

STANDARD CONDITIONS FOR INVOICE FINANCE

March 2019

1. INTRODUCTION

- 1.1 These Standard Conditions set out the terms and conditions upon which we have agreed to provide you with an invoice finance facility.
- 1.2 Terms set out in the Key Terms of this Agreement shall prevail over any inconsistent terms in these Standard Conditions.
- 1.3 References in this Agreement to numbered conditions are to conditions in these Standard Conditions.

2. DEFINITIONS AND INTERPRETATION

- 2.1 When used in this Agreement, the terms and expressions defined in Schedule 1 shall have the meanings given to them therein.
- 2.2 This Agreement shall be construed in accordance with Schedule 1.

3. DURATION OF THIS AGREEMENT

- 3.1 This Agreement will begin on the Commencement Date and will continue (subject to the remaining terms of this Agreement) for at least the Minimum Term. After the expiry of the Minimum Term this Agreement shall continue unless terminated in accordance with its terms.
- 3.2 Subject to Condition 3.1, this Agreement may be terminated by either of us giving to the other written notice of not less than the Minimum Notice, to expire on the last day of any calendar month. You may only serve such notice upon us after the expiry of the Minimum Term. We may serve such notice to you prior to the expiry of the Minimum Term. During any period of notice you must continue to comply with all your obligations to us. However, if all monies due to us shall not have been paid on or before the termination date of such notice then any notice given by you shall be ineffective and this Agreement will continue.
- 3.3 Should you wish to end this Agreement but give us notice of less than the Minimum Notice we may at our discretion agree to your request, subject to the following additional fee. For each month or part of a month that your notice falls short of the Minimum Notice the fee will be the higher of:
 - (a) the monthly average of the Factoring Fee earned in the six calendar months before we agree to accept your request; or
 - (b) the Minimum Factoring Fee in force immediately before we agree to accept your request.
- 3.4 We will be entitled to terminate this Agreement immediately upon or at any time following the occurrence of an Event of Default.
- 3.5 This Agreement shall be co terminus with any other facilities being offered by us to you and any other of your group companies.

4. OUR PURCHASE OF DEBTS AND NOTIFICATION

- 4.1 On the Commencement Date you transfer to us with full title guarantee the ownership of all Debts existing on the Commencement Date and all Debts created thereafter whilst this Agreement subsists. Each such Debt will belong to us on the Commencement Date or, in relation to any such Debt created after the Commencement Date, the moment it is created, without any further formality on the part of either you or us.
- 4.2 You must include each Debt to which this Agreement applies (other than a Non-Notified Debt unless otherwise required by us) on a Notification to be sent to us initially on the Commencement Date and thereafter within two days of the creation of any Debt or at such other times as we may require.

- 4.3 You must advise us immediately if a Deduction arises or anything else occurs which may cause the value of a Debt to be reduced, extinguished or made more difficult to collect. On the Commencement Date you will supply to us a copy of every credit note issued before the Commencement Date relating to any Debt then outstanding. Thereafter you will deliver to us promptly a copy of each credit note which you issue to any Debtor.
- 4.4 You must not agree to a Deduction in excess of the Credit Note Limit without our prior written consent. If we consent to any such Deduction, any relevant credit note must be issued immediately. If we have already made a Prepayment against the value of a Debt which subsequently has a credit note issued against it then we may debit the value of such credit note to the Sales Ledger Control Account.
- 4.5 We may require you to execute a written assignment of any Debt and its Related Rights at any time in such form as we may stipulate.
- 4.6 We may take such steps as we consider necessary to verify all or any Debts. We may also require that you provide us with such additional information or documentation as we may specify to evidence your entitlement to be paid the full value of any Debt either when that Debt is Notified or subsequently. We may treat a Debt as Disapproved until any such verification has been completed and we are satisfied with the information required by us.

5. NON-NOTIFIED DEBTS

- 5.1 No Prepayment will be made in respect of Non-Notified Debts unless we agree otherwise at our discretion. If Condition 4.2 is breached we may require that you refund any Prepayment wrongly made. If a Non-Notified Debt is wrongly Notified no refund of the Factoring Fee levied in respect thereof will be made.
- 5.2 If we agree to make Prepayment in respect of Non-Notified debts then all such debts shall be assigned to us in accordance with Condition 4.1 and shall be re-classified as Debts.
- 5.3 If we require, you will provide details of all Non-Notified Debts in any or all subsequent Notifications (or in such other manner as we may advise). You will provide such information to us promptly in the manner we specify.

6. NON-VESTING DEBTS AND SCOTTISH DEBTS

- 6.1 If any Debt fails to vest in us for any reason you will hold that Debt, its Related Rights and all proceeds thereof on trust for us.

The following provisions shall apply to Scottish Debts:

- 6.2 This condition contains a declaration of trust by you in our favour in respect of Scottish Debts. You constitute yourself trustee for and on behalf of us and constitute us the beneficiary of the trust. The trust property, which you hold on trust for us as trustee is as specified in this condition, or as provided elsewhere in this Agreement.
- 6.3 By our execution of this Agreement, we acknowledge having received intimation of the creation of the foregoing trust, and that we know the property that is and will be trust property. Accordingly, you and we agree:
 - (a) immediately that you receive any money or instrument in payment of, or on account of, or in any way relating to a Scottish Debt or its Related Rights, you will hold it in trust for us as part of the property of the trust created by this condition and you will pay it into such account or deal with the same as we may specify;
 - (b) all Scottish Debts and their Related Rights purchased or to be purchased by us under this Agreement, together also with all other sums or property, including Goods, which in terms of this Agreement relate to Scottish Debts and are to be held in trust for us shall be the property of this trust except where, or until;
 - (i) in the case of each of the Scottish Debts, we have a complete and unencumbered title thereto, in accordance with Scots law, or
 - (ii) in the case of each of the Related Rights, we receive payment in full of the Scottish Debt to which such Related Rights relate or complete our title thereto; or
 - (iii) in the case of each of such other sums or property, including Goods, as we receive payment of such sums or complete our title to such property. Scottish Debts and Related Rights shall become trust property, for Scottish Debts and their Related Rights existing on the Commencement Date, or as soon as they come into existence, and, in the case of everything other than such Scottish Debts and Related Rights, as soon as the Scottish Debts come into existence;
 - (c) the delivery to us of a Notification shall constitute notice to us that those of the Scottish Debts in existence at the Commencement Date as specified in that Notification, and their Related Rights, have become trust property, except where we already have a complete and unencumbered title thereto;
 - (d) condition 4.1 will apply to all Scottish Debts and in relation to the purchase of Scottish Debts and their Related Rights the words “...(and an absolute warranty in relation to Scottish Debts)...” shall be deemed inserted after the words “...with full title guarantee...”;

- 6.4 We may at any time give notice to any Debtor or any other person as we may think fit of the existence of the foregoing trust and that any payment is to be made to us. You shall give like notice if we ask you to;
- 6.5 In granting this declaration of trust; you hereby, further agree and declare that;
- (a) at any time, including on the occurrence of any of the events referred to in Condition 17, we as beneficiary under the trust may call on the trustee to denude in our favour and transfer to us absolutely the legal title to the whole or any part of the property of the trust, and
 - (b) we, acting by our directors, company secretary and other officers jointly and each of them severally (and any person to whom we may have assigned or novated our rights under this Agreement) are (notwithstanding the generality of any other terms of this Condition 6 above) hereby appointed by you as your attorneys and mandatories (in our or that person's own interest) and your successors as trustee under the trust with full power both before and upon the Insolvency of such trustee to conduct, defend or compromise any legal proceedings in relation to the trust or trust property in your name as trustee or in our name, to agree to and accept any call made on the trustee under condition 6.5(a) above and to grant, execute, sign and bind any assignments, intimations, documents of transfer, or other deeds and documents necessary or in our view desirable to give us, as beneficiary of the trust, a real right in our own name to the whole or any part of the property of the trust and to deliver the same, and to take all other steps that we or our assignee considers necessary, and generally to bind you as trustee thereunder. You shall ratify and confirm whatever shall be lawfully done under these powers.
- 6.6 You shall, if so required by us, and in such terms as we may reasonably require, grant such security in favour of us over Scottish Debts and their Related Rights which fail to vest in us as described in the foregoing terms of this condition 6.
- 6.7 An assignment pursuant to clause 4.1 of the Agreement, to the extent that it relates to Scottish Debts, shall be in support of and shall not affect that granted by you under this condition 6 above, or in any Notification.
- 6.8 If you are a Scottish company registered in Scotland, you hereby consent to the registration of this Agreement and of any statement provided under this condition 6 for execution.

7. PURCHASE PRICE

- 7.1 The Purchase Amount of each Debt will be:
- (a) the amount actually received by us in settlement or discharge of that Debt; less
 - (b) any Customer's prompt payment discount, all Deductions, Retentions and all Charges relating to (or apportioned to) that Debt.
- 7.2 We will, subject to all Conditions Precedent having been met to our satisfaction, pay the Purchase Amount in accordance with Condition 11 of this Agreement. If we make any payment of the Purchase Amount before all of the Conditions Precedent have been met then you agree you will satisfy the outstanding conditions within such period as we may specify at the time or subsequently.
- 7.3 No Prepayment will be made by us in respect of any Debt which is Disapproved, which has not been properly Notified and/or which does not comply with all other relevant requirements set out in this Agreement.

8. CLASSIFICATION OF DEBTS

- 8.1 All Notified Debts will be classed as Approved or Disapproved.
- 8.2 A Debt which has been Notified to us in accordance with the terms of this Agreement will be Approved provided (and for so long as):
- (a) the addition of that Debt does not cause any Customer Limit to be breached;
 - (b) any verification carried out by us pursuant to Condition 4.6 has been completed satisfactorily;
 - (c) it is not a Non-Notified Debt;
 - (d) it is not and has not become Disapproved pursuant to Conditions 8.3 or 8.4;
 - (e) you have complied with all of your notification obligations under Condition 10; and
 - (f) it is not a Debt in respect of which we have exercised any Recourse Right.

- 8.3 We may at any time (without giving any reason) with immediate effect:
- (a) classify any Debt as Disapproved;
 - (b) classify any Disapproved Debt as Approved;
 - (c) establish a High Involvement Percentage or Retention in relation to any Customer or increase an established Retention or High Involvement Percentage or reduce (including a reduction to nil) any established Retention or High Involvement Percentage.
- 8.4 Without affecting the generality of clause 8.3, a Debt (and in the case of Conditions 8.3(f) and 8.3(g), all Debts) will be or become Disapproved in the following circumstances:
- (a) upon expiry of the Recourse Period applicable to that Debt;
 - (b) if you are in breach of any warranty or undertaking given to us in relation to that Debt or its Related Rights or the Debt is disputed by the Customer;
 - (c) if it is a Non-Notified Debt;
 - (d) if it is regarded (under Condition 9.5) as Disapproved because of a breach of a Customer Limit;
 - (e) if it is a Debt in respect of which we are entitled to exercise a Recourse Right, even if we may refrain from doing so;
 - (f) upon the occurrence of an Event of Default relating to that Debt (irrespective of whether or not we exercise any right to terminate this Agreement);
 - (g) upon Termination;
 - (h) if the Contract to which the Debt relates contains staged payment terms;
 - (i) if the Contract to which the Debt relates contains sales to a consumer;
 - (j) if the Customer under the Contract to which the Debt relates is an Associate of yours;
 - (k) if a Debt is at any time the subject of legal proceedings for its recovery;
 - (l) if it is a Debt with payment terms in excess 60 days from the end of the month in which the invoice was raised
- 8.5 If a Debt which was Approved is designated as or becomes Disapproved (or a Retention is applied to a Debt) then you must repay to us all Prepayments made in respect of such Debt (or the amount of the Retention if less). We may at our option recover such Prepayments by debiting the relevant amount in whole or part to the Current Account.
- 8.6 At our option we may exercise our Recourse Right in respect of any Debt which is or becomes Disapproved and/or reassign such Debt to you.
- 8.7 You will observe all operational procedures we may from time to time notify you of in relation to this Agreement and/or regarding your dealings with Customers.

