

**BACKGROUND:**

These Terms and Conditions shall apply to the provision and supply of services by Atmoso to its Partner.

**1. Definitions and Interpretation**

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

<b>“Acceptable Use Policy”</b>	means terms which dictate the allowed usage of Services provided available at <a href="http://www.atmoso.com/legal">www.atmoso.com/legal</a> and amended from time to time as reasonable required by Atmoso.
<b>“Agreement”</b>	means any order or contract for services entered into by Atmoso and the Partner incorporating these Terms and Conditions which shall govern provision of the Services;
<b>“Agreement Date”</b>	means the date upon which the Parties entered the Agreement;
<b>“Atmoso”</b>	means, Atmoso Limited whose registered office is at The Granary, Whiteley Lane, Fareham, Hampshire, PO15 6RQ United Kingdom under number 07464676;
<b>“Block Hours”</b>	means the number of hours which is included in any Support Plan for engineering and requests for changes to the Services;
<b>“Business Day”</b>	means, any day means any day other than a Saturday, Sunday or recognised public holiday in England;
<b>“Customer”</b>	means the business or company to which the services are to be resold to by the Partner;
<b>“Fair Use Policy”</b>	means terms which dictate the fair usage of Services provided available at <a href="http://www.atmoso.com/legal">www.atmoso.com/legal</a> and amended from time to time as reasonable required by Atmoso.
<b>“Partner”</b>	The Partner as set out in the Agreement to which these Terms and Conditions apply;
<b>“Commencement Date”</b>	means the commencement date as set out in the Agreement to which the Services shall be delivered, or any date Services are made available in accordance with these Terms and Conditions, and in no case later than 6 months after the Agreement Date unless explicitly agreed in writing;

<b>“Confidential Information”</b>	means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with the Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);
<b>“Data Protection Legislation”</b>	means 1) unless and until EU Regulation 2016/679 General Data Protection Regulation (“GDPR”) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations, and secondary legislation (as amended from time to time), in the UK and subsequently 2) any legislation which succeeds the GDPR;
<b>“Fees”</b>	means any and all sums due under the Agreement from the Partner to Atmoso, as specified in the Agreement;
<b>“Minimum Term”</b>	means the minimum term as defined in the Agreement;
<b>“Services”</b>	means the services to be provided by Atmoso to the Partner as set out in the Agreement, and subject to these Terms and Conditions;
<b>“Service Level Agreement”</b>	means the defined service levels are outlined and in the customer service plan as amended from time to time and available upon request;
<b>“Support Plan”</b>	means an optional Service which may be provided to the Partner in the Agreement or in another agreement for use by the Customer, which details inclusive Block Hours and Fees;
<b>“Support Time”</b>	means any time where an engineer is used to provide advice, guidance, changes, engineering resources or other assistance in relation to the Services on behalf of the Partner or Customer;
<b>“Term”</b>	means the term of the Agreement as defined within the Agreement that shall continue in force until terminated in accordance with the terms of this Agreement;
<b>“Termination Date”</b>	means any such date that any notice is given to terminate the provision of Services in accordance with these Terms and Conditions.

1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

- 1.2.3 "these Terms and Conditions" is a reference to these Terms and Conditions as amended or supplemented at the relevant time;
- 1.2.4 a Clause or paragraph is a reference to a Clause of these Terms and Conditions or to a Clause of the Agreement, as appropriate; and
- 1.2.5 a "Party" or the "Parties" refer to the parties to the Agreement.
- 1.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 1.4 Words imparting the singular number shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.
- 1.6 References to persons shall include corporations.

## **2. Provision of the Services**

- 2.1 With effect from the Commencement Date, Atmoso shall, throughout the Term of the Agreement, provide the Services to the Partner.
- 2.2 Atmoso shall provide the Services with reasonable skill and care.
- 2.3 Atmoso shall act in accordance with all reasonable instructions given to it by the Partner provided such instructions are compatible with the specification of Services provided in the Agreement.
- 2.4 Atmoso shall be responsible for ensuring that it complies with all statutes, regulations, byelaws, standards, codes of conduct and any other rules relevant to the provision of the Services.
- 2.5 Atmoso may, in relation to certain specified matters related to the Services, act on the Partner's behalf. Such matters shall not be set out in the Agreement but shall be agreed between the Parties as they arise from time to time.
- 2.6 Atmoso shall use all reasonable endeavours to accommodate any reasonable changes in the Services that may be requested by the Partner, subject to the Partner's acceptance of any related reasonable changes to the Fees that may be due as a result of such changes.

