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NEX EXCHANGE MEMBER TERMS AND CONDITIONS

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These Terms and Conditions are applicable to all market makers, brokers, investment firms submitting trades for publication by NEX Exchange as trade data handler, systematic-internalisers and other trading members of NEX Exchange. The Agreement is by and between NEX Exchange and the Member.

IT IS HEREBY AGREED AS FOLLOWS:

DEFINITIONS

In these Terms and Conditions, unless the context otherwise requires, the following words shall have the following meanings:

Accredited Software Provider: means any one of the entities as may be listed on the NEX Exchange Site, or such other entity as NEX Exchange may approve as an accredited software provider in its sole discretion from time to time;

Affiliate: means in relation to a Party, any party directly or indirectly Controlling, Controlled by or under the direct or indirect Control of such Party;

Agreement: means, the Application Form, these Terms and Conditions, the Fee Schedule and, to the extent applicable, the Rules, in each case which govern the Member's access to and use of NEX Exchange;

Application Form: means the NEX Exchange Member Application Form signed by the Member pursuant to which the Member applies and agrees to Membership including any supplements to the same;

Business Day: means a day other than Saturday or Sunday on which commercial banks are open for general business in London;

Change of Control: means, in respect of the Member, the occurrence of a change in the person or entity who: (a) directly or indirectly owns or Controls the Member; or (b) is in common ownership or Control of the Member;

Confidential Information: means the terms, conditions and subject matter of this Agreement and all information disclosed by one Party to the other or otherwise received by the other in the negotiation, entering into and performance of this Agreement, which relates directly or indirectly to that Party or any third party with which it has or proposes to have business dealings and its or their directors, officers, employees, agents, suppliers or customers. "Confidential Information" includes without limitation: the NEX Exchange Data and any information within or relating to the same; technical, business and financial information; plans; dealings; trade secrets; inventions; products; research and development; production; business processes; price information; marketing and sales information; designs; product lines and any information which the recipient Party has been informed is confidential or which it might reasonably expect the other Party would regard as confidential but excludes:

- information that is already in the public domain; and/or
- which subsequently becomes part of the public domain other than as a result of an unauthorised disclosure; and/or
- which is, or becomes, available to the receiving Party from a third party who is legally entitled to possess and provide the information to the receiving Party;

Control: means the power, direct or indirect, to direct or cause the direction of the management and policies of such entity whether by contract, ownership of shares, membership of the board of directors, agreement or otherwise and without limiting any of the foregoing, any entity owning more than fifty percent of the voting securities of a second entity shall be deemed to control that second entity (and "Controlling" and "Controlled" shall be construed accordingly);

Costs: means any cost, expense, liability, claim, action, proceeding, loss or damage, direct, consequential and/or incidental in nature (including reasonable legal fees);

DMA Member: means a client of the Member that indirectly accesses NEX Exchange via the Member in accordance with Clause 10;

FCA: means the Financial Conduct Authority and any replacement or equivalent authority fulfilling the regulatory functions of the Financial Conduct Authority, including if applicable equivalent or analogous regulators in foreign jurisdictions;

Fees: means those fees (if any) applicable to the Member's use of the Services as set out in the Fee Schedule;

Fee Schedule: means the NEX Exchange Member Fee Schedule as amended, supplemented or appended from time to time and published by NEX Exchange on the NEX Exchange Site from time to time;

Intellectual Property: means copyright, trademarks, design rights, patents, utility models, database rights, rights in semiconductor or circuit layouts and any application or right to apply for registration or renewal of any such rights;

NEX Exchange: means NEX Exchange Limited, a company incorporated in England with registered company number 4309969 whose registered office is located at 2 Broadgate, London, EC2M 7UR and the Recognised Investment Exchange, as appropriate;

NEX Exchange Data: includes any and all data emanating directly or indirectly from NEX Exchange including without limitation data created by the Member when accessing and utilizing NEX Exchange;

NEX Exchange Data Licence: means the NEX Exchange market data licence governing access to and use of NEX Exchange Data;