9. CUSTOMER LIMITS

- 9.1 We may in our discretion notify you from time to time of Customer Limits applicable to your Customers (including New Customers). These may apply to individual Customers or to categories or concentrations (also referred to as "high involvements") of Customers and may be varied or cancelled entirely at our discretion. We will not have to give any reason for any such variation or cancellation.
- 9.2 If we have not specified a Customer Limit for any of your Customers then we can decide in our discretion whether or not to treat a Debt owed by that Customer as Approved or Disapproved. Any Approval of such a Debt shall not imply that we have agreed a Customer Limit in respect of that Customer.
- 9.3 When requesting an increase in a Customer Limit, you must provide us with all information we require in order to determine the appropriate Customer Limit.
- 9.4 Once a Customer Limit has been specified for a Customer all Notified Debts owed by that Customer will (subject to the other requirements specified in Condition 8.2 and 8.3) be Approved.
- 9.5 Without prejudice to Condition 4.2, which must at all times be complied with, Notified Debts in excess of a Customer Limit will be Disapproved (in whole or in part) starting with the oldest invoice. Once Approved Debts due from such Customer have been discharged to our satisfaction then Debts which were Disapproved pursuant to this Condition 9.5 will become Approved, in whole or in part, (with the oldest dated Debts becoming Approved first) but only to the extent that such Customer's Customer Limit and Recourse Period are not exceeded.

10. NOTICE OF ASSIGNMENT

- 10.1 Before Notifying a Debt for a New Customer you must first prepare an Initial Notice on your notepaper, which you must send to us so that we may, at our discretion send it to the relevant Customer on your behalf (which we will do so if you have a disclosed facility with us).
- 10.2 If you have a disclosed facility or if a confidential facility and we request, each Invoice you prepare or we prepare on your behalf if you have appointed us to do so or if we have cancelled your agency pursuant to Condition 12.1 (other than exclusively for Non-Notified Debts) must include a notice of the assignment of the relevant Debt (and all Related Rights) in terms acceptable to us.
- 10.3 We may require that further or amended notices of assignment of Debts be issued to Customers from time to time in such terms as we may specify.

11. OPERATION OF YOUR ACCOUNTS WITH US

11.1 We will record the Notified Amount of all Debts in an account designated as your "Sales Ledger Control Account". This account will also record all Collection Amounts received by us and all adjustments to the Notified Amount of such Debts. We will also operate an account in our books and in your name designated as your "Current Account".

11.2 We will:

(a) Debit to the Current Account:

- (i) all Prepayments;
- (ii) the balance of the Purchase Amount paid pursuant to Condition 11.3(b);
- (iii) all other payments made by us to you under this Agreement or under any other agreement entered into by you with us or for which you are liable under any guarantee or otherwise owe to us for any reason;
- (iv) all Charges and other amounts payable by you to us or which we are entitled to claim or recover from you under or pursuant to this Agreement; and
- (v) all Disbursements (including standard rate charges as notified from time to time).

Our list of Standard Rate Disbursements will vary from time to time. You can obtain a copy of the current rate schedule at []. If at any time you make a request for additional services then, if we agree to your request, we shall be entitled to make an ancillary charge for those services. The amount of any ancillary service charges will be notified to you in advance.

(b) On the next working day following notification or receipt, credit to the Current Account:

- (i) all Collection Amounts received by us;
- (ii) all amounts paid by you to repurchase Debts pursuant to this Agreement; and
- (iii) all other payments received by us from you under this Agreement.

11.3 You may request that we make payments towards the Purchase Amount due in relation to the purchase by us of Debts. Subject to the terms of this Agreement we will:

- (a) if a Notification is received before 1pm on any Business Day, make a Prepayment to you in respect of the amount unpaid, in whole or in part, of all Approved Debts on the same date as receipt of a Notification together with all of the matters required by Condition 4.2. The amount of that Prepayment will be calculated in accordance with Condition 11.4(b); and
- (b) pay to you the balance of the Purchase Amount calculated as provided in Condition 7.1 equal to each Collection Amount as received by us less the Prepayments made under Condition 11.3(a) and all other amounts referred to in Condition 7.1(b) and/or discharged by us by set off under Condition 28.3. This further amount, if any, can be requested to be paid to you after receipt of the relevant Collection Amount in cleared funds.

11.4 For the purpose of Condition 11.3(a):

- (a) if a Notification is received after 1pm, on any Business Day then it will be deemed received on the next Business Day; and
- (b) the amount of the Prepayment will (subject to Condition 11.5) be the Notified Amount of Approved Debts specified in the relevant Notification multiplied by the Approved Funding Percentage less the Factoring Fee applicable thereto and all Deductions, Retentions and/or Charges relating to such Approved Debts and all other amounts we may choose to set off against or discharge under Condition 28.3.

- 11.5 We will not be obliged to make any payment to you under this Condition 11 and you will not be entitled to payment of any amount (including any Prepayment, Purchase Amount or any Available Funds):
- (a) if the payment would cause the debit balance on the Current Account to exceed the Funding Limit;
 - (b) if the making of such payment would cause a specific or general High Involvement Percentage to be breached or would breach any Customer Limit;
 - (c) if you are Insolvent;
 - (d) after the occurrence of an Event of Default; or
 - (e) after notice of Termination has been served under this Agreement.
- 11.6 We may, in our absolute discretion, make Prepayments to you in excess of the amounts provided for in this Condition 11 or which cause a Funding Limit, Customer Limit or High Involvement Percentage to be breached. If we do so this will be on such terms and subject to such additional charges as we may specify at the time or subsequently but otherwise will be governed by the terms of this Agreement.
- 11.7 You will repay to us on demand:
- (a) the amount by which any Prepayment made exceeds at any time the relevant Purchase Amount for any Debt;
 - (b) all Prepayments made in respect of Debts which are or have become Disapproved; and
 - (c) the amount by which the debit balance on your Current Account exceeds the Recoverable Balance of all Approved Debts multiplied by the Approved Funding Percentage.
- 11.8 Subject to the other terms of this Agreement, you may request that we pay to you any credit balance on your Current Account by direct transfer to your Nominated Account. Interest does not accrue on any such credit balance.
- 11.9 In addition to the above, we may at any time debit to the Current Account the amount of any liability owed by you to any Paragon Group Company under any Related Finance Agreement. You authorise us to guarantee the payment of any of your obligations to any Paragon Group Company under any Related Finance Agreement and agree to indemnify us in respect of all sums paid under any such guarantee.

12. AGENCY

- 12.1 We may at any time appoint you as our agent to (i) maintain and administer the accounts of Customers (ii) send statements and demands to your Customers and (iii) collect the Debts and to enforce the Related Rights.
- 12.2 If we have appointed you as our agent to collect Debts and enforce the Related Rights we may cancel your agency to collect Debts and enforce the Related Rights at any time. If such agency is cancelled then:
- (a) only we, or our appointed agents, are entitled to collect payment of Debts and enforce the Related Rights;
 - (b) you must provide all your financial and other accounting records requested by us;
 - (c) you must notify or at our discretion we will do so on your behalf all your Customers of our legal and/or beneficial interest in and towards the Debts due and owing from the relevant Customer; and
 - (d) unless there has been an Event of Default and we have exercised our rights under Condition 17.4(i), you will pay to us a fee equivalent to 5% of the Notified value of all Debts owed to you at the time of cancellation of the agency and those Debts coming into existence thereafter.
- 12.3 You undertake in the event of an appointment under Condition 12.1 you will:
- 12.3.1 act promptly and efficiently at your expense in carrying out the tasks for which you have been appointed as our agent in accordance with any directions which we may give to you from time to time;
 - 12.3.2 retain on our behalf all records and documents on or by which any Debts purchased by us are recorded or evidenced until the full discharge of all your obligations or any earlier delivery to us of such records or documents upon our demand; and
 - 12.3.3 not hold yourself out as our agent for any purpose other than the tasks for which you have been appointed as our agent nor hold yourself out as our agent for any purposes except while the agency remains in effect; and
 - 12.3.4 immediately give to every Customer, by which any Debt is owing upon the date of that appointment, such notice and to ensure that every invoice issued by you after that bears such prominent and legible notice in each case as is considered requisite by us for the agency.

- 12.4 So long as you are our agent for the purpose described above you will provide us with the following:
- 12.4.1 by the fifteenth day (or such other day as we may direct) of each month and at such other times as we may require by oral or written notice to you:
- 12.4.1.1 a list of your outstanding Debts on the last day of the previous month (or such other day as we may specify in writing) analysed by reference to the dates on which the Debts are due for payment;
- 12.4.1.2 full details of all Debts in respect of which the Debtor fails to accept in full the Goods or the invoice for them and of the reasons for such failure;
- 12.4.1.3 a list of all your creditors and amounts owing to them analysed by reference to the dates on which those amounts are due for payment; and
- 12.4.1.4 such other information relating to your financial affairs as we may at any time request.
- 12.4.2 a reconciliation of the ledger on which the Debts are recorded by you with any copy of our records of the same sent by us to you within seven days of your receipt of that copy.
- 12.5 In the event of an appointment under Condition 12.1 you authorise us (or any person nominated by us) to contact Customers to verify the existence and amount of each Debt due from them, the due date for payment and, where the Debt is overdue, the expected date of payment. You will co-operate with us (or the person nominated by us) in carrying out any verification of your Debts and, if required by law or following a request from any of your Customers, you consent to the disclosure of our identity (or the identity of any person nominated by us). You acknowledge and confirm that any person nominated by us to carry out a verification of your Debts will act on your behalf but will report the results of its investigations to us.

13. COLLECTION OF DEBTS

- 13.1 If you receive any cash, remittance or instrument in or towards payment of a Debt then you must advise us immediately and irrespective of whether we have appointed you as our agent to collect Debts and enforce the Related Rights, you will receive and hold such amount on trust for us and, pending payment to us in accordance with Condition 13.2, keep the amount received separate from your own money and hold it on trust for us.
- 13.2 All amounts received by you as referred to in Condition 13.1 must be paid into the Collection Account immediately upon receipt.
- 13.3 If we have not appointed you as our agent or if we have cancelled your agency in accordance with Condition 12.1 we will have the sole and unfettered right to invoice a Customer (and issue a Credit Note as the case may be) and to collect and enforce payment of all Debts in whatever way we see fit, including by instituting, carrying on or defending any legal proceedings whether in our or your name and in any part of the world. We may settle, adjust or compromise any such proceedings or claim in our discretion.
- 13.4 Unless we have appointed you as our agent to collect Debts and enforce the Related Rights, you will not take any step or steps to collect any outstanding Debt whether wholly or in part or interfere with or challenge our collection of Debts or the enforcement of any of the Related Rights.
- 13.5 We may:
- (a) accept payment from a Customer of a sum of less than the Notified Amount in satisfaction of the relevant Debt but without then reducing your liabilities under this Agreement; and/or
- (b) take possession of any Returned Goods and sell them (or require you to sell them on our behalf) on such terms as we see fit. The net proceeds of sale, after deduction of all costs and expenses incurred, will be applied as a Collection Amount in respect of the Debt concerned.
- 13.6 You will, at your own cost and in the manner we require, co-operate with us to assist in the collection and enforcement of all Debts and Related Rights, including by exercising or enforcing your rights under any Contracts specified by us, providing witnesses and evidence within your possession or control and by allowing us access to all of your employees and records.
- 13.7 To assist in the collection or enforcement of Debts you agree that we (or our agents) may enter into your premises (and any other premises under your control where the Goods or Returned Goods are located or relevant services are to be performed) to inspect any of the same and all records referred to above or to perform or complete performance of any Contract or other contract collateral thereto.

