

TERMS AND CONDITIONS

These are the Terms and Conditions on which we, Water 2 Business Limited (a company incorporated in England under registered number 08518831, whose registered office is at 21e Somerset Square, Bristol BS48 1RD) ("**W2B**") agree to supply water to the Customer at the Premises (defined below).

1. Definitions and Interpretation

1.1 The following definitions shall be used for the purpose of interpreting the Agreement. Further definitions not contained in this Clause shall apply to the Clause in which they are stated and subsequent Clauses.

"Act"	means the Water Industry Act 1991;
"Additional Appendix"	means an appendix in the same form as the Original Appendix, produced for an Additional Premises pursuant to Clause 5.2;
"Additional Premises"	means any Eligible Premises owned, leased or otherwise occupied by the Customer, other than those specified in the Original Appendix;
"Agreement"	means together the Letter, the Appendices, the Commercial Termsheet, these Terms and Conditions and all documents referred to therein or hererin;
"an Appendix" or "the Appendices"	means the Original Appendix and any Additional Appendix pursuant to Clause 5.3;
"Applicable Laws"	means the common law, any statutes, statutory instruments, regulations, orders, directives and other legislation of England and Wales or the European Union, and any consents, permissions, licences, binding court orders, judgements or decrees and industry rules and/or guidance;
"Billing Period"	means the billing period as specified in the Commercial Termsheet;
"Charges"	has the meaning given in Clause 9.1;
"Commencement Date"	means the date that the Letter which has been signed by the Customer and delivered to W2B is received by W2B providing this is on or before the Offer Expiry Date;
"Connection Point"	means the point at which the private pipework supplying water to the Supply Point at a Premises connects to the public water supply system;
"Contract End Date"	has the meaning given in the Commercial Termsheet;
"Costs"	has the meaning in Clause 9.3;
"Customer"	means you, the party to whom the Letter is addressed;
"Customer Transfer Protocol"	means the customer transfer protocol issued by Ofwat in accordance with Condition 6 of the Standard Conditions of Water Supply Licences;
"Commercial Termsheet"	means the commercial termsheet as appended to the Letter;
"Drought Order"	means an ordinary drought order or an emergency drought order made under section 73 of the Water Resources Act 1991;
"Eligible Premises"	means pursuant to section 17A(3) of the Act, those premises that: (i) are not household premises (as defined in section 17C of the Act); (ii) satisfy the threshold requirement (as defined in section 17D of the Act); and (iii) are not being supplied with water by another company pursuant to a Water Supply Licence;
"Emergency Event"	means any event which is causing or is likely to cause danger to persons or property and, in respect of the latter, the

	relevant Undertaker believes on reasonable ground such danger to be existing or imminent;
"Force Majeure Event"	means any act of God, adverse weather conditions (excluding any serious deficiency in supplies caused by an exceptional shortage of rain), strike, lockout or other industrial disturbance or dispute (other than one affecting only the Party in question or its parent company or other companies in its group or otherwise associated with it), war, threat of war, act of terrorism, blockade, revolution, riot, civil commotion, public demonstration, sabotage, earthquake, or other event or circumstance which is beyond the reasonable control of the party in question to the extent that it causes or results in an inability to perform obligations under the Agreement;
"Guidance"	means any guidance issued from time to time pursuant to Chapter 1A of Part 2 and Chapter 2A of Part 3 of the Act;
"Letter"	means the letter issued by W2B to the Customer forming part of the Agreement;
"Network Event"	means an unforeseen and reasonably unforeseeable event which prevents or materially restricts the ability of the relevant Undertaker's public water supply system to provide the supply of water to the Premises;
"Offer Expiry Date"	has the meaning given in the Letter;
"Ofwat"	means the Water Services Regulation Authority, the body responsible for economic regulation of the water and sewerage industry in England and Wales, established by section 1A of the Act;
"Original Appendix"	means the Appendix appended to the Letter;
"Premises"	means those Eligible Premises owned, leased or otherwise occupied by the Customer as specified in an Appendix;
"Privacy Policy"	means W2B's privacy policy published on its website, http://water2business.co.uk/Privacy-policy in accordance with the relevant data protection legislation as amended from time to time.
"Regulations"	means any regulations made from time to time pursuant to Chapter 1A of Part 2 and Chapter 2A of Part 3 of the Act;
"Supplier"	means the holder of a Water Supply Licence;
"Supply Point"	means the supply point for a Premises which is registered to W2B from the Transfer Date;
"Tariffs"	means the tariffs set out in W2B charges scheme published on its website, http://water2business.co.uk/our_tariffs/ as revised from time to time in accordance with clause 9.2;
"Transfer Date"	means the date the premises are transferred to W2B in accordance with the process in the Customer Transfer Protocol;
"Undertaker"	means a company appointed under section 6 of the Act;
"VAT"	means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax;
"Water Supply Licence"	a licence granted by Ofwat under section 17A of the Act; and

