

Account Receivable Purchase Agreement

Between

- (1) **Seller** means the company, limited liability partnership, partnership or sole trader (as the case may be) which has executed the relevant execution block on the execution page at the end of this RPA (as defined below); and
- (2) Citibank, N.A., acting through its London Branch at Citigroup Centre, Canada Square, Canary Wharf, London, E14 5LB (the **Bank**).

Whereas

From time to time the Seller enters into commercial trade transactions with the NHS Business Services Authority (the **Buyer**) for the sale of goods and/or services as agreed in writing between the Seller and the Buyer (as may be amended from time to time), resulting in Accounts Receivable (as hereinafter defined) owed by the Buyer to the Seller. The Seller may wish to sell to the Bank, and the Bank may wish to purchase and have assigned to it, such Accounts Receivable, on an uncommitted and non-recourse basis, subject to the terms and conditions set forth in this Agreement. To facilitate the processing of such Accounts Receivable, the Bank, the Seller and the Buyer wish to utilise an online system provided by the Bank or its affiliates or licensors and made available to the Seller and the Buyer.

Now, therefore, the Seller and the Bank agree as follows:

1 Definitions and Interpretation

- 1.1 For the purposes of this Agreement the following terms shall, unless the context otherwise requires, have the following meanings:

Accounts Receivable means receivables payable in respect of any goods and services provided by the Seller to the Buyer which are acceptable to the Bank, (including all rights attaching thereto under the relevant contract relating to such indebtedness) and the details of which have or will be uploaded in accordance with both the Platform, and the terms and conditions contained herein.

Agreement means this RPA and the Licence Schedule.

Auto Financing means the arrangement between the Seller and the Bank where the Seller shall be deemed to request the Bank to automatically purchase each Eligible Account Receivable between the Seller and the Buyer in accordance with the terms of this Agreement.

Auto Financing Option means the option of the Seller to request the Bank to automatically purchase all future Eligible Accounts Receivable in accordance with the terms of this Agreement.

Auto Financing Request means the written request from the Seller to the Bank in such form as the Bank may advise to the Seller from time to time.

Business Day means a day on which banks are open for business in Dublin, London and the principal financial centre of each relevant currency.

Collection Option means the option detailed in Clause 3.1 whereby the Bank has agreed to forward to the Seller an amount in respect of the Payment Amount of an Eligible Account Receivable equal to and in the same currency as the amount which the Bank has received from the Buyer in respect of such Eligible Account Receivable.

Claim means any abatement, charge, claim, claw-back, counter-claim, defence, deferral, lien, netting, offset, reduction, recovery, set off right or withholding, or any other right, dispute or claim of the Buyer against the Seller relating to carriage, damage, defects, delivery (including non-, under- or late delivery), failure to meet specifications, warranties or representations (whether express or implied), or any other failure of the Seller to comply with the terms of the contract under which the relevant goods or services were supplied to the Buyer.

Credit Note means information uploaded by the Buyer in accordance with the Platform describing any Claim.

Credit Note Amount means the amount specified in a Credit Note.

Eligible Accounts Receivable means an Account Receivable payable by the Buyer to the Seller which has been accepted and uploaded by the Buyer in accordance with the Platform.

Financing Option means each of the Auto Financing Option and the Optional Financing Option.

in accordance with the Platform means any entry made from time to time by the Seller, the Buyer, or the Bank (as the case may be) on the Platform in relation to any Accounts Receivable in a manner consistent with the instructions received from the Bank or any agreement made with the Bank in relation to the Platform.

Licence Schedule means the licence schedule, which may pursuant to clause 9.6 be either attached to this RPA or agreed to by the Seller separately in an electronic format, which sets out the terms and conditions on which the Seller is entitled to use the Platform.

Maturity Date means the date on which an Account Receivable becomes due and payable by the Buyer, as specified in the information uploaded in accordance with the Platform or if the date is not a Business Day on the next succeeding Business Day.

Optional Financing Option means the option of the Seller to request the Bank in accordance with the Platform to purchase certain selected Eligible Accounts Receivable.

Payment Amount means, in respect of each Eligible Account Receivable, an amount equal to and in the same currency as the amount originally uploaded to and shown on the Platform in respect of that Eligible Account Receivable as being due from the Buyer on the Maturity Date less the sum of Credit Note Amounts that have been uploaded and applied against that Eligible Account Receivable prior to the Maturity Date or (if the Bank acquires the relevant Eligible Account Receivable) the date and time at which the Seller requests the Bank to acquire its rights in and to the relevant Eligible Account Receivable.

Platform means the online system to facilitate receivables finance provided by the Bank or its affiliates or licensors and made available to the Seller and the Buyer via the internet site located at such web address as the Bank may notify the Seller from time to time.

Pricing Schedule shall have the meaning set out in Clause 5.2.

Purchase Date means either: (a) in respect of any Eligible Account Receivable the subject of an Optional Financing Option which the Bank has agreed to purchase, the date on which the Bank has agreed to pay the Purchase Price to the Seller and which date is detailed on the Platform; and (b) in the case of Auto Financing which has not been cancelled the date, which shall be no later than 5 Business Days after the applicable Request Date, on which the Bank makes payment to the Seller of the relevant Purchase Price.