- 13.8 You will notify us immediately if any Returned Goods come into your possession or the relevant Customer advises you it has or will reject Goods supplied under a Contract. You will ensure that all such Returned Goods are:
- (a) collected by you (where required) and kept separate from your own goods, clearly marked as belonging to us, properly and safely stored;
 - (b) insured by you on our behalf or with our interest noted;
 - (c) only dealt with as we may direct; and
 - (d) that you provide such assistance as we may require to facilitate the sale of the Returned Goods including arranging for their sale on our behalf if we so require.
- 13.9 We will not be under any obligation to take any steps referred to in this Condition 13 or to institute or to defend any legal proceedings by or against us or you and which relate to any Debt, Related Right or Contract.
- 13.10 You will be bound by any act or omission of ours in the exercise of our rights under this Agreement, including by any consequent reduction or extinction of the Purchase Amount. We will not have any liability to you in respect of any such matter.
- 13.11 As between you and us, we may allocate any Collection Amount between different Debts owing by a Customer as we see fit irrespective of any allocation made by that Customer.
- 13.12 We will provide you with an online monthly statement listing all Notified Debts and the balance unpaid, in whole or in part, (and showing a nil balance for all Debts collected in full during the period since the last such statement). You will be deemed to accept each such statement of account as accurate and binding on you unless such statement contains a manifest error. Unless we have appointed you as our agent, you must not issue any statements of account directly to your Customers.
- 13.13 If we are satisfied that a Customer has overpaid we will be entitled to return that overpayment to the Customer. Pending return of the excess payment we may ignore receipt of the relevant amount for the purpose of calculating compliance with all limits applicable under this Agreement and when calculating the Factor's Discount.
- 13.14 If we appoint you, at our sole discretion, as our agent to collect Debts and enforce the Related Rights;
- (a) you will carry out your duties as our agent honestly, efficiently and in accordance with our instructions;
 - (b) you will not negotiate or compromise any Debt or agree with a Customer to extend the time to pay any Debt without our prior written consent;
 - (c) you will maintain your own sales ledger setting out in detail the steps you have undertaken to collect the Debts and upon our request provide us with copies of such sales ledger together with such steps taken to collect the Debts;
 - (d) you will send to us once a month, or more frequently if requested by us, a statement of transactions undertaken on every bank account maintained by you;
 - (e) you will retain and supply to us upon our request all forms of evidence of a payment rendered in discharge of a Debt, including monies recovered under any insurance policy, a refund of VAT and any dividend payable in respect of a Debt; and
 - (f) you will tell all your Customers that payment of all Debts must be made into the Collection Account. If you have a confidential invoice finance facility with us the details of the Collection Account must be clearly legible in a prominent position on all invoices and account statements sent to Customers within [30] days of the date of the Commencement Date and on each invoice coming into existence and sent to Customers thereafter.

14. REPURCHASE

- 14.1 We may require you by written notice to repurchase any Debts which have become Disapproved and, in addition, all or any Debts that are owed by a Customer:
- (a) who has failed to pay a Debt within the Recourse Period (irrespective of whether or not that Debt is Approved or Disapproved); or
 - (b) who is Insolvent; or
 - (c) in respect of whom solicitors or collection agents have been instructed to take action to collect an Approved Debt; or
 - (d) in respect of whose Debts you are in breach of any warranty given to us (or would be if such warranty were to be repeated at that time); or
 - (e) in circumstances where in excess of 20% of the total amount owing by such Customer is more than 60 days overdue.

- 14.2 We will not exercise our right to require that you repurchase Debts to the extent that a Debt is a Customer Protected Debt and the provisions of Condition 15 apply to it.
- 14.3 We may require you to repurchase all Debts following the expiry of any notice to terminate this Agreement.
- 14.4 The repurchase price payable by you for a Debt will be an amount equal to all Prepayments made by us in respect of that Debt plus all Charges and other amounts payable or recoverable under this Agreement as apportioned by us to that Debt.
- 14.5 You may not require us to sell to you any Debt.
- 14.6 Once you have paid the repurchase price for all of the Debts you have been required to repurchase (as calculated in accordance with Condition 14.4), but not before, such Debts will re-vest in you. If requested we will, at your cost, execute a formal assignment of the Debts repurchased by you.
- 14.7 If you are required to repurchase all of the Debts, then, at our option we may treat the repurchase price as paid in full once you have paid us an amount equal to the debit balance on the Current Account inclusive of all Charges incurred to the date of payment.
- 14.8 Following any Debt being repurchased by you under this Condition 14 we will not have any further liability to you whatsoever in respect of that Debt.
- 14.9 Any notice served by us to require you to repurchase any Debts will not prejudice any of our other rights under this Agreement and payment of any repurchase price will not prejudice or alter our entitlement to be paid all of the Charges provided for in this Agreement.

15. CUSTOMER PROTECTION

The following terms apply where you have Customer Protection.

- 15.1 Subject to the conditions set out in this, Condition 15, we will accept the risk of Customer Failure in respect of Customer Protected Debts. For the avoidance of doubt, we will not accept risk of Customer Failure in relation to Customer Protection Ineligible Debts.
- 15.2 Your application for Customer Protection Credit Limits must be submitted through the Site. Information submitted to us must be complete and accurate. You must immediately tell us of:
 - (a) any financial difficulties experienced by a Customer;
 - (b) any change to the information originally given to us in support of an application for a Customer Protection Credit Limit; and
 - (c) any other information known to you which may affect our decision to establish or maintain a Customer Protection Credit Limit.
- 15.3 We will send you notice of the establishment, cancellation, reduction or variation of Customer Protection Credit Limits through the Site. We are not obliged to give you any reason for our decision. Notice of the cancellation or variation of a Customer Protection Credit Limit will be effective and binding on you immediately on the relevant information being published on the Site. Following the cancellation or reduction of a Customer Protection Credit Limit, at our request you will send to us a list of Outstanding Customer Protected Debts due by the relevant Customer.
- 15.4 You will pay, or we may debit to your Current Account, the charges applicable to Customer Protection as set out in the Customer Protection Offer Letter.
- 15.5 If the aggregate of all Debts due by a Customer is greater than the relevant Customer Protection Credit Limit, Debts will be treated as Customer Protected Debts or Customer Protection Ineligible Debts respectively according to the dates of the relevant invoices.
- 15.6 Where you act as our agent to collect Debts you shall comply with the Minimum Credit Control Procedures whilst any Customer Protected Debt is Outstanding. You must not despatch any goods nor render any services if you have reason to believe that the relevant Customer is experiencing financial difficulties.
- 15.7 We will not be liable for any costs that you incur in relation to your credit control activity in relation to a Customer Protected Debt unless we have given our prior written authorisation to those costs.
- 15.8 Where a Customer Protected Debt is a Take On Notified Debt, only part of the Customer Protection Credit Limit will apply to any such Customer Protected Debt. That part of the Customer Protection Credit Limit that will apply to and such Debts will be specified in the Customer Protection Offer Letter.

- 15.9 If you wish to make an application for a payment to be made to you in respect of a Customer Protected Debt, you must provide us with such evidence as we may reasonably require to show that all of the conditions applicable to the making of that application are met. You must submit applications for payment with full supporting documentation, within 6 months of the relevant Customer Failure having occurred.
- 15.10 You must inform us of any Customer Failure or any circumstances which may reasonably be expected to result in an application for a payment being made to you in respect of a Customer Protected Debt within 2 Business Days of your becoming aware of the relevant act or circumstance.
- 15.11 If you comply with Conditions 15.9 and 15.10 in relation to the relevant Customer Protected Debts, we shall pay to you the balance of the Purchase Amount of all Customer Protected Debts then Outstanding. The Purchase Amount of a Customer Protected Debt which is Outstanding after a Customer Failure shall, subject to the limitations and exclusions set out in this Agreement, be the lesser of:
- (a) the Protected Percentage of the amount of the Customer Protected Debt, after the deduction of VAT; and
 - (b) the amount of the Customer Protected Debt, after the deduction of VAT and the deduction of the Minimum Retention.
- 15.12 The Purchase Amount of all Customer Protected Debts payable in accordance with Condition 15.11 shall be applied to the Current Account within 60 days of our receiving from you the evidence that we require under Condition 15.9.
- 15.13 We will not be liable to pay the Purchase Amount of a Customer Protected Debt if:
- (a) you have failed to comply with the terms of this Condition 15;
 - (b) a Customer Protection Credit Limit has been established or maintained or we have provided Customer Protection to you, as a result of any misrepresentation, concealment of any material fact or dishonest act or omission by you;
 - (c) you make any statement report or claim in relation to the Customer Protection which is false or fraudulent or conceal any material fact in relation to the Customer Protection.
- 15.14 If we pay to you the Purchase Amount of a Customer Protected Debt, you will provide to us all reasonable assistance to enforce our rights in respect of that Customer Protected Debt and recover any dividends or any refund of VAT.
- 15.15 Within 15 Business Days of the end of each month, you shall submit to us through the Site a monthly report showing all outstanding Debts owed by a Customer to you that are unpaid after 60 days from the Due Date at the end of the previous month. You are required to report all Debts that are 60 days overdue, including in respect of any Customer where a Customer Protection Credit Limit has ever been held, even if that limit is now zero. You must continue to report each of these Debts on a monthly basis until the relevant account is up to date, or you have submitted an application for a payment to be made to you in respect of that Debt, in accordance with this, Condition 15.
- 15.16 You warrant and agree that you will not incur any further exposure following the occurrence of an event that may reasonably be expected to result in a Customer Failure and you will use all measures to prevent, mitigate and minimise any losses occurring after a Customer Failure. You also agree to cooperate with us and to take all reasonable steps, before or after any application for a payment in relation to a Customer Protected Debt to effect recoveries of any amounts due including, at the written request of us, the enforcement of any security and the institution of legal proceedings against the Customer.
- 15.17 We may terminate the provision of Customer Protection at any time by giving you not less than 30 days' notice in writing. In this case, all Customer Protection Credit Limits will be cancelled automatically and we shall not bear the risk of Customer Failure in respect of any Customer Protected Debt that is Outstanding at the date of termination.
- 15.18 We may reduce, decline or cancel a Customer Protection Credit Limit at any time with immediate effect on notice to you. Any reduction or cancellation of a Customer Protection Credit Limit will not affect the Customer Protected Debts that were Outstanding at the date of the reduction or cancellation except where Condition 15.17 applies or we cancel a Customer Protection Credit Limit under Condition 15.19.
- 15.19 We may cancel a Customer Protection Credit Limit without notice and treat any Customer Protected Debt as a Customer Protection Ineligible Debt if:
- (a) we give notice to terminate the Agreement in accordance with Condition 17; or
 - (b) there occurs an event entitling us to terminate this Agreement (whether or not it is terminated by us).

16. EXCLUSIONS OF LIABILITY

- 16.1 Neither the classification by us of a Debt as Approved, the specification of or revision to a Customer Limit, any adjustment to our assessment of the Recoverable Balance nor any other statement made by us or on our behalf will constitute any representation or indication by us of the validity or collectability of a Debt or the credit worthiness of a Customer or category of Customers. We will have no liability to you in respect of any such matters.
- 16.2 To the maximum extent permitted by law, we will not be liable to you if we are prevented from or unable to perform our obligations under this Agreement as a result of any unforeseen event or occurrence or circumstances outside of our reasonable control. Nor will we in any event have any liability to you for any consequential or indirect losses including damage to or loss of the goodwill or profit of your business arising from any breach by us of any such obligation.
- 16.3 We shall not be liable to you for any act or omission that we or another person on our behalf take or omit to take in collecting each and any Debt or enforcing its Related Rights. Nor shall we be liable to you in our preparation, content and/or submittal on your behalf of any invoice to a Customer under which a Debt or Related Right arises or in respect of the issue of any Credit Note.
- 16.4 You must commence any action against us in relation to this Agreement no later than 24 months following the relevant event giving rise to the claim.