“Working Day”	means a day other than a Saturday, Sunday or public holiday in England and Wales.
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- 1.2 In the Agreement:-
- 1.2.1 any reference to the Agreement or to any other document shall include any permitted variation or amendment to the Agreement or such other document;
 - 1.2.2 use of the singular includes the plural and *vice versa* and words denoting any gender shall include a reference to each other gender;
 - 1.2.3 any reference to any statute, statutory instrument, order, regulation or other similar instrument (including any EU order, regulation or instrument) shall be construed as including references to any statutory modification, consolidation or re-enactment of that provision (whether before or after the date of the Agreement) for the time being in force including all instruments, orders or regulations then in force and made under or deriving validity therefrom;
 - 1.2.4 the word “Premises” shall be construed in the singular unless the context requires otherwise;
 - 1.2.5 the words "include" or "including" shall be construed as meaning without limitation;
 - 1.2.6 any reference to a "party", means a party to the Agreement (and "parties" shall be construed accordingly) and shall include its successors in title and permitted assignees;
 - 1.2.7 the headings in the Agreement are for convenience only and shall not affect its interpretation;
 - 1.2.8 in the event of any conflict between the documents which form the Agreement, the order of precedence shall be:
 - (a) the Letter;
 - (b) the Appendices (and any document referred to therein);
 - (c) the Commercial Termsheet; and
 - (d) these Terms and Conditions (and any document referred to herein).

2. Term

- 2.1 The Agreement shall come into effect on the Commencement Date and shall remain in full force and effect thereafter until the earlier of:
- 2.1.1 the Contract End Date; and
 - 2.1.2 the date the Agreement is terminated in accordance with its terms,
- (the "Term").

3. Customer Transfer Protocol

- 3.1 As soon as reasonably practicable after the Commencement Date:
- 3.1.1 the Customer shall provide W2B with such information as W2B require in order to comply with the Customer Transfer Protocol for the Premises; and
 - 3.1.2 subject to receipt of such information, W2B shall initiate the process for transfer of the Customer under the Customer Transfer Protocol.

4. Supply of Water

- 4.1 W2B agrees to supply water to the Customer at the Premises from the relevant Transfer Date.
- 4.2 The water supplied pursuant to Clause 4.1 shall be delivered to the Connection Point. The Customer acknowledges and agrees that title and risk in the water passes to the Customer at the Connection Point and (without limiting the generality of the foregoing) in particular, any losses suffered at or beyond the Connection Point shall be at the risk of and for the account of the Customer.
- 4.3 The Customer acknowledges that the supply of water to the Premises is delivered through infrastructure owned by the relevant Undertaker and W2B has no control and no obligation in relation to such infrastructure and W2B provides no guarantee:
 - 4.3.1 that the relevant Undertaker will deliver water to the Connection Point at all times (without disruption); or

- 4.3.2 regarding the volume, quality, constancy or pressure of the water delivered.
- 4.4 The parties acknowledge that the supply of water to the Premises may be interrupted if:
 - 4.4.1 the supply is permitted to be interrupted by the Undertaker, as notified by W2B to the Customer following the Customer Transfer Protocol;
 - 4.4.2 the supply is affected by an Emergency Event or any actions to prevent the occurrence or limit the effects of an Emergency Event;
 - 4.4.3 the supply is affected by a Force Majeure Event;
 - 4.4.4 a Drought Order is made which overrides the terms of the Agreement;
 - 4.4.5 the supply is affected by a Network Event; or
 - 4.4.6 the relevant Undertaker is performing any maintenance or emergency works.
- 4.5 The Customer shall be notified by the relevant Undertaker of any interruption to the supply of water pursuant to Clause 4.4.

