

Beacon's Terms and Conditions

1. Commencement and Duration

This Agreement shall commence with effect from the Commencement Date and (unless terminated earlier in accordance with clause 9) shall continue for the Initial Term and shall automatically extend for 12-monthly periods (each an **Extended Term**) at the end of the Initial Term and at the end of each Extended Term.

Beacon may give written notice to the other party, not later than three months before the end of the Initial Term or the relevant Extended Term, to terminate this Agreement at the end of the Initial Term or the relevant Extended Term, as the case may be.

2. Appointment

In consideration of the Supplier paying the Charges to Beacon in accordance with clause 6 and otherwise complying with its obligations under this Agreement, Beacon appoints the Supplier as a non-exclusive supplier of goods and/or services to Participating Customers and Beacon shall use reasonable endeavours to provide the services which it has agreed to provide to the Supplier.

The Supplier hereby acknowledges and agrees that nothing in this Agreement shall impose an obligation on Beacon to find Participating Customers to whom the Supplier may supply goods and/or services, nor does Beacon guarantee a minimum volume of business for the Supplier under this Agreement.

The parties agree that Participating Customers will place orders, and contract directly with the Supplier for the supply of goods and/or services and the Supplier hereby acknowledges that:

- 2.3.1 Beacon does not purchase the goods and/or services of the Supplier;
- 2.3.2 Beacon is not a reseller of the goods and/or services of the Supplier;
- 2.3.3 Beacon does not act as an agent of the Supplier or a Participating Customer;
- 2.3.4 subject to clause 5, Beacon is not liable for any monies due to the Supplier pursuant to any Customer Contract; and
- 2.3.5 Beacon does not guarantee performance of Customer Contracts by Participating Customers or the Supplier.

3. Supplier's Obligations

The Supplier shall offer goods and/or services to the Participating Customers through the Scheme provided that such goods and/or services are offered at the Supplier's best price for each Participating Customer's individual spend as negotiated and agreed with Beacon's Representative (the **Agreed Price**).

If any audit of the Supplier reveals, or it otherwise comes to the attention of Beacon, that the Agreed Price is not the Supplier's best price, without prejudice to any other rights and remedies available to Beacon, Beacon may instruct the Supplier to credit the Participating Customer with a sum equal to the difference between the best price and the Agreed Price.

- a) If either party wishes to vary the Agreed Price for any Participating Customer, the requesting party will notify the other party of its wishes and the parties shall

negotiate in good faith to agree a new Agreed Price. An Agreed Price shall not be varied without the agreement of both parties.

Notwithstanding clause 2.3, the Supplier shall use reasonable endeavours to ensure that goods and/or services supplied to Participating Customers pursuant to Customer Contracts are supplied using reasonable skill, care and diligence, in accordance with all applicable laws and the Supplier shall comply with its obligations set out in Schedule 3.

The Supplier shall not do, or fail to do, anything which will, or is reasonably likely to, bring Beacon into disrepute or otherwise harm Beacon's relationship with Participating Customers.

The Supplier shall, during the term of this Agreement, refrain from making active sales of goods and/or services to Participating Customers outside of this Agreement without the prior written consent of Beacon. For the purposes of this clause 3.5, active sales shall be understood to mean actively approaching or soliciting Participating Customers including, but not limited to, the following actions:

- 3.5.1 visits;
- 3.5.2 direct mail, including the sending of unsolicited emails; and
- 3.5.3 advertising in media, on the internet or other promotions where such advertising or promotion is specifically targets at Participating Customers.

Any turnover generated by the Supplier in breach of clause 3.5 shall be added to the value of turnover for the purposes of calculating the Annual Rebate payable to Beacon in accordance with clause 6.

The Supplier shall ensure that the terms of the Customer Contracts with Participating Customers do not conflict with any terms of this Agreement.

4. **Central Billing Scheme**

The parties agree to maximise the volume of turnover through the Central Billing Scheme and to procure that all turnover generated by the supply of goods and/or services to Central Billing Participating Customers shall be by means of the Central Billing Scheme.

Without prejudice to the generality of clause 4, the Supplier shall ensure that its personnel are made aware of the obligation contained in clause 4 and shall instruct such Personnel to conduct business with Central Billing Participating Customers.

The Supplier shall provide Beacon with the following financial information (time being of the essence in this regard):

- 4.3.1 at the end of each calendar week, the Supplier shall provide to Beacon a consolidated statement detailing the invoice level turnover data for all Participating Customers;
- 4.3.2 on or before the seventh (7th) day of each month of this Agreement, the Supplier shall provide to Beacon a statement, invoice and/or credit note for goods and/or services purchased by each Participating Customer during the previous month including (but not limited to) details line by line of the relevant quantities purchased, item codes, average price paid for the month and product description; and
- 4.3.3 any other information reasonably required to enable Beacon to calculate the Charges,

(the **Billing Information**) either by electronic data interface or via the pre agreed Excel spreadsheet template, as supplied by Beacon (as Beacon shall decide from time to time in its discretion).

Each party shall promptly notify the other if it receives notification that a Participating Customer disputes a Supplier Invoice and provide all information reasonably required to enable the other party to deal with such dispute.

The Supplier must also provide the Billing Information to the relevant Participating Customer.

Following receipt of the Billing Information, Beacon shall then use reasonable endeavours to collect such sums from the relevant Central Billing Participating Customers through the Central Billing Scheme.

The Supplier is hereby authorised to collect sums from the relevant Non-central Billing Participating Customers on payment terms agreed directly with the Non-central Billing Participating Customers, provided that:

- 4.7.1 the Supplier still provides details of the turnover received from Non-central Billing Participating Customers to Beacon in accordance with clause 4.3; and
- 4.7.2 all turnover received by the Supplier from Non-central Billing Participating Customers shall be included in the total net turnover for the purposes of calculating the Charges.

Where Beacon successfully collects sums from the relevant Central Billing Participating Customers in accordance with clause 4.6, Beacon shall pay such sums to the Supplier within six (6) Working Days of receipt to the Supplier's Bank Account or such other account as the Supplier notifies to Beacon from time to time.

If Beacon is unable to successfully collect sums from the relevant Central Billing Participating Customers within 24 hours of receipt of the relevant Billing Information, Beacon may (without prejudice to any other rights or remedies it may have) in its discretion:

- 4.9.1 instruct the Supplier to suspend supply of goods and/or services to the relevant Central Billing Participating Customer; or
- 4.9.2 remove the relevant Central Billing Participating Customer from the Central Billing Scheme and they shall be deemed to be a Non-central Billing Participating Customer and Beacon shall promptly notify the Supplier of the same.

