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# Web Design Agreement

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Institute of Personal  
Trainers

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**THIS AGREEMENT** is dated [DATE]

**Parties**

- (1) Institute of Personal Trainers
- (2) **(Customer)**.

**Agreed terms**

**1. Definitions and interpretation**

1.1 The definitions and rules of interpretation in this clause apply in this agreement.

'the Acceptance Tests' means the tests prepared pursuant to clause 7 and 'the Acceptance Date' means the date on which the Website Design is accepted pursuant to clause 7;

'an affiliate' means in relation to any company:

- a) any subsidiary or holding company of that company or any subsidiary of the holding company, or
- b) any other entity controlling or controlled by that company;

'a business day' means a day (excluding Saturdays) on which banks generally are open in the City of London for the transaction of normal banking business (other than solely for trading and settlement in Euros);

'confidential information' means all business, technical, financial or other information created or exchanged between the parties in the course of the Project including the existence of the Project;

'the Content' means all text, graphics, logos, photographs, images, moving images (including video)<sup>1</sup>, sound, illustrations and other materials featured, displayed or used or to be featured, displayed or used in or in relation to the Website;

'the Customer Content' means the Content provided to the Supplier by the Customer for use in accordance with this agreement;

'the Development Programme' means the timetable for the Project as set out in schedule 5;

'intellectual property rights' means any and all patents, trade marks, rights in domain names, rights in designs, copyrights and database rights (whether registered or not and any applications to register or rights to apply for registration of any of the foregoing), rights in confidential information and all other intellectual property rights of a similar or corresponding character which may subsist now or in the future in any part of the world;

'the Price' means the sums to be paid by the Customer to the Supplier as specified in schedule 3 in consideration of the performance of the Project;

'the Project' means the delivery of the Website Design, the design and development of the Tool Kit and the production of the Web Pages;

'the Project Co-ordinator' means the person for the time being duly appointed by the Customer to act as the Customer's principal representative for the purpose and supervision of the Project;

'the Specification' means the specification set out in schedule 1;

'the Supplier Scale' means the standard charges of the Supplier for labour;

'the Terms of Payment' means the terms of payment of the Price specified in schedule 3;

'the Tool Kit' means a set of guidelines, rules, templates, pages, files, code and documentation required by the Customer to enable the building of the Website and all of the Web Pages in accordance with the Website Design in a consistent style, look and feel;

'the Web Pages' means the pages of the Website containing the Content described in the Specification and built using the Tool Kit;

'the Website' means the website to be designed by the Supplier for the Customer; and

'the Website Design' means the graphical, technical and navigational design as described in the Specification.

1.2 In this agreement unless otherwise specified:

- (a) reference to a party is a reference to a party to this agreement and includes his permitted assignees and the successors in title to substantially the whole of his undertaking;
- (b) reference to a person includes any person, individual, company, firm, corporation, government, state or agency of a state, or any undertaking whether or not having separate legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists;
- (c) reference to a statute or statutory instrument or any of its provisions is to be construed as a reference to that statute or statutory instrument or such provision as from time to time amended or re-enacted;
- (d) words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- (e) references to recitals, clauses, paragraphs or schedules are to recitals, clauses and paragraphs of and schedules to this agreement;
- (f) 'control' is to be construed in accordance with the Corporation Tax Act 2010 Sections 450, 451 and 'controlling' and 'controlled' shall be construed accordingly; and
- (g) 'includes' and 'including' shall mean includes and including without limitation.

1.3 The recitals and schedules form part of the operative provisions of this agreement and references to this agreement shall, unless the context otherwise requires, include references to the recitals and the schedules.

1.4 The headings in this agreement are for information only and shall be ignored in construing this agreement.

## 2. **Recitals**

2.1 The Customer wishes to establish a website to market or sell his (describe) products or services.

2.2 The Supplier is engaged in business as a website designer and developer and has agreed to supply a website for the Customer upon the following terms and conditions.

## 3. **Principal duties of the Supplier**

3.1 In consideration of the payment by the Customer of the Price and subject to the terms and conditions of this agreement, the Supplier shall from the date of this agreement carry out on behalf of the Customer and, as the case may be, advise and assist the Customer in, the Project.

