

Collctiv SaaS Terms & Conditions - Commercial Use

1. Contract

- 1.1. Please read these business subscription terms ("**Subscription Terms**") carefully before using the Collctiv App and Service provided via Collctiv Limited as they are the terms on which a legally binding contract between us and the company, firm or organisation represented by you. You represent and warrant that you are authorised to enter into this contract on behalf of the company, firm or organisation represented by you ("**you**" or "**your**" or "**Customer**").
- 1.2. By signing up to Collctiv, you confirm that you accept these Subscription Terms and that you agree to comply with them. If you do not agree to these Subscription Terms, you must not use Collctiv. We recommend that you print a copy of these Subscription Terms for future reference.
- 1.3. The following additional terms also apply to your use of Collctiv and your account:
 - 1.3.1. Our Privacy Policy (<https://collctiv.com/privacy>), which sets out the terms on which we process personal data; and
 - 1.3.2. Our Cookie Policy (<https://collctiv.com/support/cookies>), which sets out information about the cookies on Collctiv.

2. Who we are and contacting each other

- 2.1. Collctiv is operated by Collctiv Ltd, a company registered in England and Wales under company number 11783005 ("**we**", "**us**", "**our**" or "**Collctiv**"). Our registered office is at 28 Coniston Road, Stockport, Greater Manchester, United Kingdom and our VAT number is 348 6541 72.
- 2.2. To contact us, please email hello@collctiv.com.
- 2.3. We have developed an Application (defined below) which allows 1 or more Users (defined below) to divide payments for a single transaction between them. We distribute these services to our customers by way of a one-to-many, software-as-a-service model, where customers access by way of the API (defined below) the Application.

3. Defined Terms

- 3.1. The definitions and rules of interpretation in this clause apply in this Agreement.

“**API**” means the application program interface designed by Collctiv and which will interface with the Customer’s IT environment in accordance with processes outlined in the API specification available here:

<https://developer.collctiv.com/>

“**Application**” means the desktop and mobile software application known as “Collctiv” described in more detail in the Specifications.

“**Authorised Users**” those employees, agents and independent contractors of the Customer who are authorised by the Customer to access and use the Services and the Documentation, as further described in clause 3.1.2.

“**Business Day**” a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

“**Confidential Information**” information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.

“**Customer Data**” the data inputted by the Customer, Authorised Users, or Collctiv on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

“**Data Protection Legislation**” the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

“**Documentation**” the document made available to the Customer by Collctiv online via <https://developer.collctiv.com/> or such other web address notified by Collctiv to the Customer from time to time which sets out a description of the Services and the user instructions for the Services.

“**Effective Date**” the date on which the Customer completes the Order Form.

“**Fees**” means the fees payable by the Customer to Collctiv as set out in the Order Form.

“**Initial Term**” has the meaning given in the Order Form.

“**Intellectual Property Rights**” means all patents, rights to inventions, copyright and related rights, trade marks and services marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing

off and unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, 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.

"Normal Business Hours" 08.00 to 18.00 local UK time, each Business Day.

"Order Form" means the order document completed by the Customer - or quote document agreed by the Customer - which sets out the commercial terms on which the Services are provided.

"Renewal Period" the period described in clause 13.1.

"Services" the group payment management services provided by the Application to the Customer under this Agreement or any other website notified to the Customer by Collectiv from time to time, as more particularly described in the Documentation and Specifications.

"Shared Personal Data" has the meaning given in clause 4.2.

"Specification" means the technical and functional specification available at <https://developer.collectiv.com/> and also the API Specification available here <https://developer.collectiv.com/>.

"Support Services Policy" Collectiv's policy for providing support in relation to the Services as made available at www.collectiv.com or such other website address as may be notified to the Customer from time to time.

"Term" means the Initial Term and any Renewal Periods.

"UK 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.

"Users" means consumer or business users of the Application, but excludes customers.

"User Data" means data, including personal data, collected by Collectiv in the course of providing payment transaction services to Users.