5. Premises

- 5.1 If the Customer would like any Additional Premises to be supplied with water by W2B, the Customer shall notify W2B of this in writing.
- 5.2 As soon as reasonably practicable after receipt of the notice referred to in Clause 5.1:
 - 5.2.1 the Customer shall provide W2B with such information as W2B require in order to comply with the Customer Transfer Protocol and complete an Additional Appendix for the Additional Premises; and
 - 5.2.2 subject to receipt of such information, W2B shall initiate the process for transfer of the Customer under the Customer Transfer Protocol and complete an Additional Appendix for the Additional Premises.
- 5.3 On the relevant Transfer Date:
 - 5.3.1 any Additional Premises shall become a Premises; and
 - 5.3.2 any Additional Appendix shall become an Appendix, for the purpose of the Agreement.
- 5.4 If the Customer would like any of the Premises to receive their supply of water from another Supplier, the Customer shall notify W2B of this in writing and shall provide to W2B such information as W2B require in order to comply with the Customer Transfer Protocol for such Premises.
- 5.5 Subject to Clause 21.7, the Agreement shall terminate:
 - 5.5.1 in part in relation to any single Premises which has been transferred to another Supplier on the date of such transfer (as determined in accordance with the Customer Transfer Protocol); or
 - 5.5.2 in whole where all of the Premises have been transferred to one or more other Suppliers on the date the last Premises supplied by W2B is transferred (as determined in accordance with the Customer Transfer Protocol), save as in respect of Clause 9 (Charges and Costs) which shall survive termination until all Charges and Costs owed by the Customer to W2B in respect of the transferred Premises have been paid.

6. Customer Warranties and Undertakings

- 6.1 The Customer warrants that:
 - 6.1.1 the Premises is an Eligible Premises; and
 - 6.1.2 all information provided to W2B by the Customer under the Agreement is true and accurate.
- 6.2 The warranties in Clause 6.1 shall be given on the Commencement Date and shall be deemed to be repeated on each day of the Term and the Customer shall monitor the continued accuracy of the warranties and inform W2B as soon as reasonably practicable should any warranty become untrue, inaccurate or misleading.
- 6.3 The Customer undertakes that during the Term it shall:
 - 6.3.1 comply with all Applicable Laws that apply in respect of the Customer's rights and/or obligations under the Agreement;
 - 6.3.2 comply with any terms and conditions agreed with the relevant Undertaker with regards to the meter or metering equipment at the Premises;

- 6.3.3 notify W2B in writing no less than sixty (60) days prior to any change that may cause the Premises to no longer meet the requirements to be an Eligible Premises;
- 6.3.4 indemnify W2B for all losses and/or penalties incurred by W2B, pursuant to Section 66l of the Act, as a result of the change not being notified by the Customer to W2B;
- 6.3.5 comply with any reasonable instruction given to it by W2B, which W2B considers necessary to ensure W2B complies with W2B's Water Supply Licence, the Act, the Protocol, any Guidance and/or any Regulations;
- 6.3.6 immediately inform W2B if the nature of the Customer's requirements change such that it requires water urgently on medical or other grounds; and
- 6.3.7 provide W2B with such information as W2B reasonably requires:
 - (a) for the purposes of carrying out its functions;
 - (b) to comply with any condition of W2B's Water Supply Licence;
 - (c) in relation to national security or civil emergencies; or
 - (d) to comply with any reasonable request for information made by the Environment Agency.
- 6.4 Information required under Clause 6.3 shall be provided in such form and manner, at such time and place, and be accompanied by or supplemented by such explanations, as W2B may reasonably require.
- 6.5 The Customer shall not be required under Clause 6.3 to provide any information which would be protected from disclosure or production in proceedings in the High Court on grounds of legal professional privilege.