NEX Exchange Site: means NEX Exchange's website as amended or replaced from time to time;

Market Notice: means any notice promulgated, published or disseminated by or with the approval of NEX Exchange;

Member: a member (as defined in the Rules) that is a signatory of an Application Form including, where applicable, a DMA Member;

Membership: means a Member's membership of NEX Exchange;

Membership Date: means the date on which the Member's Membership of NEX Exchange becomes effective as specified by NEX Exchange in a Market Notice;

MiFID: means Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments as amended, updated and replaced from time to time;

Party/Parties: the Member and /or NEX Exchange as applicable;

Privacy Policy: means NEX Exchange's policy for the processing of personal data as published on the NEX Exchange Site from time to time;

Products: means any and all financial products of any kind that NEX Exchange admits to trading via NEX Exchange;

Records: means all information and documents relating to the use by the Member and/or any DMA Member of the Services and/or NEX Exchange;

Regulation and Laws: means:

- i) in respect of NEX Exchange any and all laws, statutes, orders, regulations (including without limitation directions of the FCA), directives, edicts, by- laws, schemes, codes of practice and guidelines to which NEX Exchange is subject or with which NEX Exchange chooses to comply; and
- ii) in respect of the Member any and all laws, statutes, orders, regulations (including without limitation directions of the FCA), directives, edicts, bye- laws, schemes, codes of practice and guidelines to which the Member is subject when accessing and utilising NEX Exchange and/or when submitting price and/or trade data and/or when, offering, accepting or executing trades in Products;

Rules: means the NEX Exchange Trading Rules (including without limitation the NEX Exchange Disciplinary Procedures) as amended, supplemented or appended from time to time and published by NEX Exchange on the NEX Exchange Site (and in accordance with applicable rules);

Services: means those services provided by NEX Exchange to the Member as set out in the Rules;

Technical Specification: means the technical specification, if any, relating to use of NEX Exchange as amended,

supplemented or appended from time to time and as may be published by NEX Exchange on the NEX Exchange Site from time to time;

Term: means the duration of this Agreement as determined in accordance with Clause 3; and

Terms and Conditions: means Clauses 1 to 28 inclusive, and as amended, supplemented or appended from time to time in accordance with their terms.

INTERPRETATION

2.1. In this Agreement a reference to:

- 2.1.1. a Clause is, except where expressly stated otherwise, a reference to a clause of this Agreement;
- 2.1.2. a word importing the singular shall (where appropriate) include the plural and vice versa; and
- 2.1.3 any statute or statutory provision includes, except where otherwise stated, the statute or statutory provision as amended, consolidated or re-enacted from time to time, and includes any subordinate legislation made under the statute or statutory provision (as so amended, consolidated or re-enacted).

2.2. The headings in this Agreement are for convenience only and shall not affect its interpretation.

2.3. In the event and to the extent of any conflict of interpretation between the documents which comprise the Agreement, the order of interpretation shall be the:

- 2.3.1. Rules;
- 2.3.2. Application Form;
- 2.3.3. Terms and Conditions;
- 2.3.4. Fee Schedule; and
- 2.3.5. Technical Specification.

TERM

3.1 This Agreement shall commence on and from the Membership Date and continue until terminated in accordance with the terms of the Agreement.

SERVICES

4.1. Subject to the Member's compliance with the Agreement, NEX Exchange shall provide the:

- 4.1.1. Services; and
- 4.1.2. the Member with a licence to use the NEX Exchange Data created by the Member solely for the purposes of publishing post trade information, to the extent required by Regulation and Laws.

MEMBER'S OBLIGATIONS

5.1. The Member must comply with the Rules at all times.

5.2. If the Member wishes to connect with NEX Exchange the Member shall be solely responsible for establishing and maintaining a connection to NEX Exchange, either: (i) directly; or (ii) using an Accredited Software Provider, of

such minimum quality as NEX Exchange may reasonably prescribe from time to time in accordance with the Technical Specification. NEX Exchange reserves the right to refuse access to NEX Exchange to any Member in breach of this Clause 5.2.

