

1. DEFINITIONS

- 1.1 In these Terms, certain words and phrases have specific meanings:
- "Agreement"** means these Terms, together with any Supplementary Terms;
- "Annual"** means a twelve calendar month period from the Start Date or any annual anniversary from the Start Date;
- "Application"** means an online or offline order for Services provided by the Supplier;
- "Biannual"** means a six calendar month period from the Start Date or any biannual anniversary from the Start Date;
- "Confidential Information"** means the trade secrets, operations, processes, plans, intentions, product information, prices, know-how, designs, customer lists, market opportunities, transactions, affairs and/or business of the Customer or the Supplier;
- "Charges"** means the fees payable for the Service for the duration of the Service Schedule, as indicated upon Application, and as amended from time to time under Clause 5 and Clause 20.2;
- "Customer"** means you, the individual or business, entering into this Agreement by applying for Services provided by the Supplier;
- "Data Transfer"** means the data transferred from and/or to the Suppliers Servers;
- "Employee"** means agents, consultants, contractors or workers whom at any time provide a service to the Supplier;
- "Intellectual Property Rights"** means any patent, trademark, service mark, registered design, copyright, design right, right to extract or exploit information from a database, database rights, know-how, confidential information or process, any application for any of the above, and any other intellectual property right recognised in any part of the world whether or not presently existing or applied for;
- "Monthly"** means a period of one calendar month from the Start Date or any monthly anniversary of the Start Date;
- "Network"** means telecommunication hardware installed and operated by the Supplier which is used to facilitate the transfer of data from or between Servers and the Internet;
- "Quarterly"** means a period of three calendar months from the Start Date or any quarterly anniversary from the Start Date;
- "Server"** means any server that the Supplier allows the Customer to access or in which the Supplier allocates the Customer resources;
- "Services"** means any service provided by the Supplier to the Customer under this Agreement;
- "Service Schedule"** means the duration of the Agreement between the Supplier and the Customer, as determined upon initial Application. Service Schedules may be Monthly, Quarterly, Biannual or Annual;
- "Setup Fee"** means a non-refundable upfront fee for the initial setup of a Service;
- "Software"** means any software that the Supplier licenses to the Customer under this Agreement;
- "Supplementary Terms"** means any specific Terms & Conditions that are applicable for a particular Service;
- "Start Date"** means the date which the Supplier emails the Customer to confirm acceptance of the Customers Application;
- "Supplier"** means Kualo Limited whose registered office is at Unit 19, Kestrel Court, Waterwells Business Park, Gloucester, GL2 2AT and whose registered company number is 4004280;
- "Terms"** means these Core Terms & Conditions;
- "Third Party"** means a party associated with the Customer or a party which provides services, facilities, hardware or software via the Supplier for the provision of agreed services as ordered by the Customer.

2. INTERPRETATION AND CONSTRUCTION

- 2.1 By applying for any Services provided by the Supplier, the Customer agrees that these Terms shall apply to those Services. These Terms shall constitute a binding contract between the Supplier and the Customer when the Supplier emails the Customer to confirm acceptance of its Application.
- 2.2 The Customer also agrees that applicable Supplementary Terms will apply to particular Services. The Supplier shall notify the Customer of these Supplementary Terms when the Customer applies for a Service. These Supplementary Terms will come into force when the Supplier emails the Customer to confirm acceptance of the Customer's Application for those Services.
- 2.3 These Terms supersede all prior agreements, arrangements, representations and undertakings between the Supplier and the Customer in respect of its subject matter and, together with the Supplementary Terms, constitutes the entire Agreement between the parties relating to the subject matter of the Supplementary Terms, unless expressly stated otherwise.
- 2.4 References to clauses are to the clauses of these Terms.

- 2.5 References to any gender includes any other gender and the singular includes the plural and vice versa.
- 2.6 Wherever the words "including", "include", or "includes" are used they shall be deemed to be followed by the words "without limitation" unless the context otherwise requires.
- 2.7 All rights and remedies referred to in this Agreement are cumulative and are not to the exclusion of other rights and remedies, unless expressly stated otherwise.
- 2.8 The headings to the conditions in both these Terms and Supplementary Terms are for ease of reference only and do not affect their interpretation or construction.

3. LAW

- 3.1 This Agreement shall be construed, interpreted and enforced in accordance with the laws of England and Wales, applicable to agreements entered into and wholly to be performed therein. Any litigation arising out of this Agreement, or to enforce the terms of this Agreement shall be instituted in England, and each party consents and agrees to the venue therein.

