

## PARTIES

- (1) FreeClix Limited a company incorporated in *England and Wales* under number 3892152 whose registered office is at **Quartermaster House, Dewing Road, Rackheath, Norfolk. NR13 6PS (Supplier)** and
- (2) The business entity (**Customer**) which makes an **Order** (each of the Supplier and the Customer being a **party** and together the Supplier and the Customer are the **parties**).

## BACKGROUND

- A The Supplier conducts the business of supplying IT and Telecommunications services to other businesses.
- B The parties agree that the Supplier shall supply services to the Customer on the terms set out in this Agreement.
- C The parties contemplate that the Supplier may supply services to the Customer in a series of supplies over time rather than in a single supply.

## THE PARTIES AGREE:

### 1 Definitions and interpretation

#### 1.1 In this Agreement:

<b>Affiliate</b>	means any entity that directly or indirectly <b>Controls</b> , is <b>Controlled</b> by, or is under common <b>Control</b> with, another entity;
<b>Bribery Laws</b>	means the Bribery Act 2010 [and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010] [and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption] [and any similar or equivalent legislation in any other relevant jurisdiction including <i>[specify]</i> ];
<b>Business Day</b>	means a day other than a Saturday, Sunday or bank or public holiday in England;
<b>Commencement Date</b>	means the date of this Agreement
<b>Confidential Information</b>	has the meaning given to it in clause 12.1;
<b>Contract Year</b>	means each consecutive period of 12 months commencing from the supply date of any services.
<b>Control</b>	[means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and <b>Controls</b> and <b>Controlled</b> shall be interpreted accordingly OR has the meaning given in the Corporation Tax Act 2010, s 1124 and <b>Controls</b> and <b>Controlled</b> shall be interpreted accordingly];
<b>Deliverables</b>	means the products to be supplied by the Supplier to the Customer ancillary to the supply of the Services;
<b>Force Majeure</b>	has the meaning given in clause 18;

<b>Intellectual Property Rights</b>	means copyright, patents, rights in inventions, rights in confidential information, Know-how, trade secrets, trade marks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, mask works, utility models, domain names, rights in computer software and all similar rights of whatever nature and, in each case: (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future and (v) wherever existing;
<b>Know-how</b>	means inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, methods, tests, reports, component lists, manuals, instructions, drawings and information relating to customers and suppliers (whether written or in any other form and whether confidential or not);
<b>Order</b>	has the meaning given to it in clause 3.1;
<b>Performance</b>	means the time at which Services are deemed to be performed for the Customer under clause 4.2;
<b>Performance Location</b>	means the location set out in an Order to which the Supplier shall deliver, or procure the Performance of, Services;
<b>Price</b>	means the price of any of the Services determined under clause 7;
<b>Representatives</b>	has the meaning given to it in clause 12.2.1;
<b>Services</b>	means, as the context permits, (i) the services listed in <b>Error! Reference source not found.</b> , or (ii) the services supplied to the Customer by the Supplier pursuant to an Order, together with the Deliverables;
<b>Specification</b>	means the (i) the description of the Services set out in <b>Error! Reference source not found.</b> , or (ii) the description of the services offered by the Supplier in a written quote or other form that the parties may agree from time to time pursuant to which the Customer makes an Order.
<b>Term</b>	has the meaning given to it in clause 2.1; and
<b>VAT</b>	means value added tax, as defined by the Value Added Tax Act 1994.

1.2 In this Agreement:

- 1.2.1 a reference to this Agreement includes its schedules, appendices and annexes (if any);
- 1.2.2 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
- 1.2.3 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.4 a reference to a gender includes each other gender;
- 1.2.5 words in the singular include the plural and vice versa;

- 1.2.6 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.7 the table of contents, background section and any clause, schedule or other headings in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement; and
- 1.2.8 a reference to legislation is a reference to that legislation as in force as at the date of this Agreement OR amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under this Agreement.