7. Metering

- 7.1 The Customer shall give W2B and/or its agents, and the relevant Undertaker and/or its agents, safe and unobstructed access to the Premises on reasonable notice in order to:
 - 7.1.1 take a meter read;
 - 7.1.2 take action related to any meter or metering equipment and associated pipework (including installation, maintenance, testing, repair, replacement and/or removal);
 - 7.1.3 to disconnect and/or reconnect the Customer's supply of water or the supply of water to another customer of W2B where the Connection Point is shared; and
 - 7.1.4 to sample water quality or sample or monitor trade effluent.
- 7.2 In the event of an Emergency Event, the Customer shall provide W2B and/or its agents, and the relevant Undertaker and/or its agents, access to the Premises at any time.
- 7.3 The Customer will obtain any third party consent required to give W2B and/or its agents, and the relevant Undertaker and/or its agents, access to the Premises pursuant to Clauses 7.1 and 7.2, at the Customer's cost (if any).
- 7.4 Subject to Clause 7.1, W2B may take a meter read either by physical or electronic inspection. The Customer shall take a meter read and provide this reading to W2B at the request of W2B.
- 7.5 Unless otherwise agreed, the meter and metering equipment will be and remain the property of the relevant Undertaker. The Customer will not remove the meter or metering equipment and will not attach any item to it and shall take reasonable care to keep any meter and metering equipment free from obstruction, damage (including damage by frost) or interference.
- 7.6 The Customer shall not tamper with any meter or metering equipment.
- 7.7 If W2B incurs any loss of Charges or costs as a result of any breach by the Customer of its obligations under this Clause 7 (Metering), W2B may recover such Charges or costs from the Customer.
- 7.8 In respect of any meter which is installed at the Premises, the Customer may:

- 7.8.1 request W2B to have tests performed on the operation and accuracy of the meter; and
- 7.8.2 request W2B to upsize or downsize the meter (as appropriate).

- 7.9 In respect of any request made by the Customer under Clauses 7.8.1 or 7.8.2, W2B may charge the Customer provided that such charges reflect the amount that W2B is being charged by the relevant Undertaker to provide that service.

8. Data

- 8.1 All personal information W2B may collect will be collected, used and held in accordance with its Privacy Policy. However, W2B reserves the right to share certain information with credit referencing agencies and the Customer agrees for W2B to do so.

9. Charges and Costs

- 9.1 In consideration for the supply of water by W2B under the Agreement, the Customer shall pay W2B the charges calculated by W2B on the basis of the Tariffs and (where relevant) on meter readings or estimated meter readings (the "Charges").
- 9.2 W2B may revise the Tariffs on an annual basis and W2B shall notify the Customer of any changes to the Tariffs after the change has taken effect and each relevant Appendix shall be deemed to have been amended in respect of such Tariff as at the date of the relevant change.
- 9.3 Without prejudice to Clause 7.7, W2B shall be entitled to charge the Customer for any costs reasonably incurred by W2B in enforcing the terms of the Agreement (the "Costs"), which shall include the cost of recovering unpaid charges.
- 9.4 All amounts expressed as payable pursuant to this Agreement are expressed to be exclusive of any applicable VAT and accordingly VAT shall be payable in addition to the amounts expressed at the rates from time to time in effect.

10. Invoicing and Payment

- 10.1 W2B shall be entitled to invoice the Customer for the Charges and the Costs on or at any time after the relevant Transfer Date.
- 10.2 W2B shall invoice the Customer in accordance with the Billing Period. The Billing Period may be changed solely at the discretion of W2B.
- 10.3 Subject to the remainder of this Clause 10 (Invoicing and Payment), and unless provided otherwise in the Commercial Termsheet:
 - 10.3.1 the Customer shall pay invoices in full and in cleared funds within fourteen (14) days of receipt; and
 - 10.3.2 payments can be made by direct debit, credit or debit card, BACS or cash at a bank.
- 10.4 Where the Customer fails to pay any amount due to W2B under the Agreement (excluding any amount contested in good faith in accordance with Clause 10.5) by the due date for payment, then:
 - 10.4.1 W2B shall issue a notice of non-payment. If payment has still not been made by the date fourteen (14) days after the date of the notice of non-payment, W2B shall be entitled to take steps to procure the disconnection of the water supply to the Premises and terminate the Agreement with immediate effect from the date of disconnection; and
 - 10.4.2 the Customer shall pay interest on any outstanding amount at the rate of three per cent (3%) per annum above the Bank of England's base lending rate, from time to time, from the due date for payment until the payment is made in full (to be calculated on a daily basis).
- 10.5 If the Customer disputes any invoice, the Customer shall immediately notify W2B in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. W2B shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the parties have not resolved the dispute within fourteen (14) days of the Customer giving notice to W2B, the dispute shall be resolved in accordance with Clause 17 (Disputes). Where only part of an invoice is

disputed, the undisputed amount shall be paid on the due date as set out in Clause 10.3.