4. AMENDMENTS TO THIS AGREEMENT

- 4.1 Only the Supplier may amend this Agreement by notifying the Customer of the change by writing, fax or email. The Supplier agrees to give not less than fourteen (14) days of notice to the Customer of the amendment.

5. AMENDMENTS TO SERVICES

- 5.1 The Supplier may amend a Service provided, including increasing the fee for that Service.
- 5.2 If the Supplier notifies the Customer of an amendment to a Service provided, the Customer may cancel that Service by giving not less than ten (10) days notice, in writing, by fax or by email, from the date on which the Customer received notice from the Supplier. In the event of prepayment for a Quarterly, Biannual or Annual service period, the Supplier shall refund any full months unused, but will not issue partial month refunds.

6. SUPPLEMENTARY TERMS

- 6.1 Supplementary Terms shall take effect from the date on which they are first entered upon by both parties.
- 6.2 Where a Service includes the provision of connectivity to the Internet or access to a Server, the Customer shall not be entitled to such Service until the Supplier notifies them that it is ready for use.
- 6.3 If there is any conflict or inconsistency between these Terms and Supplementary Terms in relation to a particular Service, the Supplementary Terms shall have precedence for that Service.

7. CUSTOMER OBLIGATIONS

- 7.1 The Customer will ensure that the Services provided shall not be used for any illegal activity, and indemnifies the Supplier from any liability that may arise due to such usage. Such activity will be deemed to include the publishing of any material that is obscene, threatening, defamatory or which in any way infringes upon the Intellectual Property Rights of another party.
- 7.2 The Customer will comply with the terms and conditions imposed by any Third Party in connection with the provision of the Services to the Customer by the Supplier.
- 7.3 Subject to Clause 8.2, the Customer accepts that in the event of allegations of infringement of Clauses 7.1 and 7.2, the Supplier may without notice or liability suspend or interrupt the Customer's services, or remove any specific material held on the Supplier's systems on the Customer's behalf pending clarification of such allegations or suspicion.
- 7.4 The Customer is advised to read and agree to the appropriate Supplementary Terms relevant to the Services to which it subscribes. If the Customer fails to comply with any of those Supplementary Terms, the Customer's Services may be suspended or terminated.
- 7.5 The Customer accepts responsibility for all items published or transferred from the Server to which it has access. The Supplier will only act as a distributor of the Customer's IP traffic and will not examine it in any way except for the purpose of routing it over the Internet.
- 7.6 In the event that a Third Party makes direct representation to the Customer with regard to possible breach of Clause 7, the customer will without delay notify the Supplier of the nature and background of such representation so that the Supplier may promptly carry out any actions required to mitigate any exposure or damages.
- 7.7 Data transfer limits cannot be exceeded. More data transfer can be made available (additional fees may apply).

- 7.8 The Customer accepts responsibility (at its own cost) for ensuring that any data is suitably backed up.
- 7.9 The Customer accepts responsibility (at its own cost) for ensuring that it has any and all necessary insurance to meet the requirements laid out in this Agreement for the duration thereof.
- 7.10 The Customer agrees that it shall comply with its obligations under the Data Protection Act 1998 and under the laws of England and Wales.

8. CUSTOMER WARRANTIES

- 8.1 The Customer warrants that it has the full power and authority to enter into this Agreement, and that use of the Services provided by the Supplier will not knowingly infringe the Intellectual Property Rights or other rights of any Third Party.
- 8.2 The Customer will indemnify the Supplier and keep the Supplier indemnified against all costs, claims, expenses, and liabilities incurred or suffered by the Supplier in the course of acting on behalf of or as agent for the Customer or arising from the use of the Services provided by the Supplier, including, without limitation, all fees payable by the Supplier to any Third Party in relation to the agreed services provided to the Customer.
- 8.3 The Customer warrants to the Supplier that the Customer has not been induced to enter into this Agreement by any warranties or representations except as specifically contained in this Agreement as warranties. The Customer waives any claim for breach of any representation and for any misrepresentation, except in respect of any fraudulent misrepresentation.