## **2 Supply of Services**

- 2.1 This Agreement commences on the Commencement Date and shall continue for 12 Months or until the expiry date of the stated minimum term on any accepted Order whichever is later. Thereafter it shall automatically renew in increments of one (1) year on the day after the expiry date, unless terminated earlier under clause 11 (the **Term**).
- 2.2 During the Term, the Supplier agrees to supply, and the Customer agrees to purchase, Services on the terms set out in this Agreement. The procedure for ordering Services is set out in clause 3.

## **3 Orders**

- 3.1 The Customer may at any time provide the Supplier with a written order for Services substantially in the form set out in Schedule 2, in responses to a written quote from the **Supplier**, or in any other form that the parties may agree from time to time (an **Order**).
- 3.2 The Customer shall not be entitled to amend or withdraw an Order.
- 3.3 Each Order shall not constitute a binding obligation on the Supplier to supply the Services. The Supplier may accept or reject each Order in its absolute discretion.

## **4 Performance of the Services**

- 4.1 Each Order shall specify whether the Services are to be performed:
  - 4.1.1 by the Supplier at the Performance Location on the date(s) set out in the Order; or
  - 4.1.2 at an alternative premises set out in the Order (as the case may be). The Customer shall make such premises available for the Supplier so that the Supplier is able to make the Services available for Performance within the period set out in the Order.
- 4.2 The Services shall be deemed performed on completion of the Services at the Performance Location.
- 4.3 The Services may be performed by instalments [if set out in the Order]. Any delay in Performance or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.4 Performance shall be accompanied by a completion note stating:
  - 4.4.1 the date of the Order;
  - 4.4.2 the categories, type and quantity of Services supplied; and
  - 4.4.3 any special requests from the Customer.
- 4.5 Time of Performance is not of the essence. The Supplier shall use its reasonable endeavours to meet Performance dates but such dates are approximate only.
- 4.6 The Supplier shall not be liable for any delay in or failure of Performance caused by:
  - 4.6.1 the Customer's failure to: (i) make the Performance Location available, (ii) prepare the Performance Location in accordance with the Supplier's instructions OR as required for Performance and supply of the Services or (iii) provide the Supplier with adequate instructions for Performance and supply or otherwise relating to the Services; or
  - 4.6.2 Force Majeure.

## **5 Warranty**

- 5.1 The Supplier warrants that the Services shall:
- 5.1.1 conform in all material respects to the Order and Specification;
  - 5.1.2 be free from material defects; and
  - 5.1.3 at the time of delivery to the Customer any media on which the results of the Services are supplied shall be free from defects in material and workmanship and of satisfactory quality within the meaning of the Sale of Goods Act 1979, s 14;
  - 5.1.4 be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, s 13; and
- 5.2 The Supplier shall, at its option, remedy, re-perform or refund the Price of Services that do not comply with clause 5.1, provided that the Customer:
- 5.2.1 serves a written notice on Supplier:
    - (a) not later than five Business Days from Performance in the case of defects discoverable by a physical inspection; or
    - (b) within a reasonable period of time from Performance in the case of latent defects,
    - (c) that some or all of the Services do not comply with clause 5.1 and identifying in sufficient detail the nature and extent of the defects; and
  - 5.2.2 gives the Supplier a reasonable opportunity to examine the claim of the defective Services.
- 5.3 The Customer shall be deemed to accept the Services if it does not notify the Supplier of any failure of the Services to comply with clause 5.1 within the time periods set out in clause 5.2.1.
- 5.4 The provisions of this Agreement shall apply to any Services that are remedied or re-performed with effect from Performance of the remedied or re-performed Services.
- 5.5 The Supplier shall not be liable for any failure of the Services to comply with clause 5.1:
- 5.5.1 where such failure arises by reason of wilful damage, negligence, or could be expected to arise in the normal course of benefit from the Services;
  - 5.5.2 to the extent caused by the Customer's failure to comply with the Supplier's instructions as to: (i) use or benefit from the Services, or (ii) good practice in relation to the use or benefit from the Services;
  - 5.5.3 to the extent caused by the Supplier following any design, specification or requirement of the Customer in relation to the Services;
  - 5.5.4 where the Customer alters any Services without the Supplier's prior written consent or, having received such consent, not in accordance with the Supplier's instructions; or
  - 5.5.5 where the Customer uses any of the Services after notifying the Supplier that it does not comply with clause 5.1.
- 5.6 Except as set out in this clause 5:
- 5.6.1 the Supplier gives no warranty and makes no representations in relation to the Services; and
  - 5.6.2 shall have no liability for their failure to comply with the warranty in clause 5.1, and the conditions implied by ss 12–16 of the Supply of Goods and Services Act 1982 are expressly excluded.