17. EVENTS OF DEFAULT

- 17.1 Each of the following constitutes an Event of Default:
- (a) you fail to make any payment when due under the terms of this Agreement or any other agreement entered into with us; or
 - (b) you fail to observe and perform your obligations under this Agreement (or under any other agreement with us or any Paragon Group Company, including pursuant to any Related Finance Agreement) or you breach any covenant, undertaking, representation or warranty given by you under this Agreement (or any other agreement entered into by you with us or any Paragon Group Company, including pursuant to any Related Finance Agreement) or we serve notice to terminate or determine any such other agreement or accelerate the payment of amounts due thereunder; or
 - (c) any information which you have given to us in connection with the entering into of this Agreement or any representation or warranty contained in or made under this Agreement or any other agreement, guarantee or security entered into by you with us is or becomes false or you make a disclosure against such a warranty that we are not prepared to accept; or
 - (d) you do anything (or omit to do anything) which leads to a deterioration in your financial position or any other event, circumstance or matter occurs which in our opinion materially prejudices or may materially prejudice your ability to pay amounts when due under this Agreement; or
 - (e) any other person who has given any guarantee or security to us for or in respect of your obligations fails to observe or perform the terms and conditions thereof or gives any notice to determine or purport to determine any such guarantee or security, if any such person becomes Insolvent or if we terminate or issue notice of default under any other agreement we may have entered into with any such person; or
 - (f) you, or any director or shareholder (in the case of a company), or member (in the case of an LLP), or partner (in the case of a partnership) becomes Insolvent or any step is taken which could result in you (or any of such persons) becoming Insolvent; or
 - (g) you (being an individual person or persons) or any individual person comprising you dies or becomes of unsound mind; or
 - (h) you, being a body corporate, undergo a change of Control; or
 - (i) any of your directors is disqualified from acting as a director or receives a criminal conviction (not being for a traffic violation only not resulting in a custodial sentence); or
 - (j) you repay any loan made to you by an Associate of yours without our prior written consent; or
 - (k) you fail to issue a Notification for a period of 30 days or more and/or or we have any reason to believe you are not properly Notifying Debts in accordance with this Agreement; or
 - (l) if you can apply to voluntarily settle or terminate any other agreement entered into between you and us, or to prepay early any amounts owing or outstanding thereunder; or
 - (m) any of the above events or circumstances occur in relation to an Associate of yours or you or any Associate of yours enters into any other factoring or invoice discounting agreement without our prior written consent; or

- (n) if the nature of your business changes materially; or
- (o) if any of your directors or partner, or any partner of yours if you are an LLP, ceases to be a director or is disqualified from acting as a director (or partner if you are an LLP) and is not replaced within 3 months by an individual acceptable to us or any shareholder, director or partner (or partner, if you are an LLP) is convicted of a criminal offence involving dishonesty; or
- (p) if any person who waived, gave consent, priority or released in our favour its rights to any Debts withdraws such waive, consent, priority or release or otherwise asserts a claim to any Debt, its Related Rights or any proceeds thereof; or
- (q) the commission by you of an offence of money laundering or any transaction giving us grounds to suspect that you are, or may be, engaged in money laundering; or
- (r) any procedure being used against you to attach or take possession of any of your assets;
- (s) any circumstances arise which, in our reasonable opinion, make it unlawful in any jurisdiction for you or us to perform our respective obligations under this Agreement.

17.2 In Conditions 17.1(a), 17.1(b), 17.1(c) and 17.1(l) the word “us” will also refer to any Associate of ours.

17.3 Any notice issued under Condition 17.1 is a “Default Notice”.

17.4 If an Event of Default occurs then you will have repudiated this Agreement and we shall, without prejudice to our other rights under this Agreement, then or at any time thereafter, be entitled:

- (a) to serve a Default Notice; and/or
- (b) to adjust or reduce to zero the Approved Funding Percentage, the Available Funds and any other funding or other limit specified in this Agreement; and/or
- (c) to designate all or any Approved Debts as Disapproved; and/or
- (d) to require that you pay to us the balance on the Current Account and all other sums due or outstanding under this Agreement; and/or
- (e) to increase the Factor’s Discount by five percentage points per annum;
- (f) to require you to pay to us the sum payable pursuant to Conditions 22.4 and / or 22.6 and / or 22.7; and/or
- (g) to cancel all Customer Protection Credit Limits.
- (h) to terminate this Agreement;
 - (i) to increase the Factoring Fee to [3%] of the notified amount of all Debts (both in respect of all outstanding Debts at that time and all Debts subsequently notified to us).

18. FINANCIAL INFORMATION

18.1 You will send us:

- (a) copies of your management accounts for such periods and at such times as we may specify in Section 4 of the Key terms or as otherwise required from time to time;
- (b) a final and appropriately signed copy of your annual financial statements. These must be provided within 180 days of the end of the applicable financial year and be audited (if you are a limited company or incorporated as an LLP) or certified as true and correct by a firm of chartered or certified accounts (if you are a sole trader or partnership);
- (c) copies of all bank statements within one week of receipt in respect of all bank, building society or similar accounts maintained by you;
- (d) a copy of your purchase ledger each calendar month within 15 days of the end of the calendar month which such purchase ledger relates to; and
- (e) all such other financial and other information relating to your business, Debts, Contracts or Related Rights as we may from time to time require.

18.2 We may at any time conduct an audit of your business and for this purpose you will allow full access to your premises, accounting and transaction records and books and staff. The costs incurred in conducting such an audit will be payable by you and may be debited to the Current Account.

19. REPRESENTATIONS WARRANTIES AND UNDERTAKINGS

- 19.1 You hereby (and will, each time that you submit a Notification to us, be deemed to) represent and warrant to us that:
- (a) you have disclosed to us every material fact or matter which you know, or ought to have known, might influence us in deciding whether or not to:
 - (i) enter into or continue operating this Agreement; and / or
 - (ii) set or vary the Funding Limit; and / or
 - (iii) classify any Debt as Approved or Disapproved; and / or
 - (iv) accept any person as an indemnifier or guarantor of your liabilities to us; and
 - (b) all reports, accounts, records, data and information supplied to us by you are accurate and complete; and
 - (c) you are the owner of all the Debts and, except as disclosed to us in writing prior to the Commencement Date, there are no Encumbrances affecting any of the Debts and there is no agreement for the sale or the creation of any Encumbrance over any of such Debts; and
 - (d) all information supplied by you to us was and will be true and accurate; and
 - (e) you will take reasonable care in the granting of credit and will not, without our prior written consent, materially change your credit control procedures from those in place at the Commencement Date; and
 - (f) you are properly registered under the Data Protection Act 2018 and that you will maintain that registration in full force and effect.
- 19.2 The warranty in Condition 19.1(a) above includes, but is not limited to, any past Insolvency of your directors or shareholders or of any company in which they have been interested or of any disqualification at any time of any of your directors or any shadow directors (as defined by the Insolvency Act 1986) from acting as a director.
- 19.3 You represent and warrant to us, in relation to each Notified Debt, that:
- (a) the Contract giving rise to that Debt:
 - (i) is valid, binding and enforceable against the Customer; and
 - (ii) was entered into in the ordinary course of your business on your Standard Terms of Business; and
 - (iii) is governed by English law or such other law approved by us in writing;
 - (iv) does not provide for the Customer to submit to the jurisdiction of any court apart from the English Courts; and
 - (v) does not include any prohibition against assignment of the Debt or of the whole or any part of the Contract; and
 - (vi) provides for payment in an Approved Currency; and
 - (vii) is not regulated by the Consumer Credit Act 1974.
 - (b) In relation to the relevant Customer:
 - (i) such Customer has an established place of business in England or Wales; and
 - (ii) such Customer is not Insolvent; and
 - (iii) such Customer is not an Associate of yours; and
 - (c) the Customer (or the person having the duty to administer the estate of an Insolvent Customer) will pay not less than the Notified Amount of the Debt (but allowing, if agreed by us in advance, a prompt payment discount not exceeding five per cent) by not later than the expiry of the Recourse Period;
 - (d) no right to a Deduction exists or will exist in respect of the Debt;
 - (e) the Customer will not dispute the Customer's obligation to pay the Notified Amount of the Debt;
 - (f) prior to performance of the Contract, you have taken all reasonable steps to ascertain the creditworthiness of the Customer and have advised us of any adverse information known to or discovered by you;
 - (g) the Debt is not a Non-Notified Debt;

- (h) to the extent that a Debt is a Customer Protected Debt, it is not a Debt that is insured under a policy of credit insurance taken out by you;
 - (i) the Goods, free of Encumbrances, have been Delivered;
 - (j) you have no obligations to the relevant Customer and there are no contracts between you and that Customer, other than a Contract;
- (k) the relevant Contract has been performed and the Debt has become due;
 - (l) the Debt has not been previously Notified to us;
- (m) the Contract does not allow the Customer to return the Goods;
- (n) the Contract will be performed (and the Debt is payable) in England or Wales;
- (o) the details of the Customer recorded in the relevant Invoice are true and accurate, that your VAT number is included legibly on each Invoice and that each Invoice complies in all respects with the Companies Act 2006 and all relevant VAT laws and regulations;
- (p) you hold all licences, permissions and authorities you need to enter into and perform the Contract;
- (q) the Invoice and any statement of account relating thereto bears notice of assignment of the Debt to us in the form required by us if so required;
- (r) each Debt is a bona fide Debt, each Notification solely contains bona fide Debts within the ambit of and compliant with Conditions 19.3(a) to (q)) above; and that an Invoice has been raised and despatched to the Customer in respect of each Debt prior to its Notification to us; and
- (s) if the Goods are to be exported you have complied with all such formalities (if any) for the export of the Goods;
- (t) the Goods and the invoice for them have been Delivered and the Debt has arisen from a Contract entered into by you in the normal course of your business as described in Section 1 of the Key Terms (Nature of your Business) and that the Contract:
 - (i) provides for payment to be made in a currency of a state or territory as set out in Section 1 of the Key Terms (Approved Currencies of Payment) on terms not more liberal than those described in Section 1 of the Key Terms (Payment Terms agreed with Customers);
 - (ii) is governed by the law of a state or territory shown in Section 1 of the Key Terms (Laws Governing Contracts);
 - (iii) is otherwise as approved by us in writing; and

you will not vary that Contract except with our written consent.

19.4 Undertakings

- (a) You hereby (and will, each time that you submit a Notification to us, be deemed to) undertake to us that you will:
 - (i) fully comply with all legislation which relates to you or any business carried on by you;
 - (ii) ensure that you comply with the Data Protection Laws and that all information you process about your sole trader or partnership Customers complies with such Laws, and that you will notify us immediately if you are notified of any breach of any Data Protection Laws;
 - (iii) advise all sole trader or partnership Customers that you will be disclosing to us information about such Customers and how we will use that information (including in particular, our supplying it to credit reference agencies and making searches with them), and that you will obtain their consent to such disclosure and use in accordance with the Data Protection Laws;
 - (iv) immediately notify us if you contemplate taking any action which might result in your Insolvency or if you are aware of any such action being contemplated by any other party;
 - (v) promptly disclose to us details of any change or contemplated change in the Control or ownership of your company or business;
 - (vi) promptly disclose all facts and matters which in any way might reasonably be expected to influence our decision to continue this Agreement or the establishment, cancellation or variation of any limit provided for in this Agreement;
 - (vii) give our bankers such instructions or indemnities as they may require for the collection of non-transferable instruments made payable to you;
 - (viii) instruct your bankers to transfer to the Collection Account all cash payments or credit transfers received by you;

- (ix) ensure that your records of Debts and other accounting and financial records prominently indicate that the Debts have been assigned to us;
 - (x) notify us immediately of any Returned Goods delivered into your possession or control;
 - (xi) comply with all procedures we require to assist the day to day operation of this Agreement;
 - (xii) provide us all information that we require to enable us to issue an invoice or Credit Note on your behalf to a Customer or enforce any Related Rights;
 - (xiii) maintain insurance against loss (however that may arise) of the Related Rights and books and records relating to Debts and Contracts (except that, to the extent that a Debt is a Customer Protected Debt, it may not be insured under a policy of credit insurance taken out by you); and
 - (xiv) keep all Confidential Information confidential
- (b) In respect of each Notified Debt, you undertake to us that:
- (i) you will promptly perform all your further or continuing obligations under the relevant Contract, and provide evidence to us demonstrating this on request;
 - (ii) you will advise us of any adverse information which subsequently becomes known to you affecting the creditworthiness or commercial standing of the relevant Customer;
 - (iii) the warranties given upon Notification of a Debt will remain unaltered until full discharge of the Debt;
 - (iv) if you obtain (or are required by this Agreement to put in place) any insurance in respect of Debts then you will:
 - (A) pay all applicable premiums when due and maintain such policy in full force and effect;
 - (B) strictly comply with all of the terms of the relevant policy; and
 - (C) ensure that we are recorded as a joint insured or, if we agree as an exception to this requirement, that notice of our interest is given to the insurers in such terms as we may specify;
 - (v) without prejudicing our rights in relation to your warranties, you will notify us promptly of:
 - (A) any dispute (whether justifiable or not) between you and the Customer and the circumstances relating to it;
 - (B) any claim by the Customer to any Deduction or right to make a Deduction;
 - (C) any Deduction to which a Customer is entitled;
 - (D) any material adverse change in the Customer's financial position and all adverse commercial information you receive which may affect the Customer's ability to meet its obligations to you or us;
 - (E) any Customer becoming Insolvent; and/or
 - (F) any invoices you raise under or relating to the Late Payment of Commercial Debts (Interest) Act 1998 and, in such case, full details of how the claim arose and its calculation;
 - (vi) you will promptly resolve all disputes and claims by Customers;
 - (vii) you will pay all taxes, carriage, warehousing or other debts which relate to Contracts and all claims of suppliers of goods used to manufacture the Goods promptly when due;
 - (viii) you will (unless we agree otherwise) ensure that each Invoice contains or refers to details of your payment terms as set out in Section 1 of the Key Terms and you will and not vary those terms without our written consent;
 - (ix) (where appropriate) you will obtain signed proof of delivery or collection and will provide us with the originals of all such documents upon our request;
 - (x) (where appropriate) you will obtain timesheets signed by your Customers and will provide us with the originals of all such documents upon our request; and
 - (xi) you will retain all customer remittance advices and you will provide us with the originals of all such documents upon our request. If such remittance advice is not received then you will obtain a copy of the relevant cheque or other evidence of payment received and you will provide us with the originals of all such documents upon our request.
 - (xii) not hold yourself out as our agent for any purpose;

- (xiii) not sell, assign, mortgage, charge or otherwise dispose of or encumber any Debt and/or the Related Rights thereto and/or the proceeds of such Debt or Related Rights or its rights under this Agreement, or agree or purport to do so, other than in our favour;
- (xiv) not, without our prior written consent, waive or modify (or purport to waive or modify) any of the terms (including the time for payment) on which you supply Goods nor purport to do so; and
- (xv) not, without our prior written consent, waive or modify (or purport to waive or modify) any of the terms on which you purchase Goods from your suppliers and, in particular, you will not permit any supplier to retain title to Goods.