- 5.3. The Member shall provide NEX Exchange with prior written notice (or if not possible as much notice as is possible):
 - 5.3.1. of any name change;
 - 5.3.2. of any change in the information provided by the Member in the Application Form;
 - 5.3.3. of any change in the specification of the technical means by which the Member connects to NEX Exchange (including as to the identity of any entity used as an intermediary to connect to NEX Exchange);
 - 5.3.4. of any Change of Control of the Member;
 - 5.3.5. of any material change in business, regulatory permission or financial condition that could affect the Member's ability to quote prices, trade report, execute and/or settle a trade or pay the Fees; and/or
 - 5.3.6. in the event the Member becomes or is deemed insolvent, or has a receiver, administrative receiver, administrator or manager appointed of the whole or any part of its assets or business; or takes or suffers any similar or analogous procedure to any of the aforementioned events or is unable to pay its debts as they fall due.
- 5.4. The Member acknowledges and agrees that the Services, NEX Exchange and all information on the Services and NEX Exchange, including without limitation the NEX Exchange Data, are proprietary to NEX Exchange.
- 5.5. The Member agrees that (to the extent it owns any rights to the same) any and all right, title and interest in and to all data inputted into NEX Exchange through the Member's connection to NEX Exchange is assigned to NEX Exchange on and from creation.
- 5.6. The Member acknowledges and agrees that if and to the extent that it wishes to access and use the NEX Exchange Data this will be subject to the terms and conditions of the NEX Exchange Data Licence. The Member must enter into an NEX Exchange Data Licence with NEX Exchange prior to receiving, accessing or utilizing any NEX Exchange Data.

SUSPENSION OF THE AGREEMENT

- 6.1. NEX Exchange may suspend provision of the Services and/or the Member's Membership in accordance with the Rules.
- 6.2. In addition, NEX Exchange may suspend the Member's access to or use of the Services and/or the Member's Membership at any time and without incurring any liability to the Member:
 - 6.2.1. if reasonably necessary (as deemed in the sole opinion of NEX Exchange) to ensure the integrity, security, availability and/or running of NEX Exchange; and/or
 - 6.2.2. during the investigation of a suspected breach of the Agreement by the Member, provided that such suspension shall only be for the course of the investigation and a reasonable period thereafter. If the breach is shown to have occurred, NEX Exchange may terminate the Agreement immediately without further obligation to the Member.

TERMINATION

- 7.1. The Member's Membership may be terminated in accordance with the Rules. Termination of the Member's Membership shall automatically terminate the Agreement. Any termination of the Agreement shall automatically terminate the Member's Membership.
- 7.2. Subject to Clause 8, the Agreement and the Member's Membership may be terminated:

- 7.2.1. at will by either Party by the provision of at least three months' written notice (provided in accordance with the Rules) to the other Party to that effect and;
 - 7.2.2. immediately by either Party on written notice if the other Party is in material breach of the Agreement (including repeated breaches which in aggregate constitute a material breach) and (where the matter is capable of remedy) has failed to remedy such default or breach within thirty days after the date on which notice requiring such remedy is served on the defaulting Party;
 - 7.2.3. immediately by NEX Exchange on written notice to the Member if any sanctions or reduction of scope of regulatory permission by the Member's home competent authority affect the Member's ability to be a Member of NEX Exchange and/or comply with the Rules; or
 - 7.2.4. immediately by either Party on written notice if the other Party is adjudged insolvent or bankrupt, or upon the institution of any proceedings by it seeking relief, reorganisation, arrangement or equivalent under any laws relating to insolvency or if an involuntary petition in bankruptcy or insolvency or a receiver, manager, administrator or like person is appointed and such petition or appointment is not discharged within thirty days of being made, or upon any assignment for the benefit of a party's creditors.
- 7.3. The expiry or termination of this Agreement for any reason shall not give either Party the right to claim any compensation, indemnity or reimbursement whatsoever from the other by reason of such termination, but termination shall be without prejudice to any rights or remedies available to, or any obligations or liabilities accrued to, either Party at the effective date of termination.

