

**SCHEDULE 7  
INTERCHANGE AGREEMENT**

**1. DEFINITIONS AND INTERPRETATION**

Defined terms are set out in this Paragraph and such terms shall apply throughout this Interchange Agreement. Save as set out below, the defined terms applying to the Agreement shall also apply to this Interchange Agreement and capitalised terms which are otherwise not defined herein have the meaning given to them in the Agreement.

- 1.1. "Bindable Line" means a Written Line attached to a Bindable Quote.
- 1.2. "Broker" means a Market User designated with such role in the profile section of the Platform, in recognition of that Market User being an intermediary involved in the placement of Platform Contracts for and on behalf of its Client Customer.
- 1.3. "Chat" means the instant messaging facility provided on the Platform for use by Market Users, over which messages can be sent and received.
- 1.4. "Client Customer" means:
  - (a) the person which is (i) the actual or prospective insured or insurance provider; or (ii) an agent or sub-agent where the actual or prospective insured or insurance provider is the ultimate principal of such agent or sub-agent pursuant to any contractual, agency or intermediary arrangements between the relevant parties; and where, in either case, the party described has engaged the Client (or a sub-agent) for the purpose of arranging, negotiating, entering into, administering, varying, cancelling or terminating contracts of insurance, binding authorities, line slips and other similar arrangements on behalf of the actual or prospective insured or insurance provider, as the case may be; and
  - (b) for the purpose of this Interchange Agreement (or elsewhere in this Agreement unless otherwise stated) Client Customer shall include the actual or prospective insured or insurance provider and all intermediaries between such party and the Client as appropriate.
- 1.5. "Condition(s) or Subjectivit(ies)" means those terms specified by the Insurer and capable of agreement by the Broker the satisfaction of which shall be a condition of a Platform Contract coming into effect or the Insurer going on risk, depending upon the terms of the Condition(s) or Subjectivit(ies).
- 1.6. "Deadline" means a date or period of time by which steps have to be taken in satisfaction of Condition(s) or Subjectivit(ies) agreed on the Platform.
- 1.7. "Disclosure Document" means any document attached to a Message or otherwise uploaded to the Platform in relation to or in support of a Risk or proposed insurance contract.
- 1.8. "Endorsement" means an electronic endorsement that is attached to a Platform Contract on the Platform, which evidences one or more changes in the terms of Platform Contract to which it refers.
- 1.9. "Endorsement Role" means one of the following:
  - a. leader;
  - b. agreement party;
  - c. notify party; or

d. does not apply,

as determined in each case by the terms of a Platform Contract, and which shall determine the options available to that Insurer on the Platform when an Endorsement is proposed by a Broker on the Platform, as detailed by Paragraph 7.2.

- 1.10. "Firm Order" is a type of Message that can be:
- (a) sent by a Broker over the Platform to an Insurer containing a firm offer to enter into a Platform Contract on the terms specified (hereinafter referred to as a "Firm Order Offer") which is capable of acceptance by the Insurer by the Insurer sending and the Broker receiving a further Message confirming the Insurer's Written Line; or
  - (b) sent by a Broker over the Platform to an Insurer containing an acceptance of an Insurer's offer to enter into a Platform Contract on the terms specified in the Insurer's Bindable Quote (hereinafter referred to as a "Firm Order Acceptance"); or
  - (c) sent by a Broker over the Platform to an Insurer in response to a Quote that changes or revises the terms of the Insurer's Quote, in which case the Broker's Firm Order shall be deemed a counter-offer from the Broker on behalf of the Client Customer to the Insurer (hereinafter referred to as a "Firm Order Counter-Offer").
- 1.11. "Hold Cover" means an option selected by an Insurer when transacting a Platform Contract over the Platform confirming that an Insurer accepts that it is liable to indemnify the insured party under a Platform Contract pending the resolution of certain Conditions or Subjectivities.
- 1.12. "Individual User" means an individual employed, engaged or contracted by a Market User that is permitted to use the Platform on behalf of that Market User.
- 1.13. "Insurer" means a Market User designated with such role in the profile section of the Platform, in recognition of that Market User (or its Client Customer) being a provider of insurance or reinsurance (as the case may be) to a Client Customer of a Broker.
- 1.14. "Market User" means any entity to whom the Platform is made available and Services are provided by Whitespace, which shall (unless the context otherwise requires) include Client.
- 1.15. "Message" means electronic messages between Market Users through the Platform, including the content of such electronic message and any attachment to it and/or any document linked to, provided or made available via such electronic message and for the avoidance of doubt includes Disclosure Documents.
- 1.16. "No Cover Given" means until such time that the Subjectivity is determined by the Insurer to have been satisfied, the Insurer shall not be on risk under a contract of insurance or reinsurance transacted on the Platform.
- 1.17. "Non-Binding Indication of Interest" is a type of Message that can be sent by an Insurer to a Broker in response to a Request to Quote.
- 1.18. "Platform Contract" means a digital contract of insurance or reinsurance concluded using the Platform in relation to a Risk. Each Insurer that concludes a contract over the Platform will have concluded a Platform Contract in respect of the relevant proportion of the relevant Risk assumed by that Insurer, and this shall be without prejudice to the existence of any other Platform Contracts concluded in relation to that Risk by other Market Users. Each Insurer's proportion of the Risk will be several and not joint. Unless the context otherwise requires, Platform Contract shall include reference to any related or associated Endorsement.
- 1.19. "Platform Facility" means a digital contract for insurance or reinsurance concluded on the Platform, including but not limited to binding authority agreements, lineslips and other facilities entered into by two or more Market Users.