10.6 Subject to 10.7 below, W2B shall refund to the Customer any overcharges on the Customer's account and such refund shall be made to the Customer once the wholesaler has refunded W2B.

10.7 W2B may, without limiting any other rights or remedies they may have, set off any amounts owed to it by the Customer under the Agreement against any amounts payable by W2B to the Customer in connection with this Agreement or any other agreement between the Customer and W2B.

10.8 All payments payable to W2B or the Customer under the Agreement shall become due immediately on its termination. This Clause 10.8 is without prejudice to any right to claim for interest under the law or under the Agreement.

11. Termination

11.1 The Customer may terminate the agreement on not less than six (6) months' prior written notice to W2B.

11.2 W2B may terminate the agreement

11.2.1 on not less than thirty (30) days' prior written notice to the Customer;

11.2.2 for non-payment of the Charges, pursuant to Clause 10.4.1; or

11.2.3 with immediate effect if W2B's Water Supply Licence is revoked by the Secretary of State or Ofwat.

11.3 Either party may terminate the Agreement:

11.3.1 with immediate effect if the other party commits a material breach of its terms and (in the case of a breach capable of remedy) fails to remedy such material breach within thirty (30) days of having been notified of the material breach. For the avoidance of doubt, material breach includes, but is not limited to, a failure by the Customer to pay an undisputed amount within fourteen (14) days of the date of receipt of the relevant invoice; or

11.3.2 with immediate effect if the other party makes any arrangement or composition with its creditors or is the subject of a winding-up or administration order or passes a resolution for voluntary liquidation (other than a voluntary winding-up or solvent liquidation for the purposes of a scheme of reconstruction or amalgamation) or if a receiver or administrative receiver is appointed over all or any of its assets or a distress, attachment, execution or other legal process is levied, enforced or issued on or against the other party or any of its assets or the other party enters into or suffers any similar process in any jurisdiction.

11.4 The Customer may terminate the Agreement in the circumstance where the Customer will no longer own, lease or otherwise occupy the Premises. The Customer shall give W2B no less than one (1) months' written notice of termination under this Clause 11.4. If notice is not given to W2B by the Customer, then the Agreement shall not terminate and shall continue in full force and effect until terminated by notice in accordance with this Clause 11.4.

11.5 On termination or novation of the Agreement for any reason and subject as otherwise provided in the Agreement to any rights or obligations that have accrued before termination, neither party shall have any further obligation to the other under the Agreement.

12. Force Majeure

12.1 Subject to the remainder of this Clause 12 (Force Majeure), neither party shall be liable to the other where it is unable to perform its obligations under the Agreement by reason of a Force Majeure Event provided that the party claiming to be prevented or delayed in the performance of its obligations by reason of a Force Majeure Event (the "Affected Party") shall use all reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which the obligations contained in this Agreement may be performed.

12.2 The Affected Party shall:

12.2.1 notify the other Party of the Force Majeure Event as soon as reasonably practicable and in any event within five (5) Working Days of the Force Majeure Event occurring; and

12.2.2 upon request, within ten (10) Working Days of the Force Majeure Event occurring, provide a report containing all relevant available information relating to the Force Majeure Event and details of the measures the Affected Party is taking to overcome or circumvent such Force Majeure Event.

12.3 The parties shall not be relieved by reason of the Force Majeure Event from any obligation to indemnify or make payment.

12.4 If the Force Majeure Event does not affect the supply of water to all of the Premises of the Customer, the Affected Party shall only be relieved of its obligations in respect of those Premises which are affected.

12.5 If the Force Majeure Event continues materially to affect the Customer for more than six (6) months, W2B may terminate the Agreement in whole or in part (as it relates to Premises affected by the Force Majeure).

13. Limitation of Liability

13.1 Subject to Clauses 13.2 and 13.3, each party's total liability in contract, tort (including negligence and breach of statutory duty), misrepresentation or otherwise in relation to the Agreement shall be limited to the total sum of the payments under the Agreement in the preceding calendar year (or if in respect of the first calendar year of the Agreement then the amount of charges incurred by the Customer with the relevant Undertaker in the preceding calendar year).