20. INDEMNITY

- 20.1 You hereby agree to indemnify and keep us, solicitors, accountants, debt collection agencies or other advisers in connection indemnified against all and any losses, costs and/or expenses, which we may suffer or incur at any time arising from:
- (a) any breach by you of any warranty, undertaking or term of this Agreement;
 - (b) you becoming Insolvent;
 - (c) our (or our bank) collecting or receiving any cheque, instrument or payment, which is payable to or endorsed in your favour;
 - (d) our honouring any term of any Contract or any guarantee, warranty or indemnity given by you or on your behalf to any person;
 - (e) any claim by a Customer to repayment of any sum that Customer paid by mistake or to which that Customer claims to be entitled under applicable Insolvency laws or due to total or partial failure of consideration;
 - (f) any other claim by a Customer against us;
 - (g) resolving any dispute with a Customer;
 - (h) collecting or attempting to collect the Debts including by issuing proceedings;
 - (i) our enforcing this Agreement;
 - (j) our obtaining the release of any Debt from any trust, charge or third party claim; and/or
 - (k) our acting upon instructions which appeared and/or purported to come from you as given by telephone, fax or by electronic means (including by email) if those instructions subsequently prove to be incorrect, unintended or unauthorised.
- 20.2 The indemnities in Condition 20.1 extend without limitation, to all costs we incur in appointing with any of the matters referred to in that Condition.

21. COMMUNICATIONS

- 21.1 You authorise us to:
- (a) obtain from the holders of your current account and/or such other banker/financiers and/or auditors all information we may require for the purposes of this Agreement;
 - (b) contact Customers for the purpose of collecting and verifying Debts, including to give any notice(s) we require of our interest in the Debts.
 - (c) provide to the holders of your current account and/or such other bankers all such information concerning your dealings with us as they may request.
- 21.2 You may not revoke the authorities given above and that you will provide all such further proof that such authorities have been given if we require it.
- 21.3 We may disclose and supply any information relating to you or to any matter relating to this Agreement and/or any other agreement entered into between us and you to any trade register or credit reference agency or to any Paragon Group Company for the purpose of our own or their business.

22. FEES, CHARGES AND EXPENSES

- 22.1 You will pay to us (or we may deduct from any payment to be made by us to you at any time):
- (a) the Arrangement Fee, on the date of this Agreement;
 - (b) the Factoring Fees which will be:
 - (i) payable in respect of the Take-on Notified Debts, at the percentage rate, specified in the Section 2 of the Key Terms as the Retrospective Fee, of the Take-on Notified Debts; and
 - (ii) payable in respect of the Notified Amount of all other Notified Debts at the percentage rate, specified in Section 2 of the Key Terms as the Factoring Fee or similar, of each Notified Debt,

unless we notify you otherwise, we will debit the amount of the Retrospective Fee to the Current Account simultaneously in respect of Take on Notified Debts, and we will thereafter debit to the Current Account the Factoring Fee in respect of each Notified Debt upon its Notification.
 - (c) the Factor's Discount, which will accrue from day to day on the debit balance on the Current Account from time to time. The Factor's Discount will be debited to the Current Account daily (If your Current Account exceeds Available Funds the Factors Discount shall increase to 5% above the rate specified in Section 2 of the Key Terms, until such point as the Current Account is equal to or less than Available Funds);
 - (d) the Refactoring Fee, which will be payable:
 - (i) at the percentage rate specified in Section 2 of the Key Terms of each Notified Debt which is Unpaid at the end of the Recourse Period applicable to that Notified Debt; and
 - (ii) calculated on the penultimate Business Day of the month and debited to your Current Account on the last Business Day of the month (or on such other date as we may specify);
 - (e) Default Interest on all amounts not paid when due under this Agreement and on any debit balance on the Current Account above the Funding Limit at any time. Any such Default Interest will be payable on demand and may, if we choose, be debited to the Current Account; and
 - (f) all other Charges as provided for in our Standard Tariff, which will be payable on demand by us.
- 22.2 If the aggregate Factoring Fee payable by you in a Factoring Fee Calculation Period is less than the Minimum Factoring Fee for such period then you must pay us the difference at the end of that period or, at our option, we may debit the shortfall to your Current Account. If we reasonably anticipate that such a shortfall will arise in the current or any future Factoring Fee Calculation Period we may debit the Current Account with the estimated amount of such shortfall at the end of the Factoring Fee Calculation Period or at any other time we may choose. You are still required to make any further balancing payments if this estimated payment is insufficient.
- 22.3 In calculating the Factoring Fee paid in the Initial Factoring Fee Calculation Period for the purpose of determining whether or not any further amount is payable under Condition 22.2, the Retrospective Fee will be ignored.
- 22.4 Subject to Condition 22.6 below; if this Agreement is terminated for any reason before the end of the Minimum Term or without you having given the full period of notice required by this Agreement (without our prior written permission being given in accordance with Condition 3.3) or if we serve a Default Notice and exercise our right under Condition 17.4(f), then you will pay us a fee equal to the Minimum Factoring Fee which would have been payable from such date of termination or service of a Default Notice assuming this Agreement had continued until the end of the Minimum Term with the Minimum Notice then being given by you on the last day of the Minimum Term.
- 22.5 If we give notice to terminate under Condition 3.2 no additional Factoring Fee will be payable under Condition 20.4 above after expiry of the notice period given by us.
- 22.6 If we serve a Default Notice you will pay to us the Collection Fee, payable and irrespective of the actual amount collected by us out of the Debts.
- 22.7 You will not be entitled to any refund of any Charges if this Agreement is terminated early, or any steps are taken as referred to in Condition 17.4, or we exercise any Recourse Right or the Notified Amount of Debts is reduced by any Deduction.
- 22.8 We may decide how Charges are to be apportioned to particular Debts where such apportionment is required for the purpose of this Agreement.
- 22.9 Value Added Tax where applicable will be added to all amounts payable to us under this Agreement.

22.10 You will pay to us:

- (a) all bank charges and other costs and expenses (including any VAT, stamp duty and other imposts) that we may incur (whether via our agents or directly) in respect of any bank account to which payments of Debts are to be credited; and
- (b) all legal, bank and other costs and expenses (plus any VAT if applicable) that we may incur (including our own administrative and other costs) in any way relating to:
 - (i) negotiating, entering into, registering, varying, enforcing or waiving (or attempting or purporting to do any of the foregoing) the provisions of this Agreement and/or any related agreement, security, guarantee, charge, mortgage, warranty or indemnity (including, but not limited to, the Legal Costs);
 - (ii) collecting, enforcing, securing or protecting our rights to or verifying the status or amount of any Debt, or attempting or purporting to do any of the foregoing; and/or
 - (iii) assessing or purporting to assess your financial position at any time; and/or
 - (iv) converting currency including without limitation making good any shortfall suffered by it in respect of any Debt as a result of fluctuations in currency values whether such conversion is to or from Sterling.

22.11 If we ask you to do anything you will pay all our costs and expenses of doing so. If you do not carry out anything that we have the right to ask you to do then we may do it. You will then pay all our costs and expenses of doing it.

22.12 All of the fees charges and expenses referred to in this Condition 22 may at our option be debited to the Current Account by us when due or we may require that you pay the relevant amount to us on demand.

23. PROVISIONS APPLICABLE TO SOLE TRADERS AND PARTNERSHIPS

23.1 If you are a sole trader:

- (a) we will, at your cost, register this Agreement and you will take all steps necessary to register this Agreement at the Bills of Sale Registry;
- (b) you must not enter into partnership with any person without our prior written consent;
- (c) you must not move your principal place of business to a place outside of England or Wales without our prior written consent.

23.2 If you are an unincorporated partnership then (in addition to the terms of Conditions 23.3):

- (a) all references in this Agreement to “you” or “your” will be to all of you collectively and to each of you individually;
- (b) all of your obligations under this Agreement will be joint and several;
- (c) you confirm that all your partners are listed as signatories to this Agreement;
- (d) we will, at your cost, register this Agreement and you will take all steps necessary to register this Agreement at the Bills of Sale Registry;
- (e) we will be entitled to treat a notice or demand made by us on one Partner as having been served on all Partners;
- (f) we may treat any notice or communication received by us from one of your partners as having come from all of your partners (although we will not be obliged to do so);
- (g) you will notify us in writing if any partner intends to cease to be a member of the partnership and if that happens without prior notice being given to us, upon or immediately after that has happened;
- (h) you will notify us in writing if any person has joined or wishes to join the partnership or if there is any change in the trading name or style of the partnership;
- (i) if we agree any change to this Agreement with one partner it will bind all of the partners;
- (j) we may release or reach a compromise with one partner without affecting our rights against the others;
- (k) this Agreement will continue (subject to Conditions 23.3 and 23.4) notwithstanding any change in the constitution or membership of the partnership and all rights of set off and accounting will be unaffected by any such change.

- 23.3 If a person joins the partnership will procure that the new partner executes all documents we may require to ensure the new partner is bound by the terms of this Agreement.
- 23.4 A retiring partner will remain liable to us for all of his/her and your obligations under this Agreement until we agree otherwise or this Agreement has been terminated in accordance with its terms and all of your obligations under this Agreement have been discharged in full.

24. PAYMENTS

- 24.1 All payments must (unless we otherwise agree) be made in Sterling. If we receive payment in currency other than Sterling we may arrange for the amount received to be converted into Sterling at the rate offered to us by our bankers at that time, and the net proceeds after deducting the costs of conversion and any applicable fees will be credited to the Current Account.
- 24.2 All amounts payable by you under this Agreement must be paid without any set off, counterclaim, deduction or withholding being made.
- 24.3 If any deduction or withholding is required to be made by law from any amount payable to us under this Agreement you will account to the relevant authority for the minimum amount you are required to deduct and pay to us such additional sum so as to ensure we receive the same amount notwithstanding the deduction required to be made.
- 24.4 For the purpose of calculating the Factor's Discount:
- (a) in respect of any Debts paid in cash, by credit transfer or faster payment, the value of collections paid will be credited to the Current Account on the next working day following receipt of the collection concerned;
 - (b) in respect of any Debts paid by cheque or other instrument, the value of collections paid will be credited to the Current Account on the date when the funds represented by it are collected and received into the Current Account (for administrative convenience, and in the absence of any disruption to banking procedures, we may allow three Business Days for clearing of cheques or other instruments of payment); and
 - (c) amounts paid out by us under Condition 11 will be treated as having been paid out on the day of payment.