9. CONFIDENTIALITY

- 9.1 Both the Customer's and the Supplier's Confidential Information disclosed hereunder shall be held confidential by the recipient. Neither the Customer nor the Supplier shall disclose the other party's Confidential Information to Third Parties without the other party's written consent, except as permitted pursuant to this section.
- 9.2 Both the Customer and the Supplier shall disseminate the other party's Confidential Information among its Employees only on a need-to-know basis and shall use such Confidential Information only for the purpose of performing its obligations hereunder.
- 9.3 To the extent that either party is required by applicable law, regulation, government agency, court order, summons, or investigative demand, to disclose the existence or terms of this Agreement, or the other party's Confidential Information, the said party shall use all reasonable effort to minimise such disclosure and obtain an assurance that the recipient shall accord confidential treatment to such Confidential Information, and shall notify the other party contemporaneously of such disclosure.
- 9.4 The Supplier, at its discretion, may terminate this Agreement upon ten (10) days notice and without penalty in the event of any breach by Customer of this Section.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 The contents of all reports, documents, specifications, presentations, software and documentation prepared, made or written by the Supplier for or to the Customer; all advice given by the Supplier to the Customer, all the methodologies used by the Supplier in working for the Customer and the results of the work done by the Supplier for the Customer, are for the use of the Customer only and the Customer will not divulge them to any Third Party or use them for any purpose other than for using the Services in accordance with this Agreement.
- 10.2 Except as specifically provided for in any Supplementary Terms, the Intellectual Property Rights in all computer software, documentation, specifications and other materials which the Supplier produces or supplies, and in all ideas, methodologies, inventions, discoveries, designs, concepts and work arising from any service the Supplier provides to the Customer will, as between the Customer and the Supplier, belong to the Supplier. If requested by the Supplier, the Customer will do what is necessary (including executing any documents) to enable the Supplier to enjoy, defend and enforce those rights.
- 10.3 The Customer acknowledges that it will not have any rights in respect of any product, materials or methodologies used and/or owned by the Supplier or any Third Party, and the Customer agrees to keep the same strictly confidential.
- 10.4 The Customer shall indemnify and keep the Supplier indemnified against any and all losses, costs, damages, liabilities, claims, demands and expenses suffered or incurred by the Supplier (including legal expenses reasonably and properly incurred) arising out of any claim brought against the Supplier by any Third Party alleging that its Intellectual Property Rights are being infringed by the Customer through the use of the Services provided by the Supplier.

11. DOMAIN NAMES

- 11.1 If the Customer purchases domain name registration services from the Supplier, the Customer acknowledges and agrees that this purchase is final and is non refundable. The domain name may not be amended following purchase. It is therefore the Customer's responsibility to correctly spell the domain name as intended upon Application.
- 11.2 Further conditions are outlined in the Domain Name Registration Supplementary Terms.

12. SUPPLIER WARRANTIES AND LIABILITIES

- 12.1 The Supplier will provide Services with reasonable skill and care, although no representation or warranty is given that the Services will be uninterrupted or error free, or that all errors, defects or deficiencies can be corrected or remedied.
- 12.2 Because of the uncertainty of future events and circumstances the Supplier does not guarantee that its forecasts, projections, advice or recommendations, or the contents of any report, presentation or other document will be achievable. All information supplied by the Supplier will be supplied in good faith but the accuracy and completeness of any information obtained from, or based on information obtained from, the Customer or any Third Party is not guaranteed by the Supplier. It is not within the scope of the Supplier's obligations to enquire as to or to verify the accuracy or completeness of any such information.
- 12.3 The Supplier will not be liable in contract or in tort (including negligence) or in any other way for any loss or damage sustained or incurred by the Customer or any Third Party (including, without limitation, any loss of use of any software or equipment, or loss of or spoiling of any data, or the results of processing any data) resulting from any defect, deficiency or error in any equipment, software or associated documentation, or for any failure or interpretation of any telecommunications facilities or network systems.
- 12.4 The Supplier limits its liability for any loss or damage to tangible property of the Customer to that which has been caused directly by the negligence of the Supplier or its Employees acting in the course of their employment and the Supplier will not be liable for any loss or damage to any tangible property which exceeds in aggregate the lesser of £500 Sterling, the value of the property lost, or the cost of repairing damage to the property.
- 12.5 Subject to Clause 12.9, but otherwise despite anything else contained in the Terms or any Supplementary Terms, the Supplier will not be liable to the Customer for loss of turnover, sales, revenue, profits, loss of business, loss of anticipated savings, loss of opportunity, loss of contracts, loss or spoiling of data or any indirect or consequential loss, whether arising from negligence, breach of contract or in any other way, and whether or not of a kind foreseeable by the Supplier.
- 12.6 The Supplier will not be liable to the Customer for any loss arising out of any failure by the Customer to keep full and up-to-date backups of the computer software and data it uses; the Customer's failure to comply with any technical prerequisites specified from time to time by the licensor of any software or the manufacturer of any equipment; any error or incompleteness in the Customer's data; any fault in any media; any delay or failure on the part of the Customer in providing any of the Customer's data to the Supplier; any delay or failure on the part of the Customer to notify the Supplier of any error in any output or telecommunications system; any failure of the Customer to comply with the Terms or Supplementary Terms; or any delay or failure on the part of any hardware or software supplier or maintainer to correct any fault or defect or to provide any other service.
- 12.7 All terms, conditions, representations and warranties, express or implied, not set out in the Terms or in the Supplementary Terms are, to the fullest extent permitted by law, excluded from applying to the Agreement including (without limitation) any implied warranties, terms and conditions as to performance, fitness for purpose, merchantability and satisfactory quality.
- 12.8 The limitations and exclusions on the Supplier's liability in the Terms or any Supplementary Terms do not apply in respect of death or personal injury caused by the negligence of the Supplier or its Employees acting in the course of their employment, or in respect of any fraudulent misrepresentation.
- 12.9 The Supplier shall not be liable to the Customer for any breach of this Agreement for failing to perform any obligation where such breach or failure was a result of any Act of God, insurrection or civil disorder, war or military operations, inclement weather, failure or shortage of power supplies, food drought, lightning or fire, national or local emergency, acts or omissions of government or any government authority, compliance with any statutory obligation, industrial disputes of any kind, the acts or omissions of other telecommunications operators or any cause beyond the Supplier's reasonable control.
- 12.10 The Customer acknowledges that the exclusions and limitations on the Supplier's liability in the Terms have been drawn to the Customer's