POST – TERMINATION

- 8.1. On termination of the Agreement for any reason, the Member shall:
- 8.1.1. within twenty-eight days on and from the applicable termination and/or expiry date pay any sum due to NEX Exchange in full;
 - 8.1.2. cease to access and utilise the Services and NEX Exchange immediately;
 - 8.1.3. expunge from its systems and records all copies of the NEX Exchange Data, except to the extent explicitly required for regulatory compliance; and
 - 8.1.4. remain subject to the terms of the Agreement until such time as NEX Exchange is satisfied that the Member has met all of its outstanding obligations and fully enabled NEX Exchange to comply with Regulation and Laws.

PAYMENT, SET OFF AND TAX

- 9.1. The Member shall pay the Fees in accordance with the Fee Schedule. Unless otherwise stated in the Fee Schedule, NEX Exchange shall invoice the Member the Fees for the Services as soon as practicable after the end of each calendar month for Fees relating to the previous month.
- 9.2. NEX Exchange may increase the Fees at any time for any one or more of the Services by the provision of at least thirty days' notice to the Member.
- 9.3. The Member shall assume full and complete responsibility for the payment of any taxes, fees or assessments and other amounts imposed on the Member by any foreign or domestic national, state, provincial or local government bodies, and any penalties or interest, (other than income taxes imposed on NEX Exchange) relating to: (i) the provision of Services to the Member; and/or (ii) relating to transactions in Products, including without limitation any applicable value added tax or sales taxes ("VAT").
- 9.4. All Fees are exclusive of VAT or any other similar tax or levy which may be payable thereon. Such taxes or levies will be added to NEX Exchange's invoices, as appropriate, at the base rate prescribed by legislation. If the Member is required under applicable law to deduct or withhold any such tax, charge or assessment from the

Fees, then such amount shall be increased so that the net amount actually received by NEX Exchange after the deduction or withholding of such tax, charge or assessment, will equal one hundred per cent of the Fees.

- 9.5. All Fees are payable by the Member within thirty days of the date of NEX Exchange's invoice. NEX Exchange may add interest on overdue payments at Barclays Bank plc base rate (from time to time) plus four per cent, calculated on a daily basis.
- 9.6. All Fees are payable by the Member in full without deduction, withholding, set-off or counterclaim for any reason whatsoever, whether arising in contract, tort (including negligence), breach of statutory duty or otherwise, save as may be required by law.
- 9.7. If the accuracy of any invoice is contested, payment of the amount not in dispute shall be made pending reconciliation of the reported discrepancy.
- 9.8. If the Member has any dispute in relation to the Fees it must raise such a dispute with NEX Exchange within three months after the date of receipt of the relevant invoice otherwise the invoice will be deemed accepted and may not be disputed.

DMA MEMBERS ACCESS TO THE SERVICES

- 10.1. Only the Member is permitted to access NEX Exchange directly. The Member may allow one or more DMA Members to indirectly access NEX Exchange via the Member using the Member's connection, provided that:
 - 10.1.1. the Member notifies NEX Exchange in advance of the identity of each DMA Member for approval by NEX Exchange (which approval NEX Exchange may give or refuse in its sole discretion);
 - 10.1.2. NEX Exchange may at any time withdraw approval and/or continued access to one or more previously approved DMA Members;
 - 10.1.3. the Member shall at all times remain directly liable and responsible for any and all activities of the DMA Member in relation to the Agreement, their access to NEX Exchange and/or their use of the Services; and
 - 10.1.4. it is the sole responsibility of the Member to ensure compliance, by itself and its DMA Members, with the Agreement and any and all Regulation and Laws.
- 10.2. The Member shall indemnify NEX Exchange from and against any and all Costs incurred by NEX Exchange arising out of or in connection, directly or indirectly, with any DMA Member's access to and/or with use of NEX Exchange, with the Services and/or with this Agreement.

