (as the case may be) must take action. The grant of any such extension shall not be unreasonably withheld or delayed.

**19. Undertakings given jointly and severally**

- 19.1 Where undertakings in these Final Undertakings are given by viagogo and the StubHub Group, they are given jointly and severally.

**20. Governing law**

- 20.1 These Final Undertakings shall be governed by and construed in all respects in accordance with English law.
- 20.2 Disputes arising concerning these Final Undertakings shall be subject to the jurisdiction of the courts of England and Wales.

FOR AND ON BEHALF OF PUGNACIOUS ENDEAVORS, INC.

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Signed

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Name

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Title

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Date

FOR AND ON BEHALF OF PUG LLC

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Signed

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Name

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Title

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Date

FOR AND ON BEHALF OF STUBHUB GROUP

.....

Signed

.....

Name

.....

Title

.....

Date

## **Annex 1: Companies comprising the StubHub International Business**

1. StubHub (UK) Limited, incorporated in the UK, with company number 10585626
2. StubHub GmbH, incorporated in Germany, with company number HRB 207061
3. Todoentradas S.L., incorporated in Spain, with company number B95579827
4. StubHub International Limited, incorporated in the UK, with company number 10585633
5. StubHub Taiwan Co., Ltd, incorporated in Taiwan, with unified business number 52859215
6. StubHub Europe S.a.r.l., incorporated in Luxembourg, with company number B164474
7. Ticketbis S.L., incorporated in Spain, with company number B95630034
8. Iguana Tickets, S.L., incorporated in Spain, with company number B95727111
9. TM Resources S.L., incorporated in Spain, with company number B95630018
10. 360 Experience, S.L., incorporated in Spain, with company number B95784443
11. Eventbis, S.L., incorporated in Spain, with company number B95630042
12. Premium Vibe Pty Ltd, incorporated in Australia, with company number ACN 602 395 031
13. Evandti S.A. de C.V., incorporated in Mexico, with company number 446185-1
14. 360 Experience Concierge Para Eventos Ltda, incorporated in Brazil, with company number NIRE 35.226.980.05-6
15. 360 Experience, Limited, incorporated in Hong Kong, with company number CR 2001825
16. Eventbis Brasil Tecnologia Para Eventos eTickets Ltda., incorporated in Brazil, with company number Brazil 13.827.475/0001-06
17. Eventbis Mexico S.A. de C.V., incorporated in Mexico, with company number 110803092042
18. Evandti AR S.A., incorporated in Argentina, with company number I.G.J N° 1.849.846
19. Ticketbis Peru, S.A., incorporated in Peru, with company number 20552341750

20. Servicios Integrales Ewantdi Limitada, incorporated in Chile, with company number RUT 76.216.739-5
21. Ticket Experience Co. Ltd., incorporated in Japan, with company number 0104-01-109737
22. Ticket Experience Inc., incorporated in the Republic of Korea, with company number 110111-5414787
23. Ticketbis Colombia, S.A.S., incorporated in Colombia, with company registration number 02312628

## **Annex 2: Matters included with the divestment of the StubHub International Business**

### **A. The Parties undertake to dispose of the StubHub International Business in accordance with the following terms:**

1. Upon the Completion Date, the Parties shall:
  - 1.1 Transfer the entirety of the shares they hold in each of the 23 companies listed in Annex 1 to the Approved Purchaser and shall provide an assurance that these companies own all the properties, assets and rights necessary to operate the StubHub International Business, save for those assets being specifically transferred by the Parties to the Approved Purchaser under the terms of these Final Undertakings.
  - 1.2 Transfer the StubHub Platform to the Approved Purchaser together with all related intellectual property in the StubHub Platform, including the Platform Data, but excluding:
    - (a) the StubHub Brand, the StubHub UK Licensed Domains and the StubHub International Licensed Domains, which will be licensed to the Approved Purchaser pursuant to clause 1.9 below;
    - (b) the StubHub NorAm Domains; and
    - (c) any components of the StubHub Platform that relate exclusively to the StubHub NorAm Business ([X]) together with all related intellectual property and data in such components, which as of the date of the Completion Date are not required to operate the StubHub International Business, as well as any data deleted from the StubHub Platform pursuant to paragraph 4, which the Merged Entity may retain.
  - 1.3 Transfer the intellectual property referred to in paragraph 1.2 above in accordance with one of the following methods, depending on the Approved Purchaser's preference (such preference being made clear prior to the Final Disposal):
    - (a) the intellectual property will be licensed to the Approved Purchaser pursuant to an exclusive (subject to viagogo retaining the rights that would be granted to it under the licence back referred to in paragraph (b)), royalty-free, perpetual and irrevocable worldwide licence; or
    - (b) the intellectual property will be sold outright to the Approved Purchaser. In this case, the terms of the relevant Transaction Agreement will include a clause providing for the Approved Purchaser to license the intellectual property back to viagogo:
      - (i) for purposes of viagogo migrating the data which the Merged Entity will retain pursuant to clause 5.2(a) below from the Duplicate Platform to [X] in accordance with paragraph 5.2(c) below;