Purchase Price means in relation to any Eligible Account Receivable to be purchased by the Bank at any time, the purchase price thereof as calculated in accordance with the then current Pricing Schedule.

Purchase Price Account means the account of the Seller detailed at the end of this Agreement or such other account as the Seller may notify the Bank in writing from time to time.

RPA means this 'Accounts Receivable Purchase Agreement', but does not include the Licence Schedule.

Request Date means either: (a) the date on which the Seller requests finance from the Bank in respect of any Eligible Account Receivable using the Optional Financing Option; and/or (b) so long as an Auto Financing has not been cancelled, the date on which the Buyer has uploaded an Eligible Account Receivable the subject of an Auto Financing Request on to the Platform in accordance with the Platform.

- 1.2 In this RPA and the Licence Schedule, any reference to any particular Clause shall, unless otherwise indicated, be read and construed as a reference to a Clause of the RPA or the Licence Schedule, respectively, unless otherwise indicated.

2 Financing Option

- 2.1 Subject to the terms and conditions of this Agreement, the Seller may from time to time assign and request the Bank to purchase Eligible Accounts Receivable either: (a) automatically, following the Bank's acceptance of an Auto Financing Request; or (b) by choosing the Optional Financing Option, and the Bank in its sole discretion may agree to purchase each or any such Eligible Account Receivable and shall indicate its agreement to purchase by depositing the Purchase Price of such Eligible Account Receivable on the Purchase Date into the Purchase Price Account in accordance with Clause 5. The Seller shall not select the Optional Financing Option in respect of any Accounts Receivable the uploaded details of which are not true and accurate.

- 2.2 Following an Auto Financing Request (and so long as such Auto Financing has not been cancelled): (a) the Bank shall be deemed to receive a request for the purchase of an Eligible Account Receivable on each relevant Request Date; (b) the Bank may cancel any Auto Financing at any time by written notice to the Seller; (c) the Seller shall request the Bank to cancel any Auto Financing if any of the representations set out in Clause 6 are not or will not be correct on any Request Date or any date thereafter during the course of the Auto Financing.

- 2.3 If the Seller provides the Bank with written notice requesting the Bank to cancel any Auto Financing, the Bank shall within 10 Business Days of receipt of such notice cancel the Auto Financing in respect of all Eligible Accounts Receivable.

3 Collection Option

- 3.1 Where either: (a) the Seller has requested the Collection Option in accordance with the Platform in respect of an Eligible Account Receivable; or (b) the Seller has requested a Financing Option but the Bank has not purchased the Eligible Account Receivable on or before the Purchase Date; or (c) the Seller has not selected any Financing Option in respect of an Eligible Account Receivable on or before the Maturity Date; then the parties agree that the Bank shall treat this as if the Collection Option had been selected and the Bank shall, as soon as possible after receipt from the Buyer on or after the relevant Maturity Date, forward to the Seller an amount equal to and in the same currency as the amount received from the Buyer in respect of such Account Receivable.

- 3.2 The Seller agrees that the Bank shall not be liable for any loss which the Seller may incur as a result of the Bank agreeing to forward on monies received by it from the Buyer following the selection of the Collection Option.

- 3.3 Notwithstanding anything contained in this Agreement, the Bank shall not be obliged to collect payment from the Buyer (and owes no duty to the Seller) in respect of any Account Receivable which is not an Eligible Account Receivable.

- 3.4 If any Eligible Account Receivable is the subject of a Collection Option and the Bank has not received from the Buyer on the Maturity Date payment in respect of such Eligible Account Receivable, then that Eligible Account Receivable shall no longer be an Eligible Account Receivable, and shall be settled between the Buyer and the Seller without reference to or involvement of either the Platform or the Bank.

4 Assignment

- 4.1 If at any time the Seller has chosen the Optional Financing Option in respect of an Eligible Account Receivable in accordance with the Platform, or has made any Auto Finance Request (and so long as the Bank has not cancelled such Auto Financing), such selection shall have the effect of the Seller as legal and beneficial owner assigning and the Seller hereby duly assigns absolutely with full title guarantee to the Bank with effect from the Request Date all the Seller's right, title and interest in and to the amounts payable to the Seller by the Buyer in relation to such Eligible Account Receivable less any applicable Credit Note Amounts.
- 4.2 By choosing the Optional Financing Option in respect of any Eligible Accounts Receivable the Seller irrevocably and unconditionally authorises the Bank to notify the Buyer of the assignment of such Eligible Accounts Receivable by email or otherwise in such form as is satisfactory to the Bank.