3.2 In pursuance of the objectives set out in clause 3.1, the Supplier undertakes:

- (a) to advise the Customer on all matters relating to the Project;

- (b) to develop and deliver the Website Design;
- (c) to create and deliver the Web Pages; and
- (d) to develop and deliver the Tool Kit,

in each case on or before the dates set out in the Development Programme and on the terms and conditions set out in this agreement

#### **4. Principal duties of the Customer**

The Customer shall, where relevant, deliver the Customer Content to the Supplier in the agreed format, use reasonable efforts to ensure that it is correct and update it when required to do so pursuant to this agreement.

#### **5. Variations**

- 5.1 The Customer may at any time request variations to the Content or the Development Programme by written notice to the Supplier.
- 5.2 Within 5 business days of receipt of a request for variation or such other period as may be agreed between the parties the Supplier shall indicate by notice in writing to the Customer the terms upon which he will perform the requested variation, including the effect of the variation on the Price and the Development Programme, and his justification for the terms. It is recognised by the parties that a variation may result in either an increase or decrease in the Price, the size of which shall be as agreed by the parties but shall not be more than that calculated in accordance with the Supplier Scale. For the avoidance of doubt, the Customer's requirement that the Supplier carry out amendments or modifications or corrective or remedial work pursuant to clause 7 shall not constitute a variation within the meaning of this clause.
- 5.3 If the Supplier gives written notice to the Customer agreeing to perform a variation upon the terms already agreed between the parties, this agreement shall be deemed automatically to have been amended so as to include the variation and thereafter the Supplier shall perform this agreement upon the basis of such amended terms.
- 5.4 If the Supplier gives written notice to the Customer agreeing to perform the variation on terms different to those already agreed between the parties, the Customer shall, within 5 business days of the date of the Supplier's written notice, elect by written notice to the Supplier whether or not he wishes the variation to proceed. If the Customer elects for the variation to proceed he shall issue an order for the variation to proceed. The Supplier expressly acknowledges that no order to proceed with any variation shall be binding upon the Customer unless it is signed by the person nominated for that purpose by the Customer, in which case this agreement shall be deemed automatically to have been amended so as to include the variation and such amended terms and thereafter the Supplier shall perform this agreement upon the basis of such amended terms.

#### **6. Testing and acceptance**

- 6.1 At the dates set out in the Development Programme, the Customer shall commence the preparation of the Acceptance Tests. The Supplier shall advise the Customer in relation to the Acceptance Tests. Selection of the Acceptance Tests shall be at the discretion of the Customer but is subject to the approval of the Supplier not to be unreasonably withheld. The Supplier shall only be entitled to reject the Acceptance Tests suggested by the Customer upon the basis that they require the Website to operate in a manner not provided for by the Specification. The Supplier shall be deemed to have accepted the Acceptance

Tests if he neither approves nor rejects them within 7 days of their disclosure by the Customer.

- 6.2 Following delivery and installation of the Website, the Customer shall carry out the Acceptance Tests or procure the carrying out of them at the time fixed. If the Project Co-ordinator in his sole discretion considers that the Website has materially failed to pass the Acceptance Tests, he shall promptly give written notice to the Supplier specifying why he considers that the Website has failed. On receipt of this notice the Supplier shall, subject to clause 7.3, free of charge to the Customer determine the causes for the failure and advise the Customer of them, and make the changes to the Website (including corrections or enhancements to the software used) necessary to ensure that it will pass the Acceptance Tests and perform in accordance with the Specifications (achievement of such passing and performance being referred to as 'successful completion'). Following the making of any such changes the Customer shall repeat or procure the repetition of such of the Acceptance Tests as are necessary on the same terms as set out above.
- 6.3 If the Website fails the Acceptance Tests and on investigation pursuant to clause 7.2 this proves to be as a result of an error by the Customer, the Supplier shall be entitled to charge for the costs of investigation and of making the changes that are necessary and agreed at the Supplier Scale.
- 6.4 The Supplier shall ensure that successful completion occurs on or before the date set out in the Development Programme for completion to occur. The date of successful completion shall be the date upon which the Customer accepts that it has occurred. If any delay in achieving successful completion is due to delay or error beyond the control of the Supplier, the relevant dates set out in the Development Programme shall be deemed deferred as agreed between the parties or determined by an expert's decision.
- 6.5 Notwithstanding any provisional acceptance or use of the Website by the Customer, final acceptance of it shall not occur until successful completion and shall be without prejudice to any of the Customer's rights set out in this agreement.
- 6.6 Risk of loss or damage of any kind to the Website, the software used, the Content or the documentation related to it shall pass to the Customer only upon successful completion.