attention and that the Supplier is willing to undertake greater liability than that mentioned above or in any Supplementary Terms provided the Supplier is able to obtain insurance to cover fully its potential liabilities to the Customer and the Customer pays for that insurance.

13. NETWORK UPTIME

- 13.1 The Supplier shall monitor the performance of the Network, and where possible will endeavour to resolve reductions in performance within a reasonable time frame.
- 13.2 The Customer acknowledges that occasional reduction in the performance of the Network is normal and to be expected due to the unpredictability of usage. The Supplier is therefore not liable for any reduction in performance of the Network.
- 13.1.1 Occasional required maintenance performed from time to time by the Supplier may affect the availability of the Network. The Supplier will endeavour to provide as much notice as is possible in all circumstances, subject to procedures required in the event of an emergency.
- 13.1.2 Should the level of availability fall below the following pre-defined levels, the Supplier shall refund the Customer for any Charges paid for that Monthly period. The refund shall be calculated as follows:
- | | |
|-------|-------------|
| 100% | No Credit |
| 99.9% | 5% Credit |
| 99.5% | 10% Credit |
| 98% | 25% Credit |
| 95% | 100% Credit |
- 13.1.3 The guarantee specified in clause 13.1.2 shall apply only when the following do not apply:
- 13.1.3.1 Circumstances beyond the Supplier's reasonable control, including, without limitation, acts of any government body, war, insurrection, sabotage, armed conflict, embargo, fire, flood, strike or other labour disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, virus attacks or hackers, failure of third party software (including, without limitation, ecommerce software, payment gateways, chat, statistics or free scripts) or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of this agreement.
- 13.1.3.2 Failure of access circuits to the Supplier's Network, unless the Supplier causes such failure.
- 13.1.3.3 Scheduled maintenance, emergency maintenance and upgrades.
- 13.1.3.4 DNS issues outside the direct control of the Supplier.
- 13.1.3.5 DNS Propagation, or local DNS caching.
- 13.1.3.6 Technical issues elsewhere on the Internet that hinder access to the Service.
- 13.1.4 The Supplier will guarantee only those areas considered under its direct control, including Servers and Network equipment.
- 13.1.5 To receive a refund under these policies, the Customer should contact the Supplier in writing, by fax or by emailing billing@kualo.com. Each request in connection with this Service Level Agreement must include the Customer's helpdesk username, dates and times of Network unavailability, and must be received by the Supplier by the 10th day of the following said unavailability. In the event of the unavailability being confirmed by the Supplier, credits will be applied to the Customer's account within two billing cycles.