## **3. Partner's Obligations**

- 3.1 The Partner shall use all reasonable endeavours to provide all pertinent information to Atmoso that is necessary for Atmoso's provision of the Services.
- 3.2 In the event that Atmoso requires the decision, approval, consent or any other communication from the Partner in order to continue with the provision of the Services or any part thereof at any time, the Partner shall provide the same in a reasonable and timely manner.
- 3.3 If any consents, licences or other permissions are needed from any third parties such as landlords, planning authorities, local authorities or similar, it shall be the Partner's responsibility to obtain the same in advance of the provision of the Services (or the relevant part thereof).
- 3.4 If the nature of the Services requires that Atmoso has access to the Customer's home or any other location, access to which is lawfully controlled by the Customer, the Partner shall ensure that Atmoso has access to the same at the times to be agreed between Atmoso and the Partner as required.

- 3.5 Any delay in the provision of the Services resulting from the Partner's failure or delay in complying with any of the provisions of Clause 3 of the Agreement shall not be the responsibility or fault of Atmoso and may result in charges or surcharges.
- 3.6 The Partner shall provide any necessary information requested by Atmoso to determine compliance in accordance with the Acceptable Use Policy and Fair Use Policy.
- 3.7 The Partner shall use all reasonable endeavours to ensure that Services are used in accordance with Atmoso's Acceptable Use Policy and Fair Use Policy, in the event that Services are not deemed to be compliant by Atmoso then Atmoso at its sole discretion may suspend or restrict Services as necessary to ensure Compliance without liability.

#### **4. Service Desk**

- 4.1 The Partner may, from time to time, issue reasonable instructions to Atmoso in relation to Atmoso's provision of the Services. Any such instructions should be compatible with the specification of the Services provided in the Agreement.
- 4.2 Atmoso may require a password, memorable word or code compatible with Google Authenticator before granting access to support services, any delay in providing authentication shall not be the responsibility or fault of Atmoso.
- 4.3 The Partner shall ensure availability of 'hands on' support to assist in simple and non-specialised tasks to enable the qualification or resolution of a system fault. Such tasks may include unplugging a cable from a port and plugging it into another one or perhaps plugging a known working handset into a device port to ascertain where a fault lies. Such tasks will always be with the support of an Engineer and will never require the person providing the assistance to have technical skills. Refusal to assist in this way could result in a chargeable site visit.
- 4.4 Should the Partner not have a Support Plan, then Partner agrees to pay and Atmoso may charge for all Support Time for changes or engineering resources at the advertised unsupported support rates.
- 4.5 Should the Partner have a Support Plan, then all requests for Support Time shall be shall first be deducted from the Block Hours as specified by the Support Plan, if any time deducted exceeds the specified Block Hours then Partner agrees to pay and Atmoso may charge for all Support Time at the rate specified in the Support Plan.

#### **5. Service Level Agreement**

- 5.1 Atmoso shall use all reasonable endeavours to respond; including by remote means and by providing fault support, within the time associated service level agreements. A fault resolution will be provisioned without unreasonable delay by providing advice, implementing remedial action through remote means, or arranging for a service engineer to visit site, subject to the level of support defined in the Agreement.

#### **6. Fees, Payment and Records**

- 6.1 The Partner shall pay the Fees to Atmoso in accordance with the provisions of the Agreement.
- 6.2 Atmoso shall invoice the Partner for Fees due in accordance with the

provisions of the Agreement.

