

## TERMS OF BUSINESS OF DANETREE ASSOCIATES LIMITED (DANETREE) JULY 2017 (to be read in conjunction with SERVICE PROPOSAL, if in place)

In event of a conflict between these Terms of business and the Service Proposal, the Service Proposal shall prevail. In the absence of a signed Service Proposal, these Terms apply exclusively.

### 1. Definitions

- a) Agreement: the Services Proposal and these Terms of Business.
- b) CompanyNotary: means the independent notary business of CompanyNotary Limited, owned by Dawn Stallwood, Notary Public. Regulated by the Faculty Office of the Archbishop of Canterbury, UK. Company Notary performs notarial acts on an outsourced basis for Danetree's clients.
- c) CompanyNotary Terms: the terms of business of CompanyNotary which apply in respect of notarial acts performed by CompanyNotary.
- d) Confidential Information: information (whether or not recorded in documentary form, or stored on any magnetic or optical disk or memory) relating to the business, products, affairs and finances of the Client or any Group Company for the time being confidential to the Company or any Group Company
- e) Group Company: any Company of business entities in the same corporate group as the Client from time to time, including joint venture companies, subsidiaries and affiliates.
- f) Client Contact: as per Service Proposal or in the absence of a Services Proposal, as evidenced from email communications as the principal contact within the Client and Danetree.
- g) Individual: the individual within Danetree allocated to the Client
- h) Intellectual Property Rights: patents, rights to Inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.
- i) Services: the services described in the Service Proposal (or email from Danetree's managing director in the absence of a Service Proposal).
- j) Substitute: a substitute for the Individual appointed under these Terms
- k) Termination Date: the date of termination of this agreement howsoever arising.
- l) Works: all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, prepared by Danetree or the Individual in connection with the provision of the Services.

### 2. Term of engagement and Duties

- a. The Client shall engage Danetree and Danetree shall make available to the Client its personnel to provide the Services on the terms of this agreement and as set out in the Services Proposal. The Client signs the Services Proposal and agrees to these terms on behalf of itself and as agent for all Group Companies.
- b. The engagement shall be deemed to have commenced on the Commencement Date and shall continue unless and until terminated (i) as provided by the Services Proposal or (ii) by either party giving to the other not less than 3 months' prior written notice, whichever is the longer.
- c. During the term of this agreement, Danetree shall, and (where appropriate) shall procure that the Individual shall provide the Services with all reasonable care, skill and ability and endeavour to promote the interests of the Client and any Group Company. Client accepts that's Danetree is in the business of providing counsel and opinion under consultancy services and that it is the Clients sole decision whether to act on such counsel or opinion. Client is expected to assess the counsel and opinion provided by Danetree personnel and to determine itself what decision, action or route is in the best interests of the Company to take.
- d. If the Individual is unable to provide the Services due to illness or injury Danetree shall advise the Client of that fact as soon as reasonably practicable and shall provide such evidence of the Individual's illness or injury as the Client may reasonably require. For the avoidance of doubt, no fee shall be payable in respect of any period during which the Services are not provided.
- e. DANETREE MAY, WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT AND SUBJECT TO THE FOLLOWING PROVISO, APPOINT A SUITABLY QUALIFIED AND SKILLED SUBSTITUTE TO PERFORM THE SERVICES INSTEAD OF THE INDIVIDUAL, PROVIDED THAT THE SUBSTITUTE SHALL BE REQUIRED TO ENTER INTO DIRECT UNDERTAKINGS WITH THE CLIENT, INCLUDING WITH REGARD TO CONFIDENTIALITY. IF THE CLIENT ACCEPTS THE SUBSTITUTE, DANETREE SHALL CONTINUE TO INVOICE THE CLIENT AND SHALL BE RESPONSIBLE FOR THE REMUNERATION OF THE SUBSTITUTE. IF THE CLIENT DOES NOT AGREE TO THE SUBSTITUTE THEN THAN PART OF THE SERVICES MAY BE TERMINATED ON 30 DAYS' WRITTEN NOTICE BY THE CLIENT.
- f. Danetree shall procure that the Individual is available at all times on reasonable notice to provide such assistance or information as the Client may require.
- g. Unless it or he has been specifically authorised to do so by the Client neither Danetree nor the Individual shall have any authority to incur any expenditure in the name of or for the account of the Client and Danetree shall not hold itself (and shall procure that the Individual shall not hold himself) out as having authority to bind the Client.
- h. Danetree may use another person, firm, company or organisation to perform any administrative, clerical or secretarial functions which are reasonably incidental to the provision of the Services provided that the Client will not be liable to bear the cost of such functions. **In particular, Danetree outsources the performance of notarial acts to CompanyNotary, who will be primarily responsible for any issues as regards the performance of those notarial acts.**
- i. Time for performance by Danetree shall not be of the essence of this agreement.
- j. The Client shall (and shall procure that a Group Company, where applicable) (i) co-operate with Danetree in all matters relating to the