13.2 Subject to Clause 13.3, W2B shall not be liable to the Customer for:

13.2.1 any indirect, special or consequential loss or damage; or

13.2.2 loss of data or other equipment or property; or

13.2.3 damage to the Customer's equipment or property; or

13.2.4 any loss arising as a result of any tampering with, or any device being fitted to, the meter or metering equipment by the Customer;

13.2.5 economic loss or damage; or

13.2.6 incurring of liability for loss or damage of any nature whatsoever suffered by third parties (including in each case incidental and punitive damages); or

13.2.7 any loss of actual or anticipated profit, interest, revenue, anticipated savings or business or damage to goodwill, howsoever caused, even if W2B is advised in advance of the possibility of any such losses or damages.

13.3 Nothing in the Agreement shall operate so as to exclude or limit either party's liability:

13.3.1 under Clause 7.7;

13.3.2 in respect of their payment obligations hereunder; or

13.3.3 for fraud, death or personal injury caused by its negligence or any other liability that may not be excluded or limited as a matter of law in England and Wales.

14. Contract Management

14.1 In order to facilitate co-operation, communication and reporting, both parties will nominate a contract manager. The contract manager of each party shall be the key points of contact for the parties, and will oversee the obligations under the Agreement generally.

15. Assignment and Sub-Contracting

15.1 The Customer shall not, without the prior written consent of W2B, assign, transfer, charge or deal in any other similar manner with the Agreement or its rights or any part of them under the Agreement, subcontract any or all of its obligations under the Agreement, or purport to do any of the same.

16. Confidentiality

16.1 Each party undertakes to the other to keep confidential and not to divulge to any person (other than its officers and employees), without the prior consent of the other party, all

information (written or oral) concerning the business and affairs of the other which it has obtained or received as a result of discussions leading up to entry into the Agreement, or which it has obtained during the course of the Agreement, except any information that is:

- 16.1.1 subject to an obligation to disclose under law, or that is required to be disclosed by any competent regulatory authority, by notice or otherwise; or
- 16.1.2 already in its possession other than as a result of a breach of this Clause 16 (Confidentiality); or
- 16.1.3 in the public domain other than as a result of a breach of this Clause 16 (Confidentiality).

16.2 Each party undertakes to the other to take all steps that are necessary from time to time to ensure compliance with the provisions of this Clause 16 (Confidentiality) by its officers and employees and any other permitted receiving party.

17. Disputes

17.1 Subject as may be provided elsewhere in the Agreement, all disputes, differences or questions arising in relation to the Agreement shall be referred in the first instance to the contract managers, who shall meet together and attempt to settle the dispute between themselves (acting in good faith) within one (1) calendar month.

17.2 If the Contract Managers fail to resolve the dispute, it shall be referred to the relevant senior manager of each of W2B and the Customer, who shall meet together and attempt to settle the dispute between themselves (acting in good faith) within one (1) calendar month.

17.3 If the relevant senior managers fail to resolve the matter within one (1) calendar month, then either party may refer the dispute to an appropriate court or tribunal, or may (at its discretion) opt for mediation, without prejudice to the rights of the parties to the injunctive relief or to the rights of the parties in any future proceedings (in which case such an election shall bind the other party until a conclusion is made or the mediator rejects the case).

18. Variation

18.1 Subject to Clause 18.2, no variation or amendment to the Agreement shall be valid unless it is in writing and validly signed on behalf of each party.

18.2 W2B may vary the terms of the Agreement without the consent of the Customer, from time to time, as a result of any amendment or addition to:

- 18.2.1 W2B's Water Supply Licence;
- 18.2.2 the Act;
- 18.2.3 any Regulations;
- 18.2.4 any Guidance; or
- 18.2.5 the Customer Transfer Protocol.

18.3 W2B shall give the Customer notice of any variation made in accordance with Clause 18.2 within fourteen (14) days of such variation taking effect.

19. Notices

19.1 All notices to be given to a party under this Agreement shall be in writing in English and shall be marked for the attention of the person, and delivered by hand or sent by first class pre-paid post, facsimile transmission or e-mail to the address for each party as set out at the top of the Letter. A party may change such address by notice to the other party in accordance with this Clause 19.1.