- (ii) for purposes of viagogo operating the StubHub NorAm Business during the migration period; and
  - (iii) on a non-exclusive, royalty-free, basis for the period of two years from the Completion Date and only for the purpose of reproducing, making available, using, modifying and creating derivative works from any components, features or functionality of the StubHub Platform as necessary for the operation of the StubHub NorAm Business and including any related Platform Data used in connection with the StubHub NorAm Business.
- 1.4 Transfer the Ticketbis Platform including any data or dataset used in its functional operation to the Approved Purchaser and the Ticketbis Domains (subject to the obligation to use [X] to secure any third-party consent insofar as such consent is required) to the Approved Purchaser.
- 1.5 Transfer the Primary Ticketing Platforms to the Approved Purchaser.
- 1.6 Provide to the Approved Purchaser on the StubHub Platform at the time of the transfer in accordance with 1.2 above the following:
  - (a) all Active Listings as at the Completion Date where the event location is outside of North America, regardless of whether the reseller is an International Seller or a NorAm Seller;
  - (b) all User Data, Transaction Data and Associated Listings of International Buyers;
  - (c) all User Data, Transaction Data, Associated Listings and Unassociated Listings of International Sellers;
  - (d) the International Analytics Data; and
  - (e) the International Catalogue Data.
- 1.7 Transfer the copy of the Original StubHub Mobile App created pursuant to paragraph 5.4 below (i.e. the Duplicate StubHub Mobile App) to the Approved Purchaser.
- 1.8 Transfer the exclusive global rights to the Ticketbis Brand in perpetuity through an outright sale to the Approved Purchaser.
- 1.9 License the StubHub Brand, the StubHub International Licensed Domains and the StubHub UK Licensed Domains to the Approved Purchaser (subject to the obligation to use [X] to secure any third-party consent insofar as such consent is required) for its exclusive use for any purpose (subject to paragraph (g) below) on a global (excluding North America, except as provided by paragraph (f) below) and royalty free basis. The material terms of the licence agreement shall be as follows:
  - (a) the Approved Purchaser shall be entitled to use the StubHub Brand for any purpose (subject to paragraph (g) below) anywhere in the world, but not in North America (except as provided by paragraph (f) below);
  - (b) the licence shall be royalty-free;



- (c) the duration of the licence shall be for a period of 10 years from the Completion Date;
- (d) the licence agreement shall endure irrespective of whether the Approved Purchaser rebrands the StubHub International Business during the 10-year licence period;
- (e) the Merged Entity shall be prohibited from using the StubHub Brand (including in advertisement text or in links to websites) to target customers (using geographic targeting mechanisms available on the search engine advertising platforms) based in North America seeking UK live events using paid search advertising (including Google and other search engines) for a period of 5 years from the Completion Date;
- (f) the Approved Purchaser shall be entitled to use the StubHub Brand (including in advertisement text or in the links to the websites) to target customers (using geographic targeting mechanisms available on the search engine advertising platforms) based in North America seeking UK live events using paid search engines (including Google and other search engines) for a period of 10 years from the Completion Date, and for the avoidance of doubt, there shall be no trademark or other intellectual property infringement in the event that links to StubHub International Business websites appear in organic or unpaid search engine results for customers in North America; and
- (g) the licence agreement shall contain such commercial protections for both parties as are customary and reasonable in such brand licences.

1.10 Use their [X] to transfer, subject to employee consent where necessary, the following employees and related infrastructure to the Approved Purchaser:

- (a) all employees and contractors who are employed by or contracted to provide services to the 23 companies listed in Annex 1 as at the Completion Date;
- (b) any employees and contractors who are employed by or contracted to provide services to the StubHub NorAm Business as at the Completion Date which are deemed by the Approved Purchaser, acting reasonably, as being required to operate the StubHub International Business and maintain the StubHub secondary ticketing platform, [X];
- (c) any associated office space and equipment the Approved Purchaser deems the employees set out in paragraphs (a) and (b) above require in order to carry out their duties; and
- (d) the employees in respect of whom retention packages are currently in place until the earlier of [X], namely:

[X].