LIMITATION OF LIABILITY

- 11.1. NEX Exchange does not exclude or in any way limit its liability for:
 - 11.1.1. fraud, death or personal injury caused by NEX Exchange's negligence; and/or
 - 11.1.2. any liability to the extent the same may not be excluded or limited as a matter of law.
- 11.2. Subject to Clause 11.1, NEX Exchange shall not be liable to the Member, under or in connection with the terms of the Agreement for any and all of the following, howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the Parties to the Agreement and whether directly or indirectly arising out of breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise:
 - 11.2.1. management time;
 - 11.2.2. trading losses;
 - 11.2.3. loss of income;
 - 11.2.4. loss of actual or anticipated profits;

- 11.2.5. loss of business;
- 11.2.6. loss of contracts;
- 11.2.7. loss of goodwill or reputation;
- 11.2.8. wasted expenditure;
- 11.2.9. loss of opportunity;
- 11.2.10. loss of anticipated savings;
- 11.2.11. loss of, damage to or corruption of data; and/or
- 11.2.12. indirect or consequential loss or damage of any kind.

11.3. Subject to Clause 11.1 and 11.2, NEX Exchange's entire liability howsoever arising and whether arising out of breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise to the Member and/or any other person in respect of any claims or losses of any nature, arising directly or indirectly, from the Agreement shall be limited in respect of all incidents or series of incidents occurring in any one calendar month, to the greater of:

- 11.3.1. fifty thousand pounds sterling; or
- 11.3.2. the aggregate Fees paid and/or payable by the Member in the calendar month in question.

11.4. The Member hereby acknowledges and agrees that it shall bring any claim arising under or relating to the Agreement within six months from the date of the claim arising, or, if later, within six months from the date the Member first becomes aware of the matters leading to the claim, and failure to do so shall result in any such claim automatically and irrevocably expiring.

WARRANTIES

12.1. NEX Exchange represents and warrants that it has all rights, authority and licences to provide the Services to the Member.

12.2. The Member warrants that it has full power and authority to enter into and perform this Agreement, and that its entry into and performance of this Agreement will not infringe the rights of any third party or cause it to be in breach of any obligations to a third party.

12.3. The Member undertakes that it shall not, during the term of this Agreement, enter into any contract or accept any obligation inconsistent or incompatible with its obligations under this Agreement.

12.4. The Member hereby acknowledges and agrees that, subject to Clause 12.1 the Services and/or NEX Exchange are provided "AS IS" and on an "AS AVAILABLE" basis. NEX Exchange does not guarantee the accuracy, timeliness, completeness, performance or fitness for a particular purpose of the Services or NEX Exchange. No responsibility is accepted by or on behalf of NEX Exchange for any errors, omissions, or inaccuracies in the Services or information on NEX Exchange. NEX Exchange accepts no liability for the results of any acts or omissions taken on the basis of the Services.

12.5. The Member represents and warrants that:

- 12.5.1. it has, and will continue to have, the right and authority to enter prices, orders and trade reports and execute trades in the manner contemplated by this Agreement; and
- 12.5.2. its access and use of NEX Exchange and the Services, and any prices, orders or trade reports entered by the Member on NEX Exchange and any provision of access to NEX Exchange by the Member to an DMA Member, is in compliance with any applicable Regulation and Laws.

12.6. Except as explicitly stated to the contrary in this Agreement the Member hereby acknowledges and agrees that all warranties, conditions, representations and terms, whether express or implied by statute, common law or otherwise, with respect to NEX Exchange and/or Services, including but not limited to the implied warranties of satisfactory quality, fitness for a particular purpose, non-infringement, compatibility, security and accuracy are excluded from the terms of the Agreement to the maximum extent that they may be excluded as a matter of law.