## **6 Failure or delay in performance**

- 6.1 If the Supplier is prevented or delayed in performing the Services by any cause attributable to the Customer, the Supplier (without prejudice to its other rights):
- 6.1.1 may suspend performance of the Services until the Customer remedies its default;

- 6.1.2 shall not be liable for any costs or losses sustained by the Customer as a result of such suspension; and
- 6.1.3 may charge the Customer (and the Customer shall pay under this Agreement) costs or losses incurred by the Supplier arising from the Customer's default, subject to clause 10.

## **7 Price**

- 7.1 The Prices payable by the Customer in respect of any Order for Services are contained in the suppliers quotes for services which may also reference online price lists and may be increased by the Supplier under clauses 7.4 and 7.5.
- 7.2 The Prices are exclusive of:
  - 7.2.1 Delivery & shipping, which shall be charged in addition at the Supplier's standard rates; and
  - 7.2.2 In the case of telecommunications products & Services, carrier termination charges +10% which shall be charged in addition at the Supplier's standard rates; and
  - 7.2.3 VAT (or equivalent sales tax).
- 7.3 The Customer shall pay any applicable VAT (or equivalent sales tax) to the Supplier on receipt of a valid VAT invoice.
- 7.4 The Supplier may increase the Prices at any time by giving the Customer not less than 15 Business Days' notice in writing provided that:
  - 7.4.1 the number of Price increases per Contract Year does not exceed two (excluding any increases imposed under clause 7.5); and
  - 7.4.2 the increase does not exceed 10% of the Prices in effect immediately prior to the increase.
- 7.5 Notwithstanding clause 7.4, the Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Services which exceeds 1% and which is due to any factor beyond the control of the Supplier.

## **8 Payment**

- 8.1 The Supplier may issue its invoice for the Services at any time after Performance.
- 8.2 The Customer shall pay all invoices:
  - 8.2.1 in full in cleared funds within fourteen days of the date of each invoice; and
  - 8.2.2 by direct debit mandate if requested, or
  - 8.2.3 to the bank account nominated by the Supplier.
- 8.3 Time of payment is of the essence. Where sums due hereunder are not paid in full by the due date:
  - 8.3.1 the Supplier may, without limiting its other rights, charge interest on such sums at 8 percentage points a year above the base rate of Bank of England from time to time in force; and
  - 8.3.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

## **9 Credit limit**

- 9.1 Provision of credit may be subject to checks. A credit check may be carried out with a credit reference agency, in the case of:
  - 9.1.1 a Registered Limited Company or Limited Liability Partnership, a business credit check will be made against the Limited company or Limited Liability Partnership.
  - 9.1.2 a sole trader, a credit check will be made against the individual.
  - 9.1.3 a legal partnership, a credit check may be made against any or all of the individual partners.

- 9.2 Upon acceptance of these terms and conditions the consent of the customer for the Supplier to perform a credit check is deemed to have been accepted.
- 9.3 The Supplier may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.

## **10 Limitation of liability**

- 10.1 The extent of the parties' liability under or in connection with this Agreement (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 10.
- 10.2 Subject to clause 10.5, the total liability of the Supplier shall not exceed the sum of the price of the services (in the case of recurring monthly or quarterly services the price used for calculations of the "the sum of the price of the services " for this purpose is the price per month or per quarter) plus the sum of the price of any deliverables.
- 10.3 Subject to clause 10.5, the supplier shall not be liable for consequential, indirect or special losses.
- 10.4 Subject to clause 10.5 the supplier shall not be liable for any of the following (whether direct or indirect):
- 10.4.1 loss of profit;
  - 10.4.2 loss of data;
  - 10.4.3 loss of use;
  - 10.4.4 loss of production;
  - 10.4.5 loss of contract;
  - 10.4.6 loss of opportunity;
  - 10.4.7 loss of savings, discount or rebate (whether actual or anticipated);
  - 10.4.8 harm to reputation or loss of goodwill.
- 10.5 Notwithstanding any other provision of this Agreement, the liability of the parties shall not be limited in any way in respect of the following:
- 10.5.1 death or personal injury caused by negligence;
  - 10.5.2 fraud or fraudulent misrepresentation; or
  - 10.5.3 any other losses which cannot be excluded or limited by applicable law.