"Virus" any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by rearranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

"Vulnerability" a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

- 3.2. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 3.3. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 3.4. **"Controller", "processor", "data subject", "personal data", "personal data breach", "processing" and "appropriate technical and organisational measures"**: as defined in the Data Protection Legislation.
- 3.5. Any words following the terms **"including", "include", "in particular"** 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.

4. **Grant Of Access To Services**

- 4.1. We shall, during the Term, provide the Services and make available the Application (via an application program interface) and Documentation to you subject to the terms of this Agreement.
- 4.2. We grant you a non-exclusive, non-transferable, royalty-free right to access and use the Services and the Documentation during the Term solely for the Customer's internal business operations.

- 4.3. Collctiv will, as part of the Services, and at no additional cost to the Customer, provide the Customer with Collctiv's standard customer support services during Normal Business Hours in accordance with Collctiv's Support Services Policy in effect at the time that the Services are provided. Collctiv may amend the Support Services Policy in its sole and absolute discretion from time to time. The Customer may purchase enhanced support services separately at Collctiv's then current rates.

5. Use Restriction

- 5.1. In relation to the Authorised Users, you undertake that:

- 5.1.1. each Authorised User shall keep a secure password for his or her use of the Services and Documentation, that such password shall be changed no less frequently than once per month and that each Authorised User shall keep his or her password confidential;
- 5.1.2. you shall maintain a written, up to date list of current Authorised Users and provide such list to us within 10 Business Days of our written request at any time or times.

- 5.2. You shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- 5.2.1. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- 5.2.2. facilitates illegal activity;
- 5.2.3. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- 5.2.4. is otherwise illegal or causes damage or injury to any person or property;

and we reserve the right, without liability or prejudice to its other rights to you, to disable your access to any material that breaches the provisions of this clause.

- 5.3. You shall not:

- 5.3.1. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:

- 5.3.1.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means;
 - 5.3.1.2. attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
 - 5.3.2. access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation;
 - 5.3.3. use the Services and/or Documentation to provide services to third parties;
 - 5.3.4. subject to clause 22.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users,
 - 5.3.5. attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 3; or
 - 5.3.6. introduce or permit the introduction of, any Virus or Vulnerability into Collctiv's network and information systems, including the API and Application.
- 5.4. You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify us.
- 5.5. The rights provided under this clause 5 are granted to you only, and shall not be considered granted to any subsidiary or holding company that you may have.

6. **Data**

- 6.1. Any User Data uploaded to the Application shall belong to us and we shall own all right, title and interest in and to all of that User Data. Collctiv is a controller of this User Data.
- 6.2. We will, in the course of providing the Services, convert and modify User Data into a format which can be used by the Application and which is capable of

being transmitted via the API. This data is referred to as the “**Shared Personal Data**” of Users and may contain some but not all User Data. You and we are joint controllers of the Shared Personal Data.

- 6.3. We are a controller of the User Data and collects that information on the terms of its privacy policy. We will, as part of the Service, share that User Data with you on the terms set out in this Agreement.
- 6.4. If the Customer uploads any Customer Data, such as product details and payment dates, to the Application, it shall own all right, title and interest in and to that Customer Data (to the extent that data is not also User Data or Shared Personal Data) and the Customer shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.
- 6.5. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 4 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 6.6. Both parties, warrant, represent and undertake to each other that, when they process the Shared Personal Data for their respective purposes, they shall:
 - 6.6.1. not transfer any Shared Personal Data outside of the European Economic Area unless the following conditions are fulfilled:
 - 6.6.1.1. the Customer or Collctiv has provided appropriate safeguards in relation to the transfer;
 - 6.6.1.2. the data subject has enforceable rights and effective legal remedies;
 - 6.6.1.3. the party undertaking the transfer complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred.
 - 6.6.2. assist each other, without cost to the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 6.6.3. notify the other party without undue delay on becoming aware of a personal data breach pertaining to Shared Personal Data;

- 6.6.4. maintain complete and accurate records and information to demonstrate its compliance with this clause 4.
- 6.7. Each party shall 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 Shared Personal Data and against accidental loss or destruction of, or damage to, Shared Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).

