

Exclaimer Americas License Terms

If you are based in any country within the Americas, the following terms (collectively, the “**Terms**”) govern your use of the Exclaimer cloud service that you have subscribed to (the “**Service**” or “**Services**”) and provision of technical support and maintenance services related thereto from **Exclaimer LLC**, a Delaware limited liability company (below referred to as “**we**”, “**our**” or “**us**” or “**Exclaimer**”).

BY REGISTERING AS A USER ON OUR SELF-SERVICE PORTAL, SUBSCRIBING TO THE SERVICES THROUGH YOUR CHOSEN RESELLER AND/OR USING THE SERVICES OR UNDERLYING SOFTWARE, YOU CONSENT TO BE LEGALLY BOUND BY THESE TERMS FOR EACH SERVICE THAT YOU SUBSCRIBE TO.

IF YOU ARE ENTERING INTO THESE TERMS ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU WARRANT AND REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS, IN WHICH CASE THE TERMS “**YOU**” OR “**YOUR**” OR THE “**CUSTOMER**” SHALL REFER TO SUCH ENTITY, IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS, YOU MUST NOT ACCEPT THESE TERMS AND MUST NOT USE THE SERVICES.

YOUR ATTENTION IS DRAWN TO **CLAUSE 11** WHICH CONTAINS IMPORTANT LIMITATIONS AND EXCLUSIONS OF LIABILITY.

1. TRIAL LICENSE

- 1.1. If you have applied for a trial license of the Services and we have agreed, we make available to you a personal, non-transferable, non-exclusive, royalty free licence to use the Services solely for the purposes of evaluation of the Services for your own internal business purposes (“**Trial License**”) and solely for the duration of 14 days from the date that the Services first commence unless a longer duration has been agreed in writing by us (“**Trial Period**”). You acknowledge and agree that, unless otherwise agreed in writing by us, this Trial Licence will automatically terminate at the end of the Trial Period and the Services will automatically cease to operate at the end of the Trial Period if you have not at that time entered into a full licence in respect of the same. We may terminate the Trial License at any time by giving you notice.

2. FULL SUBSCRIPTION LICENSE TO USE THE SERVICES

- 2.1. Conditional upon you paying the fees for the Service(s) (whether to us or your chosen reseller), we grant you a non-exclusive, non-transferable, and, other than as permitted in clause 3.1, non-sub-licensable right (“**Full Subscription License**”) for you and your staff to use the Services, the associated documentation and on-line guides, and the underlying software solely for your internal business operations during the term you have purchased (“**Subscription Term**”).

3. TERMS APPLICABLE TO BOTH TRIAL LICENSE AND FULL SUBSCRIPTION LICENSE

- 3.1. You are prohibited from allowing access to the Services to third parties. However, you may choose to offer access to and use of the Services to your affiliates (meaning any entity that directly or indirectly controls, is controlled by, or is under common control with you) (“**Permitted Access**”) provided that where you offer such Permitted Access (a) you shall ensure that all such use and access complies with these Terms; (b) you shall remain the contracting party with us and you shall be responsible for the payment of all subscription fees; (c) you shall retain full responsibility for all acts and omissions of your affiliates in relation to such access to and use of the Services and you shall be liable for all acts and omissions of your affiliates as if they were your own acts or omissions. All passwords and other access details provided by us to you are confidential and you shall ensure that all those with Permitted Access are aware of the confidential nature of such details.
- 3.2. You agree to notify us promptly upon becoming aware of any unauthorised use or access of the Services or the underlying software.
- 3.3. You agree on demand to indemnify us from and against all losses, costs, demands, damages, judgments, claims, settlements, interest, fees and expenses (including but not limited to legal fees and other

- professional fees) arising out of or in connection with a breach by you or your affiliates of any of the terms of clause 3.4.
- 3.4. You agree that you and your affiliates with Permitted Access will not:
 - 3.4.1. take any action intended to interfere with or disrupt the Services or any other user's use of the Services;
 - 3.4.2. use or access the Services for transmission or posting of abusive, indecent, obscene or pornographic material, material that is libellous or offensive, spamming, sending junk mail, hacking, password cracking, IP spoofing, unsolicited or unauthorised advertising, illegal, immoral or any other similar improper purpose or in violation of our Acceptable Use Policy published at www.exclaimer.com;
 - 3.4.3. use or access the Services to create products or services which compete with the Services or underlying software;
 - 3.4.4. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
 - 3.4.4.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services or underlying software in any form or media or by any means;
 - 3.4.4.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Services or the underlying software;
 - 3.4.5. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services or underlying software available to any third party except those with Permitted Access;
 - 3.4.6. allow Services or the underlying software to become the subject of any charge, lien or encumbrance;
 - 3.4.7. in respect of any custom fonts which are uploaded to our systems by you (or on your behalf) for use in connection with the relevant Services: (i) breach the terms of the licence between you and the third-party grantor in respect of the use of such fonts or (ii) upload any such fonts unless you have in place at the time of upload and maintain in place for the duration of these Terms a license authorising use of such fonts in connection with the Services;
 - 3.4.8. use the Services for bulk marketing purposes or in connection with automated mailing systems (other than in course of marketing your own goods and services as part of your normal business operations);
 - 3.4.9. use the Services and the underlying software in any manner which will or may breach any laws, rules, regulations and/or codes which are legally binding and which are applicable to the use of the Services (and underlying software) including (without limitation) any laws applicable to the protection of personal data; and
 - 3.4.10. use the Services in any manner or for a purpose not permitted by applicable export laws, regulations or sanctions; nor export or re-export the Services to any country, region, organisation or individual that is named as a restricted area or person on any applicable export laws, regulations or sanctions.
 - 3.5. You are solely responsible for the content of emails or other communications sent using any of the Services and for selecting recipients of such emails. In the event that you are in breach of any of the terms of clause 3.4, you agree that we may also suspend or terminate your subscription to the relevant Service(s).
 - 3.6. All rights in the Services not expressly granted under this Agreement are reserved to Exclaimer. As between you and Exclaimer, you retain all rights to your data that you use in connection with the Services licensed hereunder.
 - 3.7. We shall provide the Services to you, and you have rights to the Services, solely in accordance with the terms of this Agreement.

4. FULL SUBSCRIPTION LICENSE DURATION, FEES, BILLING AND RENEWAL

- 4.1. The minimum duration of a Full Subscription Licence is twelve (12) months from and including the date that you start to use the Services (“**Initial Licence Period**”). Following the expiry of the Initial Licence Period, unless otherwise agreed in writing, your subscription shall continue automatically for additional terms of 12 months each (each a “Renewal Term”) unless and until cancelled in accordance with clause 6.2, or otherwise terminated in accordance with these Terms. If you purchase additional Services part way through a licensing period, the term of the new Services purchased shall be coterminous with the license duration.
- 4.2. By subscribing to the Services, you agree to pay the applicable fees for the Full Subscription License (as selected by you during the online subscription process or with your reseller as applicable) plus any applicable taxes and duties, if any.
- 4.3. If you are buying your Full Subscription License direct from us, we reserve the right to change the fees at the end of the Initial Full Subscription Period and each Renewal Term thereafter.
- 4.4. Our fees are based, as a minimum, on the total number of users you have purchased. If the number of users increases at any time, the increased number of users shall be the basis for all further subscription fees. You may not reduce the number of users during the Initial Full Subscription Licence Period or during any Renewal Term but only at the end of each of those subscription periods, applicable to the next following subscription period. In this context, “**users**” means the number of unique email addresses.
- 4.5. From time to time we may verify the number of users and if the number of users is greater than the licenced quantity, we will invoice you for that additional number of users for the remaining duration of the then current annual term or provide such information to your chosen reseller so they can invoice you appropriately.

5. PAYMENT TERMS (IF YOU ARE BUYING DIRECT FROM US)

- 5.1. Unless otherwise agreed in writing by us or your reseller or if you are already paying on a different cycle, our subscription fee is payable annually in advance for each Subscription Term and Renewal Term. During the registration process, we may ask you to choose your payment method being either a) credit or debit card, b) direct debit mandate or c) at your request, purchase order/invoice. If paying by card and your card details change, you must notify us failing which your subscription could be suspended or terminated.
- 5.2. If your subscription is cancelled by either you or us, we will not provide a refund or credit for any unused subscription period as we will incur costs as a result of the cancellation unless the cancellation was for our unremedied breach or by us for convenience.
- 5.3. For credit card payments, we use third-party intermediaries to manage credit card processing. These intermediaries are not permitted to store, retain or use your billing information except as required to process your credit card payment for us. You give us authority to share your information (including without limitation credit card details and other personal data as required) with the third-party intermediaries for such purposes.
- 5.4. We will email you with a copy of our invoice for the relevant payment period. It is your responsibility to ensure that we are updated on the email address to which you require invoices to be sent. You shall pay each invoice submitted to you by us in full and cleared funds within fourteen (14) days of the date of the relevant invoice (the “**Due Date**”). Where you choose to pay by credit card, you authorise us to charge your payment method automatically for the subscription fees payable under these Terms.
- 5.5. You are responsible for paying any taxes (including without limitation any sales, use or withholding taxes now or hereafter enacted), and any duties, levies, excises or tariffs (together “**duties**”), that are applicable to receipt of the Service. All payments hereunder shall be made without deduction for taxes or duties of any kind or nature.
- 5.6. If you fail to pay any amount due from you under these Terms on or before the Due Date for such amount, you shall pay interest on the overdue amount at the rate of two per cent (2%) per month or the maximum amount permitted by applicable law. Such interest shall accrue on a daily basis from the Due Date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.
- 5.7. We may suspend all Services until all overdue payments have been made in full.

6. TERM AND TERMINATION

- 6.1. These Terms will remain in force for the duration of the Trial Period and/or the Subscription Term, as applicable.
- 6.2. You may cancel your Full Subscription Licence at the end of the Initial Licence Period or at the end of a Renewal Term by giving us at least 30 days prior notice in writing, such notice being effective at the end of the Initial Licence Period or a Renewal Term, as applicable.
- 6.3. Without affecting any other right or remedy available to us, we may terminate the Full Subscription License for convenience at any time by giving you not less than 60 days' notice in writing.
- 6.4. Without affecting any other right or remedy available to it, either party may terminate the Full Subscription License with immediate effect by giving written notice to the other party if:
 - 6.4.1. the other party is in breach of a material term and has failed to remedy the breach within 30 days of receipt of a notice specifying the breach and requiring it to be remedied; or
 - 6.4.2. there is an order or a resolution for the liquidation, administration, dissolution or winding-up of the other party (except where such winding up is for the purpose of solvent amalgamation or reconstruction) or has an administrator or other receiver, manager, trustee, liquidator or similar officer appointed overall or any substantial part of its assets, or enters into or proposes any composition or arrangement with the other party's creditors generally or is subject to any analogous event or proceedings in any applicable jurisdiction.
- 6.5. Without affecting any other right or remedy available to us, we may terminate the Full Subscription License with immediate effect by giving written notice to you if you fail to pay any amount due under these Terms on the Due Date for payment and remain in default for more than 14 days after being notified in writing to make such payment.
- 6.6. On termination:
 - 6.6.1. all licences granted and Services supplied under these Terms shall immediately terminate and you shall immediately cease all use of the Services and the underlying software and shall procure that all those with Permitted Access cease the use of the Services and the underlying software;
 - 6.6.2. you shall immediately pay all sums due and / or invoiced by us or your reseller in respect of fees payable under these Terms;
 - 6.6.3. we may raise a further invoice which shall be payable immediately in respect of fees payable pursuant to these Terms in respect of which we have not previously raised an invoice;
 - 6.6.4. we shall be under no obligation to retain any of your data (including Lists and email templates) and we may delete all such information in accordance with our policies and applicable data protection laws.
- 6.7. Termination shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry.
- 6.8. Any provision of these Terms that expressly or by implication is intended to come into or continue in force on or after termination or expiry of these Terms shall remain in full force and effect.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. You acknowledge that we (or where applicable our licensors) own all rights, title and interest in and to all intellectual property rights in the Services, the associated documentation and on-line guides, and the underlying software used to provide the Services. These Terms do not grant you any rights to the same other than the rights expressly set out in these Terms. We acknowledge that any data you provide to us as well your emails and the content of your emails are your property.
- 7.2. You agree not to remove any copyright or proprietary notices used in connection with the Services. Certain marks, words and logos displayed as part of the Services, which may or may not be designated by a "TM" "®" "SM" or other similar designation, constitute trademarks, trade names, or service marks belonging to us or our suppliers. You are not authorized to use any such marks. Ownership of all such marks and the goodwill associated with them remains with us or our suppliers.
- 7.3. If any third party brings any claim or action or otherwise alleges that the use of the Services (or any part thereof) infringes any intellectual property rights of that third party (a "Claim") or you become aware of any intention by a third party to make a Claim then you shall immediately:

- 7.3.1. give us written notice of the Claim, specifying in reasonable, clear, full and accurate detail the nature of the Claim;
- 7.3.2. not make any admission of liability, agreement or compromise in relation to the Claim without our prior written consent (which we may in our sole and absolute discretion withhold);
- 7.3.3. give us and our advisors access to your premises and your officers, representatives, directors, employees, sub-contractors and to any relevant documentations and records which are within your control and allow us and our advisors to take copies for the purposes of assessing the Claim;
- 7.3.4. procure that we and our advisors are given access to those with Permitted Access on terms equivalent to those set out in clause 7.3.3 above;
- 7.3.5. provide such assistance in managing, negotiating, settling and resolving the Claim as we reasonably request; and
- 7.3.6. allow us to have full conduct of the Claim including without limitation its management, negotiation, settlement and resolution.

8. CONFIDENTIALITY

- 8.1. This clause applies to any information of a party made available to the other party that is marked as “Confidential” or which would be regarded as confidential by a reasonable business person (the “**Confidential Information**”). Confidential Information shall include (but not be limited to) details of the Services, the associated documentation, on-line guides, the technology and software used to provide and use the Services, your data and the contents of your emails.
- 8.2. The parties agree not to use the Confidential Information of the other party for any purpose other than the use of or provision of the Services in accordance with these Terms. The parties agree not to disclose the Confidential Information of the other party to third parties and agree that they will restrict its disclosure to their employees who need to have the Confidential Information in order to carry out their employment duties. We may disclose your Confidential Information to persons of the type detailed in clause 13.7 where we exercise our rights thereunder. Where we do this, we will put in place with such persons’ confidentiality obligations equivalent to those set out in this clause 8.
- 8.3. Confidential Information shall not include any information that: (a) is or becomes publicly known through no action or inaction of the Receiving Party; (b) is in the possession of the Receiving Party at the time it receives the Confidential Information from the Disclosing Party; (c) the Receiving Party receives from a third party not under an obligation of confidentiality; (d) is independently developed by the Receiving Party without use of or reference to the Disclosing Party’s Confidential Information or (e) required to be disclosed by reason of law.

9. DATA PROTECTION AND PROCESSING OF CUSTOMER PERSONAL DATA

- 9.1. In this clause 9, **Data Protection Legislation** means all applicable federal or state data privacy laws and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data.
- 9.2. Each of the parties agrees to comply with all applicable requirements of the relevant Data Protection Legislation.
- 9.3. Except as stated below, we agree that we will not, when performing the Services, process Personal Data outside of the jurisdiction(s) in which the data centre(s) you choose when you set up the Services is / are located, or the jurisdiction(s) in which such other data centre(s) as you may subsequently specify from time to time is / are located.
- 9.4. You warrant to us that you have taken all steps that are required to enable us to process the Personal Data in compliance with all Data Protection Laws.

10. SERVICE LEVELS AND WARRANTY

- 10.1. We shall provide the Services to you with reasonable skill and care in a professional manner. We provide you with a 24 hour contact service in order that you may notify us of any interruptions or any other problems with the Services as set out at <https://exclaimer.com/support/software-maintenance-agreement/>. If the Services are unavailable or defective in any way then to the extent that such defect or unavailability is caused by a breach of these Terms by us, we will, at our expense, use reasonable endeavours to correct any such unavailability or defect promptly. Such correction is your sole and exclusive remedy for i) the unavailability of the Services and ii) any breach of clause 10.1.

- 10.2. Notwithstanding the foregoing, we:
- 10.2.1. do not warrant that use of the Services will be uninterrupted or error-free; and
 - 10.2.2. we are not responsible for any delays, delivery failures, or any other loss or damage resulting from an Event Outside Our Control (defined below), and you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications networks and facilities.
- 10.3. Save as expressly provided for in these Terms, all warranties or conditions of any kind including, but not limited to, the implied warranties or conditions of satisfactory quality and fitness for a particular purpose are excluded.
- 10.4. We provide no assurance or guarantee that the Services will provide a solution to your specific needs.
- 10.5. The Services are not bespoke or tailored to you and we do not warrant that the Services will meet your requirements. We offer no refund where you purchase the Services and then decide that they are not suitable for your requirements or are not required for any reason. We offer a trial service which allows you to evaluate the Services - we recommend you use this prior to purchasing the Services. Where you do not use the trial service to evaluate the suitability of the Services prior to purchase, you will not be entitled to a refund where you decide the Services are not suitable.

11. OUR LIABILITY

- 11.1. Nothing in these Terms shall limit or exclude our liability for:
- 11.1.1. death or personal injury caused by negligence;
 - 11.1.2. wilful default, fraud or fraudulent misrepresentation; or
 - 11.1.3. any other liability which cannot be limited or excluded by applicable law.
- 11.2. Subject to clause 11.1, we shall not be liable to you, whether in contract, tort (including without limitation negligence), strict liability or other theory for breach of statutory duty, or otherwise, arising under or in connection with these Terms for loss of profits; loss of sales or business, business opportunity or goodwill; loss, inaccuracy, corruption or recovery/restoration of data or information; loss of agreements or contracts; loss of anticipated savings; loss of or damage to goodwill; loss of use or corruption of software; cost of procurement of substitute goods, services, or technology or any indirect, special, consequential, incidental, or exemplary loss or punitive damages, whether foreseeable or not.
- 11.3. Subject to clauses 11.1 and 11.2, our maximum liability to you per claim or series of connected claims under or in connection with the Full Subscription License, whether in contract, tort (including without limitation negligence), for breach of statutory duty, or otherwise, arising under or in connection with these the Full Subscription License shall be limited to the greater of (a) 125% of the fees paid by you in the 12 months' period preceding the date of the incident(s) giving rise to the relevant claim and (b) US\$10,000 (ten thousand Dollars). Subject to clauses 11.1 and 11.2, in respect of the Trial License, our maximum liability to you in aggregate is limited to US\$10.
- 11.4. YOU FURTHER AGREE THAT THE EXCLUSIONS AND LIMITATIONS OF LIABILITY ABOVE WILL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT AND WILL APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE
- 11.5. Any email disclaimer texts provided or made available by us to you as part of the Services are purely for example purposes and we do not warrant the legality or accuracy of these examples or accept any liability for them.

12. FORCE MAJEURE

- 12.1. We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Terms that is caused by an “**Event Outside Our Control**” meaning any act or event beyond our reasonable control, including without limitation, failure of public or private telecommunications networks, breakdown or unavailability of computer hardware, software, viruses, hackers, errors, interruptions, bugs and power supply.
- 12.2. If an Event Outside Our Control takes place that affects the performance of our obligations under these Terms:

- 12.2.1. our obligations under these Terms will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and
- 12.2.2. we will use our reasonable endeavours to find a solution by which our obligations under these Terms may be performed despite the Event Outside Our Control; and
- 12.2.3. if the Event Outside Our control prevents the use of the Service by you for more than 30 days, you may terminate your subscription and receive a pro rata refund of prepaid fees paid direct to us.

13. GENERAL

- 13.1. No failure or delay by us in enforcing our rights or remedies shall prejudice or restrict any rights or remedies available to us. No waiver of any rights or remedies available to us or of any breach of any contractual terms by you shall be valid unless in writing signed by one of our directors. A waiver shall not be deemed a waiver of any subsequent breach or default.
- 13.2. Subject to clause 4.3, we may amend these Terms from time to time. All revised Terms will be published on our website at <https://www.exclaimer.com/company/legal/eula> and shall be effective immediately on publication. If you do not agree with the revisions made to our Terms, you will have the right to terminate your subscription by giving us 30 days' notice in writing any time thereafter.
- 13.3. The parties agree to comply with all applicable anti-bribery, corruption and anti-money laundering laws and regulations.
- 13.4. Save as set out in clause 4.3 and 13.2, no variation of these Terms shall be effective unless in writing and signed by the parties (or their appointed representatives).
- 13.5. If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Terms.
- 13.6. Neither party may assign their rights and/or obligations hereunder to any third party without the prior written consent of the other party, such consent not to be unreasonably withheld, delayed or conditioned. Notwithstanding this, either party may assign these Terms without consent to an affiliate or in the event of a sale, merger or reconstruction of its business. Where we subcontract any element of the Services, we shall be responsible for the acts and omissions of our subcontractors as if they were our own. You agree that you shall, on request, provide reasonable assistance to us as required to give effect to this clause 13.6.
- 13.7. Unless expressly stated to the contrary in these Terms (including without limitation under clause 13.2), all notices given to a party under or in connection with these Terms shall be in writing and shall be delivered by email, by hand, by pre-paid postal delivery or by pre-paid courier at its registered office or its principal place of business. Notices shall be deemed to have been received:
 - 13.7.1. when delivered, if delivered by email, hand or by courier; or
 - 13.7.2. on the fourth day after posting if sent by pre-paid postal delivery; or
 - 13.7.3. on the tenth day after posting, if posted by airmail.Email notification does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 13.8. No one other than a party to these Terms, their successors and permitted assignees, shall have any right to enforce any of the Terms.
- 13.9. These Terms and the fee details referred to in clause 4 contain the whole agreement between you and us in relation to their subject matter and supersede all prior agreements, promises, assurances, warranties, representations, arrangements and understandings between you and us relating to that subject matter.
- 13.10. You represent, warrant and covenant that you are in compliance and will comply at all times with all applicable federal, state and local laws, regulations and rules, including but not limited to, the Foreign Corrupt Practices Act and applicable export control laws, including but not limited to: (x) the Export Administration Regulations ("EAR") which includes laws pertaining to controlled technology, denied parties, trade embargoes, and anti-boycott participation. (Further information can be found at:

www.bis.doc.gov); and (y) Economic sanctions programs implemented by the Office of Foreign Assets Control (“OFAC”) pertaining to: A) Specifically Designated Nationals; B) Comprehensive Country-specific Sanctions Programs, including, but not limited to, Cuba, Iran, Democratic People’s Republic of Korea (North Korea), Sudan, and Syria. (Further information can be found at: www.treasury.gov/about/organizationalstructure/offices/Pages/Office-of-Foreign-Assets-Control.aspx).

- 13.11. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms.
- 13.12. Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.
- 13.13. The Parties hereby agree that these Terms and any dispute or claim (including without limitation non-contractual disputes or claims) arising out of or in connection with these Terms or its subject matter or formation shall be governed by and construed in accordance with the laws of the state of Delaware, United States, without consideration or reference to its internal conflict of laws. The Parties hereby irrevocably submit to the exclusive jurisdiction of the federal and state courts of Delaware, United States, as applicable, to settle any dispute or claim (including without limitation contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation and exclude any right to a trial by jury.