Nothing in this clause 4 shall be construed as an obligation on Beacon to chase any Central Billing Participating Customer for payment. The Supplier shall be liable for pursuing any Participating Customers for non-payment of sums due under any Customer Contracts.

5. **Credit Risk**

Where a Participating Customer has opted to use the Central Billing Scheme on a direct debit (**CBDD**) basis (as specified in the relevant Participating Customer's account opening form), Beacon guarantees to the Supplier that, where the relevant Participating Customer does not pay the Supplier Invoice as it falls due, Beacon shall pay the Supplier Invoice on demand to the Supplier, subject always to the following provisions of this clause 5.

Notwithstanding clause 5.1, Beacon shall only guarantee payment of a Supplier Invoice where:

- 5.2.1 the Participating Customer has failed to make payment of the Supplier Invoice in full (not in part) because:

- 5.2.1.1 the Participating Customer is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986);
 - 5.2.1.2 the Participating Customer has commenced negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or has made a proposal for or entered into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Participating Customer with one or more other companies or the solvent reconstruction of the Participating Customer;
 - 5.2.1.3 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Participating Customer (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of the Participating Customer with one or more other companies or the solvent reconstruction of the Participating Customer;
 - 5.2.1.4 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the Participating Customer (being a company);
 - 5.2.1.5 the holder of a qualifying floating charge over the assets of the Participating Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 5.2.1.6 a person has become entitled to appoint a receiver over all or any of the assets of the Participating Customer or a receiver is appointed over all or any of the assets of the Participating Customer; or
 - 5.2.1.7 a creditor of the Participating Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Participating Customer's assets and such attachment or process is not discharged within 14 days.
- 5.2.2 the Supplier has used best endeavours to recover payment of the relevant Supplier Invoice from the Participating Customer prior to claiming from Beacon under the guarantee in clause 5.1.

Beacon shall be entitled to rely on the same rights afforded to the relevant Participating Customer in relation to payment of the Supplier Invoice, including (but not limited to) any rights relating to disputing Supplier Invoices and right of set-off.

The Supplier shall promptly inform Beacon if it reasonably believes that a Participating Customer is likely to be subject to any of the events listed in clause 5.2.1 and shall suspend delivery and/or performance of the goods and/or services to the Participating Customer.

Where Beacon is of the opinion (in its sole discretion) that a Participating Customer is likely to be subject to any of the events listed in clause 5.2.1, the Supplier shall, on request by Beacon, suspend delivery and/or performance of the goods and/or services to the Participating Customer.

The guarantee set out in clause 5.1 shall not apply where the Participating Customer has opted to settle Supplier Invoices by any other method (including, but not limited to, the Central Billing Scheme on a BACS, CHAPs or faster payments basis).

Notwithstanding the foregoing provisions of this clause 5, where a Participating Customer has opted to use the Central Billing Scheme CBDD basis or where Beacon refuses a Participating Customer credit, the Supplier shall be responsible for satisfying itself as to the financial standing and credit worthiness of Applicants and Participating Customers (whether or not the Participating Customers are Central Billing Customers or Non-central Billing Participating Customers) in accordance with Schedule 2.

6. Advertising and Promotion

The Supplier shall provide Beacon with information on the advertising and promotion carried out by the Supplier in relation to the goods and/or services offered to Participating Customers and, at the cost of the Supplier, shall supply to Beacon any available promotional and advertising material (including, but not limited to, logos, slogans and brand names) that Beacon reasonably requests from time to time (**Supplier Advertising Material**).

The Supplier hereby authorises Beacon to use the Supplier Advertising Material to advertise and promote the Supplier's goods and/or services to Participating Customers and to develop the Supplier's category status within Beacon's supplier base, and the Supplier agrees to co-operate with, and where appropriate participate in such marketing activities, including (but not limited to) the Minimum Marketing Requirements (**Marketing Activities**).

Beacon shall be entitled to charge the Supplier for all reasonable costs incurred by Beacon in carrying out the Marketing Activities on the Supplier's behalf (**Marketing Fees**) subject to such Marketing Fees being agreed with the Supplier in advance and to an annual cap in the sum of the Marketing Budget and Beacon may, at any time, invoice the Supplier for such Marketing Fees in arrears. The Supplier shall pay each invoice (or instruct Beacon to deduct the Marketing Fees from monies held in the Central Billing Scheme on behalf of the Supplier) within 30 days of the date of each invoice.

The parties agree that Beacon may review and increase the Marketing Budget annually by giving 30 days' prior written notice to the Supplier, such increase to take effect on the next invoice of the Marketing Fees after such notice period has expired. Any increase shall be calculated by increasing the Marketing Budget by the corresponding percentage increase in the Price Index between the current date and the date most closely corresponding to the last date that the Marketing Budget was renewed.

Beacon may from time to time provide promotional and advertising material, logos or other documentation or information (**Beacon Advertising Material**) which the Supplier may use to promote its relationship with Beacon, provided that it shall observe all reasonable directions and instructions given to it by Beacon in relation to any such promotion.

7. Customer Management

Each party shall use reasonable endeavours to co-operate with the other party to deal with any complaints or issues raised by Participating Customers in connection with either the goods and/or services provided by the Supplier or the Central Billing Scheme and, without prejudice to the foregoing, comply with their respective obligations in Schedule 4.

8. Charges

Beacon shall be entitled to invoice the Supplier in respect of:

- 8.1.1 the Annual Rebate and (if applicable) Growth Rebate as described in Schedule 1;
- 8.1.2 the Central Billing Scheme Fee as described in Schedule 1;
- 8.1.3 where applicable, the Powerpoint Contribution as described in Schedule 1;
- 8.1.4 any adjustments arising from an audit as described in clause 15; and

8.1.5 draw down of Marketing Fees as described in 6,

together, the **Charges**, at the rates and intervals specified in clause 6, clause 15 or Schedule 1 (as applicable).

Any invoices issued by Beacon are payable in accordance with the Billing Method (the **Payment Term**) and interest may be charged at the rate of 4% per annum over the base lending rate of Bank of England plc accruing daily on any sums still owing on expiry of the Payment Term.

Any disputes as to the accuracy of any invoice must be communicated in writing to Beacon's Representative for Operational Matters (Accounts Recoverable) within 10 (ten) Working Days from the date of invoice. Failure to do so shall be deemed to be unconditional acceptance of the invoice.