- 6.3 All payments required to be made pursuant to the Agreement by either Party shall be made within 30 days of the date of the relevant invoice, without any set-off, withholding or deduction except such amount (if any) of tax as that party is required to deduct or withhold by law.
- 6.4 The Partner agrees to establish and maintain a Direct Debit instruction in favour of the Supplier or an Agent of Atmoso for the payment of the invoice as set out in Clause 6.2.
- 6.5 The Partner agrees to provide a monetary deposit as security for the payment by the Partner of future invoices upon request of Atmoso to an amount Atmoso reasonably require.
- 6.6 In the case the Partner is not able to provide all pertinent information or access to Atmoso which is necessary for the provision of the Services then Atmoso shall be entitled to charge a monthly sum up to or equal to the monthly charges at its discretion prior to the Commencement Date.
- 6.7 In the case a delay is to the Commencement Date is requested by the Partner then Atmoso shall be entitled to charge a monthly sum up to or equal to the monthly charges at its discretion.
- 6.8 In the case that the Partner requests to cancel the Agreement prior to the end of the Term or prior to the Commencement Date then the Partner agrees to pay a fee equal to any amounts which would have normally become due under the remainder of the Term.
- 6.9 Where any payment pursuant to the Agreement is required to be made on a day that is not a Business Day, it may be made on the next following Business Day.
- 6.10 The Partner must notify Atmoso in writing of any amount disputed in good faith within twenty-one (21) calendar days of receipt of the invoice. Provided that
- 6.11 Without prejudice to sub-Clause 11.3.1 of the Agreement, any sums which remain unpaid following the expiry of the period set out in sub-Clause 6.3 of the Agreement shall incur interest at and fees at as set out in The Late Payment of Commercial Debts (Interest) Act 1998, on any unpaid amount. Interest at this rate is also payable in relation to any amount disputed pursuant to clause 4.7 that is subsequently determined to be payable.

## **7. Liability, Indemnity and Insurance**

- 7.1 Atmoso shall ensure that it has in place at all times suitable and valid insurance that shall include public liability insurance.
- 7.2 In the event that Atmoso fails to perform the Services with reasonable care and skill it shall carry out any and all necessary remedial action at no additional cost to the Partner.
- 7.3 Atmoso's total liability for any loss or damage caused as a result of its negligence or breach of the Agreement shall be limited to the Fees paid within the last 12 months.
- 7.4 Atmoso shall not be liable for any loss or damage suffered by the Partner that results from the Partner's failure to follow any instructions given by Atmoso.
- 7.5 Nothing in these Terms and Conditions nor in the Agreement shall limit or exclude Atmoso's liability for death or personal injury.

- 7.6 The Partner shall indemnify Atmoso against any costs, liability, damages, loss, claims or proceedings arising from loss or damage to any equipment (including that belonging to any third parties appointed by Atmoso) caused by the Partner or its agents or employees.
- 7.7 Neither Party shall be liable to the other or be deemed to be in breach of the Agreement by reason of any delay in performing, or any failure to perform, any of that Party's obligations if the delay or failure is due to any cause beyond that Party's reasonable control.

## 8. Guarantee

- 8.1 Atmoso shall guarantee that the product of all Services provided will be free from any and all defects for a period that shall be defined in the Agreement.
- 8.2 If any defects in the product of the Services appear during the guarantee period set out in the Agreement Atmoso shall rectify any and all such defects at no cost to the Partner.

## 9. Confidentiality

- 9.1 Each Party undertakes that, except as provided by sub-Clause 9.2 of the Agreement or as authorised in writing by the other Party, it shall, at all times during the continuance of the Agreement and for 3 years after its termination:
- 9.1.1 keep confidential all Confidential Information;
  - 9.1.2 not disclose any Confidential Information to any other party;
  - 9.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of the Agreement;
  - 9.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
  - 9.1.5 ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 9.1.1 to 9.1.4 of the Agreement.
- 9.2 Either Party may:
- 9.2.1 disclose any Confidential Information to:
    - 9.2.1.1 any sub-contractor or supplier of that Party;
    - 9.2.1.2 any governmental or other authority or regulatory body; or
    - 9.2.1.3 any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;
- to such extent only as is necessary for the purposes contemplated by the Agreement (including, but not limited to, the provision of the Services), or as required by law. In each case that Party shall first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body under sub-Clause 9.2.1.2 or any employee or officer of any such body) obtaining and submitting to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of Clause 9 of the Agreement, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and

9.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Agreement, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information that is not public knowledge.

9.3 The provisions of Clause 9 of the Agreement shall continue in force in accordance with their terms, notwithstanding the termination of the Agreement for any reason.