## 7. Price and payment

- 7.1 In consideration of performance of the Supplier's duties under this agreement, the Customer shall pay the Supplier the Price according to the Terms of Payment.
- 7.2 The Price is inclusive of all labour and materials but excludes:
- (a) VAT, and
  - (b) expenses as provided in clause 8.6.

All payments made to the Supplier by the Customer shall be made within [14] business days after receipt of a VAT invoice from the Supplier. All payments shall be made in pounds sterling and by a cheque or bank transfer to the account of the Supplier at a bank to be nominated in writing by the Supplier.

- 7.3 The Supplier will satisfy himself as to the extent and nature of the activities to be carried out by him under the Project and obtain all necessary information as to the risk, contingencies and all other circumstances influencing the inclusiveness of the Price and the correctness and sufficiency of other rates and prices (if any) used to calculate the Price. The Price shall not be subject to any adjustment or increase whatsoever.

- 7.4 Payment by the Customer of any sum under this agreement shall be without prejudice to any claims or rights the Customer may have against the Supplier and shall not constitute any admission by the Customer as to the performance by the Supplier of his obligations under this agreement.
- 7.5 The Supplier Scale may be decreased or increased, but any increase in the scale shall be reasonable, shall be in line with any increase for other customers of the Supplier and shall only take effect one month after notice of the increase has been given to the Customer.
- 7.6 The Supplier shall be entitled to recover from the Customer his reasonable incidental expenses for materials used during the Project and for third party goods and services supplied to the Project, subject to the following provisions:
- (a) the Supplier shall provide a monthly summary of third party expenses incurred by him in connection with the Project and such expenses will be invoiced on a monthly basis with reasonable supporting documentation;
  - (b) any third party expense that is reasonably expected to be more than £... in relation to any particular matter shall require the prior written approval of the Customer before it is incurred;
  - (c) the third party expenses to be reasonably incurred by the Supplier in connection with the Project shall not exceed £... in total; thereafter any third party expenses to be incurred by the Supplier shall require the prior written approval of the Customer; and
  - (d) any expense to be incurred by the Supplier as a consequence of any amendment agreed by the parties to the terms of the Project shall be agreed by the parties and for the avoidance of doubt shall be outside the scope of the provisions outlined immediately above.

## **8. Intellectual property rights**

- 8.1 The Customer grants to the Supplier a royalty-free, worldwide, non-exclusive licence to use the Customer Content for the purposes of the Project.
- 8.2 The Supplier assigns all right, title and interest (including all intellectual property rights) in the Website Design, the Tool Kit and the Web Pages to the Customer with full title guarantee.
- 8.3 The Supplier assigns all right, title and interest (including all intellectual property rights) in the parts of the Content designed by the Supplier in the course of the Project to the Customer with full title guarantee.
- 8.4 The Supplier shall at the request of the Customer from time to time do all things and execute all documents the Customer may reasonably require to give effect to the assignments in clauses 9.2 and 9.3.
- 8.5 Except as expressly set out in clause 9.1, this agreement does not transfer or grant to the Supplier any right, title or interest in any intellectual property rights in or to the Customer Content.

## **9. Warranties**

- 9.1 The Supplier warrants and represents to the Customer that:

- (a) all works created by him in the course of the Project will, unless otherwise stated in this agreement, be original work and not subject to any intellectual property or other rights of any third party;
  - (b) the Customer's use and operation of the Website Design, Web Pages, Tool Kit or the Content delivered by the Supplier in accordance with the terms of this agreement shall not infringe the intellectual property rights of any third party<sup>7</sup>; and
  - (c) all services provided to the Customer by the Supplier shall be provided in a timely and orderly fashion by skilled and experienced personnel acting with all due care and skill and in accordance with best professional standards current in the website design industry.
- 9.2 The Customer warrants and represents to the Supplier that, so far as the Customer is aware, the Supplier's use of the Customer Content in accordance with the terms of this agreement will not infringe the intellectual property rights of any third party.
- 9.3 Save as expressly set out in this agreement all representations, warranties, terms and conditions, whether oral or written, express or implied by law, custom, statute or otherwise and including but not limited to satisfactory quality or fitness for any particular purpose are excluded, save for the statutorily implied terms as to title.
- 10. Intellectual property rights indemnity**
- The Supplier agrees to indemnify the Customer against any and all liability, loss, damage, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Customer or by a third party whether direct, indirect or consequential arising out of any dispute or contractual, tortious or other claims or proceedings ('claims') brought by a third party alleging infringement of his intellectual property rights by the Website Design, the Web Pages, the Tool Kit or the Content (as delivered by the Supplier) ('the Package') provided that:
- 10.1 this indemnity shall not apply to any infringement of the third party's intellectual property rights arising as a direct result of any alteration or modification to the Package or any part of it by the Customer or as a result of the use of the Package or any part of it in combination with hardware and/or software not supplied or approved by the Supplier;
  - 10.2 in addition to the above indemnity, where an injunction restraining use by the Customer of the Package or any part of it is in the opinion of the Customer's legal advisers likely to be granted by the court to a third party alleging infringement of its intellectual property rights (and that opinion is communicated in writing to the Supplier), the Supplier shall either:
    - (a) do all acts and things required to render the Package or the appropriate part of it non-infringing without affecting any of the Supplier's other duties and obligations under this agreement, or
    - (b) obtain a licence from the third party granting the Customer the right to continue using the Package or the part of it that infringes;
  - 10.3 the Customer gives written notice to the Supplier of any claim as soon as reasonably possible following receipt of it;
  - 10.4 the Customer makes no admission of liability and gives the Supplier sole authority to defend or settle claims at the Supplier's cost and expense; and
  - 10.5 the Customer gives the Supplier all reasonable assistance in connection with any claim at the Supplier's cost and expense.