25. SERVICE OF NOTICES AND PROCESS

- 25.1 Except as stated to the contrary, any written notice from us to you and any proceedings issued by us requiring service on you may be given or served by delivering it at or posting it to:
- (a) your address as stated at the front of this Agreement or to such other address of yours advised to and acknowledged by us as being effective for the purposes of this Condition;
 - (b) your registered office; or
 - (c) the address last known to us at which you carried on business.
- It may also be handed to any officer of yours. Any such notice may also be given by facsimile transmission or electronic medium to your number or address acknowledged by us for such communication.
- 25.2 Any such notice or process will be considered served:
- (a) if delivered - at the time of delivery;
 - (b) if sent by post - 48 hours from the time of posting;
 - (c) if sent by facsimile transmission or electronic medium - at the time of transmission; and
 - (d) if handed over - at the time of handing over.
- 25.3 Any notice in writing by you to us under this Agreement will take effect at the time it is received by us at our registered office or at such other address we advise you of in writing for this purpose unless such notice is received on a day which is not a Business Day in which case it will take effect on the next Business Day.
- 25.4 In the case of your death (or of the death of any person comprising you) and until we receive notice in writing of the grant of probate of the will or letters of administration in respect of your estate any notice or demand sent by us to you shall for all purposes be deemed a sufficient notice or demand by us to or on you and your personal representatives and will be as effective as if you were still living.

26. ELECTRONIC COMMUNICATION

- 26.1 Unless otherwise agreed by us, we will not be bound to accept any communication sent by e-mail or other electronic means.
- 26.2 We will provide you with our Computerised Services on the terms set out in our user manual or other terms as we notify to you from time to time and such terms shall be read in conjunction with the remaining provisions of this | Condition 26.
- 26.3 In the event that Computerised Services are made available to you, you must ensure that you deliver the original copy of the Notification together with the required attachments to us within 2 Business Days of the relevant Debts having been Notified to us. Should you fail to do so then we may charge an additional fee to you equal to 1% of the relevant Debts as a one-off charge.
- 26.4 We may from time to time advise you that we are prepared to make available to you the ability to access our computer system to access and exchange data. Should we do so this will be subject to such additional terms and conditions which may be specified at that time. Without prejudice to our ability to specify such terms, you hereby agree that:-
- (a) all Electronic Communications will also be made in accordance with the terms and conditions set out in any user manual or procedures as made available from time to time;
 - (b) you will ensure that all Electronic Communications you send to us are complete and correct;
 - (c) you will only use the Computerised Services for the purposes envisaged by this Agreement and the said user manual and not for any other purpose;
 - (d) you will keep confidential all matters relating to the operation of the Computerised Services including, in particular, all access telephone numbers, codes and passwords;
 - (e) you will notify us immediately if you become aware of any unauthorised person having access to the Computerised Services or of any use which is not permitted by the terms of this Agreement and cooperate fully with us in establishing the cause of any such security breach;
 - (f) you will delete any Electronic Communications you receive which are not intended for you on becoming aware of this fact and you will advise us that you have done so; and
 - (g) you will ensure that you retain copies of all Electronic Communications and data transmitted whilst using the Computerised Services and you will keep a complete record of all Electronic Communications sent for a period of at least 2 years after despatch of the same.
- 26.5 You acknowledge that copyright in the Computerised Services, if made available to you, will at all times belong to us although you will have a revocable non-exclusive license to use the Computerised Services for the purposes set out in this Agreement only.
- 26.6 You acknowledge that we may withdraw or modify the Computerised Services at any time and that we will not be liable to you for any delay in receipt of any payment under this Agreement due to any failure of the Computerised Services to operate properly or as envisaged by the user manual.
- 26.7 We may, but shall not be bound to, act on any Electronic Communication submitted through use of the Computerised Services and will be entitled to rely on the authenticity of such communication.
- 26.8 We may at any time update the information made available to you pursuant to the Computerised Services and we will not therefore be obliged to make any payment to you just because the information made available to you pursuant to the Computerised Services indicates that you appear to be entitled to that payment.
- 26.9 The Computerised Services will be withdrawn automatically upon termination of this Agreement or on notice of termination of this Agreement being served. Upon the withdrawal you will return to us or destroy (as we direct) all documents, equipment and copies of software supplied to you in connection with your use of the Computerised Services.
- 26.10 We will advise you of the fee payable for the provision of Computerised Services at or before their installation/ commencement. This fee will be payable by you at such time and may be varied as we notify you from time to time.
- 26.11 Should we provide any upgrade or enhancement to the Computerised Services an additional charge may be payable by you. This will be advised by us to you at the time.
- 26.12 If the Computerised Services provide that you may issue a Notification to us electronically, you will still provide such hard copy documents as we may stipulate at the time and you will be deemed to have included within any such Electronic Communication of any Notification all of the warranties and undertakings required to be given when otherwise lodging a Notification pursuant to the terms of this Agreement.

27. GENERAL

- 27.1 We may novate or assign to any other party any or all of our obligations, rights, benefits and and/or remedies under this Agreement, and/or in relation to Debts and/or in relation to any or all of the documents ancillary to this Agreement and you consent to such novation and/or assignment. You may not assign, charge or declare in trust any or all of your rights, benefits and/or remedies or delegate any of your obligations under this Agreement and / or any or all of the documents ancillary to this Agreement without our prior consent in writing. We may disclose such information about you, the Customers and any other person as we see fit to any potential assignee, transferee, sub-participant or delegate, or any assignee, transferee, sub-participant or delegate, of our rights or obligations under this Agreement together with any of our or their respective professional advisors and to any company that is a Paragon Group Company.
- 27.2 Except where the context otherwise requires, references to “we” or “us” will include our successors, assignees and transferees in Conditions and conditions conferring benefits and/or rights on us; in Conditions and conditions imposing obligations on us, such references will extend to such successors, assignees and transferees only if they have agreed with us to assume such obligations.
- 27.3 Any waiver or apparent waiver by us of any breach of any obligation or provision contained in this Agreement cannot be treated as a general waiver or be construed as implying or establishing consent to any subsequent breach.
- 27.4 This Agreement may be executed in any number of counterparts and by different parties on separate counterparts each of which, when executed and delivered, will constitute an original and all the counterparts together will constitute but one and the same instrument.
- 27.5 The terms of this Agreement are considered by both you and us to be reasonable. Should any part of them be valid only if some other part were deleted then they will apply as if such part were so deleted and the remainder will not be affected by such deletion.
- 27.6 The terms of this Agreement may only be enforced by a party to them and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.
- 27.7 You will maintain the confidentiality of our Confidential Information and you will not use, disclose, copy or modify our Confidential Information (or permit others so to do) without our prior written consent.
- 27.8 You will notify us of any unauthorised misuse, disclosure, theft or other loss of our Confidential Information immediately upon becoming aware of same.
- 27.9 The existence and terms of this document are confidential and may not be disclosed by you without our prior written consent.
- 27.10 You must treat any information we give you, as confidential and legally privileged. We are not a credit reference agency.
- 27.11 We may accept and act upon any information ostensibly sent by you even though it may not originate from you or your officer or other person sending such information had no authority to do so.
- 27.12 Except where otherwise stated to the contrary, changes to this Agreement may be made between you and us in any way but will only come into effect on the date stated in our written confirmation to you of such change (or if no such date is stated upon our dispatching such confirmation to you).
- 27.13 We may exercise all or any of the rights and remedies contained in or arising out of this Agreement. They are not exclusive of each other or of any rights or remedies given to us by law. If we choose not to enforce or cannot enforce any term, this will not affect our right to enforce the rest of the terms or to enforce that term at a later date. Also, such rights and remedies will not be affected if we compromise with any Customer.
- 27.14 We will not be liable to you if we are delayed in or unable to perform our duties directly or indirectly because of an event of Force Majeure. We will not be liable to you for any consequential, secondary or indirect loss, injury or damage or any loss of or damage to goodwill, profits or anticipated savings (however caused). Nothing will operate to excuse us from liability to any extent caused by the fraud of any of our officers.
- 27.15 The obligations under Conditions 27.7 to 27.10 above will survive the variation, expiry or termination of any of the Financing Documents.

28. SET OFF

- 28.1 If we serve a Default Notice under this Agreement then we (and any Associate of ours):
- (a) may by notice at any time thereafter terminate any Related Finance Agreement; and
 - (b) shall be entitled to set off or transfer any payment, liability, credit or rebate due to you under this Agreement or any Related Finance Agreement in or towards the satisfaction of any of your liabilities which are due and payable or which become due and payable to us (or any Associate of ours) under this Agreement or any Related Finance Agreement or otherwise in any respect.
- 28.2 If not currently included in any Related Finance Agreement, a Condition in equivalent terms to this Condition 28 (together with the cross default provision set out in Condition 17.1(b)) will be deemed now to have been incorporated into such Related Finance Agreement (mutatis mutandis).
- 28.3 In addition to all other contractual, security or general rights of set off or consolidation of accounts, we (and each Associate of ours) will have the right (but not the obligation) and both before and after demand to debit any account or ledger of yours with us (or any Associate of ours) or to set off against any amount owing by us (or any Associate of ours) to you so as to pay to or reimburse us for (irrespective of whether or not an Event of Default has occurred or is persisting) any amount payable by you to us or any Associate of ours under this Agreement or any Related Finance Agreement or any other agreement you may have entered into with us or any Associate of ours, or may owe us or any Associate of ours on any other account or basis.

29. NO AGENT

Any Introducer by or through whom this Agreement was negotiated, or who otherwise introduced you to us or who was involved in matters connected with this Agreement, is not and was not our agent and accordingly no statement or representation made by them will bind us unless expressly set out in the terms of this Agreement. You accept that we may pay or have paid commission to any such Introducer.

30. DATA PROTECTION

- 30.1 You have provided, as agent, information about your Associates who are individuals and your sole trader and partnership Customers, and you have consented to our making checks and searches about them with credit reference and fraud prevention agencies (including those outside of the European Economic Area).
- 30.2 During the term of this Agreement you consent to us making further checks and searches against your Associates and sole trader and partnership Customers with credit reference agencies, and you accept that this will include searches as to criminal offences, proceedings and convictions.
- 30.3 You further accept that any information received by us will form part of our ongoing records. Such information may be useful for credit risk assessment, to exercise our rights under this Agreement and to prevent fraud or money laundering. You agree that we may disclose the said information to credit reference agencies, credit insurers, fraud prevention agencies or other financial service organisations (including those outside of the European Economic Area) as we think fit and that such agencies and organisations may hold and process such information. You acknowledge that any Paragon Personal Data we hold or obtain in respect of your Customers is data which we require for the provision of our services to you.
- 30.4 You agree that we may disclose any details of this Agreement or any transaction under it or any entry on any account or any other information held by us in your name or in the name of your sole trader and partnership Customers to any credit reference agency or trade register for the purpose of credit decisions, fraud prevention or the tracing of Customers, or to any group company for any purpose (including, but not limited to, training and marketing) or to any other person for the purpose of our business, including but not limited to our financiers, or to any of our associates or persons acting on our behalf.
- 30.5 You further agree that we may disclose details of this Agreement or any transaction under it or any entry on any account or any other information held by us in your name or in the name of your sole trader and partnership Customers to any person who has given us security in respect of your obligations under this Agreement, any person to whom you may wish to transfer your invoice finance facilities and any person to whom we may wish to transfer all or any part of our rights and/or obligations under this Agreement.
- 30.6 At any time, upon our requesting you so to do, you shall despatch a Data Privacy Notice to your Associates (which shall include but shall not be limited to, your shareholders, directors, employees and guarantors) and your sole trader and partnership Customers.