## **11 Termination**

- 11.1 This Agreement may be terminated by either party giving not less than 90 days notice in writing to the other party, such notice not to expire prior to the first anniversary of the Commencement Date or the expiry date of the stated minimum term on any accepted Order whichever is later.
- 11.2 Either party may terminate this Agreement at any time by giving notice in writing to the other party if:
- 11.2.1 the other party commits a material breach of this Agreement and such breach is not remediable;
  - 11.2.2 the other party commits a material breach of this Agreement which is not remedied within 28 days of receiving written notice of such breach;
  - 11.2.3 any consent, licence or authorisation held by the other party is revoked or modified such that the other party is no longer able to comply with its obligations under this Agreement or receive any benefit to which it is entitled.
- 11.3 Without prejudice to any other rights that it may have, the Supplier may terminate this Agreement immediately on written notice to the Customer if the Customer has failed to pay any amount due under this Agreement on the due date and such amount remains unpaid ten Business Days after the Customer has received a written notification from the Supplier that the payment is overdue.

- 11.4 Either party may terminate this Agreement at any time by giving notice in writing to the other party if that other party:
- 11.4.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
  - 11.4.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the non-defaulting party reasonably believes that to be the case;
  - 11.4.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
  - 11.4.4 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
  - 11.4.5 has a resolution passed for its winding up;
  - 11.4.6 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
  - 11.4.7 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within fourteen days of that procedure being commenced;
  - 11.4.8 has a freezing order made against it;
  - 11.4.9 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items;
  - 11.4.10 is subject to any events or circumstances analogous to those in clauses 11.4.1 to 11.4.9 in any jurisdiction;
  - 11.4.11 takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 11.4.1 to 11.4.10 including for the avoidance of doubt, but not limited to, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.
- 11.5 The right of a party to terminate the Agreement pursuant to clause 11.4 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to this Agreement.
- 11.6 The Supplier may terminate this Agreement at any time by giving not less than four weeks' notice in writing to the Customer if the Customer undergoes a change of Control or if it is realistically anticipated that it shall undergo a change of Control within two months.
- 11.7 On termination of this Agreement for any reason:
- 11.7.1 the Customer shall immediately pay all outstanding invoices of the Supplier;
  - 11.7.2 the Supplier shall promptly invoice the Customer for all Services performed but not yet invoiced and payment for such invoices shall be due immediately on receipt by the Customer;
  - 11.7.3 the Customer shall within five Business Days return any materials of the Supplier then in its possession or control; if it fails to do so, the Supplier may enter any premises owned by or under the control of the Customer and take possession of them; and
  - 11.7.4 the accrued rights and liabilities of the parties (including any rights in relation to breaches of contract) shall not be affected.
- 11.8 The following clauses of this Agreement shall survive termination, howsoever caused:
- 11.8.1 clause 10 (limitation of liability);
  - 11.8.2 clause 11.7 (termination);
  - 11.8.3 clause 12 (confidential information);

- 11.8.4 clause 14 (dispute resolution);
  - 11.8.5 clause 16 (notices);
  - 11.8.6 clause 30 (third party rights); and
  - 11.8.7 clauses 31 and 32 (governing law and jurisdiction)
- together with any other provision of this Agreement which expressly or by implication is intended to survive termination.