5 Purchase Date and Purchase Price

- 5.1 If the Bank is willing to purchase an Eligible Account Receivable the subject of a Financing Option, the Bank shall (subject to the terms of the Pricing Schedule from time to time in force) purchase such Eligible Account Receivable and pay the Purchase Price in respect of such Eligible Account Receivable on the Purchase Date to the Seller into the Purchase Price Account.
- 5.2 The Bank will provide to the Seller a pricing schedule from time to time that sets out the method used to calculate Purchase Prices and other fees and charges in respect of Accounts Receivable between a Seller and the Buyer (the **Pricing Schedule**) in relation to purchase requests submitted from time to time. The Bank's agreement to purchase Accounts Receivable hereunder shall be subject to the terms of the relevant Pricing Schedule. Each Pricing Schedule shall be valid from the effective date specified therein unless changed by the Bank in its sole discretion at any time upon written notice to the Seller, provided that any such change shall not affect the Purchase Price applicable to purchases whose Purchase Date falls prior to any such effective date.
- 5.3 While payment by the Buyer of the Payment Amount will reduce the Buyer's obligation to pay the Eligible Account Receivable by an amount equal to such Payment Amount, all other sums owed to the Seller by virtue of the contract under which the relevant goods or services were supplied to the Buyer shall remain outstanding.

6 Representations, Warranties and Undertaking

- 6.1 The Seller hereby makes the following representations and confirms that the following representations and warranties are and will be true and correct as of each Request Date and, in each case, as of each Purchase Date for an Eligible Account Receivable as if made on each such date with reference to the facts and circumstances then existing: (a) this Agreement constitutes or will, when executed, constitute its legal, valid and binding obligations enforceable in accordance with its terms, and the provisions of this Agreement and each exercise of a Financing Option are effective to assign the Eligible Accounts Receivable the subject of such Financing Option to the Bank as set out in Clause 4 and the Buyer is not entitled to exercise any set off rights or counterclaim or to withhold, extend or delay payment of any such Eligible Accounts Receivable or part thereof save as reflected in a Credit Note; (b) there is no restriction or limitation on the Seller (as may be contained, as the case may be, in its constitutional documents, any partnership agreement or otherwise) which would prevent it from entering into this Agreement or performing the transactions contemplated thereby, and all necessary consents required for the Seller to enter into this Agreement and perform the transactions contemplated thereby have been obtained are in full force and effect; (c) the entering into this Agreement and the performance of the transactions contemplated thereby form part of the ordinary business of the Seller; (d) immediately prior to the assignment to the Bank of each Eligible Account Receivable by the exercise of a Financing Option the Seller was the sole legal and beneficial owner of such Eligible Account Receivable and it has not assigned, transferred or otherwise disposed, or created any encumbrance or security interest over any such Eligible Account Receivable; (e) no Account Receivable offered for sale or sold to the Bank has a Maturity Date more than 360 days after the Purchase Date; (f) each Eligible Account Receivable sold and assigned to the Bank is freely assignable and constitutes amounts due and payable by the Buyer on the relevant Maturity Date; (g) the Seller has the power and authority to enter into this Agreement and its authorised signatories have the power to enter into this Agreement on its behalf.
- 6.2 The Seller shall: (a) at the request of the Bank, execute any such document and do all acts and things as is, in the opinion of the Bank, reasonably necessary to protect the Bank's rights and benefits in respect of this Agreement and/or to confer to the Bank all rights, title and interest of the Seller in respect of any Account Receivable in respect of which the Bank has paid the Purchase Price; and (b) maintain and implement administrative and operating procedures and keep and maintain all documents, books, records and other information (including without limitation the relevant supply contract and shipping documents) reasonably necessary or advisable for the collection of all Accounts Receivable purchased by the Bank or in order to comply with applicable laws and regulations and hand such records and documentation to the Bank promptly on request.

7 Indemnities

- 7.1 The Seller shall pay to the Bank on demand on a full indemnity basis all stamp, documentary, registration or other like duties or taxes, including withholding taxes and any penalties, additions, fines, surcharges or interest relating thereto, or any notarial fees which are imposed or chargeable on or in connection with this Agreement, the exercise of any Financing Option, the use of the Platform or the purchase by the Bank of any Eligible Account Receivable.
- 7.2 The Bank shall be entitled to rely upon without further enquiry, any communication which the Bank believes in good faith to be given or made by the Seller (whether through the Platform or by any other means), irrespective of any error or fraud contained in the communication or the identity of the individual who sent the communication and the Seller shall indemnify and hold the Bank harmless from and against all actions, proceedings, costs, claims, demands, expenses or losses of any nature (direct or indirect) which the Bank may suffer, incur or sustain as a consequence of accepting and/or acting upon any such communication.

8 Change of Platform

The Bank may from time to time elect (in its sole discretion) to replace the current Platform with an alternative Platform. The Bank shall give the Seller reasonable notice of the proposed replacement. The Seller's ability to use the replacement Platform will be conditional on the execution of licence agreements in respect of the replacement Platform by the Seller and the Buyer.