Payment due from the Supplier will be made in full by the Supplier, by BACs, credit transfer or cheque without any set-off, deduction counterclaim or withholding of any sum for any reason to the following account: **Interchange & Consort Hotels, sort code 56-00-70, account number 41238222** or such other account as nominated in writing by Beacon from time to time.

Without prejudice to any other rights and remedies Beacon may have, if the Supplier fails to make payment of the Charges (or any part of them) in accordance with clause 8.2 Beacon may:

- 8.5.1 withhold monies deposited in the Central Billing Scheme by Participating Customers in settlement of Supplier Invoices until such time as the Charges (or the relevant part of them) have been paid in full by the Supplier; and/or
- 8.5.2 deduct the outstanding Charges from monies deposited in the Central Billing Scheme by Participating Customers in settlement of Supplier Invoices.

The Supplier acknowledges and agrees that the exercise of rights by Beacon pursuant to clause 8.5 shall not entitle the Supplier to take any action against either Beacon or any Participating Customer for non-payment or late payment of any Supplier Invoice.

9. Termination

Either party (the **Non-Defaulting Party**) may terminate this Agreement with immediate effect by written notice to the other party (the **Defaulting Party**) where:

- 9.1.1 the Defaulting Party commits a material breach of this Agreement and (if such breach is remediable) fails to remedy that breach within 30 days of the Defaulting Party being notified in writing to do so;
- 9.1.2 the Defaulting Party is in Persistent Breach of this Agreement;
- 9.1.3 if the Defaulting Party stops payment of its debts or is unable to pay its debts as they fall due or is deemed unable to pay its debts;
- 9.1.4 the Defaulting Party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 9.1.5 the party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

- 9.1.6 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy.
- 9.1.7 if the Defaulting Party becomes or is declared insolvent or a resolution is passed for the winding up of the Defaulting Party or the Defaulting Party convenes a meeting of its creditors or makes or proposes to make any arrangement or composition with its creditors or becomes subject to any other insolvency procedure in any jurisdiction or any person takes any step to appoint an administrator or a liquidator, an administrative receiver, a receiver, manager, trustee, custodian or analogous officer is appointed in respect of all or any part of its property, undertaking or assets; or
- 9.1.8 if it becomes unlawful for the Defaulting Party to perform all or any of its obligations under this Agreement.

10. **Confidentiality**

Each party agrees in relation to the Confidential Information belonging to the other that during this Agreement:

- 10.1.1 it shall keep the Confidential Information confidential and shall not disclose it to any third party; and
- 10.1.2 it shall use such Confidential Information only insofar as is necessary to perform its obligations under this Agreement.

Each party may disclose the other party's Confidential Information to its Authorised Parties in each case, insofar and to the extent necessary to in order to fulfil its obligations under this Agreement, provided that it shall be responsible for the acts and omissions of each Authorised Party and shall take all reasonable precautions to prevent unauthorised disclosure or use by the Authorised Parties.

Nothing in clauses 10.1 or 10.2 shall prevent or otherwise restrict either party from disclosing or otherwise dealing with the other party's Confidential Information where:

- 10.3.1 the receiving party can demonstrate by documentary evidence that the Confidential Information was lawfully in its possession prior to disclosure by the other party and it is not subject to any other obligation as to confidentiality;
- 10.3.2 the information was developed by the receiving party independently of the information disclosed by the other party;
- 10.3.3 it is required to be disclosed by law, regulation or pursuant to an order of a competent authority, or to a professional adviser; or
- 10.3.4 at the time of receipt by the receiving party, is in the public domain other than as a result of breach by the receiving party of this paragraph.

The parties agree that a breach of this clause 10 may result in irreparable harm to the disclosing party. In seeking enforcement of any of these obligations, the disclosing party shall therefore be entitled to seek injunctive and other equitable relief to prevent or restrain the breach of this clause 10. Notwithstanding the foregoing, nothing in this Agreement shall be construed as prohibiting the disclosing party from pursuing any other remedies that may be available to it, whether at law or in equity.

This clause 10 is intended to survive termination or expiry of this Agreement (howsoever arising).

11. **Data Protection**

Each party acknowledges that personal data may be shared between the parties as controllers in order for each party to fulfil its obligations or exercise its rights under this Agreement.

Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one party shall constitute a material breach for the purposes of clause 9.1.1.

Without prejudice to the generality of clause 11.2, each party shall:

- 11.3.1 ensure that it has all necessary notices and consents in place to enable lawful transfer of the personal data to the Permitted Recipients for the Agreed Purposes;
- 11.3.2 give full information to any data subject whose personal data may be processed under this Agreement of the nature of such processing. This includes giving notice that, on the termination of this Agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assigns;
- 11.3.3 process the personal data only for the Agreed Purposes;
- 11.3.4 not disclose or allow access to the shared personal data to anyone other than the Permitted Recipients;
- 11.3.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the personal data which are no less onerous than those imposed by this Agreement;
- 11.3.6 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction or, or damage to, personal data;
- 11.3.7 not transfer any personal data received from the other party outside the EEA without the prior written consent of the other party (not to be unreasonably withheld or delayed); and
- 11.3.8 assist the other party in complying with all applicable requirements of the Data Protection Legislation.

The parties acknowledge that during the performance of its obligations under this Agreement, Beacon may be required to process personal data on behalf of the Supplier in the capacity of a processor. In such circumstances, Beacon shall:

- 11.4.1 process personal data only for the purposes of fulfilling its obligations under this Agreement or otherwise on the written instructions of the Supplier. If Beacon is required by any applicable laws to process personal data it shall, to the extent legally permitted, notify the Supplier before doing so;
- 11.4.2 have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of, accidental loss or destruction of or damage to personal data;
- 11.4.3 not engage another processor without prior specific or general written authorisation from the Supplier and without ensuring that the same data protection obligations as set out in this Agreement are imposed on that other processor. Clauses 11.5 and 11.6 constitute general authorisation from the Supplier for the purposes of this clause 11.4.3;

- 11.4.4 ensure that persons who have access to or process personal data keep the personal data confidential (either under contractual or statutory obligations);
- 11.4.5 ensure that any transfer of personal data outside of the European Economic Area takes place only on documented instructions (including, but not limited to, clauses 11.5 and 11.6) of the Supplier and that the organisations to which the personal data is transferred ensure an adequate level of protection;
- 11.4.6 (at the Supplier's cost) assist the Supplier to respond to any request from a data subject;
- 11.4.7 notify the Supplier without undue delay of a personal data breach (which has the meaning given to it in the Data Protection Legislation) and (at the Supplier's cost) provide reasonable assistance to the Supplier complying with its obligations pursuant to Articles 32 to 36 of the Data Protection Legislation;
- 11.4.8 at the written direction of the Supplier, delete or return personal data to the Supplier on termination of this Agreement unless Beacon is required by law to store the personal data; and
- 11.4.9 maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the Supplier or the Supplier's designated auditor provided that the Supplier shall provide reasonable notice of audits, shall carry out audits no more than once per year (except where the Supplier believes, acting reasonably, that Beacon has breached the Data Protection Legislation) and shall be responsible for the costs of the audit except where the audit reveals that Beacon has breached the Data Protection Legislation.