7. Collctiv's Warranties & Obligations

- 7.1. We warrant that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.
- 7.2. The warranty at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to our instructions, or modification or alteration of the Services by any party other than Collctiv or our duly authorised contractors or agents. If the Services do not conform with the warranty in clause 7.1, Collctiv will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1.
- 7.3. Collctiv does not warrant that:
 - 7.3.1. the Customer's use of the Services will be uninterrupted or error-free;
 - 7.3.2. that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; or
 - 7.3.3. the Software or the Services will be free from Vulnerabilities.

- 7.4. Collctiv is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 7.5. The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk.

8. Customer's Obligations

8.1. You shall:

- 8.1.1. without affecting your other obligations under this Agreement, comply with all applicable laws and regulations with respect to its activities under this Agreement;
- 8.1.2. without affecting your other obligations under this Agreement, comply with all reasonable instructions given to you by us relating or connected to the Service;
- 8.1.3. ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;
- 8.1.4. obtain and shall maintain all necessary licences, consents, and permissions necessary for Collctiv, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;
- 8.1.5. ensure that its network and systems comply with the relevant specifications provided by Collctiv from time to time; and
- 8.1.6. be, to the extent permitted by law and except as otherwise expressly provided in this Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Collctiv's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

9. Charges and Payment

- 9.1. The Customer shall pay the Fees to Collctiv for the Services in accordance with this Agreement.
- 9.2. We will conduct monthly account reconciliation exercises, where we analyse the number of transactions completed using the Application and apply the Fees to those transactions in order to determine the amount of Fees that you have to pay. We will, within 5 Business Days from the end of each month, automatically deduct from your account the amount of Fees due to us for the preceding month accompanied by the account reconciliation statement for that month.
- 9.3. You shall pay any invoice within 30 days after the date of such invoice.
- 9.4. If we have not received payment within 30 days after the due date, and without prejudice to any of our other rights and remedies:
 - 9.4.1. we may, without liability to you, disable your password(s), account(s) and access to all or part of the Services and Collctiv shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - 9.4.2. interest shall accrue on a daily basis at the amount permitted by statute, or 4% above the base rate of the Bank of England from time to time (whichever is higher).
- 9.5. All amounts and fees stated or referred to in this Agreement shall be payable in pounds sterling, are, non-cancellable and non-refundable are exclusive of value added tax, which shall be added to our invoice(s) at the appropriate rate.
- 9.6. We shall be entitled to increase the Fees and the support fees payable pursuant to clause 2.5 at the start of each Renewal Period and, once we have notified you of this change, you will be deemed to have accepted the revised charges and the Order Form shall be amended accordingly.

10. Intellectual Property Rights

- 10.1. You acknowledge and agree that we and/or its licensors own all Intellectual Property Rights in the Services and the Documentation. Except as expressly stated, this Agreement does not grant you any rights to, under or in, any Intellectual Property Rights in respect of the Services or the Documentation.
- 10.2. We confirm that we have all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

11. Confidentiality

- 11.1. Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:
- 11.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
 - 11.1.2. was in the other party's lawful possession before the disclosure;
 - 11.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 11.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence.
- 11.2. Subject to clause 11.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.
- 11.3. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 11.4. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

12. Indemnity

- 12.1. The Customer shall defend, indemnify and hold harmless Collectiv against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Documentation, provided that:
- 12.1.1. the Customer is given prompt notice of any such claim;

- 12.1.2. Collctiv provides reasonable cooperation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
- 12.1.3. the Customer is given sole authority to defend or settle the claim.

13. **Limitation of liability**

- 13.1. Except as expressly and specifically provided in this Agreement:
 - 13.1.1. the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. Collctiv shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Collctiv by the Customer in connection with the Services, or any actions taken by Collctiv at the Customer's direction;
 - 13.1.2. all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and
 - 13.1.3. the Services and the Documentation are provided to the Customer on an "as is" basis.
- 13.2. Nothing in this Agreement excludes the liability of Collctiv for death or personal injury caused by Collctiv's negligence or for fraud or fraudulent misrepresentation.
- 13.3. Subject to clause 13.1 and clause 13.2:
 - 13.3.1. Collctiv shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any:
 - 13.3.1.1. loss of profit (whether direct or indirect);
 - 13.3.1.2. loss of revenue (whether direct or indirect);
 - 13.3.1.3. loss of business (whether direct or indirect);
 - 13.3.1.4. depletion of goodwill and/or similar losses (whether direct or indirect);