## **11. Confidentiality**

- 11.1 During the term of this agreement the following obligations shall apply to the disclosure of confidential information by one party ('the Disclosing Party') to the other party ('the Receiving Party').
- 11.2 Subject to clause 12.3, the Receiving Party:
- (a) may not use any confidential information for any purpose other than the performance of his obligations under this agreement;
  - (b) may not disclose any confidential information to any person except with the prior written consent of the Disclosing Party; and
  - (c) shall make every effort to prevent the use or disclosure of the confidential information.
- 11.3 The obligations of confidence referred to in all provisions of this clause shall not apply to any confidential information that:
- (a) is in the possession of and is at the free disposal of the Receiving Party or is published or is otherwise in the public domain prior to the receipt of such confidential information or other information by the said party;
  - (b) is or becomes publicly available on a non-confidential basis through no fault of the Receiving Party;
  - (c) is required to be disclosed by any applicable law or regulation;
  - (d) is received in good faith by the Receiving Party from a third party who, on reasonable enquiry by the Receiving Party, claims to have no obligations of confidence to the other party to this agreement in respect thereof and who imposes no obligations of confidence upon the Receiving Party.
- 11.4 Without prejudice to any other rights or remedies the Disclosing Party may have, the Receiving Party acknowledges and agrees that in the event of breach of this clause the Disclosing Party shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this clause in addition to any damages or other remedies to which he may be entitled.
- 11.5 The obligations of the parties under all provisions of this clause shall survive the expiry or the termination of this agreement for whatever reason.

## **12. Liability**

- 12.1 Notwithstanding any other provision in this agreement, the Supplier's liability to the Customer for death or injury resulting from his own negligence or that of his employees, agents or sub-contractors shall not be limited.
- 12.2 The Supplier's entire liability to the Customer in respect of any breach of his contractual obligations, any breach of warranty, any representation, statement or tortious act or omission including negligence arising under or in connection with this agreement shall be limited to £100.
- 12.3 The Supplier shall not be liable to the Customer for any indirect or consequential loss the Customer may suffer, even if the loss is reasonably foreseeable or the Supplier has been advised of the possibility of the Customer incurring it.

12.4 It is a condition precedent to this agreement that the Supplier undertakes and agrees to take out adequate insurance cover with an insurance office of repute to cover his liability in respect of the full performance of all of his duties and obligations under this agreement and in particular, but without prejudice to the generality of the foregoing, the liability accepted by him under the provisions of this clause. The Supplier agrees to produce a copy of an insurance policy satisfactory to the Customer together with evidence of the validity of the policy satisfactory to the Customer within 30 days of the date of this agreement, failing which the Customer shall have the right to terminate this agreement forthwith without liability to the Customer upon giving written notice to the Supplier.

### **13. Termination**

13.1 A party ('the Initiating Party') may terminate this agreement with immediate effect by written notice to the other party ('the Breaching Party') on or at any time after the occurrence of one or more of the events specified in clause 14.2.