- 30.7 You warrant and undertake that, in relation to any living individual, including, but not limited to:
- (a) an Associate;
 - (b) Customer or a partner, shareholder, director or other officer (or, in the case of an LLP, a member) of a Customer; and
 - (c) a person who has or may give a warranty, guarantee or indemnity in respect of the obligations of a Customer under a Contract of Sale;
- you have strictly complied and will, until the termination of this Agreement and the discharge of your obligations under this Agreement, strictly comply with the provisions of the Data Protection Laws and, in particular, that you have disclosed and will disclose to any such living individual that you may at any time pass on data which you hold in respect of him for the purposes of your carrying out your obligations and notified him of the manner and purposes for which we may process personal data, and you shall keep a record of to whom you have notified, in what form and when you notified them and produce evidence to this effect to us immediately on request.
- 31.8 You will comply with the Data Protection Laws and/or any analogous law, including but not limited to:
- (a) informing any Customers who are data subjects (as defined in the Data Protection Act 2018) (including those who are sole traders and unlimited partnerships) that their personal data is being transferred to us for the purpose of processing such data and if necessary, you will obtain the consent of such data subjects to the process of their personal data for such purposes including the making of searches with our credit reference and fraud prevention agencies if required under the Data Protection Laws; and
 - (b) maintaining technical and organisational measures against unauthorised or unlawful processing of such personal data and against accidental loss or destruction of, or damage to, personal data;
- and will also provide us, in a form acceptable to us, at least each three monthly period, or at such other time and frequency as we may notify to you a list of Customers who are data subjects.
- 31.9 You will advise us promptly should you receive any notice or allegation of your non-compliance with the Data Protection Laws.
- 31.10 You will advise us promptly of all changes made by you to personal data after its transfer to us.
- 31.11 We may at all times rely upon any signature or any act or communication (including oral communication or e-mail) of any person purporting to act on your behalf and the same will be binding upon you irrespective of their level or absence of authority.
- 31.12 We may disclose the terms of our agreements with you, any information which we have obtained from you or any information which we have generated ourselves from such information:
- (a) to any actual or potential assignee, transferee or sub-participant or party with whom we intend to novate our rights and/or obligations, as the case may be;
 - (b) to any agency, security trustee, agent and/or arranger in connection with any financing of any such assignee, transferee or sub-participant;
 - (c) in any listing particulars, prospectus or offering circular; and
 - (d) to any Associate of ours.
- 31.13 You agree that any and all personal data relating to you collected by us in connection with our Computerised Services from time to time may be used and disclosed for such purposes and to such persons as may be in accordance with our policies on use and disclosure of personal data set out in statements, circulars, terms and conditions or notices made available by us from time to time.
- 31.14 In respect of any information or materials which you submit to us using the Website, you hereby grant us a licence to use such information or materials for any purpose we deem necessary including, without limitation, the copying, transmission, distribution and publication thereof, unless restricted by law.
- 31.15 You agree that we will not be under any obligation of confidentiality to you regarding any such information or materials submitted to us using the Website unless agreed otherwise in a separate direct contract between you and us or unless required by law.
- 31.16 You acknowledge that the contents of the foregoing provisions will not limit any specific provisions set out in the individual terms and conditions of particular products and services offered through the Website.

32. MONEY LAUNDERING

In consequence of the provisions of the Proceeds of Crime Act 2002 we have in place procedures and controls which are designed to forestall and prevent money laundering. In accordance with our responsibilities under the said act, if we suspect that a client or a customer or an officer, partner or employee of either has committed or is committing a money laundering offence as defined in that act, we shall disclose that suspicion to the National Crime Agency or other relevant authority.

33. APPLICABLE LAW AND JURISDICTION

This Agreement and our relationship with you is governed and interpreted by English law. You irrevocably agree that the English courts will have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of this Agreement and, for such purposes, irrevocably submit to the jurisdiction of the English courts. The submission to the jurisdiction of the English courts will not (and will not be construed so as to) limit our right to take proceedings against you in any other court of competent jurisdiction nor will the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

SCHEDULE 1

Definitions and Interpretation

In this Agreement the following words and expressions have the following meanings (unless stated otherwise):

“Aggregate First Loss” means the amount specified as such in the Customer Protection Offer Letter. If the Purchase Amount of a Customer Protected Debt is not payable because the amount of the Outstanding Customer Protected Debt, (after deduction of the relevant VAT), is less than the Non Qualifying Loss, the amount equivalent to the amount of the Outstanding Customer Protected Debt will not be taken into account when calculating whether the Purchase Amount of Customer Protected Debts paid by us in any year of this Agreement exceeds the Aggregate First Loss;

Approved or Approved Debt means a Notified Debt which satisfies the requirements of Condition 8.2;

Approved Funding Percentage means the percentage initially set out in Section 2 of the Key Terms (which we may revise from time to time);

Arrangement Fee means the arrangement fee specified as such in Section 2 of the Key Terms;

Associate means in relation to the person or party named:

- (a) the same as the definition of “associated undertaking” as defined in sections 1151 of the Companies Acts 2006; or
- (b) any other form of associate as defined in section 184 of the Consumer Credit Act 1974; or
- (c) a director, partner, shareholder or employee or the spouse of any of them; or
- (d) any company in which such person or party has an interest other than purely for investment purposes in a publicly quoted company,

and, for the avoidance of doubt but without limiting the generality of the foregoing, in relation to us shall include any Paragon Group Company;

Available Funds means the amount available to be paid to you at any time calculated in accordance with Condition 11.4;

Base Rate means the greater of 0.5% or the current published base rate of Barclays Bank plc (or such other UK clearing bank as we may specify from time to time) at any relevant time and as such rate varies from time to time;

Business Day means a day other than a Saturday, Sunday or a public holiday in England;

Charges means the Factoring Fee, Factor’s Discount, Refactoring Fee, Collection Fee and all other fees and charges provided for in this Agreement;

Collection Account means such bank account specified in Section 1 of the Key Terms (or such other account as we may notify to you from time to time) as being the bank account into which all Collection Amounts should be paid;

Collection Amount means the amount of any payment made to us in cleared funds to discharge payment of a Debt;

Collection Fee means a fee equal to 15% of the Notified Amount of all unpaid Debts at the time of service of the Default Notice;

Commencement Date means the date of this Agreement or, if later, the date on which all Conditions Precedent specified in Section 3 of the Key Terms have been satisfied;

Computerised Services means any services we may make available to you through the Website from time to time as further detailed in any user manual made available to you;

Conditions Precedent means all conditions precedent us making a Prepayment under this Agreement as specified in Section 3 of the Key Terms;

Confidential Information means any and all information (whether in oral, written or electronic form) belonging or relating to us, our business affairs or activities which is not in the public domain and which may be supplied to you under or pursuant to this Agreement or any other agreements ancillary thereto which: (i) we have marked as confidential or proprietary; (ii) we have advised you is of a confidential nature, whether orally, in writing or electronically; or (iii) due to its character or nature, a reasonable person in like circumstances would treat as confidential. Confidential Information will include, but not be limited to, all access telephone numbers, user identification numbers, passwords, test keys, access codes and security procedures relating to our Computerised Services;

Contract means any contract you make in any form between you and a Customer for the supply or hiring of goods and/or the provision of services to a Customer;

Control has the meaning given by Section 840 of the Income and Corporation Taxes Act 1988;

Customer Limit means the limit (including by reason of reaching or exceeding any High Involvement Percentage) up to which Debts owed by a particular Customer, group of Customers or Customers of a specified type or operating in a specified sector may be designated or classed as Approved, as such limits may be varied by us from time to time;

Credit Note Limit means the limit specified in Section 1 of the Key Terms as revised from time to time by notice from us;

Current Account means the account referred to as such in Cause 11 which is maintained by us to record the transactions between you and us and which is used, inter alia, to calculate the Factor's Discount; where there is more than one such account operated by us, any reference to the Current Account will, where the context allows, include a reference to each such account;

Data Protection Laws means any applicable data protection or privacy Laws including (a) the Data Protection Directive 95/46/EC and ePrivacy Directive 2002/58/EC as implemented by countries within the EEA, (b) the General Data Protection Regulation, (c) the Data Protection Act 2018 and/or other Laws that are similar, equivalent to or that are intended to implement the Laws that are identified in (a), (b) and (c) above;

Data Privacy Notice means a notice of the manner in which we shall process Paragon Personal Data in the form supplied by us to you from time to time;

Debt means any obligation (present, future or contingent) of a Customer to make payment under a Contract, including:

- (a) the future right to recover sums due following the determination, assessment or agreement of the amount of the obligation;
- (b) VAT; and
- (c) all duties and charges,

together with its Related Rights and, where the context allows, a part of such obligation or its Related Rights;

Customer means any person who is or becomes obliged to pay to you a Debt and, where the context permits, includes a prospective Customer;

Customer Failure means the occurrence of Customer Insolvency or Customer Protracted Default;

"Customer Insolvency" means:

in relation to a company (which includes any body corporate):

- (a) the appointment of a receiver or administrative receiver or judicial factor in respect of all or any part of the company's undertaking assets or property; or
- (b) the appointment of an administrator by the holder of a qualifying floating charge pursuant to Schedule B1 to the Insolvency Act 1986 (as introduced by the Enterprise Act 2002) or the giving of notice of any intention to make such an appointment; or
- (c) the making of a winding up order in respect of the company;

in relation to an individual: the making of an order for the individual's bankruptcy or sequestration;

in relation to a partnership: the making of orders for the bankruptcy or sequestration of all the partners;

in relation to any company, body corporate, individual or partnership: the approval by the court of a binding composition or arrangement with all or substantially all of the relevant person's creditors;

Customer Protected Debts means a Notified Debt in respect of which a Customer Protection Credit Limit has been approved by us and which is not a Customer Protected Ineligible Debt;

Customer Protection means the product made available by us to you under which we will accept the risk of Customer Failure in respect of Customer Protected Debts;

Customer Protection Credit Limit means the maximum amount for which we will accept risk in respect of Customer Failure as set out in the Customer Protection Offer Letter;

Customer Protection Ineligible Debt means:

- (a) a Debt which is payable on terms more advantageous than the Maximum Terms of Payment;
- (b) a Debt in respect of which an invoice was not raised by you within 30 days of the provision of the relevant goods or services;
- (c) a Debt which is overdue by more than 60 days after its Due Date (or in the case of a Take On Notified Debt, 30 days after its Due Date) at the time at which you apply for a Customer Protection Credit Limit;
- (d) a Debt which comes into existence before a Customer Protection Credit Limit is established, which is in excess of the Customer Protection Credit Limit or which is Notified after a Customer Protection Credit Limit is cancelled by us;
- (e) a Debt eligible for Customer Protection the Purchase Amount of which, when aggregated with other Debts eligible for Customer Protection due from the same Customer in any year of this Agreement (after deduction of the relevant VAT), is less than the Aggregate First Loss;
- (f) a Debt eligible for Customer Protection which, (after deduction of the relevant VAT), is less than the Non- Qualifying Loss (if any);
- (g) Non-Notified Debts;
- (h) A Debt owing by any Customer who is a government entity of the UK;
- (i) A Debt which is the subject of a dispute between you and the Customer (unless the dispute is finally adjudicated and the Debt is determined to be the legally enforceable indebtedness of the Customer in which case we may re-designate the Debt as a Customer Protected Debt);
- (j) A Debt in respect of which you have breached any representation, warranty or undertaking given in its respect under this Agreement;
- (k) Debts due by Customers that are insured under a policy of credit insurance taken out by you;
- (l) A Customer Protected Debt in respect of which a Customer fails to make payment as a result of nuclear reaction; nuclear radiation or radioactive contamination or as a result of war including between the People's Republic of China, France, the United Kingdom, the Russian Federation and/or the United States of America;
- (m) The element of Debts which comprise VAT;

Customer Protection Offer Letter means an offer letter issued by us to you in respect of Customer Protection, which forms part of your Agreement with us concerning Customer Protection;

Customer Protracted Default means that a Customer fails to pay a Notified Debt within the Protracted Default Period;

Deduction means all and any credit, set off, counter-claim or deduction claimed by or to which a Customer is entitled and which reduces the Notified Amount of a Debt;

Default Interest means interest charged on the relevant amount unpaid at the annual rate of 5% above Base Rate;

Default Notice means written notice issued by us to you of the occurrence of an Event of Default;

Delivered means that Goods have been despatched to the Customer within England and Wales and, in relation to services performed under a Contract, that those services have been performed;

Disapproved Debt means a Debt which is not Approved and "Disapproved" shall be construed accordingly;

Disbursements means all bank charges and other costs, charges and expenses incurred by us in the operation of or in connection with this Agreement and which shall include, without limitation, legal and other professional costs and expenses incurred by us (plus VAT, if applicable), our own administrative and management costs and our standard rate disbursement charges which we will notify in writing to you at the Commencement Date and from time to time;

Due Date means the original date on which the Debt is payable under the Contract;

EEA means the European Economic Area which is the area the subject of the Treaty of Oporto signed in 1992 as from time to time amended between members of the European Union and in addition certain members of the European Free Trade Association;

Electronic Communications means any electronic communication of data made between us in conjunction with the provisions of any Computerised Services;

Encumbrances means any legal or equitable mortgage, charge, pledge, trust, hypothecation, lien or security interest of any kind;

Event of Default means the occurrence of any one or more of the occurrences set out in Condition 17.1;

Factor's Discount mean a charge calculated at the rate per annum specified in Section 2 of the Key Terms on the debit balance on your Current Account from day to day;