2. viagogo shall retain all liabilities of the StubHub International Business arising from acts or omissions or other conduct (including any breach of these undertakings) that occurred up to the Completion Date and any liabilities that

arise subsequent to the Completion Date but relating to acts or omissions or other conduct (including any breach of these undertakings) that occurred up to the Completion Date.

3. The retention of these liabilities by viagogo will be provided for in the Transaction Agreements, which will include, among other matters relating to the retention of all liabilities set out in paragraph 2 above, provisions pertaining to the prompt compensation for any liabilities including in relation to customers and resellers, arising in respect of tickets sold or purchased prior to the Completion Date, regardless of whether the cancellation or postponement is before or after that date.
4. The Transaction Agreements shall include the following provisions:
  - 4.1 Prior to the Merged Entity transferring the StubHub Platform to the Approved Purchaser pursuant to paragraph 1.2 above, the Merged Entity will permanently delete from the StubHub Platform the User Data, Transaction Data, Active Listings, Associated Listings, Unassociated Listings, Analytics Data and Catalogue Data that are not specified in paragraph 1.6 above, and any such aforementioned data to the extent incorporated in other data sets on the StubHub Platform, unless legitimately transferred to the Approved Purchaser pursuant to these Final Undertakings, provided that any indivisible data sets that incorporate data specified in paragraph 1.6 shall be transferred to the Approved Purchaser if reasonably required by the Approved Purchaser.
  - 4.2 The Approved Purchaser will conclude a transitional services agreement with viagogo pursuant to which the Approved Purchaser shall provide to viagogo the services of employees which have transferred to it pursuant to paragraph 1.10 above and which viagogo reasonably requires in order to operate and maintain the Duplicate Platform. This transitional services agreement will last for a maximum period of 6 months from the Completion Date. This 6-month period shall be extendable by a further 6 months with the consent of the Approved Purchaser and the CMA.

**B. In addition to disposal undertakings provided by the Parties in section A above, the Parties provide the following associated undertakings:**

5. Prior to completion of the Final Disposal:
  - 5.1 The Parties shall complete the migration of the StubHub Platform to the Google Cloud Platform.
  - 5.2 Once the abovementioned migration has been completed, the Parties shall cause the Duplicate Platform to be created. viagogo shall be entitled to retain the Duplicate Platform, on the following terms and subject to paragraph 6.2 below:
    - (a) the Duplicate Platform will contain the following data:
      - (i) all Active Listings as at the Completion Date where the event location is within North America;
      - (ii) all User Data of NorAm Buyers;

- (iii) all User Data of NorAm Sellers;
  - (iv) the Transaction Data and Associated Listings in respect of transactions concluded between NorAm Buyers and NorAm Sellers;
  - (v) the Unassociated Listings of NorAm sellers;
  - (vi) the Analytics Data, other than the International Analytics Data;
  - (vii) the NorAm Catalogue Data; and
  - (viii) the Platform Data.
- (b) The Parties shall ensure that any other User Data, Transaction Data, Catalogue Data, Analytics Data, Active Listings, Associated Listings and Unassociated Listings that are not specified in paragraph (a) shall be deleted from the Duplicate Platform and not otherwise held, transferred or stored in any storage medium including any platform, such that the Merged Entity shall have no access to this data; save for the following data of which the Merged Entity shall retain an appropriately secured copy solely for tax, legal, regulatory, historical financial reconciliation and transaction liability purposes:
- (i) Transaction Data in respect of transactions between NorAm Buyers and International Sellers;
  - (ii) Transaction Data and the Associated Listings in respect of transactions between NorAm Sellers and International Buyers;
- (c) viagogo may make use of the Duplicate Platform only for purposes of (i) migrating the data from the Duplicate Platform [✂]; (ii) operating the StubHub NorAm Business during the migration period; and (iii) otherwise exercising its rights retained under paragraph 1.3(a) above or under the licences granted in paragraph 1.3(b) above, as applicable.
- 5.3 The Parties shall implement any and all updates, improvements and modifications which are made to the Duplicate Platform to the migrated StubHub Platform between the date of creation of the Duplicate Platform and the Completion Date.
- 5.4 The Parties shall create a copy of the Original StubHub Mobile App currently listed on the Google and Apple app stores by cloning the app. viagogo shall be entitled to retain the Original StubHub Mobile App.
- 5.5 The Parties shall use [✂] to seek the consent of eBay and to novate or otherwise transfer to the Approved Purchaser the benefit of the transitional services agreements in place between eBay and StubHub at the time of entering the Transaction Agreements that are reasonably required by the Approved Purchaser. Where they are unable to achieve this, the Parties undertake to provide equivalent services for a limited period of time, not to exceed 12 months from completion of the Final Disposal.