13.2 The events are:

- (a) the Breaching Party committing a material<sup>13</sup> breach of this agreement and failing to remedy the breach within [30 days] starting on the day after receipt of notice from the Initiating Party giving details of the breach and requiring the Breaching Party to remedy it;
- (b) the Breaching Party passing a resolution for winding up, a court of competent jurisdiction making an order for the Breaching Party's winding up or the presentation of a petition for the Breaching Party's winding up that is not dismissed within 7 days, in each case other than for the purposes of solvent amalgamation or reconstruction in such manner that the entity resulting from the amalgamation or reconstruction effectively agrees to be bound by or assume the Breaching Party's obligations under this agreement;
- (c) the making of an administration order in relation to the Breaching Party or the appointment of a receiver over or an encumbrancer taking possession of or selling any asset of the Breaching Party; or
- (d) the Breaching Party making an arrangement or composition with his creditors generally or making an application to a court of competent jurisdiction for protection from his creditors generally.

13.3 An act or omission by a person who controls, is under common control with, or is controlled by, a party that if it were an act or omission of that party would be a breach of this agreement on that party's part shall be deemed to be a breach of this agreement by that party.

13.4 Termination of this agreement for whatever reason shall not affect either:

- (a) the accrued rights and liabilities of the parties arising in any way out of this agreement as at the date of termination and in particular but without limitation the right to recover damages against the other; or
- (b) any provisions expressed to survive this agreement, which shall remain in full force and effect.

### **14. Non-solicitation of staff**

The Customer agrees that during the term of this agreement and for an additional period of (specify) after termination, the Customer shall not directly or indirectly canvas with a view to offering or providing employment to, offering to contract with or enticing to leave any

employee of or contractor to the Supplier engaged in the performance of the Project without the prior written consent of the Supplier.

## **15. Assignment**

- 15.1 [Subject to the provisions of clause 16.2,] neither party shall assign, transfer, sub-contract or in any other manner make over to any third party the benefit and/or burden of this agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed.
- 15.2 [16.2 The Customer shall be entitled without the prior written consent of the Supplier to assign, transfer, sub-contract or in any manner make over the benefit and/or burden of this agreement to an affiliate or to any company with which the Customer may merge or to any company to which it may transfer its assets and undertaking, provided that the affiliate or other company undertakes and agrees in writing to assume, observe and perform the rights, powers, duties and obligations of the Customer under the provisions of this agreement being assigned, transferred or otherwise made over.]

## **16. Force majeure**

- 16.1 Neither party shall be deemed to be in breach of this agreement or otherwise liable to the other party for any delay in performance or any non-performance of any obligations under this agreement (and the time for performance shall be extended accordingly) if and to the extent that the delay or non-performance is due to an event or circumstance beyond the reasonable control of that party (an 'event of force majeure').
- 16.2 The party relying on clause 17.1 ('the Affected Party') shall promptly notify the other party ('the Other Party') of the nature and extent of the circumstances giving rise to the event of force majeure.
- 16.3 If the event of force majeure in question prevails for a continuous period in excess of [three] months after the date on which it began, the Other Party may give notice to the Affected Party terminating this agreement. The notice to terminate must specify the termination date, which must be not less than [30 days] after the date on which the notice to terminate is given. Once a notice to terminate has been validly given, this agreement will terminate on the termination date set out in the notice. Neither party shall have any liability to the other in respect of termination of this agreement due to an event of force majeure, but rights and liabilities that have accrued before termination shall not be affected.

## **17. Dispute resolution**

- 17.1 All disputes at any time arising between the parties that cannot be resolved by the Project Manager and the Project Co-ordinator may in the first place be referred to [the finance directors of the parties]. If they are unable to resolve a dispute, it may be referred to an expert.
- 17.2 The expert shall have appropriate qualifications and practical experience to resolve the particular dispute and his appointment shall be agreed by the parties. In the event of failure to agree the expert shall be appointed by the President for the time being of the Law Society.
- 17.3 The parties shall promptly furnish to the expert all information reasonably requested by such expert relating to the particular dispute, imposing appropriate obligations of confidence.

- 17.4 The expert shall be required by the parties to use all reasonable endeavours to render his decision within 30 days following his receipt of the information requested or if this is not possible so soon thereafter as may reasonably be practicable and the parties shall co-operate fully with the expert to achieve this objective.
- 17.5 The parties shall share the fees and expenses of the expert equally. The decision of the expert shall be final and binding upon each of the parties.
- 17.6 The dates set out in the Specification shall be postponed by a period to be agreed between the parties or determined by the expert.
- 17.7 For the avoidance of doubt the provisions of this clause provide for a form of advanced dispute resolution and are not a reference to arbitration.