- 13.3.1.5. loss or corruption of data or information (whether direct or indirect);
 - 13.3.1.6. pure economic loss (whether direct or indirect); or
 - 13.3.1.7. for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement.
- 13.4. Subject to clauses 13.1, 13.2 and 13.3, Collctiv's total liability in contract (including in respect of the indemnity at clause 12.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the higher of £25,000 or 150% of Fees paid for during the 12 months immediately preceding the date on which the claim arose or, if the claim arises during the first 12 months, the average Fees paid each month up to the date of the claim, multiplied by 12.
- 13.5. We do not access or deposit payments on behalf of Users, do not provide payment gateway services, are not a payment processor and are not conducting any FCA regulated activity. No warranties or representations are given by us as to our ability to access payment on your behalf. These services are provided by a third party payment service provider and you must check your contract terms with that provider and ensure that you are comfortable with those terms.

14. Term and termination

- 14.1. This Agreement shall, unless otherwise terminated as provided in this clause 14, commence on the Effective Date and shall continue for the Initial Term and, thereafter, this Agreement shall be automatically renewed for successive periods of 12 months (each a Renewal Period), unless:
 - 14.1.1. either party notifies the other party of termination, in writing, at least [60 days] before the end of the Initial Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the applicable Initial Term or Renewal Period; or
 - 14.1.2. otherwise terminated in accordance with the provisions of this Agreement;and the Initial Term together with any subsequent Renewal Periods shall constitute the Term.
- 14.2. Without affecting any other right or remedy available to it, we may terminate this Agreement with immediate effect by giving you written notice if:

- 14.3. you commit a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- 14.4. you suffer an insolvency event, meaning that an order is made or a resolution passed for your winding-up or an order is made for the appointment of an administrator to manage your affairs, business and property, or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by you or your directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of your assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or you take or suffers any similar or analogous action in consequence of debt or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply or (being a limited liability partnership) suffers or permits any similar or analogous event to those outlined above.

15. Effect of termination

- 15.1. On termination of this Agreement for any reason:
 - 15.1.1. all licences granted under this Agreement shall immediately terminate and the Customer shall immediately cease all use of the Services and/or the Documentation and shall deactivate access to the application program interface;
 - 15.1.2. each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
 - 15.1.3. we may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with clause 4.6.2, unless we receive, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to you of the then most recent back-up of the Customer Data. We shall use reasonable commercial endeavours to deliver the back-up to you within 30 days of its receipt of such a written request, provided that you have, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at

the date of termination). You shall pay all reasonable expenses incurred by us in returning or disposing of Customer Data; and

- 15.1.4. any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

16. **Force majeure**

- 16.1. Collctiv shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Collctiv or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

17. **General Provisions**

- 17.1. The terms and conditions of this Agreement, and the documents referred to in it, are the entire contract between the parties with regard to their subject matter and no other terms, conditions, warranties or statements (unless fraudulent) will apply. Any terms imposed, or sought to be imposed, by you shall not form part of this Agreement. Each party acknowledges that in entering into the Agreement it does not do so on the basis of, and does not rely on any representation, unless made fraudulently, warranty or other provision not expressly contained in the Agreement. Any variation to the Agreement must be in writing and signed on behalf of both parties. If a court decides that any part of the Agreement cannot be enforced, that particular part of the Agreement will not apply, but the rest of it will. A waiver by a party of a breach of any provision shall not be deemed a continuing waiver or a waiver of any subsequent breach of the same or any other provisions. Failure or delay in exercising any right under the Agreement shall not prevent the exercise of that or any other right. We can assign or transfer any benefit, interest or obligation under this Agreement, but you cannot assign or transfer or subcontract any rights, benefits or burdens. The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to any person not a party to this Agreement.

17.2. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and is subject to the exclusive jurisdiction of the English courts.