- 5.6 The Parties shall use [✂] to secure the consent of the counterparty to the Primary Ticketing Partnerships to the change in control of the entities which concluded the Primary Ticketing Partnerships (insofar as this is required).
6. Except where a later date is expressly provided below, viagogo shall on the Completion Date:
- 6.1 Transfer the data specified in paragraph 5.2(a) above from the Duplicate Platform to [✂] within 6 months of the Completion Date, subject to paragraph 7 below.
- 6.2 Cause the Duplicate Platform to be permanently and irrevocably deleted from its systems within 6 months of the Completion Date, subject to paragraph 7 below.
- 6.3 Cause the Original StubHub Mobile App to be removed from the Apple and Google app stores outside of North America. viagogo undertakes to refrain from relisting the Original StubHub Mobile App on the Apple and Google app stores outside of North America for a period of 10 years from the Completion Date.
- 6.4 Implement an automatic website redirection mechanism in accordance with the following terms:
- (a) viagogo shall take all necessary steps to redirect resellers and buyers which visit the StubHub NorAm Domains to list or purchase tickets to UK live events to the StubHub UK Licensed Domains;
  - (b) the redirection mechanism shall operate in practice as follows:
    - (i) when a reseller or a buyer selects a UK live event on the StubHub NorAm Domains, a message will appear (or 'pop-up') on the customer's screen. The message will explain that the customer is being automatically redirected to the StubHub UK Licensed Domains (or another website of the Approved Purchaser's choice).
    - (ii) where the customer is a buyer, the automatic redirection will take them to the homepage of the StubHub UK Licensed Domains (or another website of the Approved Purchaser's choice) on which they can navigate to their desired UK live event;
    - (iii) where the customer is a consumer reseller, the automatic redirection will take them to the homepage of the StubHub UK Licensed Domains (or another website of the Approved Purchaser's choice) from which they can list their inventory for the relevant UK live event;
    - (iv) with regard to resellers who list inventory through StubHub's large-resellers tool (TicketUtils), the same message will appear (or 'pop-up') when the reseller reaches the StubHub NorAm Business marketplace for a UK event, following which they will be taken to the homepage of the StubHub UK Licensed

Domains (or another website of the Approved Purchaser's choice) on which they can list their inventory for the relevant UK live event;

- (c) viagogo shall appoint a monitoring trustee, subject to approval by the CMA to oversee the redirection mechanism for the duration of the mechanism and the CMA will approve the mandate of the monitoring trustee;
- (d) the redirection shall endure for a period of 5 years from the Completion Date;
- (e) the redirection shall apply to:
  - (i) any successor StubHub branded websites of the Merged Entity (i.e. any successors to the StubHub NorAm Domains);
  - (ii) the TicketUtils tool; and
  - (iii) any successor to the TicketUtils tool;
- (f) the redirection shall continue to apply in the event that the Approved Purchaser rebrands the StubHub International Business and thus establishes a successor website to the StubHub UK Licensed Domains (in this regard, the redirection shall apply to the successor website of the StubHub UK Licensed Domains);
- (g) for the duration of the redirection, the Merged Entity will not list any tickets to UK live events on the StubHub NorAm Domains. Accordingly, resellers and buyers will be unable to sell and purchase tickets to UK live events using the StubHub NorAm Domains;
- (h) for purposes of ensuring that the UK live events appearing on the StubHub NorAm Domains are complete and up to date (despite no inventory being listed), viagogo shall mirror the UK live events catalogue used on the viagogo website. The viagogo UK live events catalogue shall only show events and not any associated inventory;
- (i) viagogo shall pay the costs of the monitoring trustee and provide any access or information that the monitoring trustee may require for the duration of the redirection mechanism.