Services, including providing in a timely fashion complete and accurate instructions and information reasonable required by Danetree and (ii) ensure that all information provided to Danetree it is accurate in all material respects;

k. If Danetree's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Client or Group Company, its agents, subcontractors, consultants or employees, Danetree shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.

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### 3. Fees

a. Fees shall be payable within 14 days of the date of invoice unless the Service Proposal states otherwise or as otherwise may be agreed with the Client.

b. Fees are exclusive of VAT, which shall be payable in addition where applicable. Fees are reviewed annually with the Client.

c. Time for payment shall be of the essence of this agreement.

d. All sums payable to Danetree under this agreement shall become due immediately on its termination, despite any other provision.

This clause 3 is without prejudice to any right to claim for interest under the law, or any such right under this agreement.

e. Late payment of any fees (or reimbursable expenses) due will entitle Danetree to charge interest on the overdue amount at the rate of 5% a year above the base lending rate of HSBC Bank plc from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Client must pay Danetree interest together with the overdue amount. Without prejudice to any other right or remedy that it may have, if Client fails to pay Danetree on the due date, Danetree may also suspend all Services until payment has been made in full and exercise a lien over clients' property which may be in Danetree's possession (or in the possession of its agents or subcontractors).

### 4. Other activities

Nothing in this agreement shall prevent Danetree or the Individual from being engaged, concerned or having any financial interest in any capacity in any other business, trade, profession or occupation during the Engagement provided that such activity does not cause a breach of any of Danetree's obligations under this agreement.

### 5. Confidential information and Company property

a) Danetree acknowledges that in the course of the engagement it and the Individual will have access to Confidential Information. Danetree has therefore agreed to accept the restrictions in this clause 5.

b) Danetree shall not, and shall procure that the Individual shall not (except in the proper course of its or his duties) either during the engagement or at any time after the Termination Date, use or disclose to any firm, person or company (and shall use its commercial endeavours and procure that the Individual shall use its commercial endeavours to prevent the publication or disclosure of) any Confidential Information. This restriction does not apply to (i) any use or disclosure authorised by the Client or required by law; or (ii) any information which is already in, or comes into, the public domain otherwise than through Danetree's or the Individual's unauthorized disclosure.

c) All documents, manuals, hardware and software provided for the Individual's use by the Client, and any data or documents (including copies) produced, maintained or stored on the Client's computer systems or other electronic equipment (including mobile phones if provided by the Client), remain the property of the Client.

### 6. Insurance and liability

IMPORTANT CLAUSE – PLEASE NOTE

a) This clause does not relate to notarial acts, which are insured and indemnified by CompanyNotary.

b) Subject to the remainder of clause 6, Danetree shall have liability for any loss, liability or costs (including reasonable legal costs) incurred by the Client in connection with the provision of the Services where such provision of the Services is in material breach of this agreement or where Services have been performed negligently. Accordingly, Danetree shall maintain in force during the agreement term full and comprehensive insurance policies in respect of the provision of the Services. Insurance will include professional indemnity coverage of a minimum of £750,000.

c) Danetree does not provide SRA regulated legal advice and does not operate as a firm of solicitors. Should the Client wish to have legal advice supported by PI policy, it should instruct a firm of solicitors to provide this advice.