Factoring Fee means a charge for the services we provide to you under this Agreement calculated and payable in the manner provided for in Conditions 22.1 to 22.5;

Factoring Fee Calculation Period means each period specified as such in Section 2 of the Key Terms;

Force Majeure means an act of God, natural disaster, any exchange control, governmental or other official regulations or requirements, the outbreak of war, any terrorist act, revolution, civil insurrection, strike, lockout, industrial action or failure of postal, banking or communication services and any circumstances outside our or a Customer's reasonable control;

Funding Limit means the funding limit specified as such in Section 1 of the Key Terms less all accrued but unpaid Factor's Discount (including accrued Factor's Discount that has not yet been debited to the Current Account);

Goods means the goods and/or services the subject of a Contract;

Governmental Authority means and includes all governmental, legislative, executive, judicial, quasi-judicial, and regulatory bodies, local governments, agencies, departments or entities, including data protection and supervisory authorities in the EEA, and any industry-self regulatory bodies;

High Involvement Percentage means the maximum percentage of all Approved Debts that may be owed from any Customer or from specific Customers, each as specified in Section 1 of the Key Terms;

Initial Factoring Fee Calculation Period means the Factoring Fee Calculation Period during which Take-on occurs;

Initial Notice means the first communication you send to a New Customer advising such New Customer of the assignment to us of all Debts owed, or which will in the future be owed, by that Customer to you, such communication to be in a form we specify;

Insolvent and/or Insolvency means:

- (a) in relation to a company (which includes any body corporate):
 - (i) the issue of a petition to wind up the company; or
 - (ii) the calling of a meeting to pass, or the passing of, a resolution to wind up the company; or
 - (iii) the appointment of a receiver or administrative receiver or judicial factor in respect of all or any part of the company's undertaking assets or property; or
 - (iv) the issue of a petition for an administration order under the Insolvency Act 1986; or
 - (v) the making of a proposal for a voluntary arrangement under the Insolvency Act 1986; or the taking of any steps towards or the coming into force of a moratorium under the Insolvency Act 2000; or
 - (vi) the appointment of an administrator by the holder of a qualifying floating charge pursuant to Schedule B1 to the Insolvency Act 1986 or the giving of notice of any intention to make such an appointment;
- (b) in relation to an individual or partnership:
 - (i) the issue of a petition for order in bankruptcy or sequestration against that individual or one or more individuals in the partnership; or
 - (ii) that individual or one or more individuals in a partnership making a proposal for a voluntary arrangement under the Insolvency Act 1986;
- (c) in relation to a partnership:
 - (i) the issue of a petition to wind up in accordance with the Insolvent Partnerships Order 1994; or
 - (ii) the partnership making a proposal for a voluntary arrangement under the Insolvency Act 1986; or
 - (iii) on the issue of a petition for an administration order against the partnership;
- (d) in relation to any company, body corporate, individual or partnership:
 - (i) allowing an Encumbrancer to take possession of any assets; or
 - (ii) suffering distress execution or sequestration upon any assets; or
 - (iii) ceasing or threatening to cease to carry on business either generally or in the manner specified in Section 1 of the Key Terms; or
 - (iv) giving notice of the intended suspension of payment of debts; or
 - (v) allowing any judgment or order of any court or tribunal for payment of money to remain unsatisfied for 7 days or more;

(v) allowing any judgment or order of any court or tribunal for payment of money to remain unsatisfied for 7 days or more;
or

(vi) being insolvent within the terms of section 123(1)(a) and (b) of the Insolvency Act 1986;

Introducer means the person or company through whom this Agreement was negotiated, or who otherwise introduced you to us or who was involved in matters connected with this Agreement

Invoice means the invoice(s) relating to any Debt;

Key Terms means the key commercial terms set out at the start of this Agreement;

Laws means legislation, laws, rules, regulations or any subordinate legislation and/or judgments, opinions, orders, notices, guidance or decisions of Governmental Authorities, in each case, as these may be repealed, re-enacted, amended, overruled or replaced from time to time;

Legal Costs means the legal costs which have been incurred by us in preparing, negotiating, executing and in expectation of the cost of registration of documentation in relation to this Agreement as specified in Section 2 of the Key Terms;

LLP means a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000;

Maximum Terms of Payment means the maximum terms of payment specified as such in the Customer Protection Offer Letter;

Minimum Factoring Fee means the amount specified as such in Section 2 of the Key Terms;

Minimum Credit Control Procedures means:-

- (a) Raising invoices to Customers within 30 Business Days from the date of delivery of the goods/services;
- (b) Sending a written reminder to a Customer that is past due on any undisputed payment obligations within 14 days of the Due Date for payment;
- (c) Sending out least one reminder (by telephone or post) within every 14 days to any Customer who is late in meeting any payment obligation;
- (d) Recording on file a full record of all credit control actions taken;
- (e) Informing us immediately if legal action is taken in respect of any Customer Protected Debt; and
- (f) Not despatching goods or providing services after you become aware of any event which may result in a Customer Failure.;

Minimum Notice means, in the case of a notice to terminate served by you, the period of months specified as such in Section 1 of the Key Terms and, in the case of a notice to terminate served by us, a period of three months;

Minimum Retention means the amount specified as such in the Customer Protection Offer Letter;

Minimum Term means the period specified as such in Section 1 of the Key Terms;

New Customer means a customer who has not previously been indebted to you under a Debt assigned to us under this Agreement;

Nominated Account means a bank account with your main current account bankers as specified by you from time to time – provided that if we enter into any deed of priority with any other person with security over your assets we may stipulate which account is to be used as the Nominated Account;

Non-Notified Debts means any Debts specified as such in Section 1 of the Key Terms or such Debts as we may advise to you from time to time as constituting Debts you should not Notify to us, including the following:

- (a) Debts that constitute (in whole or in part) stage or progress payments;
- (b) Debts arising under a Contract which contains terms entitling the Customer to return the goods supplied thereunder in specified circumstances;
- (c) Debts owed by non-business customers;
- (d) Debts owed by any company or individual which is an Associate of yours or of ours;
- (e) Debts payable on a pro-forma basis or on terms that require cash on delivery;
- (f) Debts arising from the sale of your capital assets;
- (g) Debts arising from any rental or leasing agreement;
- (h) Debts owed by any Customer who also supplies goods or services to you;
- (i) Any Debts payable by any Customer from or whose principle place of business is outside of England or Wales; and
- (j) Any Debts listed in Section 1 of the Key Terms;

Non Qualifying Loss means the sum specified as such in the Customer Protection Offer Letter;

Notification means your notification to us, in a way we may specify from time to time, of all Debts (including, whenever we so require, Non-Notified Debts), their Notified Amount, all credit notes and other dilutions, which in each case have not previously been notified to us together with such evidence of the performance of the Contract or reasons for a credit note or the dilution as we may specify from time to time;

Notified/Notify/Notifying means the inclusion in a Notification of a Debt, credit note or the details of any other dilution in a Notification;

Notified Amount means the amount of a Debt (including VAT) as stated in a Notification but before any Deductions are taken into account;

Notified Debt means a Debt which has been properly Notified to us;

Outstanding means in relation to a Debt, remaining wholly or partially unpaid;

Paragon Group Company means any company, partnership or other entity which directly or indirectly controls, is controlled by or is under common control with us from time to time (including a subsidiary undertaking or parent undertaking) and any company in which we (and/or our subsidiary undertakings or parent undertakings) has or had at the relevant time a participating interest (as defined in s421A of the Financial Services and Markets Act 2000) which is not or was not at the relevant time a subsidiary undertaking of ours (and/or our subsidiary undertakings or parent undertakings);

Paragon Personal Data means any personal data (including sensitive personal data) that we, our employees, agents or sub-contractors process on our behalf in performing our obligations under or in connection with this Agreement;

Partners means, if you are a partnership, all of your partners from time to time;

Prepayment means any amount we may pay you from time to time on account of the Purchase Amount of a Debt;

Protected Percentage means the amount specified as such in the Customer Protection Offer Letter;

Protracted Default Period means the period specified as such in the Customer Protection Offer Letter;

Purchase Amount means the amount payable by us to you for each Debt, as calculated under Condition 7.1 or, in the case of a Customer Protected Debts, under Condition 15.11;

Recourse Period means, for each Debt, the period starting on the earlier of the date on which the Debt arose or the relevant Invoice was issued and ending after the relevant number of days specified in Section 1 of the Key Terms, has elapsed;

Recourse Right means our rights under Condition 14 to require you to repurchase any Debt or Debts;

Recoverable Balance means the Notified Amount of a Debt less all Collection Amounts received and Deductions applicable to that Debt and such further amount (if any) as we may notify you if we have reason to consider a Debt will not be recoverable in full;

Refactoring Fee means a charge calculated and payable in the manner provided for in Condition 22.1(d);

Related Finance Agreement means any loan other than this Agreement, including but not limited to any hire purchase, lease purchase, conditional sale or leasing agreement (not subject to the Consumer Credit Act 1974) subsisting between us and you (or between you and any Associate of ours);

Related Rights means, in relation to each Debt:

(k) all of your rights under the Contract (but not any of your obligations) including all liens, rights to interest and to the return of Goods;

(l) the benefit of all insurance policies and claims and all securities, guarantees, indemnities, bonds or instruments in each case relating to the Debt;

(m) all of your ledgers, accounting records, documents, computer or electronic data recording or evidencing the Debt and/or its terms;

(n) all documents of title to Goods and all rights of reservation of title to Goods;

(o) all of your title to and rights in respect of the Returned Goods;

Retention means the amount of Deductions we reasonably anticipate will arise in respect of any Notified Debts together with any amount we consider is required to be set aside to ensure you are able to meet your obligations under this Agreement when they fall due;

Retrospective Fee means the Factoring Fee calculated at the Retrospective Fee on the Take-on Notified Debts;

Retrospective Fee means the percentage rate specified as such in Section 2 of the Key terms;

Returned Goods all goods supplied under a Contract that are returned to you, repossessed by you or rejected by the Customer;

Sales Ledger Control Account means the account referred to as such in Cause 11, as more particularly described in Condition 11;

“Scottish Debts” means any Debt arising (or to arise) under a Contract governed by the law of Scotland;

Site means www.paragonbank.co.uk or such other website address as we may advise you, from time to time;

Standard Tariff means our standard tariff of charges and expenses as published by us from time to time;

Standard Terms of Business means your standard terms of business which are ordinarily incorporated into Contracts, the form of which we have approved as a Condition Precedent (as the same may be amended with our agreement from time to time);

Take-on means the receipt and acceptance by us of the first Notification under this Agreement;

Take on Notified Debts means the Notified Debts listed in the first Notification accepted by us under this Agreement;

Termination means the termination of this Agreement on the expiry of the relevant notice period under Condition 3.2 or on notice being served under Condition 17.4(f);

United Kingdom/UK means the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man;

VAT means Value Added Tax;

Warrantors means the persons specified as such (if any) in Section 4 of the Key terms;


Website means www.paragonbank.co.uk;

This Agreement shall be interpreted in accordance with the following principles:

- (p) references to this Agreement (which shall include the Schedules and Use of Information section hereto) shall include this Agreement as amended, added to, novated, varied, substituted or supplemented from time to time;
- (q) unless the context otherwise provides, the singular includes the plural and vice versa;
- (r) any gender may include reference to any other gender;
- (s) the headings and punctuation in this Agreement are for convenience only and shall be ignored in its interpretation;
- (t) reference to a Condition is to a Condition in this Agreement;
- (u) a “person” is a reference to any individual person, firm, partnership or body corporate;
- (v) references to any person, are to be construed as including that person’s permitted assigns, transferees or successors in title;
- (w) the meaning of general words introduced by the word other is not to be limited by reference to any preceding word indicating a particular class of acts, matters or things;
- (x) a statute or statutory provision includes any statute or statutory provision that amends, consolidates, replaces or extends the same; and
- (y) sterling and £ denotes the lawful currency of the United Kingdom.

PARAGON 51 HOMER ROAD, SOLIHULL, WEST MIDLANDS B91 3QJ

964-1 (04/2019)

 01489 776 250

 ifsales@paragonbank.co.uk

 www.paragonbank.co.uk

Paragon Business Finance PLC. Registered in England number 01497411. Registered office 51 Homer Road, Solihull, West Midlands B91 3QJ.