The Supplier consents to Beacon transferring personal data and/or making personal data available to:

- 11.5.1 any hosted data centre Beacon uses now or in the future; and
- 11.5.2 third party suppliers to Beacon of IT services and services relating to the Central Billing Scheme.

As at the date of this Agreement, Beacon does not transfer personal data to any third party other than those listed in clause 11.5 above but it may, in the future, wish to transfer personal data to: marketing agencies, consultants, advisors, Affiliates and auditors of Beacon. The Supplier consents to such transfers taking place.

Nothing in clause 11.4 shall in any way relieve the Supplier of its obligations under clauses 11.2 or 11.3.

The Key Terms sets out the subject matter, nature and purpose of processing by Beacon, the duration of the processing, the types of personal data, categories of data subject and the obligations and rights of the Supplier as data controller.

12. **Insurance**

During this Agreement the Supplier shall maintain in force insurance policies with reputable, financially sound and responsible insurance companies, against all risks that would normally be insured against by a prudent businessman in connection with the risks associated with this Agreement and produce to Beacon on demand full particulars of that insurance and the receipt for the then current premium.

13. **Liability**

Nothing in the Agreement limits any liability which cannot legally be limited, including (but not limited to) liability for:

- 13.1.1 death or personal injury caused by negligence;
- 13.1.2 fraud or fraudulent misrepresentation; and
- 13.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

Subject to clause 13.1, under no circumstances shall Beacon be liable for:

- 13.2.1 loss of profits;
- 13.2.2 loss of sales or business;
- 13.2.3 loss of agreements or contracts;
- 13.2.4 loss of anticipated savings;
- 13.2.5 loss of use or corruption of software, data or information;
- 13.2.6 loss or of damage to goodwill; or
- 13.2.7 indirect or consequential loss.

Subject to clauses 13.1 and 13.2, Beacon's total liability to the Supplier in respect of losses arising under or in connection with the Agreement whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the lower of (i) the Charges paid by the Supplier in the 12 months preceding the date on which the cause of action arose, and (ii) £10,000.

Subject to clauses 13.1, 13.2, the total liability of the Supplier to Beacon in respect of all claims arising under this Agreement shall not exceed the Supplier's Liability Cap for any single claim.

14. **Warranties**

The Supplier warrants and represents that the Supplier has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of this Agreement.

The Supplier warrants and represents that the Supplier has obtained all required or desirable authorisations to enable it to enter into, exercise the rights and comply with its obligations in this Agreement.

15. **Audit**

Beacon shall be entitled to audit (either itself or by its authorised representatives) the Supplier to:

- 15.1.1 verify that the Charges have been calculated and paid correctly; and/or
- 15.1.2 verify the Supplier compliance with clause 3.

The Supplier agrees to provide Beacon with access to such premises, data, systems, and personnel as Beacon may reasonably require in order to carry out the audit referred to in clause 15.1.

In the event that the audit reveals that the Charges have not been calculated and paid correctly, Beacon may (without prejudice to any other right or remedy which it may have)

submit to the Supplier a further invoice for any shortfall which shall be payable by the Supplier within 30 days of the date of such invoice.

In the event that an audit reveals either that the Charges have not been calculated and paid correctly or that the Supplier is in breach of clause 3.5, the Supplier shall indemnify Beacon for all costs incurred in relation to carrying out the audit.

16. Intellectual Property Rights

Unless otherwise agreed between the parties:

16.1.1 all Intellectual Property Rights in and to the Central Billing Scheme and the Beacon Advertising Material belong, and shall belong, to Beacon and/or its licensors as the case may be; and

16.1.2 all Intellectual Property Rights in and to any Supplier Advertising Material belong, and shall belong, to the Supplier and/or its licensors.

The Supplier hereby grants to Beacon a non-exclusive, royalty free, non-transferable, worldwide licence to use the Supplier Advertising Material for the duration of this Agreement for the purposes of Beacon performing its obligations under this Agreement, which shall include (but not be limited to) advertising and promoting the goods and/or services of the Supplier to Participating Customers.

Beacon hereby grants to the Supplier a non-exclusive, royalty free, non-transferable, non-sublicensable licence to use the Beacon Advertising Material for the duration of this Agreement for the purposes of fulfilling its obligations in clause 6.4.

Other than the licences expressly granted under this Agreement, the parties do not grant any licence of, right in or make any assignment of any of their Intellectual Property Rights.

Notwithstanding clauses 16.2 and 16.3, either party may at any time on written notice to the other party request that any advertising or promotion which incorporates the Supplier's Advertising Material (in the case of the Supplier) or Beacon's Advertising Material (in the case of Beacon) is removed, deleted, destroyed or amended if in that party's opinion (acting reasonably) it infringes the Intellectual Property Rights of any third party, or is likely to damage the name or reputation of that party. Nothing in this clause 16.5 shall obliged either party to recall any material published in advance of the receipt of the notice.

The Supplier shall defend Beacon, its officers, directors and employees against any claims that the use of the Supplier's Marketing Material infringes any Intellectual Property Rights of any third party and shall indemnify Beacon against any liabilities, damages, losses, costs and expenses (including reasonable legal costs and expenses, direct, indirect or consequential losses, loss of profit, loss of reputation and all interest and penalties) or other liabilities incurred by Beacon as a result of such claim.

Each party shall promptly notify the other party of any actual, threatened or suspected infringement of the other party's Intellectual Property Rights.