INDEMNITIES

13.1. The Member agrees to indemnify and hold harmless NEX Exchange ("Indemnified Party") from and against any and all Costs to which any Indemnified Party may become subject which arises out of any breach by the Member or any DMA Member of the Rules and/or Clauses 5.1, 5.2, 5.3, 8, 10, 12.2, 12.3, 12.4, 12.5,

13.2. 14, 15 and 22. Subject to Clause 13.3, NEX Exchange agrees to indemnify the Member from and against any action or claim that the Member's use of NEX Exchange in accordance with the terms and conditions of this Agreement is held finally by a court of law to infringe the Intellectual Property rights of a third party ("IPR Claim") and shall indemnify the Member from and against any and all direct and reasonable Costs finally awarded in a court of law against the Member as a direct result of any IPR Claim provided that the Member:

13.2.1. notifies NEX Exchange in writing of the IPR Claim immediately on becoming aware of it;

13.2.2. grants sole control of the defence of the IPR Claim to NEX Exchange;

13.2.3. gives NEX Exchange all reasonable assistance including but not limited to giving NEX Exchange complete and accurate information and full assistance to enable NEX Exchange to settle or defend the IPR Claim; and

13.2.4. shall mitigate its losses to the maximum effect practicable in the circumstances.

13.3 NEX Exchange may alter, remove or replace NEX Exchange and/or any Services at its sole option at any time.

CONFIDENTIALITY

14.1. Each of the Parties undertakes to maintain and procure the maintenance of the confidentiality of Confidential Information at all times and to keep and procure the keeping of all Confidential Information secure and protected against theft, damage, loss or unauthorised access, and not at any time, whether during the term of this Agreement or at any time thereafter, without the prior written consent of the other Party directly or indirectly, to use, disclose, exploit, copy or modify any Confidential Information, or authorise or permit any third party to do the same, other than for the sole purpose of the performance of its rights and obligations hereunder.

14.2. Each of the Parties undertakes to disclose Confidential Information only to those of its officers, employees, agents and contractors to whom, and to the extent to which, such disclosure is necessary for the purposes contemplated under this Agreement, and to procure that such officers, employees, agents and contractors are made aware of and observe the confidentiality obligations in this Clause 14.

14.3. Each Party may disclose Confidential information to a professional advisor as reasonably required provided always that any such professional adviser to whom Confidential Information is disclosed is subject to obligations of confidentiality of at least as high a standard as these imposed on the receiving Party under this Clause 14.

14.4. Upon termination or expiry of this Agreement, each Party shall at the option of the disclosing party return, or upon request erase and or destroy, all confidential and other material provided to the other in connection with this Agreement within five Business Days of such request and in each such case shall certify in writing that it has done the same.

14.5. Each Party may disclose Confidential Information of the other Party as may be required by law, regulation or order of a competent authority to be disclosed by the receiving Party, provided that, to the extent practicable and permissible in the circumstances, the disclosing Party is in each case given reasonable advance notice of the intended disclosure

and a reasonable opportunity to challenge the same.

PUBLICITY

15.1 NEX Exchange may, as reasonably required, use a Member's name and information that the Member provides to NEX Exchange relating to the Products the Member wishes to trade to perform the Services and for the purposes of publicity and marketing to other Members, issuers, corporate advisers or any other person.

AMENDMENTS

16.1. NEX Exchange reserves the right to alter, amend and vary the Services, the Members access and/or use of NEX Exchange, the Products and/or Agreement at any time. NEX Exchange:

16.1.1. may make minor and/or technical changes without notice; and

16.1.2. shall give the Member as much notice of material changes as is reasonably practicable in the circumstances.

16.2. if the Member is not satisfied with material changes notified in accordance with Clause 16.1.2, the Member may terminate the Agreement on the date on which such revision would have become effective by giving at least three months' notice or if less notice is provided by NEX Exchange of the change, as much notice as is possible prior to the effective date of the revision coming into effect.

SEVERABILITY

17.1. If any term of this Agreement is found to be illegal, invalid, or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms be deemed omitted from the Agreement and shall in no way affect the legality, validity or enforceability of the remaining terms.