9 General

- 9.1 All calculations and determinations made by the Bank in connection with this Agreement (including any calculations or determinations set out in any demand on the Seller) shall be conclusive in the absence of manifest error.
- 9.2 In no event shall the Bank be liable for any loss of profits, business, data or information or for any incidental, indirect, special or consequential damages whether arising from negligence, breach of contract or otherwise, even if informed of the possibility of those losses or damages. The Bank shall not be liable for any losses arising out of or relating to any of its actions or omissions to act under this Agreement, except to the extent that any such losses are caused by the Bank's wilful misconduct, fraud or gross negligence.
- 9.3 Any amounts which would fall due for payment by the Bank under this Agreement on a day other than a Business Day shall be payable on the succeeding Business Day and the Purchase Price shall, where necessary, be adjusted accordingly.
- 9.4 The parties do not intend that any term of this Agreement may be relied upon or enforced solely by virtue of the Contract (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement.
- 9.5 Notwithstanding anything contained in this Agreement, the Bank shall not be obligated to accept or take any action in respect of any Eligible Account Receivable which it believes would breach any applicable law, rule, regulation, sanction or internal policy applicable to it.
- 9.6 This Agreement may be either physically signed in counterparts, or, in the event that this Agreement (or solely the Licence Schedule) is viewed on a website, by the acceptance of such terms as shown by a click on an "I Accept" button or similar. Notwithstanding the foregoing, the Bank and the Seller may use any other method to form this Agreement.
- 9.7 If the Seller is a partnership (to avoid doubt, this does not include a limited liability partnership):
- (a) in the event that the constitution of the partnership changes, whether by dissolution, death, retirement, change in the members or any other change whatsoever, the Seller shall notify the Bank in writing of such change to its constitution immediately;
 - (b) each partner shall be jointly and severally liable for the full, prompt and punctual performance by the Seller of all its obligations under this Agreement;
 - (c) in the event that the partnership's constitution changes by virtue of the fact that a new partner has joined the partnership, if so requested by the Bank, the Seller shall procure that the new partner enters into such documentation as the Bank request to create, perfect or protect the obligations of the partnership intended to be created by this Agreement (and, if necessary, to bind that new partner to this Agreement); and
 - (c) its dissolution for any reason shall not affect the liability of the Seller under this Agreement until the Bank receives written notice from the Seller to such effect but no notice shall affect the Seller's liability for any transaction made prior to the Bank's receipt of such notice, provided that if the dissolution is due only to the retirement, removal or death of a partner or partners of the partnership; or to the introduction of a further partner or partners, then (unless the Bank decide otherwise) this Agreement shall continue and apply (in addition to all money and liabilities due, owing or incurred from or by the old partnership to the Bank) to all money and liabilities due, owing or incurred from or by the new partnership to the Bank as though there had been no change in the partnership or from or by any partner of the old partnership who carries on the business of the old partnership as a sole trader.
- 9.8 The Seller shall notify the Bank immediately in writing if after the date of this Agreement a person (or more than one person acting in concert) becomes the holder or owner of 25% or more of the shares, equity or other interests (as the case may be) in the Seller.
- 9.9 Either party may terminate this Agreement by giving 30 Business Days prior written notice to the other party. Termination shall take effect upon the expiration of the 20 Business Day Notice Period (the "Termination Date"), provided that each party shall perform all obligations incurred by it prior to the Termination Date.

10 Notices

All notices, requests and demands given or made under this Agreement shall be given or made in writing and unless otherwise stated shall be made by fax, letter or via any electronic communication including but not limited to email or online notification. All notices or other communications shall be deemed to have been received: (a) if sent by fax with a confirmed receipt of transmission from the receiving machine, on the day on which transmitted; (b) in the case of a notice given by hand, on the day of actual delivery; (c) if sent by post, 5 Business Days after being deposited in the post with first class prepaid postage; or (d) if sent by e-mail, on the date of sending; provided that a notice given in accordance with the above but received on a day which is not a Business Day or after normal business hours in the place of receipt shall be deemed to have been received on the next Business Day.

11 Assignments

The Bank may at any time freely assign, transfer or sub-participate (including by way of novation) any of its rights and obligations under or pursuant to this Agreement. The Seller may not assign or otherwise transfer its rights, benefits or obligations or any of them under or pursuant to this Agreement.

12 Disclosure of Information

The Bank may disclose: (a) to any person to (or through) whom the Bank assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Agreement; (b) to any person with (or through) whom the Bank enters into (or may potentially enter into) any sub participation in relation to, or any other transaction under which payments are to be made by reference to, this Agreement; or (c) to any person to whom, and to the extent that, information is

required to be disclosed by any applicable law or regulation; any information about the Seller as the Bank shall consider appropriate.

13 Governing Law and Jurisdiction

- 13.1 This Agreement shall be governed by and construed in accordance with English law.
- 13.2 The courts of England shall have non-exclusive jurisdiction to hear and determine any suit, action or proceeding and to settle any dispute which may arise out of or in connection with this Agreement.

Signed by the Seller below.