17. Applicable Law

The Supplier shall obtain and maintain at its sole expense all approvals, authorisations and licences necessary for the performance of its duties under this Agreement and shall fulfil its obligations pursuant to this Agreement in accordance with applicable law, including (but not limited to):

17.1.1 the Supplier shall not engage in any activity, practice or conduct which would constitute an offence under either the Money Laundering, Terrorist Financing and Transfer or Funds information on the Payer) Regulations 2018 (MLR) and/or the Proceeds of Crime Act 2002 (POCA);

- 17.1.2 the Supplier shall not act contrary to or otherwise unlawfully discriminate, within the meaning and scope of, the Equalities Acts 2006 and 2010, the Human Rights Act 1999 or other relevant or equivalent legislation;
- 17.1.3 the Supplier shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulation and codes from time to time in force, including the Modern Slavery Act 2015; and
- 17.1.4 the Supplier shall comply with all applicable laws, regulations and financial sanctions relating to anti-bribery, terrorism and anti-corruption, including the Bribery Act 2010.

18. **Force Majeure**

Neither party shall be liable to the other for any delay or non-performance of its obligations under this agreement arising from any Force Majeure Event, provided that it notifies the other party of the Force Majeure Event and the extent of any resulting delay or prevention and resumes performance of its obligations as soon as reasonably possible following the end of the Force Majeure Event.

The party claiming to be prevented or delayed in the performance of any of its obligations under this Agreement by reason of a Force Majeure Event shall use all reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which this Agreement may be performed despite the continuance of the Force Majeure Event and in any event will use reasonable efforts to mitigate the effects of the Force Majeure Event on the performance of its obligations

If either party is prevented from performance of its obligations for a continuous period in excess of three months by reason of a Force Majeure Event, the other party may terminate this Agreement immediately on service of written notice upon the party so prevented, in which case neither party shall have any liability to the other.

19. **Variation**

Subject to clause 19.2, no variation of this Agreement shall be effective unless it is in writing and signed by each of the parties (or their authorised representatives).

Beacon shall be entitled to vary this Agreement at any time on written notice (**Notice**) to the Supplier. Where Beacon exercises its rights under this clause 19.2, any variation will take effect on the 31st day following the date of the Notice.

Where the Supplier objects to any variation made by Beacon in accordance with clause 19.2, it may within 14 days of the date of the Notice give no less than three months' written notice to Beacon to terminate this Agreement and the proposed variation shall not take effect within this period.

20. **Assignment**

Neither party shall without the prior written consent (such consent not to be unreasonably withheld or delayed) of the other party assign, transfer, charge, dispose of or deal in any other manner with this Agreement or any of its rights or beneficial interest under it, or purport to do any of the same, or sub-contract any or all of its obligations under this Agreement

21. **Dispute Resolution**

If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (a **Dispute**), the parties shall follow the procedure set out in this clause:

- 21.1.1 Either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with any relevant supporting

documents and, on receipt of the Dispute Notice, the parties' Representatives shall use their reasonable endeavours to negotiate and settle the Dispute;

21.1.2 if, within two (2) weeks of the Dispute Notice, the parties' Representatives are unable to resolve the dispute, the Dispute shall be referred to the parties' senior executives who shall attempt in good faith to resolve it; and

21.1.3 if, within two (2) weeks of the Dispute being referred to the parties' senior executives, the Dispute has not been resolved, either party may commence proceedings in accordance with clause 23.10.

Nothing in this clause 21 shall prevent or delay either party from seeking injunctive or other equitable relief.

22. **Effects of Termination**

Termination or expiry of this Agreement for whatever reason shall not affect any rights, remedies, obligations or liabilities of the parties which have accrued on or before the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

Subject to clause 22.4, upon expiry or termination of this Agreement for any reason:

22.2.1 the following clauses shall continue in force: clause 10 (Confidentiality), clause 13 (Liability), clause 16 (Intellectual Property Rights), clause 22 (Effects of Termination), clause 23.2 (Waiver), clause 23.1 (Severance), clause 23.9 (Governing Law) and clause 23.1 (Jurisdiction) and Schedule 5 (Interpretation);

22.2.2 the Supplier shall immediately pay to Beacon all of Beacon's outstanding unpaid invoices and interest and, in respect of Charges payable but for which no invoice has been submitted, Beacon may submit an invoice, which shall be payable immediately on receipt;

22.2.3 any licences granted pursuant to 16 shall cease automatically;

22.2.4 each party shall return, delete or destroy (as the owner of the Confidential Information shall require) all Confidential Information or other information which has been provided to it by the other party and any Beacon Advertising Material (in the case of the Supplier) and Supplier Advertising Material (in the case of Beacon);

If Beacon holds any monies in the Central Billing Scheme at the effective date of termination of this Agreement which are payable to the Supplier, Beacon shall pay such monies to the Supplier in accordance with clause 4.8 or otherwise in accordance with the Central Billing Calendar.

The provisions of this Agreement shall continue to apply to any Customer Contract still in force at the effective date of termination of this Agreement and shall continue in full force and effect until termination or expiry of such Customer Contract (howsoever arising).

23. **General**

Severance. If any provision of this Agreement shall be found by any court or body or authority of competent jurisdiction to be invalid or unenforceable such provision shall be severed from the remainder of this Agreement which shall remain in full force and effect to the extent permitted by law.

Waiver.

23.2.1 A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

23.2.2 A failure or delay in exercising any right or remedy under this Agreement or by law shall not operate as a waiver of it or of any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

Rights and Remedies. The rights and remedies provided by this Agreement are cumulative and (unless otherwise provided in this Agreement) are not exclusive of any rights or remedies provided by law.

Notices.

23.4.1 Any notice or communication given under or in relation to this Agreement shall be in writing in the English language and shall be delivered by hand or by pre-paid first-class post or other next Working Day delivery service or by email to each party's Representative or such other addressees as may be specified in writing by either party from time to time.

23.4.2 A notice shall be deemed to have been received:

- a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- b) if sent by pre-paid first-class post or other next Working Day delivery services, at 9.00am on the second Working Day after posting; and
- c) if sent by email at the time of transmission, or, if this falls outside normal business hours in the place of receipt, when business hours resume. In this clause 23.4.2, normal business hours mean 9.00am to 5.00pm Monday to Friday on a Working Day in the place of receipt.

23.4.3 This clause 23.4 shall not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

23.4.4 Each party shall promptly notify the other party if any postal or email address specified in the Key Terms is no longer accurate.

Third Parties.

23.5.1 Participating Customers shall be entitled to rely on and enforce the provisions of clause 8.6.

23.5.2 Subject to clause 23.5.1, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement and the rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person.

Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

No Partnership or Agency. Each party confirms it is acting on its own behalf and not for the benefit of any other person. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the

agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

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

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

Schedule 1

Charges

1. Central Billing Scheme Fee

1.1 In consideration of Beacon complying with its obligations pursuant to clause 4, the Supplier shall pay to Beacon a fee of 1% of net turnover of monthly:

1.1.1 Participating Customer invoices paid through the Central Billing Scheme; and

1.1.2 Participating Customer invoices paid direct to the Supplier in accordance with clause 4.7,

the **Central Billing Scheme Fee**.

1.2 Beacon shall use the Billing Information provided by the Supplier to calculate the amount of the Central Billing Scheme Fee payable by the Supplier for the previous month and shall notify the Supplier of the same.

1.3 Depending on the Billing Method agreed between the parties, Beacon will either:

1.3.1 invoice the Supplier for the Central Billing Scheme Fee monthly in arrears and the Supplier shall pay each invoice in accordance with the Billing Method; or

1.3.2 deduct the Central Billing Scheme Fee from monies held in the Central Billing Scheme on behalf of the Supplier.

1.4 The parties agree that Beacon may review and increase the Central Billing Scheme Fee by giving 30 days' prior written notice to the Supplier, such increase to take effect on the next due payment of the Central Billing Scheme Fee after such notice period has expired.

2. Powerpoint Contribution

2.1 Where the Supplier has agreed to support the Powerpoints Scheme (as indicated in the Key Terms) the Supplier agrees to contribute towards the cost of Beacon operating the Powerpoints Scheme.

2.2 The amount of the Supplier's contribution shall be a sum equal to the Powerpoint Contribution Value as a percentage of net turnover of monthly:

2.2.1 Participating Customer invoices paid through the Central Billing Scheme; and

2.2.2 Participating Customer invoices paid direct to the Supplier in accordance with clause 4.7,

the **Powerpoint Contribution**.

2.3 Beacon shall use the Billing Information provided by the Supplier to calculate the amount of the Powerpoint Contribution payable by the Supplier for the previous month and shall notify the Supplier of the same.

2.4 Beacon shall deduct the Powerpoint Contribution payable by the Supplier from monies held in the Central Billing Scheme on behalf of the Supplier.

3. Annual Rebate

3.1 The Supplier shall pay to Beacon an annual rebate in arrears in the sum of the Annual Rebate Percentage of the total net turnover/or volume (where applicable) by all the Participating

Customers with the Supplier (including any Non-central Billing Participating Customers) over each 12-month term (commencing on the Commencement Date) of this Agreement (the **Annual Rebate**).

- 3.2 Beacon shall use the Billing Information provided by the Supplier to calculate the amount of the Annual Rebate payable by the Supplier for the previous 12-month term and shall notify the Supplier of the same.
- 3.3 Immediately upon the termination of this Agreement a rebate shall be payable in respect of the period (if any) following the last anniversary of the Commencement Date and the effective date of termination (the **Termination Rebate**). Beacon shall use the Billing Information provided by the Supplier to calculate and notify the Supplier of the amount of the Termination Rebate within 10 days of the effective date of termination.
- 3.4 Depending on the Billing Method agreed between the parties, Beacon will either:
 - 3.4.1 invoice the Supplier for the Annual Rebate annually in arrears and/or the Termination Rebate and the Supplier shall pay each invoice in accordance with the Billing Method; or
 - 3.4.2 deduct the Annual Rebate and/or the Termination Rebate from monies held in the Central Billing Scheme on behalf of the Supplier.
4. **Growth Rebate**
 - 4.1 Where applicable (as indicated in the Key Terms), the Supplier shall pay a growth rebate to Beacon at the rates specified in the Key Terms (the **Growth Rebate**).
 - 4.2 The Growth Rebate shall be calculated on a fully retrospective basis or as reflected in the key terms.
 - 4.3 The Supplier shall calculate and notify Beacon within 10 days of each anniversary of the Commencement Date of this Agreement of the amount of the Growth Rebate.
 - 4.4 Depending on the Billing Method agreed between the parties, Beacon will either:
 - 4.4.1 invoice the Supplier for the Growth Rebate annually in arrears and the Supplier shall pay each invoice in accordance with the Billing Method; or
 - 4.4.2 deduct the Growth Rebate from monies held in the Central Billing Scheme on behalf of the Supplier.

Schedule 2

Central Billing Applications

1. Applications for Central Billing Participation

- 1.1 Beacon shall provide the Supplier with an instruction under 'Account Opening CBDD'. This form will detail the terms and conditions Beacon have agreed, including the credit limit to be applied to the trading account and if Beacon are underwriting the credit risk. If Beacon are underwriting the credit risk the Supplier will process the application for new accounts immediately and provide Beacon with an account number by return and in any event, ensure that the account number is given to Beacon and the Participating Customer within 24 (twenty-four) hours of receipt of the CBDD instruction. Should any additional paperwork be required from the Participating Customer e.g. delivery schedules, service agreement, cellar management schedules etc., the Supplier will issue such paperwork to the Participating Customer immediately and in any event within 24 (twenty-four) hours of the receipt of the CBDD
- 1.2 Beacon will advise the Supplier at the time of the CBDD if Beacon will not underwrite the credit risk of a Participating Customer In this even the Supplier shall conduct its own credit worthiness evaluation. If the Supplier accepts the credit risk, it shall provide the account number to Beacon following completion and return of the Suppliers' own credit application by the Applicant. Payment for invoices will be in line with clause 5. If the Supplier does not accept the credit risk of the Participating Customer, it shall not trade independently with the Participating Customer.
- 1.3 If a Participating Customer does not settle invoices through Beacon Central Billing, Beacon will provide the Supplier with an 'Account Opening CBO' instruction. The Participating Customer shall for the purposes of this Agreement be a Non-Central Billing Participating Customer and shall pay for the goods and/or services on such terms as may be agreed between the Participating Customer and the Supplier in accordance with clause 3. The Supplier still provides details of the turnover received from Non-central Billing Participating Customers to Beacon in accordance with clause 4.7.

Schedule 3

Contract and Account Management

1. Leads and New accounts

1.1 The Supplier agrees:

1.1.1 that upon receipt, by whatever means, of a new account lead they shall make direct contact with the Applicant to which the lead relates within 24 (twenty-four) hours of receipt of such lead;

1.1.2 that the nature of the contact described in paragraph 1.1.1 shall be to establish the Applicants' needs, arrange a site visit to the Applicant and/or to undertake any other activity required as a result of communicating with the Applicant. The supplier shall provide Beacon with the outcome within 24 (twenty-four) hours of the contact. Beacon will then send the Supplier the relevant Account Application CBDD or Account Application CBO.