14. DELAYS

- 14.1 Despite anything else contained in the Terms, or any Supplementary Terms, neither party will be liable for any delay or failure in performing its obligations under the Terms or any Supplementary Terms (except an obligation to make payment) if that delay or failure is caused by circumstances beyond its control (including, without limitation, any delay caused by an act or omission of the other party or any Third Party), and the party so delaying will be entitled to a reasonable extension of time for the performance of its obligations.
- 14.2 The Supplier will endeavour to comply with any timetable or dates which the Supplier has given to the Customer for the performance of the Services, but any such timetable or dates are estimates only, and the Supplier will not be liable for any delay or failure to perform in accordance with that timetable or those dates.

15. EXCEEDING USAGE LIMITS & Overage CHARGES

- 15.1 If the Customer exceeds the predetermined usage limits for Monthly Data Transfer, the Supplier reserves the right to charge applicable overage fees for excess usage during that Month. For shared hosting services, the Supplier also reserves the right to suspend Service until any overages due are fully paid.
- 15.2 The Supplier may also provide email notification to the Customer when it reaches eighty percent (80%) of its Monthly Data Transfer quota. At this point, the Customer may upgrade its Service with the Supplier so as to avoid paying overage fees. Any Service upgrade does not constitute a variation of the Supplier's Agreement with the Customer.

16. IP ADDRESSES

- 16.1 IP addresses assigned from the Supplier to the Customer are non-portable and are the sole property of the Supplier. The Supplier reserves the right to change the IP address assignments at any time. IP addresses allocated by the Supplier must be returned to the Supplier in the event Service is discontinued. The Customer agrees that it will have no right to IP addresses upon termination of this Agreement and that any change required of the Customer after termination shall be the sole responsibility of the Customer.

17. SOFTWARE LICENSES & RIGHTS

- 17.1 During the term of this Agreement and any extensions, the Supplier may provide the Customer with the use of certain Software. In such a case, the Customer agrees that:
- 17.1.1 Such software is provided on a non-transferable, non-exclusive, non-proprietary basis and is provided to the Customer solely for use on the Server provided and in conjunction with the Services;
- 17.1.2 It will not copy the software, except as is necessary for installation on the Server and for internal, archive purposes; reverse engineer, decompile, disassemble, or otherwise attempt to derive source code from the Software; sell, lease, transfer, give or sublicense the Software, write or develop any derivative or other software program(s) based, in whole or in part, upon the Software provisioned by the Supplier.

18. NON-SOLICITATION OF EMPLOYEES

- 18.1 The Customer acknowledges that the Supplier's Employees constitute valuable assets. Accordingly, the Customer shall not, during the term of this Agreement and for a period of one year thereafter, directly or indirectly, solicit, employ or offer to employ, or engage as an agent, consultant, contractor or employee, any Employee of the Supplier.

19. ASSIGNMENT

- 19.1 Neither party may transfer any of its rights or obligations under this Agreement without the express, prior written consent of the other party; provided however, that either party may assign or transfer this Agreement to any affiliate of such party, or any successor in interest, upon advance written notice to the other party. In any such event, this Agreement shall bind and inure to the benefit of the successors and permitted assignees of the parties.

20. CHARGES, PAYMENTS & TERMINATION

- 20.1 The Customer will pay Charges to the Supplier in accordance with the Service and Service Schedule selected upon Application.
- 20.2 The Supplier will be entitled from time to time to increase any periodic Charge or other rates of charge (or both) by giving to the Customer not less than thirty (30) days notice in advance.
- 20.3 The Charges and all other amounts payable to the Supplier are exclusive of Value Added Tax (or any equivalent tax) which may be demanded of the Customer at the rate prescribed by law at that point in time.
- 20.4 Full payment is required before any Service is rendered, which includes renewals.
- 20.5 If any amount payable to the Supplier by the Customer is not paid by the due date then (without prejudice to the Supplier's other rights and remedies), the Supplier may do either or both of the following: suspend the provision of any or all of the Services; or charge interest on the overdue amount (after as well as before judgment) on a daily basis from the due date to the date of actual payment (both dates inclusive) at the rate of four (4) percent above the base rate of Barclays Bank PLC (or any other London Clearing bank which the Supplier may nominate) as from time to time compounded quarterly. That interest will be paid by the Customer to the Supplier on demand.
- 20.6 The Supplier reserves the right to charge the Customer at the Supplier's standard rates from time to time for any work carried out by the Supplier which is not included in the Services and for any additional work and/or