19.2 A notice shall be treated as having been received:

- 19.2.1 if delivered by hand between 9.00 am and 5.00 pm on a Working Day (which time period is referred to in this Clause 19.2.1 as "**Working Hours**"), when so delivered, and if delivered by hand outside Working Hours, at the next start of Working Hours;
- 19.2.2 if sent by first class pre-paid post, at 9.00 am on the Working Day after posting if posted on a Working Day, and at 9.00 am on the second Working Day after posting if not posted on a Working Day;
- 19.2.3 if sent by facsimile transmission, upon receipt by the sender of the facsimile transmission report that the facsimile has been transmitted to the addressee;
- 19.2.4 if sent by email, upon receipt by the recipient's receiving equipment.

In proving that a notice has been given to terminate the Agreement, the parties agree that notwithstanding such notice may have been sent by facsimile or e-mail, the terminating party shall also, on the same day as the facsimile or e-mail notice is sent, send a copy of the notice by first class pre-paid post to the other party.

20. Rights of Third Parties

20.1 Except as otherwise provided for in the Agreement, a person who is not a party to the Agreement shall have no rights to enforce any term of the Agreement under the Contracts (Right of Third Parties) Act 1999.

21. Miscellaneous

21.1 Nothing contained in the Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties or to authorise either party to act as agent for the other, and no party shall have authority to act in the name, or on behalf of, or otherwise to bind the other in any way.

21.2 If any term or provision of the Agreement is held to be illegal or unenforceable in whole or in part under any enactment or rule of law, such terms or provision or part shall to that extent be deemed not to form part of this Agreement but the validity and enforceability of the remainder of this Agreement shall not be affected.

21.3 The Agreement sets out the entire agreement between the parties and supersedes all prior representations, arrangements, understandings and agreements between the parties relating to the subject matter hereof.

21.4 Each party acknowledges that in entering into this Agreement it does not rely on any representation, warranty, collateral agreement or other assurance of any person (whether a party to the Agreement or not) that is not set out in this Agreement or the documents referred to in it. Each party waives all rights and remedies which, but for this Clause 21.4, might otherwise be available to it in respect of any such representation, warranty, collateral agreement or other assurance. The only remedy available to any party in respect of any representation, warranty, collateral agreement or other assurance that is set out in this Agreement (or any document referred to in it) is for breach of contract under the terms of this Agreement (or the relevant document). Nothing in this Agreement shall, however, limit or exclude any liability for fraud or fraudulent misrepresentation.

21.5 Delay in exercising, or failure to exercise, any right or remedy in connection with this Agreement shall not operate as a waiver of that right or remedy. The waiver of a right to require compliance with any provision of this Agreement in any instance shall not operate as a waiver of any further exercise or enforcement of that right and the waiver of any breach shall not operate as a waiver of any subsequent breach. No waiver in connection with this Contract shall, in any event, be effective unless it is in writing, refers expressly to this Clause 21.5, is duly signed by or on behalf of the party granting it, and is communicated to the other party in accordance with Clause 19 (Notices).

21.6 The rights and remedies of the parties in connection with this Agreement are cumulative and, except as expressly stated in this Agreement, are not exclusive of and may be exercised without prejudice to any other rights or remedies provided in this Agreement by law or equity or otherwise. Except as expressly stated in this Agreement (or in law or equity in the case of rights and remedies provided by law or equity) any right or remedy may be exercised wholly or partially from time to time.

21.7 Termination of the Agreement for any reason shall not affect any rights or liabilities that have accrued prior to termination or the coming into force of any term that is expressly or by implication intended to come into force or continue in force on or after termination. Without limitation, the parties intend that the following provisions shall survive termination: Clause 9 (Charges and Costs), Clause 10 (Invoicing and Payment), Clause 13 (Limitation of Liability), Clause 17 (Disputes) and Clause 23 (Governing Law).

22. Counterparts

22.1 The Letter may be executed in any number of counterparts and by the parties on separate counterparts, but shall not

be effective until each party has executed at least one counterpart.

22.2 Each counterpart, when executed, shall be an original, but all counterparts shall together constitute one and the same instrument.

23. Governing Law

23.1 The Agreement and any non-contractual obligation arising out of or in relation to this Agreement shall be governed by and interpreted in accordance with the laws of England and Wales, and, subject to Clause 17 (Disputes), each party agrees to submit to the exclusive jurisdiction of the English and Welsh Courts as regards any claim or matter arising under the Agreement.