1.1.3 to process all requests for new accounts under the Account Application CBDD (or Participating Customer requests for account amendments) so that within 24 (twenty-four) hours of being notified of the request the Participating Customer is then able to place an order for goods and/or services with the Supplier using the new or amended account details;

1.1.4 to notify Beacon within 24 (twenty-four) hours of any instances whereupon undertaking a credit-check of an Applicant under Schedule 2 the Supplier is of the opinion that the Applicant does not have a sufficient credit rating to enable the Supplier to supply goods and/or services. In these instances Beacon and the Supplier shall work together towards a remedy to ensure the supply of goods and/or services to the Participating Customer is made under the terms of the Scheme, which may include supplying goods and/or services to the Participating Customer in accordance with clause 4.7; and

1.1.5 to process within 1 (one) Working Day any new account applications or account amendments which for reasons directly linked to Supplier performance have not been acted upon within the timescales described in paragraph 1.1.3.

2. Response Times

2.1 The Representative of the Supplier responsible for contractual matters shall in the first instance contact (or reply to any communications) the Representative of Beacon responsible for contractual matters and thereafter any Participating Customer of the Beacon buying team or Beacon Customer Support within:

2.1.1 24 (twenty-four) hours of being made aware of any issues which may affect the Supplier's ability to supply goods and/or services to the Participating Customers; and

2.1.2 2 (two) Working Days of receiving a message/voicemail from any Participating Customer in relation to 2.1.1; and

2.1.3 4 (four) Working Days of receipt of email or letter from any Participating Customer in relation to 2.1.1.

3. Reporting

3.1 The Representative of the Supplier responsible for contractual matters shall:

- 3.1.1 report service level achievement to the Representative of Beacon on a quarterly basis; and
- 3.1.2 provide service level improvement plans to the Representative of Beacon responsible for Operational Buying Matters where service levels have fallen below those agreed;
- 3.1.3 provide invoice/product data and reporting of required statistics on a daily / weekly basis as agreed, including but not limited to:
 - 3.1.3.1 supply daily / weekly Central Billing and Non-Central Billing data by 8th day of month following in EDI or CSV (17 column format including product level data) otherwise a charge of £200 plus VAT per statement, per month to be uploaded will be applied and invoiced to the supplier;
 - 3.1.3.2 if the Supplier submits via EDI then all Beacon Participating Customer data should be submitted via EDI to Beacon as the primary recipient and alternative arrangements be made with any third parties who receive the data currently via EDI e.g. e-procurement system providers;
 - 3.1.3.3 agreement to supply product and price files for online ordering and e-procurement systems, and willingness to develop system-to-system connectivity where required.

4. Contract Management

- 4.1 If in the opinion of Beacon the Supplier has failed to perform its obligations in relation to the service levels described in 'this agreement' then Beacon may seek to take steps which may include but shall not be limited to:
 - 4.1.1 a review of the service levels to establish whether on an ongoing basis the service levels can reasonably be undertaken and fulfilled by the Supplier; and
 - 4.1.2 consideration of whether the Supplier is in breach of its obligations under this Agreement.

5. Participating Customer Account Management

- 5.1 The Supplier agrees that the account management personnel shall contact trading Participating Customers on a regular basis as detailed within Customer Contract. The contact shall include, but not be limited to the following:
 - 5.1.1 ensuring the Participating Customer is satisfied with the service being provided (or where the Participating Customer is not satisfied reporting details to the Representative of the Supplier responsible for Contractual Matters);
 - 5.1.2 ensuring the Participating Customer continues to trade via Beacon; not offering any improved terms for trading with the Supplier on an independent basis; otherwise clause 3.6 will be enforced;
 - 5.1.3 providing details about any Beacon supported promotions and supported line pricing;
 - 5.1.4 exploring all up-sell opportunities;
 - 5.1.5 discussing and resolving any Supplier-specific invoicing queries/disputes; and
 - 5.1.6 naming Beacon as an interested party on any Customer Contracts with the Supplier and for the lifetime of such.

Schedule 4

Beacon Working in Partnership

Engagement with Suppliers

1. Objective

- 1.1 To clearly define the steps that Beacon and the Supplier will adopt when dealing with Participating Customers:

Scenario 1 – A joint Customer

Either the Beacon Account Manager or the Supplier Representative visits the Customer and is made aware of a potential issue, which would usually be around service, price, or disengagement, but not limited to these aspects of the relationship:

A – The Customer's potential issue is with Beacon:

If the Supplier is made aware of the issue first, they will contact Beacon giving the opportunity to contact the Customer directly to resolve.

Beacon will update the Supplier with the outcome of the contact with the Customer.

If issues are resolved, trading will continue with the Supplier through Beacon as normal.

If issues continue and the Customer gives notice to Beacon, the Supplier will be notified - giving the Supplier an opportunity to move onto direct terms which will not be better than the Beacon terms (as per clause 3.1) at the end of the Customer's agreement with Beacon (ordinarily 6 months' notice is required).

B – The Customer's potential issue is with the Supplier:

If Beacon is made aware of the issue first, Beacon will contact the Supplier with the details and allow the Supplier to rectify the situation.

If the Supplier is aware of the potential issues before Beacon they will endeavour to rectify any issues immediately with the Customer and inform Beacon.

If the Supplier rectifies the issue and notifies Beacon, Beacon will initiate a service call to the Customer.

If Supplier issues continue, at this point Beacon will inform the Customer of any potential alternative supply options. If the Customer wishes to change we will notify the Supplier.

If the Customer decides to leave Beacon due to issues related to Supplier performance, Beacon will notify the Supplier.

Scenario 2 – Existing Beacon Customer dealing directly with Supplier independently

Either the Beacon Account Manager or the Supplier Representative visits the Customer and is made aware of a potential issue, which would usually be around service, price, or disengagement, but not limited to these aspects of the relationship.

The incumbent Supplier is given the opportunity to quote for the business through Beacon if there are current pricing issues i.e. renegotiation of the current deal.

Where service issues exist the Supplier will be notified of the issues and given the opportunity to resolve whilst Beacon evaluates the financial implications for the Customer of a move to an alternative Beacon Supplier.

Should the Customer request that the Supplier trades their account through Beacon terms the Supplier will provide an impact report to be presented to the Customer and arrange the move.

Should the issues relate to Beacon the Supplier will notify Beacon who will look to resolve them.

If the Customer leaves Beacon, this is notified to the Supplier.