- additional expenses caused by any delay, act or omission by the Customer or any Third Party.
- 20.7 Unless written notice of termination from either party is received by email, fax or post at least ten (10) days before the expiration date of this Agreement, this Agreement shall be automatically renewed, under the same terms and conditions, for another term as set out under the Service Schedule, and the same notice and renewal terms shall apply to each subsequent renewal period.
- 20.8 It is the responsibility of the Customer to secure confirmation from the Supplier that the Agreement has been terminated, else the Agreement remains active and all terms will continue to apply.
- 20.9 On the termination of the Service Schedule the Customer will pay the Supplier all unpaid Charges accrued up to the date of termination of the Service Schedule, and for all work done and expenses the Supplier has incurred or agreed to incur in connection with the Services.
- 20.10 In the event that the Customer wishes to cancel any prepaid service before the expiration of the Service Schedule, the Supplier will issue a refund for full months unused. No partial month refunds will be issued. If by prepaying the Customer received a discount, the Supplier will, upon premature cancellation, calculate the refund retroactively withdrawing the discount back to the start date of the Agreement. This will result in the Customer paying the full undiscounted price for the months used and receiving a refund for the balance.
- 20.11 Should cancellation be made by the Supplier due to a violation of the Agreement by the Customer, there will be no refund issued to the Customer.
- 20.12 This Agreement shall be immediately terminated by either party on giving notice in writing to the other that a receiver or administrative receiver has been appointed of it or over any part of its undertaking or assets, or that a resolution for winding-up has been passed (other than for the purposes of a bona fide scheme of solvent amalgamation or reconstruction), or that a court of competent jurisdiction has made an order to that effect, or that the other party has become subject to an administration order or has entered into any voluntary arrangement with its creditors, or if any similar process to any of the above is begun.
- 20.13 The Supplier may terminate this Agreement and or any Service at any time and for any reason whatsoever by giving the Customer ten (10) days notice of such termination.
- 20.14 The Supplier may suspend or terminate this Agreement and or any Service without any notice whatsoever due to a violation of this Agreement by the Customer. The Supplier shall be the sole arbitrator as to what constitutes a violation of this Agreement. The Supplier, at its sole discretion, may charge the Customer a reconnection fee to have its Services reinstated.
- 20.15 Termination of this Agreement (or any element of it) shall not affect any rights, obligations or liabilities of either party that have accrued before termination or that are intended to continue to have effect beyond termination.

21. MONEY BACK GUARANTEE

- 21.1 The Customer is entitled to a cooling off period in which it may terminate these Terms or a Service, for any reason, without any penalty whatsoever, unless otherwise indicated in any related Supplementary Terms for that particular Service.
- 21.2 The cooling off period expires thirty (30) days after the Start Date of each Application for a new Service, unless otherwise indicated in any related Supplementary Terms for that particular Service.
- 21.3 The Customer shall, on request, be entitled to a full refund of any Charges, excluding any Setup Fees, unless otherwise indicated in any related Supplementary Terms for that particular Service.

22. PROCEDURE FOR DISPUTE RESOLUTION

- 22.1 Disputes pertaining to this Agreement shall be resolved as follows:
- 22.1.1 If the dispute is initiated by the Customer, the issue in dispute shall be raised to the Supplier in writing, by fax or by emailing management@kualo.com.
- 22.1.2 If the dispute is initiated by the Supplier, the issue in dispute shall be raised to the Customer in writing, by fax or by email.
- 22.1.3 Should this not resolve the dispute, the managing directors (or equivalent) of each party shall discuss the issues.
- 22.1.4 If the issue remains unresolved, it shall be referred to a jointly appointed mediator. If no mediator can be agreed upon, the President of the Law Society of England and Wales shall be called upon to appoint such a mediator.
- 22.1.6 If the dispute still remains unresolved, both parties agree that the courts of English law have exclusive jurisdiction to resolve said dispute as indicated in Clause 3.1.

23. MISCELLANEOUS TERMS

- 23.1 Persons who are not a party to this Agreement shall not have any rights under this Agreement.
- 23.2 If any part of this Agreement is found to be invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other provisions of this Agreement and such other provisions shall remain in full force and effect.
- 23.3 If either party fails to exercise a right or remedy that it has or which arises under this Agreement, such failure shall not prevent either party from exercising that right or remedy subsequently for that or any other incident.
- 23.4 A waiver of any breach or provision of this Agreement shall only be effective if made in writing, by fax or by email.

24. NOTICES

- 24.1 All notices to be given under this Agreement will be deemed to have been served only if delivered by hand, sent by pre-paid recorded post, fax or email, to the intended recipient at their last known postal, email address or fax number. The notice will be effective: if delivered by hand, on delivery; if sent by fax or email, when the sender receives confirmation of error free transmission or of receipt; and if sent by recorded post, when delivery is recorded.