ASSIGNMENT

18.1. The Member may not transfer, novate or assign this Agreement or any of its rights or obligations hereunder to a third party without the prior written consent of NEX Exchange.

18.2. NEX Exchange may novate, transfer or assign all or any of its rights and/or obligations under this Agreement.

FORCE MAJEURE

19.1. Neither Party shall be liable for any delay or failure to perform its obligations hereunder so long as that delay or failure is the result of an event beyond its reasonable control. Notwithstanding the foregoing, the Member agrees and acknowledges that its settlement obligations cannot be waived under this, or any other, provision in this Agreement.

NOTICES

20.1. Notices in relation to this Agreement shall not be valid unless given in accordance with this Clause

20. NEX Exchange may:

20.1.1. send notices in accordance with the Rules;

20.1.2. publish technical notices and Market Notices on the NEX Exchange Site; and

20.1.3. send other notices to the Member by email and/or in writing to the registered office address set out on the Application Form or such other contact address as is subsequently notified to NEX Exchange by the Member.

20.2. The Member shall send notices as stipulated in the Rules.

PRIVACY POLICY

21.1 The Member shall provide certain personal information to NEX Exchange as requested and acknowledges that this is necessary for the provision of the Services. NEX Exchange will treat any personal information collected in accordance with its Privacy Policy.

AUDIT

22.1. The Member shall upon request immediately make available to NEX Exchange the Records as may reasonably be required by NEX Exchange.

22.2. NEX Exchange, at its own cost and expense, shall have the right to conduct an audit of the Member in order to determine the Member's compliance with the terms of this Agreement. The Member will cooperate and provide NEX Exchange with such assistance as NEX Exchange may reasonably require for the purpose of the audit including providing NEX Exchange with reasonable access or procuring reasonable access to:

22.2.1. any relevant site or facility or part of a facility;

22.2.2. the relevant personnel; and

22.2.3. the Records and if requested with a copy of the relevant sections of any such materials.

22.3. If the audit shows:

22.3.1. an underpayment of the Fees by the Member, the Member shall repay NEX Exchange the amount of the underpayment and the reasonable costs of the audit within thirty days' of receiving an invoice from NEX Exchange in relation to the underpayment and reasonable costs of the audit and the terms of Clause 9.5 shall apply to any overdue payment; or

22.3.2. a breach of the Agreement, without prejudice to any other rights and remedies available to NEX Exchange, the Member will at its own cost and immediately take the steps necessary for it to comply.

ENTIRE AGREEMENT

23 This Agreement contains all the terms agreed between the Parties regarding its subject matter and supersedes any prior agreement, understanding or arrangement between the Parties, whether oral or in writing. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the Parties prior to this Agreement except as expressly stated in this Agreement. Neither Party shall have any remedy in respect of any untrue statement made by the other upon

which that Party relied in entering into this Agreement (unless such untrue statement was made fraudulently or was as to a fundamental matter including as to a matter fundamental to the other Party's ability to perform its obligations under this Agreement) and that Party's only remedies shall be for breach of contract as provided in this Agreement.

COUNTERPARTS

- 24 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

SURVIVAL

- 25 The terms and conditions of Clauses 1, 2, 7.1, 7.3, 8, 9, 11, 12.6, 13.1, 14, 15, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27 and 28 shall survive any termination, cancellation, replacement, expiration, or modification of this Agreement.

WAIVER

- 26 Any waiver by the other Party in writing of any of the other Party's obligation hereunder, or any failure to insist upon strict compliance with any obligation shall not operate as a waiver of, or estoppel with respect to any subsequent or other failure.

CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 27 Nothing in this Agreement is intended for the benefit of any third party, and the Parties do not intend that any term of this Agreement should be enforceable by a third party either under the Contracts (Rights of Third Parties) Act 1999 or otherwise. The Parties to this Agreement may by written agreement rescind or vary any term of this Agreement without the consent of any third party.

GOVERNING LAW

- 28 This Agreement shall be governed by and construed in accordance with English law and each Party hereby submits to the exclusive jurisdiction of the English Courts.