6.5 Implement an automatic mobile application redirection mechanism in accordance with the following terms:

- (a) All buyers and resellers that appear to be located in the UK based on the location settings of the customer's mobile device shall be redirected to download the Duplicate StubHub Mobile App specified in paragraph 1.6 above, as soon as they open the Original StubHub Mobile App;
- (b) the redirection shall endure for a period of 5 years from the Completion Date;

- (c) the redirection mechanism shall operate in practice as follows: when a UK customer opens the Original StubHub Mobile App, a message will appear (or 'pop-up'). The message (or 'pop-up') will request them to download the Duplicate StubHub Mobile App and urge them to delete the Original StubHub Mobile App;
  - (d) the Merged Entity shall not display any inventory for UK live events on the Original StubHub Mobile App during the 5-year redirection period;
  - (e) the Merged Entity shall not list the Original StubHub Mobile App on the Apple and Google app stores outside North America for 10 years after the Completion Date;
  - (f) viagogo shall appoint a monitoring trustee, subject to approval by the CMA of the monitoring trustee's appointment and mandate, to oversee the redirection mechanism for the duration of the mechanism; and
  - (g) viagogo shall pay the costs of the monitoring trustee and provide any access or information that monitoring trustee may require for the duration of the redirection mechanism.
7. If, prior to the expiration of the 6 month period referred to in paragraphs 6.1 and 6.2 above, viagogo has used its best endeavours to complete the migration yet is of the reasonable view that it requires additional time to complete such migration, it shall be entitled to extend the 6-month period by a further 6 months on written notice to the CMA. Such notice shall be provided to the CMA no later than one month prior to the expiration of the original 6-month period.

## **Annex 3: Purchaser Approval Criteria**

These Purchaser Approval Criteria are to be construed in a manner that is consistent with, and for the purpose of giving effect to, the Report in the Relevant Market.

The CMA shall on reasonable request give viagogo guidance on the interpretation of specific aspects of these Purchaser Approval Criteria, so as to enable viagogo to ensure that its selected purchaser for the StubHub International Business will meet the requirements of this Annex 3.

### **1. Independence**

- 1.1 An Approved Purchaser should not have any connection (for example financial, management, shared directorships, equity interests, reciprocal commercial arrangements) to viagogo and/or StubHub that could reasonably be expected to compromise the Approved Purchaser's ability or incentives to compete with the Merged Entity after the Final Disposal.

### **2. Capability**

- 2.1 An Approved Purchaser should have access to or be able to secure appropriate financial resources, expertise and assets to enable the StubHub International Business to be an effective competitor. This access should be sufficient to enable the StubHub International Business to continue to develop as an effective competitor.
- 2.2 When assessing the capability of a potential purchaser of the StubHub International Business, an Approved Purchaser should:
  - (a) have experience in managing and operating a ticketing or related business involving critical or complex IT environments; and
  - (b) be of a sufficient size and have the financial and management resources to cover the losses of the StubHub International Business while the uncapped secondary ticketing market is being affected by the COVID-19 pandemic and to restructure it.

### **3. Commitment to the Relevant Market**

- 3.1 An Approved Purchaser should demonstrate to the satisfaction of the CMA that it is committed to and has credible plans for competing in the market for the supply of uncapped secondary ticketing platform services for the resale of tickets to UK events. This should be evidenced by:
  - (a) a robust business plan demonstrating how the purchaser will maintain and operate the StubHub International Business as a viable business actively competing in the market for the supply of uncapped secondary ticketing platform services for the resale of tickets to UK events; and
  - (b) managerial, operational and technical capability to support such a business plan.

4. **Absence of competitive and regulatory concern**

- 4.1 An Approved Purchaser should not give rise to a realistic prospect of an SLC in the Relevant Market.
- 4.2 An Approved Purchaser shall be willing to honour any undertaking given by the StubHub business with respect to compliance with UK consumer protection law as may be required by the CMA.



## Annex 4: Primary Ticketing Partnerships

Primary ticketing agreement	Contracting entity
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]

## Annex 5

**Table 1: StubHub UK Licensed Domains**

Promotional StubHub UK Domain Names	Defensive StubHub UK Domain Names	Country
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]

**Table 2: StubHub International Licensed Domains**

Promotional StubHub International Domain Names	Defensive StubHub International Domain Names	Country
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]
[X]	[X]	[X]





Promotional StubHub International Domain Names	Defensive StubHub International Domain Names	Country
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]

**Table 3: Ticketbis Domains**

Promotional Ticketbis Domain Names	Defensive Ticketbis Domain Names	Country
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]











Promotional Ticketbis Domain Names	Defensive Ticketbis Domain Names	Country
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]
[✂]	[✂]	[✂]