## 10. **Force Majeure**

10.1 Subject to Clause 10.2 no Party to the Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

10.2 Any event in the reasonable control of the Customer is assumed to be in control of the Partner for purposes of Clause 10.1 and Clause 10.3.

10.3 If, due to circumstances beyond Atmoso's control, it has to make any change in the arrangements relating to the provision of the Services it shall notify the Partner forthwith. Atmoso shall endeavour to keep such changes to a minimum and shall seek to offer the Partner arrangements as close to the original arrangements as is reasonably possible in the circumstances.

10.4 In the event that a Party to the Agreement cannot perform their obligations hereunder as a result of force majeure for a continuous period of 30 days, the other Party may at its discretion terminate the Agreement by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all Services provided up to the Termination Date. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of the Agreement.

## 11. **Term and Termination**

11.1 The Agreement shall come into immediate force upon acceptance of Atmoso and shall continue until the Termination Date, subject to the provisions of Clause 11 of these Terms and Conditions.

11.2 Either Party may terminate the Agreement by giving to the other not less than 30 days' written notice, to expire on or at any time after the Minimum Term of the Agreement.

11.3 Either Party may immediately terminate the Agreement by giving written notice to the other Party if:

11.3.1 any sum owing to that Party by the other Party under any of the provisions of the Agreement is not paid within 20 Business Days of the due date for payment;

11.3.2 the other Party commits any other breach of any of the provisions of the Agreement and, if the breach is capable of remedy, fails to remedy it within 14 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied;

- 11.3.3 an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;
- 11.3.4 the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
- 11.3.5 the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under the Agreement);
- 11.3.6 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;
- 11.3.7 the other Party ceases, or threatens to cease, to carry on business; or
- 11.4 For the purposes of sub-Clause 11.3.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 11.5 The rights to terminate the Agreement shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

## 12. **Effects of Termination**

Upon the termination of the Agreement for any reason:

- 12.1 any sum owing by either Party to the other under any of the provisions of the Agreement shall become immediately due and payable;
- 12.2 all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Agreement shall remain in full force and effect;
- 12.3 termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of the Agreement which existed at or before the Termination Date;
- 12.4 subject as provided in Clause 12 of these Terms and Conditions and except in respect of any accrued rights neither Party shall be under any further obligation to the other; and
- 12.5 each Party shall (except to the extent referred to in Clause 9 of the Agreement) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information.

## 13. **Data Protection**

- 13.1 All personal information that Atmoso may use will be collected, processed, and held in accordance with the provisions of EU Regulation 2016/679 General Data Protection Regulation (“GDPR”) and the Partner’s rights under the GDPR.



- 13.2 For complete details of Atmoso's collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of the Partner's rights and how to exercise them, and personal data sharing (where applicable), please refer to Atmoso's Privacy Notice.

#### 14. Data Processing

- 14.1 In this Clause 14 and in the Agreement, "personal data", "data subject", "data controller", "data processor", and "personal data breach" shall have the meaning defined in Article 4, EU Regulation 2016/679 General Data Protection Regulation ("GDPR").
- 14.2 Both Parties shall comply with all applicable data protection requirements set out in the Data Protection Legislation. Neither this Clause 14 nor the Agreement shall relieve either Party of any obligations set out in the Data Protection Legislation and shall not remove or replace any of those obligations.
- 14.3 For the purposes of the Data Protection Legislation and for this Clause 14 and the Agreement, Atmoso is the "Data Processor" and the Partner is the "Data Controller".
- 14.4 The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing shall be available upon request.
- 14.5 The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in the Agreement.
- 14.6 The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under these Terms and Conditions:
- 14.6.1 Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.
- 14.6.2 Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures. Measures to be taken shall be agreed between the Data Controller and the Data Processor.
- 14.6.3 Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential; and
- 14.6.4 Not transfer any personal data outside of the European Economic Area without the prior written consent of the Data Controller and only if the following conditions are satisfied:
- 14.6.4.1 The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal

- data;
- 14.6.4.2 Affected data subjects have enforceable rights and effective legal remedies;
  - 14.6.4.3 The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and
  - 14.6.4.4 The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.
- 14.6.5 Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);
- 14.6.6 Notify the Data Controller without undue delay of a personal data breach;
- 14.6.7 On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of the Agreement unless it is required to retain any of the personal data by law; and
- 14.6.8 Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with the Agreement and to allow for audits by the Data Controller and/or any party designated by the Data Controller.
- 14.7 The Data Processor shall not sub-contract any of its obligations with respect to the processing of personal data under the Agreement.
- 14.8 Either Party may, at any time, and on at least 30 days' notice, alter the data protection provisions of the Agreement, replacing them with any applicable data processing clauses or similar terms that form part of an applicable certification scheme. Such terms shall apply when replaced by attachment to the Agreement.