Scenario 3 - New Beacon Customer – dealing with Supplier independently

Where the Customer is in contract with the Supplier this contract will stay in force for the term of the contract, unless the Supplier agrees to transfer the account to Beacon terms prior to the end of the contract.

When the contract expires the Supplier will look to continue the supply through Beacon terms.

If the Supplier is unwilling to transfer the account at the end of the contract, Beacon will advise the Customer of alternative Suppliers available through Beacon.

Where no formal contract is in place between the Supplier and the Customer, Beacon will initiate a transfer if requested by the Customer.

Where no transfer is made, Beacon will offer the Customer an alternative Supplier solution.

Schedule 5

Definitions and Interpretation

1. The following definitions shall apply in this Agreement:

Active Sales	
Affiliate	a subsidiary or holding company of either party where holding company or subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006;
Agreed Price	has the meaning given to it in clause 3.1;
Agreed Purposes	(i) to manage the relationship between the Supplier and Beacon, (ii) to enable both parties to exercise their rights and fulfil their obligations under the Agreement;
Annual Rebate	has the meaning given to it in Schedule 13.1;
Annual Rebate Percentage	is as specified in the Key Terms;
Applicants	prospective Participating Customers or prospective Central Billing Participating Customers;
Authorised Parties	in relation to each party: (i) its Affiliates; (ii) its officers and employees and those of its Affiliates that need to know the Confidential Information for the purposes of this Agreement; (iii) its professional advisers, consultants and agents who are engaged to advise that party in connection with this Agreement; and (iv) its contractors and sub-contractors engaged by that party in connection with this Agreement;
Beacon Account Manager	as specified in the Key Terms;
Beacon Advertising Material	has the meaning given to it in clause 6.5;
Beacon's Privacy Policy	Beacon's privacy policy as amended or updated from time to time which can be found at http://www.beaconpurchasing.co.uk/policies/privacy-policy
CBDD	has the meaning given to it in clause 5.1;
Central Billing Calendar	means the calendar of events detailing the dates on which statements will be issued, dispute weeks commence, and end and direct debits will be applied for as published by Beacon from time to time;
Central Billing Participating Customers	Participating Customers who are registered to use the Central Billing Scheme;
Central Billing Scheme	Beacon's system established and administered by Beacon (or its authorised agents) to facilitate the Participating Customers' payment of sums due to the Supplier pursuant to a Customer Contract;

Central Billing Scheme Fee	has the meaning given to it in Schedule 11.1;
Charges	has the meaning given to it in clause 8.1;
Commencement Date	has the meaning given to it in the Key Terms;
Confidential Information	all information relating to this Agreement which one party (the Disclosing Party) directly or indirectly discloses to the other party (the Receiving Party) on or after the Commencement Date. This includes (i) the fact that discussions and negotiations are taking place between the parties and the terms of this Agreement; (ii) all confidential or proprietary information regardless of form, relating to the business, affairs, customers, clients, suppliers of the Disclosing Party, the research and development activity, operations, data, processes, products, know-how, technical information, designs, trade secrets, software, specifications, samples, components, models or mock-ups of the Disclosing Party; (iii) pricing or other financial information; and (iv) any other information that is identified as being of a confidential nature or that would be regarded as confidential by a reasonable business person in relation to the Disclosing Party;
Customer Contract	a contract for the supply of goods and/or services of the Supplier made between the Supplier and a Participating Customer;
Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and the terms controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures shall have the meanings given to them in the Data Protection Legislation;
Dispute	has the meaning given to it in clause 21.1;
Dispute Notice	has the meaning given to it in clause 21.1.1;
Extended Term	has the meaning given to it in clause 1.1;
Force Majeure Event	any event or circumstance preventing, hindering or delaying either party from performing nay or all of its obligations which arises form or is attributable to acts, events, omissions or accidents beyond the reasonable control of the p[arty so prevented including: (i) acts of God, explosion, flood, lightning, storm, fire or accident; (ii) act of terrorism or malicious damage, war, hostilities (whether war has been declared or not), invasion, act of foreign enemies, rebellion, revolution, insurrection, military or usurped power or civil war, riot, civil commotion or disorder; (iii) acts, regulation, by-laws, refusals to grant any licences or permissions, prohibitions or measures of any kind on the part of any government authority; or (iv) import or export regulations or embargoes;
Growth Rebate	has the meaning given to it in Schedule 14.1;
Initial Term	as specified in the Key Terms;
Intellectual Property Rights	patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to

	sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority form, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
Key Terms	the key terms detailed in the Signature Sheet;
Marketing Activities	has the meaning given to it in clause 6.2;
Marketing Budget	as specified in the Key Terms;
Marketing Fees	has the meaning given to it in clause 6.3;
Minimum Marketing Requirements	the minimum marketing activities that the Supplier must engage with as specified in the Key Terms;
Non-central Billing Participating Customer	the Participating Customers who are not Central Billing Participating Customers and will not use the Central Billing Scheme for the payment of Supplier Invoices;
Notice	has the meaning given to it in clause 19.2;
Participating Customers	customers of the Scheme who purchase goods and/or services from Beacon suppliers;
Payment Term	has the meaning given to it in clause 8.2;
Permitted Recipients	the parties to this Agreement, the employees of each party, any third parties engaged to perform obligations in connection with this Agreement and Participating Customers;
Persistent Breach	the Defaulting Party has committed three or more repeated and/or concurrent breaches of this Agreement;
Powerpoint Contribution	has the meaning given to it in Schedule 12.2;
Powerpoint Contribution Value	is as specified in the Key Terms;
Price Index	the Consumer Prices Index (all items) as published by the UK Office for National Statistics or, if no longer published, any similar or replacement index as appropriate;
Representative	in respect of each party, the person(s) specified in the Key Terms;
Scheme	the purchasing scheme administered by Beacon through which Participating customers may purchase goods and/or services from nominated suppliers;
Supplier Advertising Material	has the meaning given to it in 6.1;

Supplier Invoice	an invoice issued to a Participating Customer by the Supplier for goods and/or services supplied by the Supplier;
Supplier's Bank Account	as specified in the Key Terms;
Supplier's Liability Cap	as specified in the Key Terms;
Termination Rebate	has the meaning given to it in Schedule 13.3;
Variation Request	has the meaning given to it in a);
Working Day	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;

2. Interpretation in this Agreement:

- 2.1 clause, paragraph and schedule headings shall not affect the interpretation of this Agreement. References to clauses and paragraphs are to clauses and paragraphs of this Agreement;
- 2.2 any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms; and
- 2.3 a reference to a person shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality).