



DATED 15 DECEMBER **2016**

(1) VINE ACQUISITIONS LIMITED

- and -

(2) HEINEKEN UK LIMITED

**TRANSITIONAL SERVICES
AGREEMENT**

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BETWEEN:

- (1) **VINE ACQUISITIONS LIMITED**, a company incorporated and registered in England and Wales (company number 10517393) which has its registered office at 54 Portland Place, London, W1B 1DY ("**Supplier**"); and
- (2) **HEINEKEN UK LIMITED** a company incorporated and registered in Scotland (company number SC065527), which has its registered office at 3-4 Broadway Park, South Gyle Broadway, Edinburgh EH12 9JZ ("**Customer**").

BACKGROUND:

- A Pursuant to an agreement entered into on or around the date of this Agreement between Supplier and Customer (the "**Share Purchase Agreement**"), ownership of the Business will transfer to Customer on Completion (as defined below).
- B Following Completion the Business requires the provision of certain services on a transitional basis to enable it to operate.
- C Accordingly the Supplier has agreed to procure that the Services (as defined below) shall be provided in respect of the Business to the Service Recipients, from Completion and on the terms and conditions set out in this Agreement.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement (unless the context otherwise requires), the following words and phrases shall have the following meanings:

"**4-Week Period**" means a consecutive period of four weeks, starting on 15 December 2016 and every 28th day thereafter;

"**Additional Items**" has the meaning given in clause 10;

"**Affected Party**" has the meaning given in clause 26.1;

"**Affiliate**" in relation to any company means any subsidiary or holding company of that company or any subsidiary of any such holding company;

"**Agreed Percentage**" means 61%;

"**Agreement**" means these terms and conditions, each of the attached schedules, and any document referred to, completed or to be completed in accordance with its provisions, as may be amended from time to time;

"**Agreement to Mediate**" has the meaning given in paragraph 2.2 of schedule 5;

"**Appropriate Representatives**" means representatives who are elected or otherwise identified by the Supplier and who have authority to represent the Transferring Employees in respect of both regulation 13 of the TUPE Regulations and s.188 of TULRCA;

"Authorised Representatives" means the individuals named in schedule 3, or such other individual as either party may nominate as their replacement, by giving notice in writing to the other party;

"Back-to-Back Supply Agreement" means the Punch Pub Company (PTL) Internal Supply, Distribution and CTS Agreement dated on or around 21 July 2003;

"Business" means the business relating to the shares in the companies comprising the Punch A Group sold to the Customer pursuant to the Share Purchase Agreement;

"Business Hours" means the hours between 9 am and 5 pm on a Working Day;

"Business Records" means the information and records of the Supplier Group relating to the Business, not falling within the Employee Database, the Customer Database or the Pub Data, and not being more than three years old;

"Change" means any change to (i) the Services to be provided under this Agreement that does not fall within clause 12.2; (ii) any Systems used to provide or receive such Services that does not fall within clause 12.2; (iii) any timescale for the provision of the Services from that set out in this Agreement; or (iv) any change to the terms of this Agreement;

"Change Control Procedure" means the procedure described in schedule 2;

"Charges" means the sums payable by the Customer to the Supplier for the supply of Services, as set out in clause 14;

"Completion" has the meaning given in the Share Purchase Agreement;

"Confidential Information" has the meaning given in clause 23.1;

"Customer Auditors" has the meaning given in clause 21.2;

"Customer Contact" means the representatives of the Customer set out in schedule 6;

"Customer Data" means all data, information, text, drawings, statistics, analysis and other materials embodied in any form relating exclusively to the Business (including its customers and employees). Customer Data may be supplied by the Service Recipients and/or may be generated, collected, processed, stored or transmitted by or on behalf of the Supplier (and any of its sub-contractors) in connection with this Agreement;

"Customer Database" means all the information and records of the Supplier Group relating to the customers of the Business and not being more than three years old;

"Customer Group" means the Customer and all the members of its Group (and shall include the Punch A Group from Completion);

"Data Protection Act" means the Data Protection Act 1998 (and any subordinate legislation and codes of practice relating to it) and any other applicable data protection or privacy rules and legislation in other jurisdictions;

"Data Subject" means a natural and living person who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his or her identity;

"Disclosing Party" has the meaning given in clause 23.1;

"Dispute" means any dispute, difference or question of interpretation arising out of or in connection with this Agreement, (including any dispute in relation to a matter to be agreed hereunder, regarding pre-contractual negotiations, the existence, validity or termination of this Agreement or the consequences of non-existence or invalidity of this Agreement) whether contractual or non-contractual;

"Dispute Resolution Procedure" means the procedure set out in schedule 5;

"Employee" means all employees of the Supplier Group who are employed by the Supplier Group immediately prior to, on or after Completion;

"Employee Claim" means any action, cost, claim, demand, expense or other liability in respect of which the Indemnifying Party may become liable to indemnify the Indemnified Party in accordance with schedule 7;

"Employee Database" means all the information and records of the Supplier Group relating to the employees providing services to the Business;

"End Date" means the date upon which this Agreement terminates for any reason;

"Existing Agreements" has the meaning given in clause 2.1;

"Expert" has the meaning given in paragraph 3.2 of schedule 5;

"Expert Determination" has the meaning given in paragraph 3.1 of schedule 5;

"Expert Disputes" has the meaning given in paragraph 3.1 of schedule 5;

"Field Staff" means those Employees who do not ordinarily work from the head office of the Retained Business;

"Final Staff List" means the list of Transferring Employees together with the Staffing Information for the Transferring Employees;

"Financial Dispute" has the meaning given in paragraph 3.1 of schedule 5;

"Force Majeure Event" means in relation to either party an event which is beyond the reasonable control of the party and the member of that party's Group liable to effect performance, and includes strike, lock-out, or labour disputes (excluding, in all cases, by the employees of the party or a member of that party's Group liable to effect performance), act of God, fire, flood, storm, war, military action, riot, civil commotion, terrorism epidemic, explosion or malicious damage and accident or breakdown of machinery;

"Group" means, in relation to a party, that party and any other company which is for the time being (whether on or after Completion) an Affiliate of that party;

"Intellectual Property Rights" means:

- (a) patents, utility models, supplementary protection certificates, petty patents, rights in trade secrets and other confidential or undisclosed information (such as inventions (whether patentable or not) or know-how), plant variety rights, registered designs, rights in copyright (including authors' and neighbouring or

related rights), database rights, design rights, semiconductor topography rights, mask work rights, trade marks and service marks;

- (b) all registrations or applications to register any of the items referred to in paragraph (a); and
- (c) all rights in the nature of any of the items referred to in paragraphs (a) or (b) including continuations, continuations in part and divisional applications, reputation, personality or image, trade names, business names, brand names, get-up, logos, domain names and URLs, rights in unfair competition and, without prejudice to anything set out elsewhere in this definition, rights to sue for passing off and all rights having equivalent or similar effect to, and the right to apply for any of, the rights referred to in this definition in any jurisdiction;

"Intra-Group Arrangements" means any agreement or arrangement of whatever nature between any member of the Supplier Group (on the one hand) and PTL's Group (on the other hand), pursuant to which: (i) a member of the Supplier Group provides services, resources, personnel or other items whatsoever to PTL or any business carried on by PTL or a member of PTL's Group; or (ii) PTL or a member of PTL's Group provides services, resources, personnel or other items whatsoever to the Supplier Group or any business carried on by the Supplier Group;

"Intra-Group Software Licences" means the Software Licence Agreements between PTL and Punch Partnerships (PPCS) Limited dated 16 March 2012;

"IT and Procurement Framework Deed" means the Punch A IT and Procurement Framework Deed between Punch Partnerships (PPCS) Limited and PTL Limited dated 16 March 2012;

"Losses" means all damages, losses, costs, awards, penalties, interest and expenses (including all legal fees reasonably incurred);

"Management Services Agreement" means the management services agreement dated 3 November 2003 as amended on 31 December 2004 and as further amended and restated on 1 August 2005 between Punch Taverns (PTL) Limited, Punch Taverns (PGE) Limited and those other Punch Group companies entities identified as service recipients therein;

"Mediation" has the meaning given in paragraph 2.1 of schedule 5;

"Migration" has the meaning given in clause 5.1;

"Migration Plan" means the plan for the Service Recipients' and the Business' migration from the Operational Services to replacement services, as agreed in accordance with clause 5.1 and schedule 4;

"Migration Services" means the services to be provided or procured by the Supplier in connection with Migration, as set out in clauses 5.3 through 5.7 and schedule 4, and including those services set out in the agreed Migration Plan;

"Migration Team" has the meaning given in clause 5.1;

"Modification Note" has the meaning given in paragraph 2.4 of schedule 2;

"MRO Requests" means requests submitted by tied pub tenants within the Business to receive an offer to go free of their tie;

"Neutral" has the meaning given in paragraph 2.3 of schedule 5;

"Non-Affected Party" has the meaning given in clause 26.1.2;

"Notice of Expert Determination" has the meaning given in clause 3.3 of schedule 5;

"Omitted Items" has the meaning given in clause 10;

"Operational Services" means the services that the Supplier will procure for the benefit of the Customer and the Service Recipients under this Agreement, being those services described in schedule 1 (but to the extent that schedule 1 identifies any services that were not provided to the Business and/or the Retained Business pursuant to an Intra-Group Arrangement during the Reference Period, or any services that have been retired as at Completion in respect of the Business and the Retained Business, or if schedule 1 omits any services that were provided to the Business and/or the Retained Business pursuant to an Intra-Group Arrangement during the Reference Period, the provisions of clause 10 shall apply). Operational Services may refer to any one of the Service Lines stated in schedule 1 or to all the Service Lines collectively;

"Personal Data" means any Customer Data relating to a Data Subject;

"Punch A Group" has the meaning given in the Share Purchase Agreement;

"Punch Group" has the meaning given in the Share Purchase Agreement;

"Policy" has the meaning given in clause 27.1;

"Pre-Transfer Consultation" has the meaning given in s.198A of TULRCA;

"Provisional Staff List" is as defined in paragraph 3.1 of schedule 7;

"Provisional Transferring Employees" is as defined in paragraph 3.1 of schedule 7;

"PTL" means Punch Partnerships (PTL) Limited a company incorporated and registered in England and Wales with registered number 03512363 and with its registered office at Jubilee House, Second Avenue, Burton upon Trent, Staffordshire DE14 2WF;

"Pubs Code" means the Pubs Code etc Regulations 2016, and any replacement thereto;

"Pubs Code Adjudicator" means the Regulatory Authority responsible for enforcing the Pubs Code;

"Pub Data" means all information, drawings and certification relating to buildings and other physical assets of the Business held by the Supplier Group;

"Receiving Party" has the meaning given in clause 23.1;

"Recipient" has the meaning given in clause 23.3;

"Redundancy Costs" means:

- a) any payment in lieu of the contractual or statutory notice period;
- b) any statutory redundancy payment calculated in accordance with s.162 of the Employment Rights Act 1996;
- c) any contractual redundancy payment; and
- d) any responsibility or liability that relates in any way whatsoever to pension, retirement or death benefits payable (actually, prospectively or contingently) under or in connection with an occupational pension scheme (within the meaning of s.1 Pension Schemes Act 1993);

"Reference Period" means the period of thirteen (13) consecutive four-week periods immediately prior to Completion;

"Referral Notice" has the meaning given in clause 3.9 of schedule 5;

"Regulatory Authority" means any person, body, authority, government, local government, regulatory agency or trade agency with regulatory, enforcement, administrative and/or criminal law powers in any jurisdiction;

"Replacement Services" means any services which are substantially similar to the Services and which the Customer or another member of the Customer Group procures in substitution for the Services following the termination or partial termination of this Agreement, whether those services are provided by the Customer or another member of the Customer Group internally and/or by any Replacement Supplier;

"Replacement Supplier" means any Third Party supplier of Replacement Services appointed by the Customer or a member of the Customer Group as the case may be;

"Requesting Party" has the meaning given in paragraph 2.3 of schedule 2;

"Required Employees" means only those Employees who have been regularly involved in the provision of services to the Business during the Reference Period together with any additional employees of the Supplier or member of the Supplier Group who are necessary for the provision of the Services, as the Supplier or member of the Supplier Group shall determine from time to time;

"Required Rights" has the meaning given in clause 8.1;

"Restricted Activities" means the activities set out in schedule 6;

"Retained Business" means the business of the Punch Group (other than the Business) as it existed during the Reference Period and immediately after Completion;

"Retained Information" has the meaning given in clause 5.8;

"Secondment Framework Agreement" means the secondment framework agreement dated 12 November 2012 between Punch Taverns (Services) Limited, PTL and Punch Partnerships (PML) Limited;

"Security Policies" has the meaning given in clause 18.1;

"Security Trustee" means the respective security trustee under the securitisation in respect of which (i) the Punch A Group is subject and (ii) the Punch Group is subject (being, as at the date of this Agreement, in each case Deutsche Trustee Company Limited);

"Service Levels" means, with respect to a Service Line, the level of service provided to the Business and/or the Retained Business in the ordinary course during the Reference Period;

"Service Lines" means each individual element of the Operational Services as stated in schedule 1;

"Services" means the Migration Services and/or the Operational Services;

"Service Recipient" means, in relation to any Services, the member of the Customer Group receiving the relevant Service Line;

"Service Term" means the Term, or, if a shorter period is specified in schedule 1, the specific term listed for any individual Service Line;

"Share Purchase Agreement" means the agreement defined in paragraph 1 of the recitals to this Agreement;

"Staffing Information" means:

- a) a full list of details of the Transferring Employees including age and length of service;
- b) all material terms and conditions relating to the employment or engagement of the Transferring Employees, including without limitation as to any bonus, commission, pensions, retirement, share options, incentive payments, insurance benefit and any enhanced redundancy payments (discretionary or contractual);
- c) all non-contractual benefits of the Transferring Employees;
- d) job titles of all the Transferring Employees;
- e) details of any disciplinary procedure taken against or grievance procedure taken by any of the Transferring Employees within the previous six months;
- f) details of any court or tribunal case, claim or action brought by any of the Transferring Employees against the Supplier Group within the previous six months or that the Supplier Group has reasonable grounds to believe that any of the Transferring Employees may bring; and
- g) details of any collective agreement which may transfer to the Customer, another member of the Customer Group or a Replacement Supplier under the TUPE Regulations;

"Steering Group" has the meaning given in clause 9.1;

"Steering Group Meeting" has the meaning given in clause 9.2;

"Supervising Body" has the meaning given in paragraph 2.1 of schedule 5;

"Supplier Group" means the Supplier and the members of its Group (and it excludes Punch A Group from and after Completion);

"Systems" means the systems used in or in support of the delivery of the Services, including those described in schedule 1;

"Target Migration Date" means five months from Completion, or such other date as specified in the Migration Plan;

"Technical Dispute" paragraph 3.1 of schedule 5;

"Term" has the meaning given in clause 4;

"Third Party" means in relation to a party, a person who is not a member of that party's Group;

"Third Party Default" means where the Supplier has not provided or procured any of the Services due to any failure or delay in the provision of any of the Services which are performed by a Third Party Service Provider;

"Third Party Service Provider" means provider of any of the Services which is a not a member of the Supplier Group;

"Transferred Employees" means those Transferring Employees that transfer to the Customer or a member of the Customer Group or a Replacement Supplier on the End Date pursuant to the TUPE Regulations;

"Transferring Employees" means the Field Staff included on the Final Staff List who are intended by the parties to transfer to the Customer or a member of the Customer Group or a Replacement Supplier in accordance with paragraph 3 of schedule 7 (Employees);

"Transferring Employees Quota" means the number of Transferring Employees calculable as follows: (total number of Field Staff employed by the Punch Group) x (A/B), where A is the number of pubs in the Punch A Group, and B is the total number of pubs in the Punch A Group and the Punch Group;

"TULRCA" means the Trade Union and Labour Relations (Consolidation) Act 1992;

"TUPE Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended); and

"Working Day" means a day (other than a Saturday or Sunday) on which the banks are ordinarily open for business in the City of London.

1.2 In this Agreement (unless the context requires otherwise):

1.2.1 the words "including", "include", "for example", "in particular" and words of similar effect shall not limit the general effect of the words which precede them;

1.2.2 reference to any agreement, contract, document or deed shall include that document as varied, supplemented or novated from time to time;

- 1.2.3 reference to a party shall, upon any assignment or other transfer that is permitted by this Agreement, be construed to include those successors and permitted assignees or transferees;
- 1.2.4 the headings, index and front sheet are all for reference only and shall be ignored when construing this Agreement;
- 1.2.5 references to a clause, schedule, paragraph or appendix are references to the clause, schedule, paragraph or appendix of, or to, this Agreement;
- 1.2.6 reference to any legislative provision shall be deemed to include any statutory instrument, by-law, regulation, rule, subordinate or delegated legislation or order and any rules and regulations which are made under it, and any subsequent re-enactment or amendment of the same; and
- 1.2.7 if there is any conflict, ambiguity or inconsistency between the clauses and the schedules, the clauses will prevail and between this Agreement and the Share Purchase Agreement, the Share Purchase Agreement will prevail.

2. TERMINATION OF EXISTING AGREEMENTS

- 2.1 Each party may (but shall not be obliged to), prior to Completion, endeavour to procure the consent of all parties whose consent or approval may be required (including the Security Trustee where relevant), for the termination (with effect from Completion) of the Management Services Agreement, the Secondment Framework Agreement, the Intra-Group Software Licences, the IT and Procurement Framework Deed and the Back-to-Back Supply Agreement ("**Existing Agreements**").
- 2.2 In respect of those Existing Agreements that can be terminated by the parties thereto without requiring any further consents or approvals (including the consent of the Security Trustee) at Completion, the Supplier and the Customer shall procure that those Existing Agreements shall be terminated with effect from Completion.
- 2.3 To the extent that any consent is required for the termination of any of the Existing Agreements:
 - 2.3.1 where the parties have between them obtained all of the required consents as at Completion, each party shall demonstrate the consents they have obtained to the other, and the Supplier and the Customer shall procure that the affected Existing Agreements shall be terminated with effect from Completion;
 - 2.3.2 where the parties have not obtained all of the required consents, or have not sought the required consents prior to Completion, the relevant Existing Agreement(s) affected by the absence of consent will not be terminated at Completion but the parties will procure that those Existing Agreement(s) will not be used and instead that the Supplier Group supplies and the Customer Group receives all required services under this Agreement instead. To give effect to the foregoing:
 - 2.3.2.1 the Supplier shall procure that the Supplier Group members shall, from Completion, cease their use of the Existing Agreements and cease to provide any services, goods, resources and other things that they may be required to provide under the Existing Agreements, and instead provide the Services under this Agreement;

2.3.2.2 the Customer shall procure that the Customer Group members shall, from Completion, cease their use of the Existing Agreements and cease to provide any services, goods, resources and other things that they may be required to provide under the Existing Agreements, and instead receive the Services under this Agreement; and

2.3.2.3 each of the parties shall procure that no member of its Group shall make any claim or take any other action against any member of the other party's Group as a result of the implementation of clauses 2.3.2.1 or 2.3.2.2 above.

2.4 To the extent that either party becomes aware of any Intra-Group Arrangements that were in force before Completion and remained in force after Completion (other than this Agreement or the Existing Agreements) the Supplier and the Customer shall, at the request of the other, procure that the respective members of their Groups shall take all necessary steps to:

2.4.1 terminate those Intra-Group Arrangements by mutual consent (provided that if the consent of the Security Trustee is required for such termination, termination shall not take effect until such time as consent has been obtained and both parties shall use reasonable endeavours to seek and procure such consent); and

2.4.2 waive any and all claims that they may have against each other arising from those Intra-Group Arrangements or their termination.

3. [NOT USED]

4. TERM AND NOVATION

4.1 With the exception of this clause 4.1 and clauses 2.1, 5.1, 5.2, 23, 24.2, and 38, all of which shall take effect on the date of this Agreement, the remainder of this Agreement shall not come into force until Completion.

4.2 Subject to clauses 4.3 and 4.4, and unless terminated earlier in accordance with the provisions of clause 24, this Agreement shall continue in force until the date falling six (6) months after Completion at which point it will terminate (the period from Completion to the point of termination being the "**Term**").

4.3 If Completion occurs in the period 15 May 2017 to 30 June 2017 (inclusive), the Term shall automatically be extended so that this Agreement terminates on 31 January 2018.

4.4 If the Customer reasonably considers that it will be unable to complete Migration by the end of the Term as a result of the Supplier's failure or delay to provide or procure the provision of any Migration Services in accordance with this Agreement (or any anticipated failure or delay that can be reasonably demonstrated in providing or procuring such), then provided the Customer has provided reasonable evidence supporting its conclusions, the Customer may by written notice to the Supplier (to be given no later than one month prior to the expiry of the Term) extend the Term by one additional month at a time, up to a maximum of three months.

5. MIGRATION

5.1 On or immediately after the date of this Agreement, the parties shall establish a migration planning team ("**Migration Team**"), which shall be responsible for producing a written plan ("**Migration Plan**") for the migration of the provision of the Operational Services from the Supplier Group to the Customer (or if relevant, a third party service provider) ("**Migration**").

Each party shall ensure that the personnel it provides for the Migration Team are of a sufficient competence to understand each service being provided in schedule 4 and have sufficient operational experience to develop the Migration Plan.

5.2 The Customer is responsible for preparing the first draft of the Migration Plan, based on its chosen solution to achieve Migration, and shall deliver this first draft to the Supplier within forty five (45) days after the date of this Agreement. The Supplier will thereupon provide its input into the Migration Plan and return the Migration Plan to the Customer within a further period of twenty (20) days, and the Customer shall then deliver a further draft of the Migration Plan to the Supplier within a further thirty (30) days. The parties shall procure that the Migration Team shall discuss the Migration Plan (which may be an iterative process) and that the Steering Group shall agree the Migration Plan as soon as practicable after Completion. The Migration Plan shall be drawn up in accordance with the requirements set out in schedule 4 and shall:

5.2.1 to the extent relevant to the Supplier, set out the steps and actions that the Customer plans to take to transfer responsibility for the Operational Services to itself or a third party service provider;

5.2.2 specify the scope of any Migration Services that the Customer reasonably requires from the Supplier and to which the Supplier agrees (provided that the Supplier may not refuse to agree Migration Services which it is required under this Agreement to provide), and the expected timing for the performance of such Migration Services; and

5.2.3 provide a timetable for the Migration Services and other activities to be carried out pursuant to Migration.

5.3 In providing the Migration Services, the Supplier acknowledges and agrees that it or members of the Supplier Group may be required to:

5.3.1 extract data in the form and manner pursuant to clause 5.6;

5.3.2 hand over documentation relating to existing work processes and procedures, including any templates, policies and other documentation reasonably required in connection with the operation of the Business; and

5.3.3 use reasonable endeavours to transfer to the Business any authorisations, consents, licences, and/or permits (including any liquor licences or gaming licences) held in the name of the members of the Supplier Group, to the extent that those authorisations, consents, licences, and/or permits pertain exclusively to the Business,

and that details of such requirements may be included in the Migration Plan.

5.4 From Completion, the Supplier shall procure for the Customer such reasonable and controlled access to Supplier Group personnel, contractors, sites and Systems (including the provision of data structures and data samples (anonymised where appropriate)) and shall use reasonable endeavours to procure the co-operation of its personnel and contractors as may be reasonably requested by the Customer from time to time (provided that the Supplier will not be required to procure such access to the extent it would cause significant disruption to the Retained Business as a whole) to enable the Customer to better understand the Business, the Systems, and the business processes used to provide the Operational Services, so as to further refine

and update the Migration Plan, and to further detail the description of the Service Lines and the Service Levels (if required).

- 5.5 The Supplier shall provide or procure the provision of reasonable assistance required by the Customer and the Service Recipients to support the Customer's achievement of Migration and, once the Migration Plan has been agreed, provide the Migration Services in accordance with the agreed Migration Plan.
- 5.6 The Supplier is responsible, as part of the Migration Services, for procuring the extraction from databases under the control of the Supplier Group or to which it has a contractual right to access, and providing to the Customer, copies and/or extracts of all Business Records, the Customer Database, the Employee Database, Pub Data and any other data relating to the Business in the format in which such data exists at the point of extraction or such other format as the parties may agree (the Customer acknowledging that if it requests the data to be reformatted, or extracted in another format as the format in which such data exists at the relevant time, the Customer shall be responsible for all additional costs incurred by the Supplier Group in doing so and neither the Supplier nor any other member of the Supplier Group shall be liable for any errors in the data that may result or the inability of the Customer to use that data). The Supplier Group may retain a copy of all Business Records, the Customer Database, the Employee Database, Pub Data and any other data extracted and delivered to the Customer pursuant to this clause 5.6 for their own internal record keeping, legal and regulatory purposes, but for no other purpose.
- 5.7 The Supplier shall as part of the Migration Services deliver to the Customer a hard copy of any of the items referred to in clause 5.6 to the extent the Supplier Group does not hold them in electronic form.
- 5.8 Supplier shall procure that:
- 5.8.1 all books of account, records, documents and information of the members of the Punch A Group (in whatever form) relating to the period before Completion that are retained by Supplier Group (excluding any documentation delivered to the Customer) ("**Retained Information**") are preserved for seven years from Completion; and
- 5.8.2 (on giving reasonable notice to Supplier) the Customer and other members of the Customer Group, and their representatives, are permitted during normal business hours to have access to, and to take copies (at their expense) of the Retained Information.
- 5.9 The parties shall, and shall procure that the relevant members of their respective Groups shall, comply with their obligations under the Migration Plan once the Migration Plan has been agreed, and do so in a way that ensures minimal disruption to business relationships with third parties during implementation of the Migration Plan.

6. THE SERVICES

- 6.1 From Completion, the Supplier shall procure the provision of the Operational Services to the Service Recipients for the relevant Service Term.

- 6.2 The Supplier shall procure the provision of the Operational Services:
- 6.2.1 with the same care, skill and prudence which applied to the provision of the services to the Business and the Retained Business pursuant to the Intra-Group Arrangements throughout the Reference Period;
 - 6.2.2 in accordance with the Service Levels;
 - 6.2.3 in accordance with all applicable laws and regulations (provided that, where the Services were not provided in accordance with applicable laws and regulations as at Completion the Supplier shall not be in breach of this clause if it continues to procure the provision of the Services in the manner in which they had been provided as at Completion); and
 - 6.2.4 in accordance with the policies and practices which prevailed before Completion, to the extent that these applied to the provision of the services to the Business and the Retained Business pursuant to the Intra-Group Arrangements throughout the Reference Period (and provided that, where the Services were not provided in accordance with these policies and practices as at Completion the Supplier shall not be in breach of this clause if it continues to procure the provision of the Services in the manner in which they had been provided as at Completion).
- 6.3 In procuring the Services and taking other action under this Agreement, the Supplier shall do so in a manner such that the Customer and the Service Recipients are treated no less favourably than the Business was treated during the Reference Period (including where the Supplier Group is undergoing a Force Majeure Event). Whenever the Supplier or a member of the Supplier Group exercises a discretion in the procurement or provision of the Services or performing their other obligations under this Agreement (other than in exercising or enforcing any rights that the Supplier may have under this Agreement against the Customer), and where the exercise of that discretion will affect the Business, the Supplier will ensure that the Business and the Retained Business shall be treated equally in the exercise of that discretion.
- In the event of any conflict between the standards articulated by clauses 6.2.1 to 6.2.4 and 6.3, the higher standard shall prevail.
- 6.4 The Supplier shall provide or procure the provision of the Migration Services with all reasonable care, skill and prudence.
- 6.5 The Supplier shall notify the Customer and any affected Service Recipient of any failures or deficiencies in the provision of Services or which are likely to affect its provision of the Services, promptly on becoming aware of such.
- 6.6 If at any time the Services are not provided in accordance with the provisions of clause 6.2 or 6.4, the Supplier shall, without prejudice to the Customer's other rights and remedies and subject to the remainder of this clause, arrange all such additional resources from the Retained Business as are necessary and take all such necessary remedial action to correct such failure to meet these requirements as soon as practicable thereafter. In respect of the Operational Services, the Supplier shall procure that this is done (in so far as can be established) in the same way as was done as part of the ordinary course of business where there had been a failure to provide the services which are the equivalent to the Operational Services during the Reference Period. Except in the event that such failure is as a result of any action or omission of the Customer, such resource and action shall be at no additional cost to the Customer.

- 6.7 From Completion, the Supplier shall procure that disaster recovery systems are maintained in respect of the Systems and that systems are maintained for the regular backup of data and data security procedures to guard against the loss, destruction or alteration of any data being stored or to be migrated from the Supplier Group to the Customer Group, in each case to the extent that those systems and procedures were maintained by the Business or Retained Business as at Completion.
- 6.8 The Supplier shall provide or procure the provision of, at the request of the Customer, such information and general support in relation to the Services as the Customer reasonably requires to: (i) meet any obligations it may have under laws or regulations applicable to the Business; or (ii) handle any dispute or legal proceedings (other than disputes or legal proceedings with the Supplier Group); or (iii) otherwise to operate properly the Business, in each case to the extent that such information is not in the possession or under the control of the Customer Group. Such information shall include the production of reports as required by the Pubs Code Adjudicator and the processing of MRO Requests submitted to the Business.
- 6.9 The Customer shall procure for the Supplier, the Supplier Group and their Third Party Service Providers: (i) reasonable access to the pub estate and tenants in the Business and (ii) reasonable information as is in the control of the Customer Group; in each case as is necessary from time to time for the delivery of the Operational Services ("**Dependencies**").
- 6.10 The Supplier shall not be in breach of this Agreement to the extent that any delay in the performance of, or failure to perform, the Operational Services is caused by any failure to perform any Dependency.
- 6.11 The Supplier shall provide the Customer with as much written notice as possible of any failure to perform any Dependency and shall give the Customer the chance to correct the failure, and the Supplier shall use or procure that reasonable endeavours are used to mitigate the impact of the failure or delay in providing the Dependency but shall not be required to incur any additional costs as a result.
- 6.12 The Customer shall, and shall ensure that each Service Recipient shall, use the Operational Services only for the benefit of the Business and in accordance with all applicable laws and regulations (provided that, where the Services were not used in accordance with applicable laws and regulations as at Completion, the Customer shall not be in breach of this clause if it and the Service Recipients continue to use the Services in the manner in which they had been used as at Completion).

7. RESTRICTED ACTIVITIES

- 7.1 The Supplier shall be required to obtain the specific prior written consent of the relevant Customer Contact before the Supplier or any member of the Supplier Group carries out any of the Restricted Activities.
- 7.2 For those activities which fall outside the definition of Restricted Activities only because they are carried out in the ordinary course of business, the Supplier will provide notification of such activities and related expenditure as part of each Steering Group Meeting.
- 7.3 The Supplier shall indemnify and keep the Customer Group at all times indemnified from and against all Losses (including the costs of remedial action required to be taken by the Customer or any other member of the Customer Group) sustained by the Customer Group arising from the Supplier or a member of the Supplier Group carrying out the following Restricted Activities without first having obtained the consent of the relevant Customer Contact: (i) Pub-

related Operations Relating to the Business; and (ii) Finance. This indemnity shall not apply to any other Restricted Activities.

8. SOFTWARE LICENCES AND SUPPLY CONTRACTS

- 8.1 If the Supplier or a Supplier Group member requires a consent or authorisation under any existing software licence or supply contract to enable the performance of the Services ("**Required Rights**") then, subject to clause 8.2, the Supplier shall use reasonable endeavours to obtain the Required Rights as soon as reasonably practicable and the Customer shall, and shall ensure that the Service Recipients shall, provide all reasonable assistance that the Supplier may require in connection with obtaining any Required Rights. Any licence fees or other costs charged by the software licensor or supplier to provide such Required Rights shall be added to the Supplier Group's cost of providing the Operational Services and equivalent services to the Retained Business and treated under clause 14.3.1. To avoid doubt, the costs of the goods or services specifically ordered by the Customer for the pub estate of the Business under these agreements shall be treated in accordance with clause 14.3.2.
- 8.2 If, having used its reasonable endeavours pursuant to clause 8.1, the Supplier is unable to obtain, or is having difficulty obtaining, such Required Rights, then the Supplier shall notify the Customer of this circumstance as soon as reasonably practicable. On receipt by the Customer of a notice from the Supplier under this clause 8.2, the parties shall discuss in good faith alternative solutions (which may include that the Supplier procures the provision of the Services in an alternative manner that does not require the Required Rights at issue), and the Customer may in its absolute discretion decide to seek to obtain the Required Rights either itself, or jointly with the assistance of the Supplier or member of the Supplier Group. Any licence fees or other costs charged by the software licensor or supplier to provide such Required Rights shall be notified by the Customer to the Supplier. Such fees and costs shall be paid by the Supplier, added to the Supplier Group's cost of providing the Operational Services and equivalent services to the Retained Business and treated under clause 14.3.1.
- 8.3 Each party shall, and the Customer shall ensure that each Service Recipient shall, comply with all obligations and restrictions: (i) imposed by a Third Party Service Provider in connection with the granting of a Required Right, provided that in respect of the Customer such obligations and restrictions do not prevent the Customer and Service Recipient from being able to receive and benefit from the Operational Services; and (ii) contained in a contract between a Supplier Group member and a Third Party Service Provider which is used in connection with the provision of the Services, provided that those restrictions apply equally to the Retained Business (where relevant) and such obligations and restrictions relate to usage only (and do not oblige the Customer to pay any amounts other than those agreed pursuant to clause 8.2) and are notified in writing to the Authorised Representative of the Customer reasonably in advance to permit their compliance.
- 8.4 If any Required Right obtained by the Supplier or a member of the Supplier Group is revoked, or a Third Party Service Provider terminates a contract with the Supplier Group or claims damages, in each case as a result of a failure by the Customer or a Service Recipient to comply with clause 8.3, then:
- 8.4.1 (other than where only damages are claimed by the Third Party Service Provider) the Supplier shall immediately be relieved from procuring the provision of any Service which is dependent on that Required Right or Third Party Service Provider contract;

- 8.4.2 the Customer shall indemnify and keep the Supplier indemnified at all times from and against all Losses sustained by the Supplier or any other member of the Supplier Group in consequence; and
- 8.4.3 the Supplier shall (at the Customer's reasonable cost) promptly take steps to procure the provision as soon as reasonably practicable of a replacement service for any Operational Service which is dependent on that Required Right or Third Party Service Provider contract.
- 8.5 If any Required Right obtained by the Supplier or a member of the Supplier Group is revoked, or a Third Party Service Provider terminates a contract with the Supplier or a member of the Supplier Group, in each case as a result of a breach by the Supplier or a member of the Supplier Group of the terms of that Required Right or contract (which breach was not caused by the Customer's or a Service Recipient's obligation to comply with clause 8.3), then:
- 8.5.1 the Supplier shall promptly take steps to procure the provision as soon as reasonably practicable of a replacement service for any Operational Service which is dependent on that Required Right or Third Party Service Provider contract; and
- 8.5.2 the Supplier shall indemnify and keep the Customer indemnified at all times from and against all Losses sustained by the Customer or any other member of the Customer Group in consequence.
- 8.6 Clause 8.5 does not apply to the termination of a contract by a Third Party Service Provider on account of a failure by the Supplier or a member of the Supplier Group to obtain a Required Right that may be required under that contract.
- 8.7 In the event that any contract with a Third Party Service Provider is due to expire during the Term, or if the Supplier Group intends to terminate any contract with a Third Party Service Provider during the Term, or if the Supplier Group receives notice of termination from such Third Party Service Provider during the Term, the Supplier shall, before taking any action:
- 8.7.1 provide the Customer with at least thirty (30) days' advance written notice of this (or, in the event of notice of termination being served on it, notify the Customer promptly thereafter); and
- 8.7.2 discuss the matter, and any necessary alternative arrangements, in good faith with the Customer at Steering Group Meetings, and, acting reasonably, agree a course of action in a way that is least likely to have any adverse effect on the Operational Services or Migration.

9. GOVERNANCE

- 9.1 Within seven (7) days of Completion, the parties shall establish a steering group to manage the provision of the Services, Migration and the performance by the parties of their obligations under this Agreement, such steering group to comprise:
- 9.1.1 on behalf of the Supplier:
- Supplier's Authorised Representative
- Supplier's members of the Migration Team

- 9.1.2 on behalf of the Customer:
- Customer's Authorised Representative
- Lawson Mountstevens
- Stephen Rooney
- Customer's members of the Migration Team
- (together the "**Steering Group**")
- 9.2 The Steering Group shall meet (by way of meeting in person or by conference call) once each week or more frequently as the parties shall mutually agree ("**Steering Group Meeting**") to discuss matters such as:
- 9.2.1 the monitoring of the implementation of the Migration Plan and associated costs;
- 9.2.2 the transfer of Transferring Employees to the Business under this Agreement from the Supplier Group to the Customer Group (or in other circumstances by agreement);
- 9.2.3 updates to and progress against the Migration Plan;
- 9.2.4 any proposed Changes (provided that any such Changes will not be binding unless and until they have been agreed and implemented in accordance with the Change Control Procedure);
- 9.2.5 the Operational Services and any issues which have arisen or may arise in respect of the Services and/or pursuant to this Agreement; and
- 9.2.6 any other issues either party considers to be relevant to the performance of this Agreement.
- 9.3 Based on the proposed agenda of each Steering Group Meeting the parties may agree that one or more of the members of the Steering Group are not required at that meeting, and in the absence of any such agreement, each party shall use reasonable endeavours to have its member attend each agreed meeting.
- 9.4 Where appropriate, the parties will agree in writing as part of the Steering Group Meetings any protocol to be followed by the Supplier in the delivery of the Services (which may include details of such matters as (a) query handling and (b) operational authority of the Supplier). In the absence of any specific written protocol, the Supplier will provide and procure the provision of the Services in accordance with its obligations in clauses 6.1 and 6.2.
- 9.5 Minutes of each Steering Group Meeting shall be kept by a representative of each of the parties alternately.
- 9.6 In addition to the above, the Supplier shall procure reasonable office and support facilities to enable one employee of the Customer to be based at Supplier Group's office in Burton for the duration of the Term.
- 9.7 Subject to paragraphs 1 and 4 of schedule 5, the parties shall attempt to resolve any Dispute in relation to this Agreement or the Services by referring that Dispute to:

- 9.7.1 the Steering Group in the first instance. If the Dispute is not resolved by the Steering Group within five (5) Working Days the parties shall refer that Dispute to:
- 9.7.2 appropriate senior managers from each party in the area to which the Dispute relates. If the Dispute is not resolved by the senior managers within a further five (5) Working Days the parties shall refer that Dispute to:
- 9.7.2.1 in the case of the Customer, the Customer's Finance Director, and
- 9.7.2.2 in the case of the Supplier, the Group Finance Director.
- 9.8 If the Dispute is not resolved under clause 9.7.2 within five (5) Workings Days, either party may refer that Dispute under the Dispute Resolution Procedure in schedule 5.
- 9.9 Upon the occurrence of any Third Party Default:
- 9.9.1 the Customer and the Supplier shall as soon as reasonably practicable, and in any event within five (5) Working Days of the occurrence of a Third Party Default, notify each other of the Third Party Default and provide all reasonable details within their knowledge with respect to the same, and shall consult together to decide what reasonable steps shall be taken to address such Third Party Default;
- 9.9.2 the Supplier shall procure that all steps are taken that are reasonable in the circumstances to enforce the Supplier Group's right under the contract (but no member of the Supplier Group shall be required to take any legal action or enforce any claims in damages against a Third Party Service Provider), treating the Business and the Retained Business equally, and always based on the steps that were taken in respect of any similar defaults during the Reference Period in respect of the Business or Retained Business; and
- 9.9.3 the Supplier shall use reasonable endeavours to identify alternate sources of the affected Operational Services pending re-performance of the Operational Services by the Third Party Service Provider that will enable the Business and the Retained Business to receive such alternate services (if available and reasonably practicable), provided that nothing in this clause will prevent the Customer from seeking its own solution independently.

10. ADDITIONAL OR OMITTED ITEMS

- 10.1 If, during the first two (2) months immediately following Completion:
- 10.1.1 the Customer identifies any services, functions or responsibilities which are not listed in schedule 1 but which were provided to the Business or Retained Business during the Reference Period and which were not phased out or retired prior to Completion for the Business and Retained Business ("**Omitted Items**"), the Customer may request by notice in writing to the Supplier that it procures the provision of those Omitted Items as an Operational Service under this Agreement; or
- 10.1.2 the Supplier identifies any services, functions or responsibilities which are listed in schedule 1 but which were not provided to the Business or Retained Business during the Reference Period or which were phased out or retired prior to Completion for the Business and Retained Business ("**Additional Items**"), the

Supplier shall give the Customer notice in writing and those Additional Items shall then be deemed to be removed from schedule 1.

Following notice in writing being given pursuant to clauses 10.1.1 or 10.1.2, the Parties shall then enter into good faith discussions to amend schedule 1 to reflect that Additional Item or Omitted Item. Once an Omitted Item has been added to schedule 1, such Omitted Item shall become part of the Operational Services, and the Charges payable under clause 14.3.1 shall be adjusted as required.

11. CANCELLATION OF SERVICES

11.1 If the Supplier Group should make any changes to their distributors or enter into a new contract or an extension of a contract with any of their distributors in the thirty (30) days prior to the expiry of the Term, the Customer may cancel the distribution service procured by the Supplier under this Agreement in relation to that distributor, by giving to the Supplier no less than seven (7) days' written notice.

11.2 Cessation of any distribution service pursuant to this clause 11 shall not affect:

11.2.1 the accrued rights and obligations of the parties in respect of the distribution service at the date of cessation; and

11.2.2 any obligations set out in this Agreement relating to the distribution service, which are of a continuing nature.

11.3 To avoid doubt, nothing in this Agreement requires the Customer or any Service Recipient to receive any services exclusively from the Supplier or a member of the Supplier Group, but this shall not relieve the Customer from paying the Charges in accordance with clause 14.

12. CHANGES TO SERVICES

12.1 Unless agreed otherwise as part of the process of Migration as specified in clause 5, and subject to clause 12.2:

12.1.1 if either party wishes to make any Change, the party proposing the Change shall notify the other party and the parties shall discuss the potential impacts of the Change on the other party, the Services and the Systems, in accordance with the Change Control Procedure; and

12.1.2 neither party shall implement a Change under this Agreement unless the Change has been agreed by the other party pursuant to the Change Control Procedure.

12.2 Subject to clause 7, the Supplier Group may make any substitution, change, update or enhancement to any operational aspect of any Service or its provision (including any Systems) and to any of the resources, processes and/or practices used in any Service or its provision (including any Systems), without having to notify the Customer or obtaining the Customer's consent, where that substitution, change, update or enhancement:

12.2.1 is also made for the Retained Business;

12.2.2 will not require the Customer or Service Recipient to take any changed action or incur any additional expenditure, other than action or expenditure which is trivial; and

12.2.3 does not have an adverse impact on the Services or Migration (other than a trivial adverse impact),

and provided further that where the substitution, change, update or enhancement involves any new Services being provided by a Third Party Service Provider, the Business and the Retained Business shall be treated equally.

13. GENERAL OBLIGATIONS

13.1 The Customer shall on and from Completion:

13.1.1 provide all co-operation and assistance reasonably required by the Supplier to enable the provision of the Services;

13.1.2 on reasonable notice and during Business Hours, give any of the Supplier Group's employees, agents or sub-contractors reasonable access to the Customer Group's facilities to the extent required in connection with the provision of the Services;

13.1.3 take reasonable steps to ensure the safety of the Supplier Group's employees, agents or sub-contractors who visit the Customer Group's premises; and

13.1.4 ensure that its Authorised Representative is available at all reasonable times on reasonable notice for consultation on any matter relating to the Services.

13.2 The Supplier shall on and from Completion:

13.2.1 provide and procure from the Supplier Group all co-operation reasonably required by the Customer and the Customer Group in receiving the Services;

13.2.2 comply, and shall procure that its employees, agents and sub-contractors shall comply, whilst on the premises of any member of the Customer Group, with all relevant codes of practice relating to health and safety and security in force from time to time; provided that any changes to such practices are notified to them by the Customer in advance;

13.2.3 to the extent that it is able, share with and pass on to the Customer and members of the Customer Group the benefit of all warranties, representations, indemnities and undertakings which relate to the Services and are given by a Third Party Service Provider; and

13.2.4 ensure that its Authorised Representative is available at all reasonable times on reasonable notice for consultation on any matter relating to the Services.

14. CHARGES AND PAYMENT

14.1 In consideration for the Supplier and members of the Supplier Group performing their obligations under this Agreement, the Customer shall pay the Supplier the Charges in accordance with this clause 14.

14.2 The Charges represent the entire amount payable by the Customer to the Supplier for the provision of the Services.

Operational Services

- 14.3 The Charges for the Operational Services shall comprise two elements as follows:
- 14.3.1 A "**4-Week Base Charge**", which will be equal to the Agreed Percentage of the cost of providing the Operational Services to the Business and equivalent services to the Retained Business during each consecutive 4-Week Period (or part thereof) during the Term. The Supplier will calculate the 4-Week Base Charge within seven (7) Working Days after Completion and advise the Customer accordingly, including providing reasonable evidence of the calculation of the 4-Week Base Charge. The 4-Week Base Charge will be invoiced within seven (7) days after the start of each 4-Week Period (save that the first 4-Week Base Charge will be adjusted to take account of the amount already paid by the Business and Retained Business towards the cost incurred during that part of the relevant 4-Week Period which has elapsed as at Completion, and the last 4-Week Base Charge will be adjusted to take account of the amount of the relevant 4-Week Period which remains after the End Date so that the Customer only pays for the period up to the End Date), and shall be paid in full and without any deduction, set-off or withholding, by no later than the 26th day of that 4-Week Period. The Supplier shall adjust the 4-Week Base Charge from time to time by notice in writing to the Customer: (i) upwards for increases in the cost of providing the Operational Services and equivalent services to the Retained Business, and (ii) downwards on account of any decrease in the cost of providing the Operational Services and equivalent services to the Retained Business;
- 14.3.2 "**Pass Through Costs**", which will be the actual costs (including applicable taxes) of specific goods and services ordered by the Customer Group or Service Recipients for the pub estate of the Business and supplied via the Supplier (including by Third Party Service Providers), calculated in accordance with clause 14.13. These costs will be invoiced to the Customer on the 26th of each month in respect of the costs incurred from Completion onwards in the previous month and shall be paid no later than the 28th day of the month of invoice.
- 14.4 The Customer will not be obliged to pay any share of costs pursuant to clause 14.3.1 where such costs relate to any of the acts specified in paragraph 2.3 of schedule 7, if those acts have been carried out without obtaining the prior written consent of the Customer.
- 14.5 In calculating the costs referred to in clause 14.3.1, the Supplier shall pro-rate any costs which relate both to the period before the End Date and the period after the End Date, so that a proportionate allocation is made for the Term.

Migration Services

- 14.6 The Migration Services will be provided by the Supplier at no additional charge, provided that the Supplier is able to use the existing resources of the Supplier Group for the performance of the Migration Services and where those resources possess the necessary skills and expertise for the provision of the Migration Services and can be used without causing significant disruption to the Retained Business as a whole. Where the Supplier Group is required to incur any payment to a Third Party Service Provider for the provision of the Migration Services, the cost of this shall be agreed by the Steering Group in advance, and the Customer shall refund the actual costs (including applicable taxes) charged by those Third Party Service Providers for the provision of the Migration Services within twenty eight (28) days after receiving the Supplier's invoice therefor.

Retention Arrangements

- 14.7 If mutually agreed as being required, the Customer and Supplier shall seek to agree a mechanism for incentivising performance of management and staff of the Supplier Group through to the end of the Term. Once agreed, the costs of such payments, which shall relate only to the Term, shall be shared by the Customer and Supplier according to the Agreed Percentage.

General Provisions

- 14.8 If at any point during the Term cost savings are made by the Supplier Group in relation to the provision of any of the Operational Services or equivalent services for the Retained Business (for example due to the reduction in the cost of personnel, reduction in Third Party Service Provider charges, any volume rebates or discounts, or any payments of service credits or damages by a Third Party Service Provider), the Charges shall be reduced to reflect the cost saving, and any adjustments made to invoices (or a credit note given by the Supplier to the Customer). For clarity cost savings made by the Supplier Group that are not directly relevant to the cost of providing the Operational Services or equivalent services for the Retained Business as referenced in clause 14.3.1 shall not be taken into account for the purpose of calculating any reductions under this clause.
- 14.9 Within thirty (30) days of the end of the Term, the Supplier will reconcile the amounts charged pursuant to clause 14.3.1 with the Agreed Percentage of the actual cost of providing the Operational Services to the Business and equivalent services to the Retained Business during the Term, and present this information to the Customer. The parties will seek to agree a final balancing payment as soon as practicable thereafter, and the party due to make the payment shall do so within twenty eight (28) days of receiving an invoice in such amount from the other party.
- 14.10 Payment by the Customer shall be without prejudice to any claims or rights which the Customer may have against the Supplier and shall not constitute any acknowledgment by the Customer as to the proper performance by the Supplier of its obligations under this Agreement.
- 14.11 If the Customer disputes any amount invoiced, it shall notify the Supplier of the nature of the Dispute within fifteen (15) Working Days of receipt of the invoice giving all relevant details. Pending the resolution of the Dispute, the Customer shall pay the undisputed amount but shall be entitled to withhold payment of any other amounts which are subject to the Dispute, however the 4-Week Base Charge and any other costs specifically agreed to in writing by the Customer may not, save for any manifest error in the amount invoiced, be withheld under this clause or for any other reason whatsoever, however if the Supplier stops providing all or substantially all of the Operational Services (other than where the Supplier is excused from doing so under this Agreement), the Customer shall be relieved from paying the 4-Week Base Charge for the period during which the Services are not provided. All Disputes relating to invoices shall be resolved in accordance with the Dispute Resolution Procedure.
- 14.12 All amounts payable pursuant to this Agreement are exclusive of any VAT properly chargeable. The Customer shall pay VAT at the rate for the time being properly chargeable in respect of the Services subject to the Supplier providing the Customer with such valid tax invoices and other documentation as may be required by the Customer.
- 14.13 If any member of the Supplier Group is required by the Customer Group to purchase goods and services from a third party on behalf of the Customer Group for the pub estate of the Business, then the Supplier shall notify the Customer of the amount of any payment required

and shall provide the Customer with the invoice for the relevant goods or services. The amount paid by the Customer for such goods or services shall be the same as that set out in the relevant invoice between the Supplier Group and the relevant Third Party Service Provider.

- 14.14 The Customer may, at any time, set-off any amounts due and payable by the Supplier to the Customer under the Share Purchase Agreement against any amounts due and payable by the Customer to the Supplier under this Agreement.

15. [NOT USED]

16. SYSTEMS

The Supplier shall procure the grant to tenants and personnel working at the pub estate in the Business of a non-exclusive, non-transferable, licence to use the Systems during the Term.

17. INTELLECTUAL PROPERTY RIGHTS

- 17.1 The Supplier shall procure that the Supplier Group grants the Customer and the members of the Customer Group from Completion a perpetual non-exclusive, transferrable, royalty-free licence, with the right to grant sub-licences to use any Intellectual Property Rights owned by the Supplier Group (excluding trade marks or branding owned by the Supplier Group that incorporate the principal trading names of the Punch Group) that are in use in the pub estate of the Punch A Group as at Completion or that the Supplier Group allows the Service Recipients to use in their pub estate during the Term. Such Intellectual Property Rights may only be used in connection with the Business.

- 17.2 Solely to the extent necessary to enable the Supplier Group to perform the Services, the Customer licenses to the Supplier Group the right to use the materials, data and information provided by the Customer or Service Recipients in connection with the provision of the Services. Such licence shall terminate automatically on termination of this Agreement.

- 17.3 With the exception of Customer Data created by the Supplier Group for the Customer Group as part of the provision of the Services (which shall belong to the Customer), each party shall own all Intellectual Property Rights created by it or on its behalf.

18. SYSTEM SECURITY

- 18.1 Within this clause "**Security Policies**" means all of the Supplier Group's written policies, standards and procedures which relate to the technical and organisational security, and integrity, of the Systems.

- 18.2 The Supplier shall procure that the Supplier Group and their agents and sub-contractors shall hold all of the Customer Data in accordance with the Security Policies (provided that, where the Supplier Group or their agents and sub-contractors do not hold Customer Data in accordance with the Securities Policies as at Completion, the Supplier shall not be in breach of this clause).

- 18.3 Each party shall maintain appropriate security procedures and protocols designed to protect its systems from unauthorised access.

- 18.4 If either party detects or reasonably suspects a breach of information technology security that will, or is likely to, have an adverse impact on the Services or the integrity of data on a party's

or a party's Group (or its agent's or subcontractor's) information technology systems, that party shall:

- 18.4.1 notify the other party as soon as reasonably practicable;
- 18.4.2 act promptly and use reasonable endeavours to prevent or mitigate the effects of the breach; and
- 18.4.3 after resolution of the breach, identify and implement steps to ensure that the breach does not recur, and recommend any such steps to the other party.

19. DATA PROTECTION

- 19.1 Where the Customer Data is processed by the Supplier Group or their agents or sub-contractors in connection with the provision of the Services, the Supplier shall procure that those members of the Supplier Group and their agents, and sub-contractors, shall:
 - 19.1.1 process the Customer Data on behalf of the Customer only for the purposes of performing this Agreement and only in accordance with instructions contained in this Agreement, or received from the Customer from time to time during the Term;
 - 19.1.2 not otherwise modify, amend or alter the contents of the Customer Data or disclose or permit the disclosure of any of the Customer Data to any third party unless specifically authorised in writing by the Customer;
 - 19.1.3 at all times comply with the provisions of the seventh principle set out in Part 1 schedule 1 to the Data Protection Act (which provides that appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data), and shall procure that its agents and sub-contractors so comply;
 - 19.1.4 co-operate as reasonably requested by the Customer Group to enable the Customer Group to comply with any exercise of rights by a Data Subject under the Data Protection Act or comply with any assessment, enquiry, notice or investigation under the Data Protection Act;
 - 19.1.5 other than as specifically required by the Customer Group or allowed under this Agreement, cease processing the Customer Data immediately upon the termination of this Agreement, or if sooner, the Service to which it relates;
 - 19.1.6 notify the Customer Group promptly of any breaches of the Supplier Group's security which affect the Customer Data; and
 - 19.1.7 ensure that it does not transmit any of the Customer Data outside of the Supplier Group's usual place of business (except for any transfer to the Customer Group, for security back up off site or to a designated disaster recovery site), unless to the extent that the Supplier Group has done so in the ordinary course of its business during the Reference Period.
- 19.2 The Supplier shall not be in breach of clause 19.1 where the Supplier Group or their agents or sub-contractors do not comply as at Completion, provided that the Supplier will, following

Completion, take reasonable steps to establish whether there are any areas of non-compliance and seek to rectify these.

20. EMPLOYEES

The parties will comply with the provisions of schedule 7.

21. RECORD KEEPING AND AUDIT

21.1 Each party shall:

21.1.1 maintain and keep secure accurate records relating to the performance of its obligations under this Agreement for the duration of the Term and for three (3) years from the End Date; and

21.1.2 on receipt of reasonable notice, provide the other party with copies of these records as reasonably required (which shall occur no more frequently than four-weekly) to enable it to monitor or verify compliance with this Agreement.

21.2 The Supplier shall procure that the Customer Group and any of its auditors, regulators or authorised agents (together "**Customer Auditors**") are granted reasonable rights of access to: (i) any of the facilities and premises from which the Supplier Group provides the Services; (ii) (including the right to copy) the records, documents and other materials in the possession or control of the Supplier Group relating to this Agreement; and (iii) other reasonable support as the Customer and/or the relevant Service Recipient may require during the Term and for six (6) months from the End Date in order to undertake the following:

21.2.1 fulfilment of any request by a Regulatory Authority of the Customer and/or any Service Recipient;

21.2.2 conduct of the Customer's and/or any Service Recipient's internal and statutory audits including preparing the Customer's or any Service Recipient's annual and interim reports and any other reports reasonably required by any internal auditor or external auditor or Regulatory Authority and verification of the Supplier's and members of the Supplier Group's compliance with the Customer's or the relevant Service Recipient's internal audit requirements;

21.2.3 verification of the accuracy of the Charges and any other amounts payable or receivable by the Customer under this Agreement;

21.2.4 verification that the Services are being provided in accordance with the terms of this Agreement; and

21.2.5 verification that information and reports provided by the Supplier Group are accurate and complete in all material respects.

21.3 Any audit, investigation or monitoring undertaken in accordance with this clause shall be subject to the Customer providing at least five (5) Working Days' notice and shall not be conducted more frequently than once in any four-week period, unless in either case such audit is required by the Customer because:

21.3.1 there is suspected fraud, material accounting mistakes or suspected criminal activity;

- 21.3.2 it is required by a Regulatory Authority;
 - 21.3.3 the Customer or the relevant Service Recipient has reasonable grounds to suspect that the Supplier is in material breach of its obligations under this Agreement and the Customer has notified the Supplier of the existence of such grounds; or
 - 21.3.4 any circumstances have arisen which would (or might reasonably be expected to) give rise to the Customer having the right to terminate this Agreement.
- 21.4 Each party shall bear its own costs in relation to any audit undertaken in accordance with this clause (provided the Supplier shall be responsible for all costs associated with any remedial actions required to be undertaken by it pursuant to the clauses below). However if:
- 21.4.1 an error, or connected series of errors which have occurred in any three (3) 4-Week Periods, of over ten per cent (10%) of the Charges payable by the Customer in those three (3) 4-Week Periods is found in relation to any invoice or other materials relating to the Charges submitted by the Supplier to the Customer;
 - 21.4.2 the Supplier is found to have breached any of its obligations under this Agreement (other than a trivial breach); or
 - 21.4.3 any other material errors or defaults on the part of the Supplier are found,
- then the Supplier shall be responsible for the Customer's and the relevant Service Recipient's reasonable costs of undertaking the audit.
- 21.5 If the audit demonstrates that the Supplier is failing to comply with any of its obligations under this Agreement, then, without prejudice to the other rights and remedies of the Customer, the Supplier shall take the necessary steps to comply with its obligations at no additional cost to the Customer.
- 21.6 If the audit demonstrates that the Supplier has overcharged the Customer for the provision of the Services, then, within five (5) Working Days of such demonstration, the Supplier shall pay to the Customer an amount equal to the amount so overcharged.

22. LIABILITY

22.1 *Liability for Third Party Supported Services*

- 22.1.1 Where the Supplier Group relies on a Third Party Service Provider for the provision of the Services ("**Dependent Services**"), the Supplier's liability in the event of a Third Party Default in relation to such Dependent Services shall be limited to taking the steps set out in clause 9.9 and to taking the steps set out in the remainder of this clause 22.1.
- 22.1.2 Clause 22.1.1 does not apply if the Third Party Default in question has been caused by or has arisen as a result of any default or failure by the Supplier or a member of the Supplier Group, other than a default or failure caused by a breach by a Customer Group member of clause 8.3.
- 22.1.3 Where the Supplier Group recovers damages, service credits or similar amounts from any Third Party Service Provider, the Supplier shall pass on to the Customer, after the Supplier Group has received in cleared funds such damages, service credits or similar amounts from the relevant Third Party Service Provider,

a pro rata amount of the damages, service credits or similar amounts actually received from that Third Party Service Provider (to reflect the proportion of the impact of the breach on the Business's use of the Dependent Services, as it relates to the impact of the breach on the overall use by the Business and the Retained Business (taken together) of that Dependent Service), less a pro rata amount of all costs and expenses (including legal expenses) incurred by the Supplier in enforcing the relevant contract.

- 22.1.4 If the Supplier decides pursuant to clause 9.9.2, not to seek to enforce its rights under the contract or recover damages, service credits or similar amounts from any relevant Third Party Service Provider for breach of the applicable contract, the Supplier shall inform the Customer and the parties shall discuss the matter. If the Supplier has taken the decision not to take any further action against the relevant Third Party Service Provider on the basis that there is no reasonable chance of a successful claim against the Third Party Service Provider, then the Supplier shall have no further liability for the failure of the Third Party Service Provider (however if the Customer disputes that the Supplier had no reasonable chance of a successful claim, the matter will be referred to the Steering Group and if the Steering Group is unable to resolve the matter, shall be resolved in accordance with clause 38). If, however, the Supplier took a decision not to take any further action against the relevant Third Party Service Provider despite there being a reasonable chance of a successful claim under the relevant contract, the Supplier shall be liable to the Customer to the extent that the Customer Group would have been entitled to damages, service credits or similar amounts under clause 22.1.1.

22.2 Other Liability

- 22.2.1 Subject to clauses 22.2.3 and 22.2.5, the maximum aggregate liability of each party and the members of that party's Group (taken together) under or in connection with this Agreement (whether in contract, tort, negligence, breach of statutory duty or otherwise howsoever) shall be limited to five million pounds (£5,000,000) sterling.
- 22.2.2 Subject to clauses 22.2.3 and 22.2.5, and notwithstanding any other provision of this Agreement, neither party shall have any liability (whether in contract, tort, negligence, breach of statutory duty or otherwise howsoever) arising out of or in connection with this Agreement for any claim to the extent that such liability relates to:
- 22.2.2.1 consequential, special, incidental, indirect or punitive damages; or
 - 22.2.2.2 loss of profits, loss of revenue, loss of income or diminution of value or loss of goodwill or potential business opportunity.
- 22.2.3 Nothing in this Agreement shall operate to exclude or restrict either party's liability to the other for:
- 22.2.3.1 death or personal injury resulting from its negligence;
 - 22.2.3.2 its fraud or fraudulent misrepresentation;
 - 22.2.3.3 any indemnity given by that party (except that clause 22.2.2 shall apply to exclude liability under indemnities); or

- 22.2.3.4 any other liability that cannot be excluded or restricted at law.
- 22.2.4 The Supplier shall indemnify and keep the Customer indemnified at all times from and against all Losses sustained by the Customer and the members of the Customer Group arising as a result of:
- 22.2.4.1 (where the Customer shares an individual's Personal Data with the Supplier Group) any unlawful disclosure or use of such Personal Data in breach of clause 19; and
- 22.2.4.2 any infringement of the Intellectual Property Rights or other rights of a third party arising out of, or in connection with, the Supplier Group's provision of or the Customer Group's use (in accordance with this Agreement) of the Services, provided that this indemnity does not apply where the infringement was present during the Reference Period or where the infringement occurs as a result of the Supplier Group not having a Required Right in relation to Third Party Service Providers' contracts that were in force as at Completion.
- 22.2.5 Nothing in this Agreement excludes or limits the Supplier's liability for wilful default or wilful abandonment on the part of the Supplier or any member of the Supplier Group, where this occurs with the knowledge or consent of an executive or director of the Supplier or relevant member of the Supplier Group.
- 22.2.6 Subject to clause 22.2.3, neither party shall be liable in respect of any failure arising from a Force Majeure Event (provided that the procedure in clause 26 is followed).
- 22.2.7 All conditions, warranties and representations, expressed or implied by statute, common law or otherwise, in relation to the performance or non-performance of the Services are excluded to the extent permitted by law unless expressly set out in this Agreement.

22.3 General

- 22.3.1 If a party is aware of a matter which may give rise to a claim under this Agreement, the claiming party shall give written notice to the other party as soon as reasonably practicable (and, in any event, within fifteen (15) days) after first becoming aware of the circumstances giving rise to such claim. A failure by the claiming party to give notice as contemplated by this clause in relation to any matter or circumstance shall not prevent the claiming party from making any claim arising from that matter or circumstance.
- 22.3.2 Each party shall use reasonable endeavours to mitigate damages for which the other party is responsible in connection with this Agreement.
- 22.3.3 All claims arising from or in connection with this Agreement shall expire and lapse automatically, and the parties hereby irrevocably waive their right to make a claim, twelve (12) months after the expiry of the Term, except for claims that have been notified in writing to the other party prior to the expiry of this twelve (12) month period.

23. CONFIDENTIALITY

- 23.1 In this clause 23, "**Confidential Information**" means all confidential information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by a party ("**Disclosing Party**") to the other party ("**Receiving Party**") whether before or after the date of this Agreement including, but not limited to, information relating to the Disclosing Party's products, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs or which the Receiving Party creates for the Disclosing Party under this Agreement. With effect from Completion, the Business Records, the Pub Data, the Customer Database, the Employee Database and any confidential information relating solely and exclusively to the Business shall be deemed to be the confidential information of the Customer disclosed by the Customer to the Supplier Group for the purposes of this clause 23 and clause 25.2.2.
- 23.2 During the term and after termination of this Agreement for any reason, the Receiving Party:
- 23.2.1 shall not use the other party's Confidential Information for a purpose other than the performance of its obligations or exercise of its rights under this Agreement;
 - 23.2.2 shall not disclose the other party's Confidential Information to any person except with the prior written consent of the Disclosing Party or in accordance with clauses 23.3 and 23.4;
 - 23.2.3 shall make every effort to prevent the use or disclosure of the other party's Confidential Information held by it.
- 23.3 During the term of this Agreement the Receiving Party may disclose the other party's Confidential Information to any of its directors, other officers, employees and sub-contractors ("**Recipient**") to the extent that disclosure is reasonably necessary for the purposes of this Agreement.
- 23.4 Before disclosure of the other party's Confidential Information to a Recipient, the Receiving Party shall ensure that such Recipient is made aware of and complies with the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement.
- 23.5 Clauses 23.2 to 23.4 do not apply to Confidential Information which:
- 23.5.1 is at the date of this Agreement or becomes at any time after that date publicly known other than by the Receiving Party's or Recipient's breach of this Agreement;
 - 23.5.2 subject to clause 23.6, can be shown by the Receiving Party to the Disclosing Party's reasonable satisfaction to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party except where such information is created by the Receiving Party for the Disclosing Party under this Agreement;
 - 23.5.3 is or becomes available to the Receiving Party otherwise than pursuant to this Agreement and free of any restrictions as to its use or disclosure; or
 - 23.5.4 is required to be disclosed by law.

- 23.6 The provisions of clause 23.5.2 shall not apply after Completion to exempt the Supplier Group from its obligations under clauses 23.2 to 23.4 in respect of the Business Records, the information stored on the Customer Database, the Employee Database, the Pub Data and/or any other information solely and exclusively relating to the Business.
- 23.7 The provisions of this clause 23 are in addition to and not in substitution for the provisions in the Share Purchase Agreement dealing with confidential information, and in the event of any conflict between this Agreement and the Share Purchase Agreement in this regard, the provisions of the Share Purchase Agreement shall prevail.

24. TERMINATION

- 24.1 Either party may, without prejudice to its other rights or remedies, terminate this Agreement with immediate effect by written notice to the other party if one or more of the following events occurs:
- 24.1.1 the other party:
- 24.1.1.1 passes a resolution or makes a determination for it to be wound up (without a declaration of solvency/except for the purposes of amalgamation or reconstruction); or
 - 24.1.1.2 has a winding-up order or bankruptcy order made against it, which order is not revoked within seven (7) days of being made; or
 - 24.1.1.3 has appointed to it an administrator or administrative receiver; or
- 24.1.2 it is entitled to do so pursuant to an express right set out elsewhere in this Agreement.
- 24.2 If the Share Purchase Agreement terminates prior to Completion, this Agreement shall terminate automatically and no party will have any obligation or liability to the others under this Agreement.

25. CONSEQUENCES OF TERMINATION

- 25.1 The consequences of cancelling a Service Line are set out at clause 11.
- 25.2 Where this Agreement is terminated for any reason:
- 25.2.1 from Completion onwards, title in the Business Records, Customer Database, Employee Database and Pub Data (to the extent not already migrated to the Customer in the course of this Agreement) shall pass from the Supplier Group to the Customer and such records, database and data shall be handed or otherwise provided to the Customer in such form as they may then exist; and
 - 25.2.2 each party shall, as soon as reasonably practicable, deliver to the other, or otherwise dispose of as the other party directs, all copies of documents and/or computer software containing Confidential Information belonging to the other party or members of the other party's Group, except to the extent the other party has a right to retain copies of such material, and provide on request a written notice signed by a director of that party that it has returned or destroyed all such materials, and provided that the Supplier is not required under this clause to

extract data or information (other than that generated by Customer Group) that it is not required to extract as part of the Migration Services.

- 25.3 Termination of this Agreement, however caused, shall be without prejudice to any obligations or rights of either of the parties which may have accrued before termination and shall not affect any provision of this Agreement which is expressly or by implication intended to come into effect on, or to continue in effect after, such termination including the following clauses: 2.3.2.3, 5.8, 7.3, 8.4, 8.5, 14.2, 14.3 (for Charges incurred prior to the End Date), 14.4, 14.9 through 14.14, 17, 18 (in relation to information of the Customer Group held following the End Date), 19 (in relation to information of the Customer Group held following the End Date) 20, 21, 22, 23, 25, 28, 29.3, 32, 34, 37 and 38 and Schedule 7.

26. FORCE MAJEURE

- 26.1 If a party ("**Affected Party**") is prevented, hindered or delayed from or in performing any of its obligations under this Agreement by a Force Majeure Event:
- 26.1.1 the Affected Party's obligations under this Agreement are suspended while the Force Majeure Event continues and to the extent that it is prevented, hindered or delayed provided that each party complies with this clause 26 and, in the case of the Supplier, it complies with its obligations under clause 6.3;
 - 26.1.2 as soon as reasonably possible after the start of the Force Majeure Event, the Affected Party shall notify the other party ("**Non-Affected Party**") in writing of the Force Majeure Event, the date on which the Force Majeure Event started and the effects of the Force Majeure Event on its ability to perform its obligations under this Agreement;
 - 26.1.3 the Affected Party shall make all reasonable efforts to mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement and to resume performance of the Services in accordance with this Agreement. Without prejudice to the foregoing, the Supplier shall not be entitled to rely on the benefit of clause 26.1.1 if it has failed to implement its business continuity plan and/or disaster recovery plan that it is required to maintain pursuant to this Agreement, and such implementation would have remedied the impact of the Force Majeure Event; and
 - 26.1.4 as soon as reasonably possible after the end of the Force Majeure Event, the Affected Party shall notify the Non-Affected Party in writing that the Force Majeure Event has ended and resume performance of its obligations under this Agreement.
- 26.2 If the Force Majeure Event continues for more than ten (10) Working Days starting on the day the Force Majeure Event starts, the Non-Affected Party may terminate any affected Service Line at any time thereafter by notice in writing to the other party.
- 26.3 For the purposes of clause 26.1 where the Services are provided by Supplier Group members and those Supplier Group members are affected by a Force Majeure Event, then the Supplier shall be deemed to have been affected to the same extent by that Force Majeure Event. Similarly, where the Services are provided by Supplier Group members, the Supplier will not be able to rely on clause 26.1 unless the member of the Supplier Group providing the Services is affected by the Force Majeure Event.

27. ANTI-CORRUPTION

- 27.1 Each party shall comply with, and shall ensure that all of the member of its Group and their employees and (in the case of the Supplier, any Third Party Service Provider) comply with, an appropriate anti-bribery and corruption policy (the "**Policy**") and all applicable legal and regulatory anti-bribery and corruption obligations. The Supplier is not liable for a breach of this clause where it did not require any Third Party Service Provider to comply with the Policy prior to Completion.
- 27.2 The Customer shall be entitled to terminate this Agreement immediately upon written notice to the Supplier if, in connection with this Agreement:
- 27.2.1 the Supplier Group or any person employed by it or any Third Party Service Provider (whether with or without the knowledge of the Supplier) accepts, solicits, agrees to receive, promises, offers or gives a bribe, facilitation payment, kickback or other improper payment;
 - 27.2.2 the Supplier Group or any person employed by it or any Third Party Service Provider (whether with or without the knowledge of the Supplier) breaches the Policy or commits an offence under the Bribery Act 2010 or any other applicable anti-bribery and corruption laws or regulations; or
 - 27.2.3 the Customer has a good faith belief that the Supplier Group has breached or will breach either the Policy or any other applicable anti-bribery and corruption laws or regulations.
- 27.3 If any breach of this clause 27 is suspected or known the Supplier shall notify the Customer immediately.

28. NOTICES

- 28.1 Any notice given by one party to another under this Agreement shall be in writing, delivered by prepaid first class or special delivery post to the address given at the start of this Agreement, and in all cases marked for the attention of the relevant party's Authorised Representative.
- 28.2 Notices sent by prepaid first class post or special delivery shall be deemed to have been given two (2) Working Days after the date of posting.
- 28.3 Notices under this Agreement shall not be validly served by e-mail.
- 28.4 Either party may vary their address and/or contact for notices by giving notice to the other. The notice must expressly state that the new address is the address for notices and/or the new contact is the contact to whose attention all future notices should be brought, as the case may be.

29. ASSIGNMENT AND SUB-CONTRACTING

- 29.1 Subject to clauses 29.2 and 29.3, neither party shall assign, transfer, sub-contract or otherwise deal with any of its rights or obligations under this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.
- 29.2 The Supplier is permitted to use the members of the Supplier Group to provide the Services. The Supplier is further permitted to use Third Party Service Providers to provide Services to

the extent that such arrangements are in place at Completion, or, if they are new arrangements, they fall within the scope of clause 12.2.

29.3 The Customer may assign or transfer any or all of its rights or obligations under this Agreement, or on-provide the Services, to a third party acquiring assets and/or other parts of the Business pursuant to any divestment required by a Regulatory Authority, provided that:

29.3.1 the Customer provides prior written notice to the Supplier setting out the identity of the relevant third party and the services to be provided to that third party as soon as reasonably practicable; and

29.3.2 the Customer shall be liable in respect of all acts or omissions of any third party entity to whom the Services are being on-provided by the Customer which, if such acts or omissions were of the Customer, the Customer would be liable for, whether for breach of this Agreement, in tort (including negligence), in breach of a statutory duty or otherwise.

30. WAIVER AND CUMULATIVE REMEDIES

30.1 No failure or delay by either party to exercise any right or remedy arising under, or in connection with, this Agreement (collectively, any "**action**") will act as a waiver, or otherwise prejudice or restrict the rights of that party, in relation to that action or any other contemporaneous or future action.

30.2 The rights and remedies arising under, or in connection with, this Agreement are cumulative and, except where otherwise expressly provided in this Agreement, do not exclude rights and remedies provided by law or otherwise.

31. RELATIONSHIP OF THE PARTIES

Nothing in this Agreement is intended to create a partnership, joint venture or legal relationship of any kind between the parties that would impose liability upon one party for the act or failure to act of the other party, or to authorise either party to act as agent for the other. Except where otherwise expressly provided in this Agreement, neither party shall have authority to make representations, act in the name or on behalf of, or otherwise to bind the other.

32. FURTHER ASSURANCE

Each party shall, at the request and cost of the other, use all reasonable endeavours to do or procure the doing of all such further acts, and execute or procure the valid execution of all such documents, as may from time to time be necessary in the requesting party's reasonable opinion to give full effect to this Agreement and to vest in the requesting party the full benefit of the assets, rights and benefits to be transferred to the requesting party under this Agreement.

33. SEVERANCE

33.1 If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect, that shall not affect or impair the legality, validity or enforceability of any other provision of this Agreement.

33.2 If any illegal, invalid or unenforceable provision would be legal, valid or enforceable if some part of it were deleted, such provision shall apply with the minimum modification(s) necessary to make it legal, valid or enforceable.

34. THIRD PARTY RIGHTS

A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement. This clause does not affect any right or remedy of any person which exists, or is available, other than pursuant to that act.

35. VARIATION

Unless specified otherwise in this Agreement, all Changes to the Services shall be agreed pursuant to clause 12. No other variation of this Agreement or 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 to this Agreement.

36. COUNTERPARTS

36.1 This Agreement may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart.

36.2 Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute one and the same Agreement.

37. ENTIRE AGREEMENT

37.1 This Agreement, together with the Share Purchase Agreement, sets out the entire agreement and understanding between the parties in respect of its subject matter and supersedes any previous agreement, warranty, statement, representation, understanding, or undertaking (in each case whether written or oral) given or made before Completion by, or on behalf of, the parties and relating to its subject matter.

37.2 Each party confirms that it has not relied upon, and (subject to clause 22.2.3.2) shall have no remedy in respect of, any agreement, warranty, statement, representation, understanding or undertaking made by any party (whether or not a party to this Agreement) unless that agreement, warranty, statement, representation, understanding or undertaking is expressly set out in this Agreement.

37.3 Subject to clause 22.2.3.2, neither party shall be entitled to claim the remedy of rescission arising out of, or in connection with, any agreement, warranty, statement, representation, understanding or undertaking whether or not it is set out in this Agreement.

38. GOVERNING LAW AND JURISDICTION

This Agreement and any Dispute or non-contractual obligation arising out of or in connection with it shall be governed by, and construed in accordance with the law of England and Wales. Subject to the provisions of the Dispute Resolution Procedure, each party hereby submits to the exclusive jurisdiction of the courts of England and Wales over any Dispute arising out of or in connection with this Agreement.

IN WITNESS whereof the parties have executed this Agreement the day and year first above written.

Signed for and on behalf of VINE)
ACQUISITIONS LIMITED by:)
Signature



.....

Name (block capitals)

STEPHEN GREEN
.....

Director/authorised signatory

Signed for and on behalf of HEINEKEN)
UK LIMITED by:)
Signature

.....

Name (block capitals)

.....

Director/authorised signatory

38. GOVERNING LAW AND JURISDICTION

This Agreement and any Dispute or non-contractual obligation arising out of or in connection with it shall be governed by, and construed in accordance with the law of England and Wales. Subject to the provisions of the Dispute Resolution Procedure, each party hereby submits to the exclusive jurisdiction of the courts of England and Wales over any Dispute arising out of or in connection with this Agreement.

IN WITNESS whereof the parties have executed this Agreement the day and year first above written.

Signed for and on behalf of VINE)
ACQUISITIONS LIMITED by:)
Signature

.....

Name (block capitals)

.....

Director/authorised signatory

Signed for and on behalf of HEINEKEN)
UK LIMITED by:)
Signature



Name (block capitals)

...RUTH HUNTER...

Director/authorised signatory

SCHEDULE 1: OPERATIONAL SERVICES AND SYSTEMS

Complete for each Service Line:

Human Resources

Service	Description	Frequency	Service Term	Primary Contact
General	Continue to provide people to provide the Operational Services.	Ongoing	6 months	Authorised representative or other nominee
General	Continue to pay, and provide HR support to, the people required to provide the Operational Services	Ongoing	6 months	Authorised representative or other nominee
Training & Development	Continue to provide any professional development or training required as per the Pubs Code or to provide the required service level	Ongoing	6 months	Authorised representative or other nominee
Compliance	Ensure that all staff operate in compliance with the Pubs Code and all relevant Health and Safety legislation, competition law etc	Ongoing	6 months	Authorised representative or other nominee

IT

Service	Description	Frequency	Service Term	Primary Contact
Infrastructure	<p>Provide the following IT infrastructure to operate the business on an ongoing basis:</p> <ul style="list-style-type: none"> • Data centres and storage • Any existing wifi services procured on behalf of pubs will continue to be provided • All third party networks must continue to be provided and supported • Maintain any pub specific digital presence provided at the point of TSA commencement • All end user devices, e.g. laptops, phones, and tablet to be provided and supported to a level no less than in the past 12 months, including the rights to use the necessary software 	Ongoing	6 months	Authorised representative or other nominee

	licences • IT-Retail systems				
Support	Provide the following IT support services for the infrastructure and applications required to service the TSA: • IT support desk • 3rd Party Support Services (e.g. JDE, Ngen)	Ongoing	6 months	Authorised representative or other nominee	
Resilience and Disaster Recovery	Resilience and disaster recovery in support of the IT systems: • Networks provided by Supplier Group to be of sufficient resilience to provide security and continuation of service necessary • Service provided to ensure that all of Service recipient's data is backed up in accordance to the Service Recipient's data security protocols	Ongoing	6 months	Authorised representative or other nominee	
Application	Provision of the applications listed in the Schedule below to facilitate provision of the services as set out in schedule 1	Ongoing	6 months	Authorised representative or other nominee	

IT applications required to provide/support the Operational Services.

Assumed view of applications and systems required to provide/support the Operational Services. This list will be amended as required to reflect the position as at Completion.

Function	Application
HR	HR and employee systems
Finance	Finance and reporting systems (JD Edwards, Appian)
IT	Monitoring, reporting and database systems
Operations - T&L	Back Of House reporting Central property management Compliance Licensee support
Operations - Retail	Front Of House Back Of House EPOS Online ordering Stock control
Operations - Central	Estates management

	<p>Master data management</p> <p>Repairs & maintenance</p> <p>Capex investment system</p> <p>Menu management</p> <p>Reporting and BI</p> <p>Marketing inc digital, websites</p> <p>CRM</p>
Procurement	Procurement and order management solutions
Product Supply	<p>Online Purchasing portal</p> <p>Back-office links to the supporting ERP system for order management, variance tracking and reporting</p> <p>Supporting (third-party or in-house) telesales service for the routing of orders</p>
Property	<p>Repairs and maintenance (third party or in-house);</p> <p>Asset management and tracking;</p> <p>Health & Safety</p> <p>Inspections scheduling and reporting;</p> <p>Dilapidations and capex investments;</p> <p>Back-office links to the supporting ERP system for order management, variance tracking and reporting</p>
Estates	<p>Property master data management;</p> <p>Estates information, including rental agreements;</p> <p>Tenancy agreements and change processing;</p> <p>Rent setting, reviews and agreement renewals;</p> <p>Tenancy exit processing; and</p> <p>Back-office links to the supporting ERP system</p>
Marketing	<p>CRM system & marketing databases (if applicable);</p> <p>Brandbank;</p> <p>Customer websites and underlying content management;</p> <p>Customer payment and loyalty apps (if applicable); and</p> <p>Gift card management (if applicable)</p>

Finance

Service	Description	Frequency	Service Term	Primary Contact
Management Reporting and Accounting	<p>Provide the following management information:</p> <ul style="list-style-type: none"> • Provide 4 weekly house level P&Ls for all sites • Provide 4 weekly consolidated P&L and balance sheets • Provide weekly volume report broken down by SKU by 	See description for frequency of each report	6 months	Authorised representative or other nominee

	<p>house and consolidated for Punch A</p> <ul style="list-style-type: none"> • Provide weekly cost report by cost type by house and consolidated for Punch A • Provide monthly stock reporting, weekly sales figures for Falcon outlets • Provide weekly reporting of debt by outlet during the TSA, broken down to show whether debt is for outstanding rent or drinks • Provide bank reconciliation and ability for Service Recipient to audit during TSA period • Provide weekly volume report by category (beer, cider, soft drinks, wines & spirits) by house and consolidated for Punch A • Provide an F&F ledger broken down by house, on a 4-weekly basis • Provide details of tenant bonds or deposits held by house, on a 4-weekly basis • Any other management information in place at the time of completion <p>Where the end of a calendar month falls partway through a week all weekly reports also to be provided to the final day of the calendar month</p>			
External reporting	<ul style="list-style-type: none"> • Supplier to continue to make accounting adjustments in line with Punch policies, e.g. depreciation, bad debt provision, revenue recognition (need to assess system implication) • Provide bondholder reporting in line with securitisation obligations • Provide support in providing underlying documentation or answering questions with regard to preparing the FY17 statutory accounts or tax accounts • Provide supporting documentation and resources to help resolve any financial or tax investigations, audits or any other compliance events 	Ongoing	6 months	Authorised representative or other nominee
		Ongoing	6 months	Authorised representative or other nominee

Transaction Processing	<ul style="list-style-type: none"> Invoice tenants for all property related charges due in line with lease agreements, including rent Invoice tenants for all drinks deliveries Invoice tenants, for all repayments required under credit agreements Make payments to suppliers in line with contractual terms Provide credit control services, using best endeavours to minimise overdue debt outstanding at the end of the Target Migration Date Complete / provide support (TBC) VAT, PAYE, Corporation Tax and other Tax payments and submissions 	Ongoing	6 months	Authorised representative or other nominee
Credit Control	<ul style="list-style-type: none"> Provide credit control services, using best endeavours to minimise overdue debt outstanding at the end of the Target Migration Date 	Ongoing	6 months	Authorised representative or other nominee
Tax Compliance	<ul style="list-style-type: none"> Complete / provide support (TBC) VAT, PAYE, Corporation Tax and other Tax payments and submissions 	Ongoing	6 months	Authorised representative or other nominee

Operations

Service	Description	Frequency	Service Term	Primary Contact
Tenanted & Leased	<ul style="list-style-type: none"> Provide BDM coverage to leased and tenanted outlet Business reviews to include review of sales, volume, retail standards, tie compliance, credit / debt and any relevant marketing activity. Minutes to be kept for all meetings and provided to tenants in line with the Pubs Code (2015). Minutes to be provided to Service Recipient on request BDMs to attend all tenant changeovers on day of change 	Ongoing	6 months	Authorised representative or nominee
Tenanted & Leased	<ul style="list-style-type: none"> Negotiate any required concessions and lease renewals with tenants (rent / discount). 	Ongoing	6 months	Authorised representative or nominee
Tenanted & Leased	<ul style="list-style-type: none"> Advertise, interview and appoint new tenants. All information required under the Pubs Code (2015) provided to prospective tenants. Sustainable Business Plan, as defined in the Pubs Code (2015) to be obtained for all lets. 	Ongoing	6 months	Authorised representative or nominee
Tenanted & Leased	<ul style="list-style-type: none"> Offer F&F rental agreements to suitable prospective tenants without full funds required under the lease 	Ongoing	6 months	Authorised representative or nominee

Tenanted & Leased	Investigate any tenant complaints made directly to the company and formally respond	Ongoing	6 months	Authorised representative nominee
Tenanted & Leased	Immediately notify Service Recipient of any referrals to the Pubs Code Adjudicator and provide supporting information	Ongoing	6 months	Authorised representative nominee
Tenanted & Leased	Investigate any tenant complaints made to the Pubs Independent Reconciliation and Arbitration Service (PICA Service) and respond accordingly	Ongoing	6 months	Authorised representative nominee
Tenanted & Leased	Produce a completion statement for any exiting tenants, crediting any F&F / stock purchased and lessee deposits whilst debiting outstanding debt balances	Ongoing	6 months	Authorised representative nominee
Falcon	Provide BDM coverage to Falcon outlets <ul style="list-style-type: none"> • Business reviews to include review of sales, volume, retail standards, any relevant marketing activity and cash variances. • Minutes to be kept for all meetings and provided to tenants in line with the Pubs Code (2015). • Minutes to be provided to Service Recipient on request 	Ongoing	6 months	Authorised representative nominee
All sites	Provide existing draught dispense support including installation	Ongoing	6 months	Authorised representative nominee
All sites	Minimise tie breaches including producing or obtaining draught variance reports at site level, visiting sites with identified variances and charging penalties where secondary evidence exists	Ongoing	6 months	Authorised representative nominee
All sites	Maximise machine income and ensure cash is collected from machines on site.	Maximum collection frequency x days	6 months	Authorised representative nominee
All sites	Procure and provide through third parties any accounting and stocktaking services provided on completion.	Accounts and stocktakes produced in x frequency	6 months	Authorised representative nominee
All sites	Provide training to tenants and employees <ul style="list-style-type: none"> • All necessary training for tenants and employees as required under the Pubs Code (2015). 	Ongoing	6 months	Authorised representative nominee

	<ul style="list-style-type: none"> • All training programmes, workshops or online training in place at the point of completion • Continue charges to tenant at level in place at completion 			
MRO & the Pubs Code	Action discount increases instructed by Service Recipient necessary to avoid triggering a Significant Price Increase as defined in the Pubs Code (2015)	Ongoing	6 months	Authorised representative or nominee

Procurement

Service	Description	Frequency	Service Term	Primary Contact
Purchasing	Purchase beer, wine, food and other services supplied to pubs under existing contracts	Ongoing	6 months	Authorised representative or other nominee
Contracts	Extend any contracts due to terminate during the TSA period until the end of the TSA period, with approval in line with governance structure	Ongoing	6 months	Authorised representative or other nominee
Suppliers	Performance manage all suppliers and take action to address areas of non-performance	Ongoing	6 months	Authorised representative or other nominee

Product Supply

Service	Description	Frequency	Service Term	Primary Contact
Order capture	<ul style="list-style-type: none"> • Provide telesales order to capture facility with outbound calls to all customers with the exception of those who order on-line • Provide and support the existing on-line ordering and payment facility 	Ongoing	6 months	Authorised representative or other nominee
Deliveries	<ul style="list-style-type: none"> • Provide weekly delivery service of drinks products ordered to all pubs in line with SLAs laid out in CTA distribution contract • Provide any off day / emergency deliveries 	Ongoing	6 months	Authorised representative or other nominee
Returns	Process any product returns	Ongoing	6 months	Authorised representative or other nominee

Property Service	Description	Frequency	Service Term	Primary Contact
Property	Provide Property Manager coverage to outlets	Ongoing	6 months	Authorised representative or nominee
Property	Discharge landlords repairs and maintenance obligations as per lease agreements, instructing repair works where necessary, in line the quality enjoyed in the previous 12 months	Ongoing	6 months	Authorised representative or nominee
Property	Provide repairs service desk in line with opening hours and communications channels (telephone / on-line etc.) in place at time of completion	Ongoing	6 months	Authorised representative or nominee
Property	Provide statutory inspections required to discharge Service Recipient's landlord's responsibilities.	Ongoing	6 months	Authorised representative or nominee
Property	Project manage any refurbishments approved by Service Recipient, purchasing services and capital equipment on Service Recipient's behalf including lessee fixtures and fittings where applicable	Ongoing	6 months	Authorised representative or nominee
Property	Offer any property maintenance packages to tenants which allow them to discharge their obligations under the lease in place at the time of completion	Ongoing	6 months	Authorised representative or nominee

Estates

Service Estates	Description	Frequency	Service Term	Primary Contact
Estates	Provide Regional Valuation Surveyor coverage to outlets	Ongoing	6 months	Authorised representative or nominee
Estates	Negotiate rent reviews with tenants falling within 12 months of the End Date, using best endeavours to maximise Service Recipient's commercial position and minimise switching to MRO leases <ul style="list-style-type: none"> Tied rent proposal and assessment issued within timescales set out in Pubs Code (2015). 	Ongoing	6 months	Authorised representative or nominee

	<ul style="list-style-type: none"> Rent assessment to include all supplementary information required in Pubs Code (2015) Person preparing assessment to have visited site within 3 months of issuing tied rent proposal All rent assessments to be approved by an RICS qualified surveyor 					Authorised representative or nominee
Estates	Represent Service Recipient in any third party rent determination, arbitration or other rental dispute	Ongoing			6 months	Authorised representative or nominee
MRO	Ensure any tenant requesting the MRO option is provided with a Service Recipient template MRO lease including the provision a stocking requirement	Ongoing			6 months	Authorised representative or nominee
Estates	Provide rent assessments to tenants in circumstances defined as Trigger Events in the Pubs Code (2015)	Ongoing			6 months	Authorised representative or nominee
Estates	Charge tenants for buildings insurance at existing levels	Ongoing			6 months	Authorised representative or nominee
Estates	Seek Service Recipient's approval to proceed with any disposals agreed prior to completion.	Ongoing			6 months	Authorised representative or nominee
Estates	Negotiate any rent reviews with Head Landlords that fall due within 12 months of the End Date	Ongoing			6 months	Authorised representative or nominee
Estates	Continue estate management of all Free of Tie commercial leases and unlicensed properties	Ongoing			6 months	Authorised representative or nominee
Estates	Facilitate any assignments between tenants, giving Service Recipient approval of all assignees and terms	Ongoing			6 months	Authorised representative or nominee

Marketing Service

Description	Frequency	Service Term	Primary Contact
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Central Marketing	<ul style="list-style-type: none"> ● Provide centrally driven marketing activity and appropriate point of sale materials across the estate , including Falcon sites 	Ongoing	6 months	Authorised representative or other nominee
Design and Print	<ul style="list-style-type: none"> ● Offer licensees a design and print service to produce their own materials 	Ongoing	6 months	Authorised representative or other nominee
Punch Buying Club	<ul style="list-style-type: none"> ● Offer all tenants support and incentives under the terms of the “Punch Buying Club” 	Ongoing	6 months	Authorised representative or other nominee
Food	<ul style="list-style-type: none"> ● Continue any existing food consultation or support provided to Punch A pubs 	Ongoing	6 months	Authorised representative or other nominee

SCHEDULE 2: CHANGE CONTROL PROCEDURE

1 General

- 1.1 No amendments to this Agreement shall be valid and no Change shall be effective unless and until they have been agreed in writing by a duly authorised representative of each party.

2 Procedure

- 2.1 The Customer and the Supplier shall discuss any Change proposed by either party and such discussion shall result in either:
- (a) agreement in writing not to proceed further with the Change;
 - (b) a written request for a Change by the Customer; or
 - (c) a recommendation for a Change by the Supplier.
- 2.2 Either party may give or withhold its consent to any Change without giving reason and in its absolute discretion, except that in respect of any Changes:
- (a) notified by the Customer to the Supplier, the Supplier will not withhold its consent where the Change would have the effect only of adding services which were provided to the Business (or where relevant, the Retained Business) during the Reference Period; or
 - (b) that are of the nature of project management changes to the timing and ordering of activities in the Migration Plan, neither party may unreasonably withhold, condition or delay its consent to such Change provided such Change would not have a materially detrimental effect on the party's ongoing business.
- 2.3 Neither party shall unreasonably withhold its consent to a Change requested by the other party ("**Requesting Party**") to the extent that the Requesting Party reasonably considers such Change to be necessary to enable the Requesting Party to comply with laws, where the Requesting Party is unable to comply with those laws other than through a Change.
- 2.4 Where a written request for a Change is received from the Customer, the Supplier shall, unless it rejects a Change in accordance with this Agreement, submit a modification note to the Customer within ten (10) Working Days (or such longer time as the parties may reasonably agree is necessary) containing the information set out in Annex 1 to this schedule and any other relevant information ("**Modification Note**"). This will include the implications of the Change (including its implementation) on the Charges, which shall be calculated by reference to the Supplier's actual costs (including third party costs) to be reasonably incurred (or saved) as a result of the Change (including its implementation), and the impact on the costs of providing any remaining Services.
- 2.5 A recommendation for a Change by the Supplier shall be submitted as a Modification Note at the time of such recommendation.
- 2.6 For each Modification Note submitted by the Supplier, the Customer shall:

- (a) evaluate the Modification Note; and either:
 - (i) request further information, which the Supplier shall promptly provide;
 - (ii) discuss the terms of the Modification Note with the Supplier and request amendments thereto;
 - (iii) approve the Modification Note, as submitted by the Supplier or as amended pursuant to (ii) above; or
 - (iv) reject the Modification Note.

2.7 The Customer shall notify the Supplier of its approval or rejection of the Modification Note by notice in writing to the Supplier. No such notice shall be valid unless signed by a duly authorised officer of the Customer.

2.8 If the Customer and the Supplier agree a Change and the relevant Modification Note then signature of the Modification Note and any supplement or amendment thereto by both parties shall constitute a formal amendment to this Agreement to the extent only specified in the Modification Note and any such supplement or amendment.

Annex 1 - Form of Modification Note

Ref No:

Date:

Title of Change:

Details of Change:

Reasons for Change:

Impact of Change:

Acceptance Procedures:

Timetable:

Charges for Change:

Originator:

Signed.....

Customer Response: Accept/Reject

Signed.....

SCHEDULE 3: AUTHORISED REPRESENTATIVES

For Customer :

Name : Mick Howard

Contact details : Mick.Howard@starpubs.co.uk

For Supplier :

Name : Noah Bulkin

Contact details : Noah.Bulkin@maycapital.co.uk,

Or in either case such other individual as either party may nominate as its replacement Authorised Representative, by giving notice in writing to the other party.

SCHEDULE 4: MIGRATION PLAN

The Supplier has agreed to provide the following Migration Services:

Function	Migration Service	Timing	Party Responsible
HR	Allow access for Service Recipient to full employee records for all staff to enable the preparation and implementation of the people separation process	Information requested to be provided within x days	Supplier: authorised representative or other nominee
IT	Provide data migration support to fulfil Service Recipient's data migration requirements, including: <ul style="list-style-type: none"> • An initial data feed to allow Service Recipient to develop the necessary Extract-Transform-Load scripts • A pre-close test feed • An actual data feed on the Target Migration Date in the same format as previously provided and tested • A data claw-back clause (with the SPA) Transfer of software license agreements	X months prior to Target Migration Date X weeks prior to Target Migration Date On Target Migration Date	Supplier: authorised representative or other nominee
Finance	Provide appropriate training and handover of any existing work processes, including any spreadsheets, templates or other tools, audit documents, underlying tax records as well as policies and procedures inc written documentation necessary to ensure continuity of the business Support in preparing opening balance sheet, if applicable	Within x days of Target Migration Date	Supplier: authorised representative or other nominee
Estates property information	Provide Service Recipient with necessary property information to allow migration from the TSA. For each pub provide (to the extent this information is available to the Supplier) <ul style="list-style-type: none"> • Size (m2) • Key features (to be defined) 	Within 30 days of commencement of TSA	Supplier: authorised representative or other nominee

<p>Estates – lease information</p>	<ul style="list-style-type: none"> ● Heritage status ● Head landlord details(if applicable) ● Provide Service Recipient with necessary lease information to allow migration from the TSA. For each pub provide: <ul style="list-style-type: none"> ● Tenant name ● Billing address ● Contact name ● Contact telephone number ● Contact email. ● Lease commencement date, ● Lease expiry date ● Rent review dates ● Whether Landlord and Tenant Act protected. ● All current charges by value and description by month of charge ● All concessions, start date, end date and reason for concession. ● Machine share landlord / tenant. ● Current machine supplier ● Details of any seasonality of rent charging. ● Details of any stepped rents, including future date of increases to full lease rent. ● Whether RPI is applicable to each lease. ● Contractual discount per barrel 	<ul style="list-style-type: none"> ● Within 30 days of commencement of the TSA ● Refreshed 3 months prior to TSA end ● Refreshed 2 weeks prior to Target Migration Date ● Refreshed on the Target Migration Date 	<p>Supplier: authorised representative or nominee</p>
<p>Commercial - Falcon</p>	<ul style="list-style-type: none"> ● Provide Service Recipient with necessary agreement information for all Falcon sites to allow migration from the TSA. For each site provide <ul style="list-style-type: none"> ○ Operator name ○ Agreement start / end date ○ Operator payment calculation ○ Payment frequency & terms ○ Suppliers by product by pub ○ Operator bank details 	<ul style="list-style-type: none"> ● Within 30 days of commencement of the TSA ● Refreshed 3 months prior to Target Migration Date ● Refreshed 2 weeks prior to Target Migration Date ● Refreshed on the Target Migration Date 	<p>Supplier: authorised representative or nominee</p>

Commercial Drinks pricing	<ul style="list-style-type: none"> Provide Service Recipient with necessary drinks pricing information to allow migration from the TSA. For each site provide price per SKU by month for all drinks purchases for previous 12 months 	<ul style="list-style-type: none"> Within 30 days of commencement of the TSA Refreshed 3 months prior to Target Migration Date Refreshed 2 weeks prior to Target Migration Date Refreshed on the Target Migration Date 	Supplier: representative or other nominee
Operations Completion statements	<ul style="list-style-type: none"> Handover outstanding completion statements and supporting documentation 	Within 7 days of Target Migration Date	Supplier: representative or other nominee
Operations Complaints	<ul style="list-style-type: none"> Handover all files and details of outstanding complaints including supporting documentation 	Within 7 days of Target Migration Date	Supplier: representative or other nominee
Operations BDM handover	<ul style="list-style-type: none"> Attend a joint BDM handover, at least 90% of which will be done by face-to-face on-site meetings (and attend by phone otherwise), 	Within 8 week period prior to Target Migration Date	Supplier: representative or other nominee
Operations Minutes	<ul style="list-style-type: none"> Provide all minutes of meetings with tenants completed in the previous 3 years if available to the Supplier 	Within 28 days of Target Migration Date	Supplier: representative or other nominee
Operations Recruitment applicants	<ul style="list-style-type: none"> Provide full details of any applicants for all Service Recipient pubs including: <ul style="list-style-type: none"> Name Address Contact details Pub applied for Funds available Business plan if complete Training records Interview records Money laundering checks 	Within 7 days of Target Migration Date	Supplier: representative or other nominee
F&F valuations	<ul style="list-style-type: none"> Provide copies of most recent valuation of fixtures and fittings for all sites 	Within 28 days of Target Migration Date	Supplier: representative or other nominee
Property	<ul style="list-style-type: none"> Provide details of open repair items at time of separation 	<ul style="list-style-type: none"> Health and safety related repairs on 	Supplier: representative or other nominee

Repairs	including	Target Migration Date	representative or other nominee
Property Completed Capex investments	<ul style="list-style-type: none"> o Description of issue o Action taken to date o Quotations received / instructed <ul style="list-style-type: none"> ● Provide details of all completed Capex investments in previous 3 years and readily available including; <ul style="list-style-type: none"> o Copies of all statutory consents o Full drawings pre and post refurbishment o Practical Completion Certificates. o Snagging list o CDM files 	<ul style="list-style-type: none"> ● Other repair items within 7 days of Target Migration Date <p>Within 28 days of Target Migration Date</p>	Supplier: authorised representative or other nominee
Operations Delivery details	<ul style="list-style-type: none"> ● Provide details by house of existing delivery arrangements including. <ul style="list-style-type: none"> o Delivery day o Delivery time window o Order day o Delivery restrictions (number of men required, lifts etc.) o Previously completed site risk assessments 	<p>Within 30 days of commencement of the TSA</p> <p>Refreshed 3 months prior to Target Migration Date</p> <p>Refreshed 2 weeks prior to Target Migration Date</p>	Supplier: authorised representative or other nominee
Estates - Rent review files	<ul style="list-style-type: none"> ● Provide full details of outstanding rent reviews including Rents quoted and copies of rent assessments used to support. 	Within 7 days of Target Migration Date	Supplier: authorised representative or other nominee
Correspondence.	<ul style="list-style-type: none"> ● Provide copies of all pub specific correspondence to and from each outlet for previous 3 years 	Within 14 days of Target Migration Date	Supplier: authorised representative or other nominee
Statutory inspections and certificates	<ul style="list-style-type: none"> ● Provide details of all statutory inspections including <ul style="list-style-type: none"> o Date of inspection o Type of inspection o Outcome of inspection o Copies of statutory certification 	Within 14 days of Target Migration Date	Supplier: authorised representative or other nominee
Procurement	<ul style="list-style-type: none"> Provide copies of all supplier contracts, pricing, contact details and introductions to ensure continuity of the business 	X weeks prior to Target Migration Date	Supplier: authorised representative or other nominee
Product Supply	Transfer of any open orders and training and handover	Within x days of Target Migration Date	Supplier: authorised

	of any work processes		representative nominee	or	other
Marketing	<ul style="list-style-type: none"> • Allow access to CRM databases for Punch A pubs • Provide dish costings, specifications and allergen information for menus in all Falcon sites 	X weeks prior to Target Migration Date	Supplier: representative nominee	or	authorised or other

In relation to the above specified Migration Services and any others described in the Migration Plan, the following matters will be set out in the Migration Plan in respect of each:

- obligations of each party;
- prioritisation and key milestones (including data migration) and key milestone dates;
- key personnel and their duties in assisting the migration;
- dependencies;
- specific matters relating to data migration;
- one-off migration costs and who bears the cost
- timescales and procedure for the allocation process detailed in para 3 of schedule 7.

SCHEDULE 5: DISPUTE RESOLUTION PROCEDURE

1 Overriding right to pursue court proceedings

- 1.1 Nothing in this schedule precludes legal proceedings by either party in the courts at any time:
- (a) for an order (whether interim or final) to restrain the other party from doing any act or compelling the other party to do any act; or
 - (b) for a judgement for a liquidated sum to which there is no arguable defence provided that the other party has not given prior written notice of set-off in respect of the sum or a greater liquidated sum in accordance with this Agreement; or
 - (c) the purpose of which is to prevent a claim from becoming time-barred under any statute of limitations.
 - (d) However, paragraph (a) or (b) does not apply to any proceedings from the point at which the court orders, or the parties agree, that the defendant should have permission to defend and paragraph (c) does not apply to any proceedings after they have been commenced and served.

2 Mediation

- 2.1 Except as stated in paragraphs 1 and 4, the parties agree that they may refer any Dispute to non-binding mediation under the supervision of the Centre for Effective Dispute Resolution Limited ("**Supervising Body**") in accordance with this paragraph 2 ("**Mediation**").
- 2.2 Mediation commences when the parties agree to enter into mediation under this paragraph 2 (an "**Agreement to Mediate**").
- 2.3 Mediation shall be conducted using a sole mediator or multiple mediators (collectively referred to as the "**Neutral**") (which expression does not exclude the presence of an unpaid assistant mediator) in or substantially in accordance with the Supervising Body's then current standard mediation procedure (and standard mediation agreement, if any). The Neutral shall be a registered or panel mediator of the Supervising Body agreed between the parties or, in default of agreement within five (5) Working Days after Agreement to Mediate, appointed by the Supervising Body.
- 2.4 The parties shall co-operate fully, promptly and in good faith with the Supervising Body and/or the Neutral in the performance of their obligations under this paragraph 2 including the doing of all acts and the signing of all documents that the Supervising Body or the Neutral may reasonably require to give effect to this paragraph 2.
- 2.5 Unless agreed otherwise, each party shall bear its own costs of the Mediation.

3 Expert Determination

- 3.1 Any Dispute which relates to either an information technology-related technical issue (a "**Technical Dispute**") or a dispute relating to the amount payable by either party pursuant to clauses 14 of this Agreement (a "**Financial Dispute**") (collectively "**Expert Disputes**"), shall be subject to expert determination in accordance with the terms of this paragraph 3 ("**Expert Determination**"), and may at any time be referred directly to an Expert without

observing paragraph 2 of this schedule. Following such referral, the provisions of this paragraph shall apply.

- 3.2 Expert Disputes shall be referred to Expert Determination by an expert agreed between the parties ("**Expert**"), being a person who:
- (a) in the case of Technical Disputes, is a member of the British Computer Society (or an equivalent body) and is suitably qualified in the subject matter of the Dispute; and
 - (b) in the case of Financial Disputes, is a chartered accountant who is a member of the Institute of Chartered Accountants of England and Wales (or an equivalent body) and is suitably qualified in the subject matter of the Dispute.
- 3.3 Expert Determination shall commence when either party gives notice to the other in writing requiring the referral of an Expert Dispute to Expert Determination pursuant to this paragraph 3. Such notice ("**Notice of Expert Determination**") shall be addressed to the other party, refer to this paragraph 3 and identify by name at least one and not more than three persons whom that party proposes as Expert.
- 3.4 The recipient of the Notice of Expert Determination shall within five (5) Working Days of receipt give written acknowledgement of receipt, and indicate concurrence in one of the nominees or propose at least one and not more than three alternatives.
- 3.5 If the party serving the Notice of Expert Determination does not receive such acknowledgement within five (5) Working Days of the date of the Notice of Expert Determination, provided that the party serving the Notice of Expert Determination has proof of actual receipt of such notice by the other party, the party serving the Notice of Expert Determination shall appoint the Expert, being the proposed Expert or any one of the proposed Experts named in the Notice of Expert Determination. If the parties agree the Expert, the party serving the Notice of Expert Determination shall immediately thereafter appoint the agreed Expert.
- 3.6 In default of appointment of an Expert pursuant to paragraph 3.5 within five (5) Working Days of the date of the Notice of Expert Determination either party may apply to the president for the time being of the relevant body or institution named in paragraph 3.2 to nominate the Expert and:
- (a) a nomination made by the person or persons from time to time appointed by such president or such body or institution to make nominations of Experts shall be as valid as if made by the president himself;
 - (b) the party making the request for a presidential nomination under this paragraph 3.6 shall use all reasonable endeavours to procure that an Expert appointed pursuant to such nomination is appointed and able to commence the referral within five (5) Working Days of the date of the Notice of Expert Determination;
 - (c) the ability of any proposed Expert to accept an appointment and commence the referral forthwith and to act in accordance with the time limits set out in this paragraph 3 shall be an important factor in the selection of the Expert whether by agreement of the parties or by presidential nomination and the parties shall use all reasonable endeavours to procure compliance with this paragraph 3; and
 - (d) the party appointing the Expert or referring the appointment to presidential nomination in accordance with this paragraph 3 shall use all reasonable endeavours to

procure that the Expert confirms acceptance of the appointment in writing to both parties immediately upon acceptance of the appointment.

- 3.7 The Expert shall act as expert and not as arbitrator.
- 3.8 The Expert shall, subject to this paragraph 3 and to the agreement of the parties, conduct his determination in such manner as he shall in his sole and unfettered discretion see fit, provided that he acts impartially and, without limitation:
- (a) all written communications to and from the Expert and any party shall be copied to the other party;
 - (b) the Expert shall not conduct any oral hearing or otherwise discuss the issues in dispute other than in the presence of both parties;
 - (c) the Expert may act inquisitorially and may take the initiative in ascertaining the facts and the law relevant to the Dispute.
- 3.9 The party serving the Notice of Expert Determination shall refer the Dispute in writing to the Expert ("**Referral Notice**") within five (5) Working Days from receipt of the Expert's confirmation of the acceptance of the appointment. The Referral Notice shall be accompanied by copies of, or relevant extracts from, this Agreement, this paragraph 3, and such other documents as the party referring the Dispute intends to rely upon, and the Referral Notice and such documents shall be sent by the referring party to the other party at the same time as they are sent to the Expert. The Expert shall deliver a written reasoned final decision within twenty (20) Working Days thereafter, or such longer period as the parties may agree. The Expert may, with the consent of the party initiating the procedure, extend the said period of twenty (20) Working Days by not more than ten (10) Working Days.
- 3.10 If the Expert shall die, or refuse to act or become incapable of acting, the parties, acting in accordance with this paragraph 3, may appoint a new expert to act as Expert, and any Expert so appointed shall conduct the reference ab initio.
- 3.11 The parties shall each bear their own costs and shall share the fees and expenses of the Expert equally unless the Expert shall otherwise determine. The Expert only may so determine if the party ordered to pay any fees, costs or expenses acted improperly, unreasonably or negligently in bringing or opposing the reference or in the manner in which it conducted the same.
- 3.12 The Expert shall not be liable for anything done or omitted in the discharge or purported discharge of his function as Expert unless the act or omission is in bad faith and any employee or agent of the Expert shall be similarly protected.
- 3.13 Unless otherwise agreed between the parties, any determination of an Expert shall be final and binding as between the parties, and shall not be the subject of appeal, review, change, setting aside or other challenge by either party save on grounds of bad faith, fraud or manifest error.

4 Courts

- 4.1 Save and only to the extent expressly prohibited by paragraph 3 above, either party may commence proceedings in the English courts in respect of a Dispute (or, as applicable, that part of it that is unresolved) at any time.