**15. No Waiver**

No failure or delay by either Party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

**16. Further Assurance**

Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of the Agreement into full force and effect.

**17. Costs**

Atmoso shall be entitled to recover from the Partner its reasonable incidental expenses for materials used and for third party goods and services supplied in connection with the provision of the Services

18. **Set-Off**

Neither Party shall be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under the Agreement or any other agreement at any time.

19. **Assignment and Sub-Contracting**

Subject to the provisions of Clause 14, Atmoso shall be entitled to perform any of the obligations undertaken by it through any other member of its group or through suitably qualified and skilled sub-contractors. Any act or omission of such other member or sub-contractor shall, for the purposes of the Agreement, be deemed to be an act or omission of Atmoso.

20. **Time**

All times and dates referred to in the Agreement shall be of the essence of the Agreement.

21. **Relationship of the Parties**

Nothing in the Agreement shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Agreement.

22. **Non-Solicitation**

Neither Party shall, for the Term of the Agreement and for a period of 36 months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other Party at any time in relation to the Agreement without the express written consent of that Party.

23. **Third Party Rights**

23.1 No part of the Agreement shall confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement.

23.2 Subject to Clause 23 of the Agreement, the Agreement shall continue and be binding on the transferee, successors and assigns of either Party as required.

24. **Notices**

24.1 All notices under the Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

24.2 Notices shall be deemed to have been duly given:

24.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

24.2.2 when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or

24.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

24.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.

In each case notices shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

**25. Entire Agreement**

- 25.1 Subject to the provisions of Clause 14, the Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.
- 25.2 Each Party shall acknowledge that, in entering into the Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in the Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

**26. Counterparts**

The Agreement may be entered into in any number of counterparts and by the Parties to it on separate counterparts each of which when so executed and delivered shall be an original, but all the counterparts together shall constitute one and the same instrument.

**27. Severance**

In the event that one or more of the provisions of the Agreement and/or of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of the Agreement and/or these Terms and Conditions. The remainder of the Agreement and/or these Terms and Conditions shall be valid and enforceable.

**28. Dispute Resolution**

- 28.1 The Parties shall attempt to resolve any dispute arising out of or relating to the Agreement through negotiations between their appointed representatives who have the authority to settle such disputes.
- 28.2 If negotiations under sub-Clause 28.1 of the Agreement do not resolve the matter within 60 days of receipt of a written invitation to negotiate, the parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution (“ADR”) procedure.
- 28.3 If the ADR procedure under sub-Clause 28.2 of the Agreement does not resolve the matter within 60 days of the initiation of that procedure, or if either Party will not participate in the ADR procedure, the dispute may be referred to arbitration by either Party.
- 28.4 The seat of the arbitration under sub-Clause 28.3 of the Agreement shall be England and Wales. The arbitration shall be governed by the Arbitration Act 1996 and Rules for Arbitration as agreed between the Parties. In the event that the Parties are unable to agree on the arbitrator(s) or the Rules for Arbitration, either Party may, upon giving written notice to the other Party, apply to the President or Deputy President for the time being of the Chartered Institute of Arbitrators for the appointment of an arbitrator or arbitrators and for any decision on rules that may be required.
- 28.5 Nothing in Clause 28 of the Agreement shall prohibit either Party or its affiliates from applying to a court for interim injunctive relief.

28.6 The decision and outcome of the final method of dispute resolution under Clause 28 of the Agreement shall be final and binding on both Parties.

29. **Law and Jurisdiction**

29.1 The Agreement and these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

29.2 Subject to the provisions of Clause 28 of the Agreement, any dispute, controversy, proceedings or claim between the Parties relating to the Agreement or these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.