Execution Page

Nr.	Type of Seller
1	<p>Company</p> <p>Executed by _____ (<i>insert full name of company</i>), a limited company incorporated in England and Wales with registration number _____ and registered office located at _____, acting by:</p> <p>.....</p> <p>(sign) Director: _____ (<i>Name</i>) Date: _____</p> <p>.....</p> <p>(sign) Director: _____ (<i>Name</i>) Date: _____</p> <p>.....</p> <p>(sign) Director: _____ (<i>Name</i>) Date: _____</p> <p>Communication details: Trading Name (if applicable): Address for communications: Facsimile: E-mail: Tel: Mobile: Attention:</p> <p>Bank Details Bank Name: Bank Address: Sort Code: Bank Account:</p>

Limited Liability Partnership

Executed by _____ (insert full name of limited liability partnership), a limited liability partnership registered in England and Wales with registration number _____ and registered office located at _____, acting by:

.....

(sign)

Member: _____ (Name)

Date: _____

.....

(sign)

Member: _____ (Name)

Date: _____

.....

(sign)

Member: _____ (Name)

Date: _____

(AT LEAST 2 MEMBERS OF THE LLP MUST SIGN)

Communication details:

Trading Name (if applicable):

Address for communications:

Facsimile:

E-mail:

Tel:

Mobile:

Attention:

Bank Details

Bank Name:

Bank Address:

Sort Code:

Bank Account:

Nr.	Type of Seller
3	<p>Partnership (not a limited liability partnership)</p> <p>A. Signed by _____ (full name of partner), a partner duly authorised to enter into this Agreement for and on behalf of _____ (name of partnership) (sign) Date: Title: Partner</p> <p>B. Signed by _____ (full name of partner), a partner duly authorised to enter into this Agreement for and on behalf of _____ (name of partnership) (sign) Date: Title: Partner</p> <p>C. Signed by _____ (full name of partner), a partner duly authorised to enter into this Agreement for and on behalf of _____ (name of partnership) (sign) Date: Title: Partner</p> <p>Communication details: Trading Name (if applicable): Address for communications: Facsimile: E-mail: Tel: Mobile: Attention:</p> <p>Bank Details Bank Name: Bank Address: Sort Code: Bank Account:</p>
4	<p>Sole Trader</p> <p>Signed by _____ (full name), of _____ (address), trading as _____ (sign) Date:</p> <p>Communication details: Trading Name (if applicable): Address for communications: Facsimile: E-mail: Tel: Mobile: Attention:</p> <p>Bank Details Bank Name: Bank Address: Sort Code: Bank Account:</p>



If the Bank wishes to enter into this Agreement, it may do so by sending an email to the Seller accepting the terms and conditions of this Agreement, and the Agreement shall come into force on the date on which that email is sent by the Bank

Accounts Receivable Purchase Agreement between _____ (the Seller) and **Citibank, N.A.** (the Bank) (the Agreement)

Pricing Schedule

This is a Pricing Schedule as referred to in Clause 5.2 of the Agreement.

1. **The Purchase Price is calculated according to the following formula:**

$$\text{Purchase Price} = \text{PA} - [\text{PA} * (\text{W}/\text{X}) * (\text{LIBOR} + \text{Margin})]$$

where:

PA: Payment Amount of the relevant Eligible Account Receivable

W: the number of days from and including the proposed Purchase Date of the relevant Eligible Account Receivable to and including the Maturity Date relating to such) Eligible Account Receivable

X: 365 days

Margin: 0.5%

"LIBOR" in relation to any amount and period:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for the relevant period) the rate (rounded upwards to four decimal places) at which the Bank is able to obtain deposits in the relevant currency from leading banks in the London interbank market, as at 11.00 am (London time) on the Proposed Purchase date for the offering of deposits in the relevant currency and amount and for the relevant period (and it is acknowledged that there may be more than one rate setting for the relevant period in the event that the Screen Rates are for periods that do not exactly match the relevant period) in respect of which the LIBOR is to be determined.

"Screen Rate" means, in relation to LIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Bank may specify another page or service displaying the appropriate rate

2 In addition to the terms defined above, terms in the Agreement shall have the same meanings for the purposes of this Pricing Schedule.

Accounts Receivable Purchase Agreement between _____ (the Seller) and Citibank, N.A. (the Bank) (the Agreement)