d) All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this agreement.

e) Nothing in this agreement limits or excludes the liability of Danetree (i) for death or personal injury resulting from negligence; or (ii) for any damage or liability incurred by the Client or a Group Company as a result of fraud or fraudulent misrepresentation by Danetree.

f) Subject to clause 6e), Danetree shall not be liable for loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of goods, loss of contract, loss of use, loss of corruption of data or information any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses **AND Danetree's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this agreement shall be limited to the lower of £75,000 and the immediately preceding 12 months of fees (not disbursements of VAT) paid for Services by the Client.**

### 7. Termination

a) Notwithstanding the provisions of clause 2b), the Client may terminate the this Agreement with immediate effect without notice and without any liability to pay any remuneration, compensation or damages if at any time (i) Danetree or the Individual commits any serious breach or non-observance of any of the provisions of this agreement and where capable of remedy has failed to so remedy within 45 days of being notified of the breach or non-observance; or (ii) Danetree makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed in relation to Danetree; or (iii) the Individual does not own the majority of the issued share capital (from time to time) of Danetree or (iv) the Individual dies.

b) On termination, any fees which are outstanding become payable and termination does not avoid or circumvent any fees being due in respect of project success and the like.

## 8. Status

a) The relationship of Danetree (and the Individual) to the Client will be that of independent contractor and nothing in this agreement shall render it (nor the Individual) an employee, worker, agent or partner of the Client and Danetree shall not hold itself out as such and shall procure that the Individual shall not hold himself out as such.

b) This agreement constitutes a contract for the provision of services and not a contract of employment and accordingly Danetree shall be fully responsible for and shall indemnify the Client or any Group Company for and in respect of payment of the following within the prescribed time limits: (i) any income tax, National Insurance and Social Security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by the individual (or their associates) in respect of the Services, where such recovery is not prohibited by law. Danetree shall further indemnify the Client against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Client in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the Client's or Group Company's negligence, internal organisation and communication of the Individual's role or wilful default; or (ii) any liability for any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Individual or any Substitute against the Client arising out of or in connection with the provision of the Services, except where such claim is as a result of any act or omission of the Client.

## 9. Notices

Any notice given under this agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at its registered office for the time being. Any such notice shall be deemed to have been received: (i) if delivered personally, at the time of delivery or (ii) in the case of pre-paid recorded delivery or registered post, 48 hours from the date of posting. In proving such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post.

## 10. Entire agreement

Each party on behalf of itself and (in the case of the Client, as agent for any Group Companies) acknowledges and agrees with the other party (the Client acting on behalf of itself and as agent for each Group Company) that this agreement together with any documents referred to in it constitutes the entire agreement and understanding between Danetree and the Client and any Group Company and supersedes any previous agreement between them relating to the Engagement (which shall be deemed to have been terminated by mutual consent). Nothing in this agreement shall, however, operate to limit or exclude any liability for fraud.

## 11. Variation

No variation of this agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the parties, including by email.

## 12. Third party rights

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement and no person other than Danetree and the Client shall have any rights under it. The terms of this agreement or any of them may be varied, amended or modified or this agreement may be suspended, cancelled or terminated by agreement in writing between the parties or this agreement may be rescinded (in each case), without the consent of any third party.

## 13. Governing law and jurisdiction

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

## 14. Force majeure

a) A party, provided that it has complied with the provisions of clause 14b) shall not be in breach of this agreement, nor liable for any failure or delay in performance of any obligations under this agreement (and, subject to clause 14c)), the time for performance of the obligations shall be extended accordingly) arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (Force Majeure Event),

b) Any party that is subject to a Force Majeure Event shall not be in breach of this agreement provided that (i) it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance or (ii) it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

c) If the Force Majeure Event prevails for a continuous period of more than 2 months, either party may terminate this agreement by giving 30 days' written notice to all the other party. On the expiry of this notice period, this agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this agreement occurring prior to such termination.

## 15. Assignment

Neither party may assign this agreement without the consent of the other party.