SCHEDULE 6: RESTRICTED ACTIVITIES

Restricted Activity	Customer Contact
Procurement	
Procurement contracts: changes to rebates, advertising and promotional activity, changes to terms and conditions, prices, or termination of the contract, as they affect the Business, other than taken in the ordinary course of business	Customer Commercial
Introduction of any new product to the Business, other than taken in the ordinary course of business.	Customer Commercial
Marketing	
Marketing: promotional and advertising, centralised marketing activity (e.g. CRM and Marketing databases) as they affect the Business, other than taken in the ordinary course of business	Customer Marketing
Pub-related operations relating to the Business	
Capex > 10k	Customer representative on site
R&M >10k	Customer representative on site
Any change to rent/discount	Customer representative on site
Extension of lease terms, new leases, proposed signed off rent review terms	Customer representative on site
Change to any other charges	Customer Commercial
Changes in retail prices at Falcon sites	Customer representative on site
Any offer of an MRO agreement or otherwise dealing with an MRO Request outside the terms permitted by schedule 1	Customer Authorised Representative or nominee
HR	
Any changes to Salary and benefits made other than in the ordinary course of business.	Customer HR
IT	
Any changes to the scope, configuration or functionality of the Systems, other than pursuant to clause 12.2	Customer IT and HoD as applicable
Finance	
Any tax payments or submissions	Customer Finance
Other	
Payments outside the ordinary course benefitting the Retained Business	TBC

SCHEDULE 7: EMPLOYEES

1 Commencement

- 1.1 The parties agree that, save as otherwise set out in this Agreement in respect of the Transferring Employees, the TUPE Regulations are not intended to apply to transfer the employment of any person upon the commencement of the Services under this Agreement.
- 1.2 If, at any time, any Employee of the Supplier or member of a Supplier Group other than a Transferred Employee (and, for the avoidance of doubt, excluding any tenant of any public house in Punch A Group or their employees or workers) is deemed or alleged to be employed by the Customer or a member of the Customer Group for any reason, including, without limitation, as a result of the transaction contemplated by the Share Purchase Agreement, the termination of the Secondment Framework Agreement and/or the Management Services Agreement and the arrangements thereunder or the entry into this Agreement (an "**Undisclosed Employee**") then:
- (a) the Customer shall, within ten (10) days of becoming aware of the deemed or alleged employment of the Undisclosed Employee, notify the Supplier in writing that such employment is deemed or alleged to have effect between the Undisclosed Employee and the Customer or a member of the Customer Group;
 - (b) upon the receipt by the Supplier of the notification described at paragraph 1.2(a) above, the Customer and the Supplier shall in good faith cooperate to provide the Supplier the opportunity to persuade the Undisclosed Employee to accept an offer of employment with the Supplier or another entity as the Supplier should nominate, such offer of employment to be on no less favourable terms those upon which the Undisclosed Employee is currently employed;
 - (c) if after fourteen (14) days after the notification issued in accordance with paragraph 1.2(a) above has expired, the Undisclosed Employee has not accepted employment with the Supplier or other entity nominated by the Supplier under paragraph 1.2(b) above, the Customer or Service Recipient may within fourteen (14) days terminate the employment of the Undisclosed Employee; and
 - (d) provided that the Customer has complied with its obligations under paragraphs 1.2(a) - 1.2(c), the Supplier shall indemnify the Customer against any Losses the Customer or another member of the Customer Group incurs in connection with:
 - (i) the termination of such person's employment or engagement, including without limitation any obligation to pay Redundancy Costs;
 - (ii) all sums payable in respect of such Undisclosed Employee's employment;
 - (iii) any breach of regulations 13 or 14 of the TUPE Regulations; and
 - (iv) any breach or alleged breach of s.189 TULRCA.

For the avoidance of doubt, this indemnity shall exclude any Losses relating to claims of unlawful discrimination attributable to any discriminatory act or omission of the Customer or member of the Customer Group.

2 Supplier Obligations During the Term

- 2.1 The Supplier shall use only the Required Employees in the provision of the Services.
- 2.2 The Supplier shall be fully responsible for the management of, and the acts and omissions of, all Required Employees in the provision of the Services and shall indemnify the Customer in relation to any Losses it or another member of the Customer Group incurs in relation to any such acts or omissions, but excluding any Losses that result from a Required Employee undertaking any act or omission that was not authorised by the Supplier.
- 2.3 Without prejudice to clause 7 of this Agreement, the Supplier shall not, and shall procure that any member of the Supplier Group shall not, during the Term, save as required by law or in accordance with the Migration Plan, without the prior written consent of the Customer (not to be unreasonably withheld or delayed), do any of the following:
- (a) vary, increase, or purport or promise to vary or increase, the terms and conditions of employment or the benefits (whether contractual or discretionary) of any of the Field Staff;
 - (b) give notice to terminate, or terminate, the employment of any Field Staff (save as a result of a finding by the employer acting reasonably of misconduct justifying dismissal of that Field Staff);
 - (c) recruit or assign to the Services any new Field Staff or increase the time spent by any Field Staff on the Services;
 - (d) redeploy or assign away from the Services any Field Staff; (save for a promotion in the ordinary course of business);
 - (e) amend any existing compulsory or voluntary collective agreement; or,
 - (f) treat or manage the Field Staff in any way which is materially different to the way in which the wider group of Employees are treated,

save where the relevant Field Staff are not included on the Final Staff List produced in accordance with paragraph 3.5 below.

- 2.4 The Customer may, on reasonable notice to the Supplier request the removal from the provision of the Services, of any Required Employee who, in the reasonable opinion of the Customer, is not performing to an acceptable standard or represents a threat to the Customer's security or confidentiality. The Supplier shall consider such request in good faith (including considering its employment law obligations towards such Required Employee) and provide a replacement or procure that a member of the Supplier Group provides a replacement, if it deems it appropriate to do so. In the event that the Customer wishes to challenge the decision of the Supplier not to remove a Required Employee, it may refer the matter to the Steering Group.

3 Allocation

- 3.1 Within forty five (45) days of the commencement of the Term, the Supplier shall provide to the Customer a list of provisional transferring employees ("**Provisional Transferring Employees**") which will comprise only those Required Employees who are Field Staff as adjusted to ensure that the number of Provisional Transferring Employees is consistent with

the agreed Transferring Employee Quota (the "**Provisional Staff List**"). The Supplier shall draw up the Provisional Staff List taking into account each of the following principles in turn:

- (a) where possible, the formula A/B (as defined in the definition of Transferring Employee Quota) should be applied proportionately to each of the job categories of the Required Employees who are Field Staff;
- (b) there is a presumption that Required Employees who are Field Staff who manage a portfolio of pubs of which more than 75% fall within the Punch A Group will be Provisional Transferring Employees;
- (c) there is a presumption that Required Employees who are Field Staff who manage a portfolio of pubs of which less than 60% fall within the Punch A Group will not be Provisional Transferring Employees;
- (d) of the remaining staff to be considered, there is a presumption that Required Employees who are Field Staff who are based geographically closer to more pubs that fall within the Punch A Group than the Punch Group will be Provisional Transferring Employees.

3.2 At the same time as providing the Provisional Staff List, the Supplier shall provide to the Customer a rationale as to why each Provisional Transferring Employee has been included on the Provisional Staff List and shall provide relevant supporting information or procure that a member of the Supplier Group shall provide such information, including providing the Customer with any additional information that the Customer may reasonably require in order to understand the rationale of the Supplier's selection of the Provisional Transferring Employees.

3.3 Upon the Customer receiving the Provisional Staff List described in paragraph 3.1 above, the Supplier and the Customer shall negotiate in good faith to agree the identity of the Transferring Employees such negotiation to be consistent with the principles set out in paragraph 3.1 above.

3.4 Where it is not possible for the parties to reach an agreement on the identity of all or some of the Transferring Employees, the parties shall, in turn, starting with the Supplier, nominate a Transferring Employee until the Transferring Quota has been reached in relation to the category of Required Employee who are Field Staff in dispute. Neither party is entitled to veto the nomination of a Transferring Employee made by the other party in accordance with this paragraph 3.4.

3.5 Once the Transferring Employees have been determined in accordance this paragraph 3 (such determination to be completed no later than three (3) months prior to the expiry of the Term), the Supplier shall document the list of Transferring Employees in the Final Staff List.

3.6 Once the Transferring Employees have been identified the Supplier shall ensure that the Staffing Information set out in the Final Staff List is accurate and provided in good time before the End Date.

3.7 If any Transferring Employee's employment is terminated earlier than two (2) months prior to the End Date, the Final Staff List shall be updated to identify new Transferring Employees so as to meet the revised Transferring Employees Quota to be determined by the parties as soon as practicable based on the principles set out in this paragraph 3. If any Transferring Employee's employment is terminated less than two (2) months prior to the End Date then the

Supplier must notify the Customer but there shall be no requirement to identify new Transferring Employees.

4 Application of TUPE on Exit

- 4.1 This Agreement envisages that the termination of this Agreement and the provision of the Services may result in a transfer of the Transferring Employees to the Customer, another member of the Customer Group or a Replacement Supplier, pursuant to the TUPE Regulations. The determination of whether the Transferring Employees transfer to the Customer, another member of the Customer Group or a Replacement Supplier shall be determined by the nomination of the Customer in its absolute discretion.
- 4.2 The parties will each provide one another on request with such information as may be reasonably necessary to enable the other to comply with its obligations to inform and consult with the Transferring Employees and any other employees affected by this Agreement and/or their Appropriate Representatives pursuant to the TUPE Regulations.
- 4.3 All liabilities in relation to the Transferred Employees including in relation to salaries, wages and other emoluments, holiday entitlement and all contributions for which the Customer, another member of the Customer Group, the Supplier or any member of the Supplier Group is liable as an employer in respect of any of the Transferred Employees under any contractual or statutory obligation shall be the responsibility of the Customer in respect of the period after the End Date and the responsibility of the Supplier, or any member of the Supplier Group, in respect of the period prior to and on the End Date. Any accrued but untaken holiday as well as any holiday which has been taken in excess of the amount accrued in respect of the Transferred Employees shall be apportioned on a pro rated basis.
- 4.4 At least fourteen (14) days before the End Date, the Supplier shall and shall procure that applicable members of the Supplier Group shall, subject to compliance with the Data Protection Act, use reasonable endeavours to provide to the Customer or any Replacement Supplier (provided that it has access to this information as a consequence of the acquisition of the Business), in respect of each Transferring Employee their:
- (a) pay slip data for the most recent month;
 - (b) cumulative pay for tax and pension purposes;
 - (c) cumulative tax paid;
 - (d) tax code;
 - (e) voluntary deductions from pay; and
 - (f) bank or building society account details for payroll purposes.
- 4.5 The Supplier shall indemnify the Customer, members of the Customer Group and any Replacement Supplier against all Losses in respect of any of the Transferred Employees arising from or as a result of:
- (a) the termination of the employment of any Transferred Employees before or on the End Date;

- (b) any act or omission by the Supplier, any member of the Supplier Group and/or any of their sub-contractors before or on the End Date;
- (c) any emoluments and outgoings due to the Transferred Employees (including without limitation all wages, bonuses, commissions, PAYE, National Insurance contributions, pension contributions and otherwise) accrued and payable before and up to the End Date;
- (d) the failure to elect or identify Appropriate Representatives in order to allow consultation in good time prior to the End Date; and
- (e) any breach of regulations 13 or 14 of the TUPE Regulations except where such breach is as a result of the failure of the Customer or member of the Customer Group or Replacement Supplier to notify the Supplier of any intended measures in accordance with regulation 13(4) of the TUPE Regulations in circumstances where the Supplier has provided a complete and up to date Final Staff List.

4.6 The Customer shall indemnify the Supplier against all Losses in respect of the Transferred Employees arising from or as a result of:

- (a) the termination of the employment of any of the Transferred Employees after the End Date;
- (b) any act or omission by the Customer, another member of the Customer Group and/or the Replacement Supplier relating to the Transferred Employees after the End Date;
- (c) any emoluments and outgoings due to the Transferred Employees (including without limitation all wages, bonuses, PAYE, national insurance contributions, pension contributions and otherwise) accrued and payable after the End Date;
- (d) the Customer's or a member of the Customer Group's breach of regulation 13 or 14 of the TUPE Regulations in circumstances where the Supplier has provided a complete and up to date Final Staff List; and
- (e) Losses that result from claims brought by any Transferred Employee pursuant to regulation 4(9) of the TUPE Regulations,

provided that such Losses are not incurred as a direct or indirect result of any act or omission of the Supplier, any member of the Supplier Group and/or any of their sub-contractors.

4.7 If the TUPE Regulations do not apply with respect to any Transferring Employees, the Customer shall or shall procure that another member of the Customer Group or a Replacement Supplier shall in good time prior to the End Date offer such Transferring Employee employment to take effect from the End Date on no less favourable terms overall (save for such benefits set out in paragraph 10(1) of the TUPE Regulations) than those on which the Transferring Employees are currently employed.

4.8 If any Transferring Employee who is anticipated to automatically transfer under the TUPE Regulations on the End Date does not transfer or alleges that they do not transfer automatically as a result of the TUPE Regulations to the Customer, another member of the Customer Group or a Replacement Supplier, then the Customer (or other entity nominated by the Customer) shall offer such Transferring Employee employment on no less favourable terms overall (save for such benefits set out in paragraph 10(1) of the TUPE Regulations) than those on which the Transferring Employees are currently employed under within the later of

fourteen (14) days after: (i) the cessation of the provision of the Services under this Agreement; or (ii) the Customer becomes aware that the Transferring Employee alleges that they do not transfer automatically as a result of the TUPE Regulations to the Customer, another member of the Customer Group or a Replacement Supplier.

- 4.9 Following the acceptance of an offer of employment from the Customer or a member of the Customer Group under paragraph 4.7 or 4.8, the Supplier shall, or shall procure that a member of the Supplier Group shall release the Transferring Employee from their contract of employment.
- 4.10 If the Customer (or other entity nominated by the Customer) does not offer such employment on the terms set out in paragraphs 4.7 or 4.8 (as applicable), or the Transferring Employee in question refuses the offer, then the Supplier or member of the Supplier Group (as applicable) may terminate the employment of such Transferring Employee and the Customer shall indemnify the Supplier against any Losses the Supplier or another member of the Supplier Group incurs in connection with any obligation to pay Redundancy Costs.

5 Pre-Transfer Consultation

- 5.1 The parties agree that upon the termination of this Agreement:
- (a) there may be a relevant transfer of the Transferring Employees for the purposes of the TUPE Regulations;
 - (b) there is the possibility that the Customer or another member of the Customer Group may propose dismissing twenty (20) or more Transferring Employees by reason of redundancy within a period of ninety (90) days or less; and
 - (c) the Transferring Employees who currently work for the Supplier or a member of the Supplier Group may be affected by the potential dismissals.
- 5.2 The Customer hereby gives notice of its election to carry out Pre-Transfer Consultation in respect of any potential redundancies with the Transferring Employees.
- 5.3 The Supplier consents, and shall procure that any member of the Supplier Group consents, to the Customer and members of the Customer Group conducting Pre-Transfer Consultation with the Transferring Employees and furthermore agrees to provide the Customer and members of the Customer Group with reasonable assistance in order for the Customer or member of the Customer Group to comply with its Pre-Transfer Consultation obligations, save that the Supplier and the Supplier Group shall not be liable for any Losses that may arise as a result of any failure or alleged failure by the Customer or member of the Supplier Group to comply with its Pre-Transfer Consultation obligations.
- 5.4 The Customer shall indemnify the Supplier against all Redundancy Costs in respect of the Transferring Employees.

6 Claims Handling

- 6.1 Where any Employee Claim is made against a party to this Agreement in respect of which one party ("**Indemnifying Party**") is liable to indemnify the other ("**Indemnified Party**"), the Indemnified Party shall:

- (a) take such steps and provide at the Indemnifying Party's expense such reasonable assistance as the Indemnifying Party may reasonably require in relation to such Employee Claim;
- (b) preserve and not waive legal professional privilege or other privilege attaching to any of the records, documents or other information in relation to such Employee Claim without the prior consent of the Indemnifying Party;
- (c) not make any admission of liability without the prior consent of the Indemnifying Party, such consent not to be unreasonably withheld or delayed; and
- (d) not enter into any binding agreement or arrangement to settle such Employee Claim without the prior consent of the Indemnifying Party, such consent not to be unreasonably withheld or delayed.