## **12 Confidential information**

- 12.1 Each party undertakes that it shall keep any information that is confidential in nature concerning the other party and its Affiliates including, any details of its business, affairs, customers, clients, suppliers, plans or strategy (**Confidential Information**) confidential and that it shall not use or disclose the other party's Confidential Information to any person, except as permitted by clause 12.2.
- 12.2 A party may:
  - 12.2.1 disclose any Confidential Information to any of its employees, officers, representatives or advisers (**Representatives**) who need to know the relevant Confidential Information for the purposes of the performance of any obligations under this Agreement, provided that such party must ensure that each of its Representative to whom Confidential Information is disclosed is aware of its confidential nature and agrees to comply with this clause 12 as if it were a party;
  - 12.2.2 disclose any Confidential Information as may be required by law, any court, any governmental, regulatory or supervisory authority (including any securities exchange) or any other authority of competent jurisdiction to be disclosed; and
  - 12.2.3 use Confidential Information only to perform any obligations under this Agreement.
- 12.3 Each party recognises that any breach or threatened breach of this clause 12 may cause irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages, the parties agree that the non-defaulting party may be entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.
- 12.4 This clause 12 shall bind the parties during the Term and for a period of five years following termination of this Agreement.

## **13 Anti-bribery**

- 13.1 For the purposes of this clause 13 the expressions **adequate procedures** and **associated with** shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 13.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:
  - 13.2.1 all of that party's personnel;
  - 13.2.2 all others associated with that party; and
  - 13.2.3 all of that party's subcontractors;involved in the performance of this Agreement so comply.
- 13.3 Without limitation to clause 13.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 13.4 Each party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 13 (Anti-bribery).



## **14 Dispute resolution**

- 14.1 Any dispute arising between the parties out of or in connection with this Agreement shall be dealt with in accordance with the provisions of this clause 14.
- 14.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 14.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:
- 14.3.1 Within [14] days of service of the notice, the nominated representatives of the parties shall meet to discuss the dispute and attempt to resolve it.
- 14.3.2 If the dispute has not been resolved within 14 days of the first meeting of nominated representatives then the matter shall be referred to the [*chief executives*] (or persons of equivalent seniority). The [*chief executives*] (or equivalent) shall meet within 14 days to discuss the dispute and attempt to resolve it.
- 14.4 The specific format for the resolution of the dispute under clause 14.3.1 and, if necessary, clause 14.3.2 shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.
- 14.5 If the dispute has not been resolved within 14 days of the first meeting of the chief executives (or equivalent) under clause 14.3.2 then the matter may be referred to mediation in accordance with the London Court of International Arbitration Mediation Rules.
- 14.6 Until the parties have completed the steps referred to in clauses 14.3 and 14.5, and have failed to resolve the dispute, neither party shall commence formal legal proceedings or arbitration except that either party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

## **15 Entire agreement**

- 15.1 The parties agree that except for previously agreed service term lengths for specific services which are identified in Schedule 3 if applicable, this Agreement constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 15.2 Each party acknowledges that it has not entered into this Agreement in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in this Agreement.
- 15.3 Nothing in this Agreement purports to limit or exclude any liability for fraud.

## **16 Notices**

- 16.1 Any notice or other communication given by a party under this Agreement shall:
- 16.1.1 be in writing and in English;
- 16.1.2 be signed by, or on behalf of, the party giving it [(except for notices sent by email)]; and
- 16.1.3 be sent to the relevant party at the address set out in clause 16.3.
- 16.2 Notices may be given, and are deemed received:
- 16.2.1 by hand: on receipt of a signature at the time of delivery;
- 16.2.2 by *Royal Mail Recorded Signed For* post: at 9.00 am on the third Business Day after posting;
- 16.2.3 by Royal Mail International Tracked & Signed OR Royal Mail International Signed post: at 9.00 am on the *fifth* Business Day after posting; and
- 16.2.4 by email on receipt of a delivery OR read receipt email from the correct address.
- 16.3 Notices and other communications shall be sent to:

- 16.3.1 For the **Supplier**: for the attention of Accounts Department at:  
FreeClix Quartermaster House, Dewing Road, Rackheath, Norfolk. NR13 6PS  
Email: accounts@freeclix.com
- 16.3.2 For the **Customer**: to the premises address and email address given to the **Supplier** at the time of the order.
- 16.4 Any change to the contact details of a party as set out in clause 16.3 shall be notified to the other party in accordance with clause 16.1 and shall be effective:
- 16.4.1 on the date specified in the notice as being the date of such change; or
- 16.4.2 if no date is so specified, seven Business Days after the notice is deemed to be received.
- 16.5 All references to time are to the local time at the place of deemed receipt.
- 16.6 This clause does not apply to notices given in legal proceedings or arbitration.
- 17 Announcements**
- 17.1 Subject to clause 17.2, no announcement or other public disclosure concerning this Agreement or any of the matters contained in it shall be made by, or on behalf of, a party without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed). The parties shall consult on the form and content of any such announcement or other public disclosure, as well as the manner of its release.
- 17.2 If a party is required to make an announcement or other public disclosure concerning this Agreement or any of the matters contained in it by law, any court, any governmental, regulatory or supervisory authority (including any recognised investment exchange) or any other authority of competent jurisdiction, it may do so. Such a party shall:
- 17.2.1 notify the other party as soon as is reasonably practicable upon becoming aware of such requirement to the extent it is permitted to do so by law, by the court or by the authority requiring the relevant announcement or public disclosure;
- 17.2.2 make the relevant announcement or public disclosure after consultation with the other party so far as is reasonably practicable; and
- 17.2.3 make the relevant announcement or public disclosure after taking into account all reasonable requirements of the other party as to its form and content and the manner of its release, so far as is reasonably practicable.
- 18 Force majeure**
- 18.1 In this clause '**Force Majeure**' means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under this Agreement. Inability to pay is not Force Majeure.
- 18.2 A party shall not be liable if delayed in or prevented from performing its obligations under this Agreement due to Force Majeure, provided that it:
- 18.2.1 promptly notifies the other of the Force Majeure event and its expected duration; and
- 18.2.2 uses reasonable endeavours to minimise the effects of that event.
- 18.3 If, due to Force Majeure, a party:
- 18.3.1 is unable to perform a material obligation; or
- 18.3.2 is delayed in or prevented from performing its obligations for a continuous period of more than 90 Business Days,
- the other party may terminate this Agreement on not less than four weeks' written notice.

**19 Further assurance**

Each party shall at the request of the other, and at the cost of the requesting party, do all acts and execute all documents which are necessary to give full effect to this Agreement.

**20 Variation**

No variation of this Agreement shall be valid or effective unless it is in writing, refers to this Agreement and is duly signed or executed by, or on behalf of, each party.

**21 Assignment**

21.1 No party may assign, subcontract or encumber any right or obligation under this Agreement, in whole or in part, without the other party's prior written consent such consent not to be unreasonably withheld or delayed.

21.2 Notwithstanding clause 21.1, a party may perform any of its obligations and exercise any of its rights granted under this Agreement through any Affiliate, provided that it gives the other party prior written notice including the identity of the relevant Affiliate. Each party acknowledges and agrees that any act or omission of its Affiliate in relation to that party's rights or obligations under this Agreement shall be deemed to be an act or omission of that party itself.

**22 Set off**

Except as expressly set out in this Agreement, each party shall pay all sums that it owes to the other party under this Agreement without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

**23 No partnership or agency**

The parties are independent businesses and are not partners, principal and agent or employer and employee and this Agreement does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

**24 Equitable relief**

Each party recognises that any breach or threatened breach of this Agreement may cause the other party irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the other party, each party acknowledges and agrees that the other party is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

**25 Severance**

25.1 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.

25.2 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

**26 Waiver**

26.1 No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

26.2 No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.

26.3 A waiver of any term, provision, condition or breach of this Agreement shall only be effective if given in writing and signed by the waiving party, and then only in the instance and for the purpose for which it is given.

**27 Compliance with law**

Each party shall comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to them and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform their obligations under or in connection with this Agreement.

**28 Conflicts within agreement**

If there is a conflict between the terms contained in the main body of this Agreement and the terms of the schedules, appendices or annexes to this Agreement, the terms of the main body of the Agreement shall prevail.

**29 Costs and expenses**

Each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of this Agreement (and any documents referred to in it).

**30 Third party rights**

30.1 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of this Agreement.

**31 Governing law**

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

**32 Jurisdiction**

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