## **18. Waiver**

- 18.1 A waiver of any term, provision or condition of this agreement shall be effective only 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.
- 18.2 No failure or delay on the part of any party in exercising any right, power or privilege under this agreement shall operate as a waiver of it, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of it or the exercise of any other right, power or privilege.
- 18.3 No breach of any provision of this agreement shall be waived or discharged except with the express written consent of the parties.

## **19. Invalidity**

- 19.1 If any provision of this agreement is or becomes invalid, illegal or unenforceable in any respect under the law of any jurisdiction, whether pursuant to any judgment or otherwise:
  - (a) the validity, legality and enforceability under the law of that jurisdiction of any other provision, and
  - (b) the validity, legality and enforceability under the law of any other jurisdiction of that or any other provision,

shall not be affected or impaired in any way.

- 19.2 If any provision of this agreement is held to be void or declared illegal, invalid or unenforceable for any reason whatsoever that provision shall be divisible from this agreement and shall be deemed to be deleted from this agreement and the validity of the remaining provisions shall not be affected. If any such deletion materially affects the interpretation of this agreement, the parties shall use their best endeavours to negotiate in good faith with a view to agreeing a substitute provision that as closely as possible reflects the commercial intention of the parties.

## **20. Remedies**

- 20.1 The rights and remedies provided for by this agreement are cumulative with and not exclusive of any rights or remedies provided by law.
- 20.2 Without prejudice to any other rights or remedies of the parties, each party acknowledges for the benefit of the other that damages might not be an adequate remedy for any breach

of the provisions of this agreement and that, accordingly, either party shall be entitled without proof of special damage to an injunction, specific performance or any other equitable remedy for any threatened or actual breach of the provisions of this agreement by the other.

## **21. Notices**

21.1 Any notice, demand or other communication given or made under or in connection with the matters contemplated by this agreement shall be in writing and shall be delivered personally or sent by fax or prepaid first class post (air mail if posted to or from a place outside the United Kingdom):

- (a) in the case of the Customer to:

dansalcs@theipt.com

....., and

- (b) in the case of the Supplier to:

The clients email address

and shall be deemed to have been duly given or made as follows:

- (c) if personally delivered, upon delivery at the address of the relevant party,
- (d) if sent by first class post, 2 business days after the date of posting,
- (e) if sent by air mail, 5 business days after the date of posting, and
- (f) if sent by fax, when despatched,

provided that if, in accordance with the above provision, any notice, demand or other communication would otherwise be deemed to be given or made after 1700 hours, it shall be deemed to be given or made at the start of the next business day.

21.2 A party may notify the other party to this agreement of a change to its name, relevant addressee, address or fax number for the purposes of the above clause provided that such notification shall only be effective on:

- (a) the date specified in the notification as the date on which the change is to take place, or
- (b) if no date is specified or the date specified is less than 5 business days after the date on which notice is given, the date falling 5 business days after the notice is given.

## **22. Entire agreement**

22.1 This agreement embodies and sets forth the entire agreement and understanding of the parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this agreement. Neither party shall be entitled to rely on any agreement, understanding or arrangement not expressly set forth in this agreement save for any representation made fraudulently.

22.2 Unless otherwise expressly provided elsewhere in this agreement, this agreement may be varied only by a document signed by both parties.

## **23. Announcements**

Both parties agree not to disclose to any third party, other than to their respective bankers or other professional advisers on appropriate conditions of confidentiality, the fact of or details of this agreement or any other agreement referred to in this agreement. The text of any press release or other communication to be published by or in the media concerning the subject matter of this agreement shall require the approval of each party.

## **24. Relationship of the parties**

Nothing in this agreement and no action taken by the parties pursuant to this agreement shall constitute, or be deemed to constitute, the parties a partnership, association, joint venture, the agents of each other or any other co-operative entity.

## **25. Governing law and jurisdiction**

- 25.1 This agreement, and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this agreement or its formation, shall be governed by and construed in accordance with the laws of England.
- 25.2 The parties irrevocably submit to the exclusive jurisdiction of the courts of England for the purpose of hearing and determining any suit, action or proceedings or settling any disputes arising out of or in connection with this agreement and for the purpose of enforcement of any judgment against their respective assets.

## **26. Exclusion of third party rights**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement and no person other than the parties to this agreement shall have any rights under it, nor shall it be enforceable under that Act by any person other than the parties to it.

This agreement has been entered into on the date stated at the beginning of it.