Licence Schedule

This is the Licence Schedule as referred to in Clause 1.1 of the RPA

2. Definitions

- 2.1 In this Schedule unless the context dictates otherwise:
- Affiliate** means any company that is from time to time a holding company, subsidiary or a subsidiary of a holding company of the Bank. For this purpose 'holding company' and 'subsidiary' shall have the meanings given to them in Section 1159 of the Companies Act 2006;
- Authorised User** means employees, agents or contractors of the Seller whom it has designated as being authorised to access the System on its behalf and who have been provided Logins to access the System by the Bank;
- Buyer** means a customer of the Seller to whom it supplies goods and/or services and who is activated on the System and with whom the Seller enters into Transactions;
- Confidentiality Exceptions** mean circumstances in which information is: (a) part of the public domain or generally known to the general public or organisations engaged in the same or similar businesses as the receiving Party on a non-confidential basis without any breach of this Schedule by the receiving Party; (b) known by the receiving Party prior to disclosure to it hereunder without any obligation to keep it confidential; (c) disclosed to the receiving Party by a third party which, to the best of the receiving Party's knowledge, is not required to maintain the information as confidential; (d) independently developed by the receiving Party without reference to Confidential Information of the other Party; or (e) to be the subject of a written agreement whereby the other Party consents to the disclosure of such Confidential Information on a non-confidential basis;
- Confidential Information** means information of a Party, that the other Party knows or ought reasonably to know to be confidential to such first Party, including the Seller Information and any information relating to the use and operation of the Platform, unless a Party can demonstrate by clear and convincing evidence that one or more of the Confidentiality Exceptions applies to the information;
- DPA 1988 & 2003** means the Data Protection Act 1988 & 2003, as amended, or its equivalent or replacement, or analogous law in any other jurisdiction;
- Intellectual Property Rights** means all rights in inventions, patents, copyrights, design rights, database rights, trademarks and trade names, service marks, trade secrets, know-how and other intellectual property rights (whether registered or unregistered) and all applications and rights to apply for any of them anywhere in the world in relation to the System;
- Logins** mean usernames and passwords for Authorised Users to access the System;
- Losses** means claims, liabilities, losses, damages, costs and expenses (including costs of collection, legal costs and disbursements);
- Message** means any message sent using the System, including any communication relating to a Transaction, but does not include any formal contractual notices;
- Party or Parties** means each or both of the Seller and the Bank, as the context requires;
- Personal Data** means personal data as defined in DPA 1988 & 2003;
- Platform** means the System and the Website;
- Policies and Procedures** mean printed and/or online information provided from time to time by the Bank to the Seller in connection with the use of the Platform, including all notices, terms, policies and procedures of any kind posted on the Website;
- RPA** means the 'Receivables Purchase Agreement' part of the Agreement;
- Records** mean the records referred to in Clause 6.1;
- Regulator** means any regulator or governmental body or agency (including without limitation the Financial Regulator) having jurisdiction over the Bank or any of its Affiliates from time to time or whose consent, approval, permission or authority is required for the Bank or any of its Affiliates to carry on their business lawfully;
- Schedule** means this Licence Schedule and shall include, if the context admits, the RPA;
- Sublicence** has the meaning set out in Clause 2.1;
- Seller** includes, where appropriate, the Authorised Users;
- Seller Information** means information provided by the Seller pursuant to this Schedule relating to the Seller's business, including the content of any Messages, Authorised User information and Transaction data;
- System** means the online system to facilitate trade/supplier finance provided by the Bank or its Affiliates or licensors and made available via the Website;
- Transaction** means a trade/supplier finance transaction permitted under the RPA transacted over or using the System;
- Virus** means any software virus, worm, logic bomb, Trojan horse, time lock, time bomb, cancelbot or malicious code or software of any kind, or any thing(s) similar to any of the foregoing or analogous to them; and
- Website** means the Internet site located at such web address as the Bank may notify the Seller from time to time.

3. the System Sublicence

- 3.1 **Grant of Sublicence**
- (a) Subject to the terms of this Schedule, the Bank hereby grants the Seller a limited, revocable, personal, non-exclusive, non-transferable sublicence, without right to further sublicense, during the term of this Schedule to access and use the Platform, solely for the purposes contemplated by this Schedule (the "**Sublicence**"), and the Seller shall have no other right, title or interest to or in the Platform.
- (b) The Seller acknowledges that all right, title and interest in and to the Platform, including without limitation, all Intellectual Property Rights, are vested, and shall remain vested, in the Bank, its Affiliates and/or its licensors. All right, title and interest in and to revisions, upgrades, updates, derivative works and other improvements to the Platform vest solely in the Bank, its Affiliates or its licensors. Except for the grant of the Sublicence, nothing in this Schedule shall act to operate as an assignment or other transfer of any of such rights to the Seller.
- (c) The Seller confirms that the Bank, its Affiliates and licensors may use any Message, Transaction Data or other information posted by or on behalf of the Seller for the purposes of providing services and processing Transactions under the RPA and operating and maintaining the Platform.
- 3.2 **Usage**
- (a) The Seller and its Authorised Users may access and use the Platform only in accordance with this Schedule and the Policies and Procedures.
- (b) The Bank may at its sole discretion amend the Platform or the Policies and Procedures at any time and the Seller's continued use of the Platform shall be deemed notice and complete acceptance of same.
- (c) The Seller shall use the Website to access the System, and may print reasonable extracts from the Platform and save reasonable copies of data posted on the Platform to the Seller's hard drive, in each case solely for the purposes contemplated by this Schedule. All other use of Platform content is forbidden. No other right or licence is granted in respect of the content of the Platform.
- 3.3 **Security, Authorised Users and Access**
- (a) The issuance of Logins to Authorised Users and the rules and particular roles applicable to the various types of Authorised User shall be in accordance with the Policies and Procedures.
- (b) The Seller warrants that each of its Authorised Users is authorised to bind the Seller, and agrees to be bound by any usage of the System that occurs under any of its Authorised Users' Logins, unless it has previously notified the Bank in writing that particular Logins or Authorised Users are to be cancelled or their security has been compromised.
- (c) The Seller shall ensure that only its Authorised Users access the Platform and shall procure that its Authorised Users: (a) maintain the secrecy of their Logins and do not disclose their Logins to any other person; and (b) are informed of and abide by the Policies and Procedures.
- (d) The Seller shall keep confidential, and maintain reasonable security measures to keep the System confidential. The Seller agrees that: (a) it will not interfere with or circumvent any information or instruction that is to be transmitted through the Platform, or with the restrictions on functionality or information on the Platform; (b) it will not introduce to the Platform any Virus and will ensure that any information system under its control that may directly or indirectly be connected to the Platform is regularly scanned for Viruses by up to date industry standard virus scanning and protection software; and (c) it will ensure that all Messages being communicated by the Seller through the Platform are sent in accordance with this Schedule and the Policies and Procedures.

- (e) The Seller shall immediately notify the Bank in writing if it becomes aware of any unauthorised use, loss or theft of its Authorised Users' Logins or if the Seller becomes aware or suspects that any of them have become known by an unauthorised person. Upon such notification the Bank may (at its absolute discretion) revoke, suspend or disable such Logins and/or issue new Logins to the Seller.
- (f) The Seller shall not, and shall procure that any of its representatives do not, access or attempt to gain access to any part of the Platform that is not permitted under its Logins.
- (g) The Seller shall not use the Platform as or in connection with a bureau service or for the provision of services to third parties.

3.4 Messages

- (a) The Seller shall use the System to send all Messages and perform all Transactions under or in connection with the RPA. Neither party shall use the Platform to communicate formal contractual notices.
- (b) Any Message or any Transaction which appears to the Bank to have been sent or entered into by the Seller via the System are as valid, enforceable, and legally binding on the Seller as if manually executed and delivered in written form, and the Bank and any relevant supplier are entitled to rely thereon irrespective of any error or fraud contained therein or the identity of the individual who sent the Message, except to the extent that such error or fraud or use of the System by an unauthorised third party is a result of the failure by the Bank to use commercially reasonable security measures to prevent unauthorised access to the System.

3.5 System Availability

- (a) The Seller acknowledges and agrees that: (a) the Bank does not represent or warrant that the Platform will be error-free or available without interruption; (b) there will be downtime from time to time when the System cannot be accessed.

3.6 Default

- (a) Any failure of the Seller to perform any or all of its obligations under this Clause 2 shall be deemed to be a material breach of this Schedule.

4. Confidentiality

- 4.1 Subject to the Confidentiality Exceptions, each Party agrees to maintain the confidentiality of any Confidential Information of the other Party, and to use such Confidential Information only for the purposes of exercising its rights and performing its obligations under this Schedule.
- 4.2 Notwithstanding the foregoing, either Party may disclose Confidential Information obtained from the other Party to any authority of competent jurisdiction if disclosure is required pursuant to a court order or instruction or request of any Regulator or supervisory authority having jurisdiction over it, provided that the disclosing Party shall have given the other Party prompt notice thereof (unless it has a legal obligation to the contrary) so that the other Party may seek a protective order or other appropriate remedy to prevent disclosure.
- 4.3 Notwithstanding the other provisions of this Schedule, the Bank may compile, copy, modify, license and exploit any and all data entered into the System by or on behalf of the Seller, including without limitation Transaction data, Message data and statistical click-stream data, provided always that such data has been anonymised such that it does not compromise any Personal Data and that it does not directly or indirectly identify any individuals, the Seller, any Seller or any other corporate entities.

5. Representations and Warranties

- 5.1 The Seller hereby represents, warrants and covenants to and with the Bank as follows: (a) the Seller's use of the Platform is solely to settle genuine and lawful commercial trade transactions, arising in the ordinary course of business, for the sale and purchase of goods and/or services between the Seller and its Sellers and pursuant to the RPA. The Seller shall not use the Platform for investment or arbitrage functions or purposes, or for any money laundering purpose, or in contravention of any law or regulation, and Messages issued at the Seller's request shall not be, and are not intended to be, used in furtherance of any of the foregoing; (b) the Seller has independently verified or shall independently verify the validity of the entity and account information and any changes to such information stored on the System with respect to each Buyer. The Seller acknowledges that the Bank has no obligation to inspect or view the content of Messages and that the Bank has no liability in the event that the Seller is in breach of this obligation; (c) the Seller shall comply with all relevant laws and regulations applicable to this Schedule and transactions conducted using the Platform including, without limitation, all applicable sanctions and export control laws; and (d) Information provided by the Seller to the Bank from time to time in connection with this Schedule is and shall be true and accurate in all material respects, and the Bank is hereby authorised from time to time to verify information about the Seller from any source and in any manner the Bank may deem fit.
- 5.2 The Seller and the Bank severally represent, warrant and covenant that it has the power and authorisations to enter into and perform, and deliver this Schedule and the transactions contemplated by this Schedule, and that the same do not contravene any contract binding on or affecting it, does not violate applicable law or regulation, and does not require any notice, filing or other action to or by any governmental authority.
- 5.3 Except as expressly provided in this Schedule, no representation, warranty, term or condition, express or implied, statutory or otherwise, is given or assumed by the Bank in respect of: (a) the System and/or the Website; (b) the Seller's underlying commercial transactions; or (c) the goods or services to which such underlying transactions relate (regardless of any assistance that the Bank or its Affiliates may, in its sole discretion, provide to the Seller). All such representations, warranties, terms and conditions (whether express, implied or otherwise) are excluded, except to the extent prohibited by law. Without limiting the foregoing, the Seller understands that neither the Bank nor its Affiliates is giving any representation, condition or warranty (whether express, implied or otherwise) as to condition, performance, fitness for purpose, suitability, merchantability, non-infringement, quality, or otherwise, except as expressly provided in this Schedule.

6. Indemnity

- 6.1 The Seller covenants and agrees to indemnify the Bank, its Affiliates, its licensors, employees, officers, directors and agents (each, an "indemnified party") from and against all Losses (including those relating to the enforcement of this indemnity) arising out of or in any way relating to:
 - (a) reliance by the Bank on any Message or Transaction that appears to have been sent or entered into by the Seller using the Platform or as a result of any Message or Transaction containing information or material which is unlawful, offensive or defamatory; or
 - (b) any breach of the Seller's obligations under this Schedule, or any suit, demand, claim or other dispute with respect to a Message or Transaction by the Seller using the System, except to the extent that such Losses are caused by the fraud or wilful misconduct of the indemnified party, or any of its respective employees, officers, directors and agents.

7. Information, Data and Access

- 7.1 The Seller shall maintain sufficient records of all Messages and Transactions sent or entered into by it using the System and otherwise with respect to its obligations and activities in connection with this Schedule, including (without limitation) information with respect to any underlying commercial trade transaction (or associated disputes) to which it is a party, and with respect to compliance of such transactions with applicable laws and regulations ("Records"). The Seller shall retain each Record required to be maintained under this Clause 6 during the longer of (i) the term of this Schedule, (ii) the term of the RPA or (iii) as may be required by law or regulation.
- 7.2 The Seller shall provide the Bank with copies of any Records as the Bank may require, or the Seller shall allow the Bank to examine and take copies of the Records, or any part of them, which are reasonably required in order to comply with an order, instruction or request from any authority of competent jurisdiction, or to ensure compliance with or in connection with the performance of the terms of this Schedule.
- 7.3 If any Personal Data is received by the Bank from the Seller or its Authorised Users, including without limitation through the use of cookies, the Seller warrants that such data has been given with the consent of each individual in compliance with DPA 1988 & 2003 or any applicable personal data protection and privacy legislation, such that the data may be processed or transmitted by and to the Bank, its Affiliates and contractors in any country of the world for any purpose in connection with this Schedule. The Seller consents to the disclosure by the Bank of such Personal Data to Sellers specified in a Message or Transaction.

8. Miscellaneous

- 8.1 **Limitation on Liability:** (a) The Bank and its Affiliates shall not be liable for any Losses suffered by the Seller arising out of or relating to any of its actions or omissions to act hereunder, except to the extent that any such Losses are caused by the Bank's wilful misconduct or fraud. (b) Neither Party shall be deemed to be in default of any of the obligations required to be performed by it under this Schedule to the extent that performance thereof is delayed, hindered or becomes impossible because of any cause beyond the reasonable control of such Party.
- 8.2 **No Implied Duties:** (a) The Bank shall be obliged to perform such duties and only such duties as are specifically set forth in this the fullest extent permitted by law and no implied duties or responsibilities shall be read or implied into this Schedule against the Bank. (b) Nothing in this Schedule excludes or is intended to exclude liability that cannot be lawfully excluded, such as liability for death or injury caused by a party's negligence, and a party's fraud.
- 8.3 **Termination:** The Bank may terminate this Schedule in its sole discretion at any time upon notice to the Seller. For the avoidance of doubt, this right of termination may be exercised without affecting the continuance (if any) of the RPA. Upon such termination: (i) the Bank will no longer accept Messages or Transactions from the Seller; (ii) the Bank will only proceed with any outstanding Transactions that the Bank received and accepted prior to the time of termination; (iii) the Seller shall remain responsible for all liabilities to the Bank in respect of any Transactions that remain due and outstanding at the time of termination; and (iv) the Bank will disable any Logins relating to the Seller and its Authorised Users. Termination of this Schedule is without prejudice to each Party's rights which accrued up to the date of termination. The right to terminate this Schedule are not exclusive but shall be in addition to every other remedy or right, including the right to recover damages and seek equitable remedies.

- 8.4 **Underlying transactions:** The Seller agrees that the Seller's obligations under this Schedule and any Message or Transaction sent by or entered into by it shall not be affected by the invalidity, unenforceability, existence, performance or non-performance of the underlying commercial trade transaction or any related contract or undertaking, nor shall those obligations be subject to claims or defences of the Seller in relation to the same, including breach of contract, breach of statutory obligation or equitable remedies.
- 8.5 **Survival:** Clauses 2.3, 3, 4, 5, 6, and 7 of this Schedule, and clauses 10, 11, 14 of the RPA, shall continue to apply to and survive the termination of this Schedule.