- 1.20. "Quote" is a type of Message that can be sent by an Insurer to a Broker on the Platform in response to a Request to Quote. A Quote may:
- a) contain an offer to enter into a Platform Contract on the terms specified, including a Bindable Line, that is capable of acceptance by the Broker (on behalf of its Client Customer) via a Firm Order sent by the Broker to the Insurer confirming a Firm Order on the terms of the Quote, as a result of which a legally binding Platform Contract will be created. Such a Quote is a "Bindable Quote".
  - b) contain a non-bindable indication of the Insurer's interest in participating in the Risk. Such a Quote is a Non-Bindable Indication.
- 1.21. "Request to Quote" is a type of Message that can be sent by a Broker to an Insurer requesting the Insurer to provide a Quote for cover in respect of a Risk.
- 1.22. "Risk" means the event, occurrence, liability, property or other insurable interest to which an insurance contract relates, or in respect of such an insurance contract is sought, involving any and all information provided in connection therewith.
- 1.23. "Stamp Correction" means an electronic change that is applied to a stamp on the Platform Contract evidencing the change to the underwriting capacity behind an Insurer's Written Line.
- 1.24. "Stamp Removal" means an electronic change that is effective to remove a stamp of one or more Insurer(s) from the Platform Contract.
- 1.25. "Validity Period" means the period of time for which an Insurer's Bindable Quote will remain open for acceptance by the Broker, commencing from the time that the Message containing the Bindable Quote is received by the Broker.
- 1.26. "Written Line" is an indication from an Insurer of the proportion of a Risk it is willing to accept by way of a Platform Contract. A Written Line can be decreased if no Condition is included that states the Written Line is "to stand".
- 1.27. references to Paragraphs are to paragraphs of this Interchange Agreement unless otherwise specified;
- 1.28. the singular includes the plural and vice versa;
- 1.29. paragraph and other headings are for convenience only; and
- 1.30. any reference in this Interchange Agreement to any statute or enactment or to any agreement, document, instrument or provision thereof shall include any amendment thereto or replacement, supplement or consolidation thereof.

## **2. CLIENT GROUP**

- 2.1. The Client has entered this Agreement on its own behalf and, solely in respect of this Interchange Agreement, as agent acting on behalf of the other members of the Client Group. The other members of the Client Group will therefore be a Party to this Agreement solely in respect of this 0. For the purposes of this Interchange Agreement (other than this paragraph 2), "**Client**" will be deemed to mean "**Client Group**".
- 2.2. The Client hereby expressly agrees, and further warrants and represents to Whitespace, and to all Market Users and the Client Customers of Market Users, that the Client has the authority and has been granted all necessary consents and approvals to act as agent of the Client Group in the manner described in paragraph 2.1 and that the terms of this Interchange Agreement will bind the Client Group, and that neither it nor any member of the Client Group shall take any steps to challenge the validity or enforceability of, or deny liability under, any Platform Contract or Platform Facility on the basis that it was concluded on the Platform and/or in accordance with the terms of this Interchange Agreement.

### **3. COMPLIANCE**

- 3.1. Client hereby expressly agrees, and further warrants and undertakes to all Market Users and the Client Customers of Market Users for their benefit, that it is authorised to enter this Interchange Agreement on behalf of its Client Customer and that it shall at all times when using the Platform comply with and observe the terms of this Interchange Agreement.

### **4. CAPACITY OF MARKET USERS**

- 4.1. Where Client is a Broker:

4.1.1. It acts for and on behalf of its Client Customer, and its use of the Platform is in that capacity and with the full authority of its Client Customer to do so.

4.1.2. When Client transmits communications and documentation to other Market Users on the Platform it does so as the agent of its Client Customer.

4.1.3. When Client concludes a binding Platform Contract or Platform Facility in compliance with the terms of this Interchange Agreement, references to actions to be performed by it as Broker can be interpreted to include actions taken on behalf of the Client Customer, where such actions are properly authorised by the Client Customer by reason of Client's authority to act on behalf of the Client Customer in accordance with the terms of the arrangements in place between Client and its Client Customer for that purpose.

4.1.4. Each Individual User that has access to the Platform is duly authorised, where appropriate, to bind Client's Client Customer, and Client is duly authorised to enter the Interchange Agreement and to conclude Platform Contracts and Platform Facilities for and on behalf of Client's Client Customer.

- 4.2. Where Client is an Insurer:

4.2.1. Where relevant, it acts for and on behalf of its Client Customer, and its use of the Platform is in that capacity and with the full authority of its Client Customer to do so.

4.2.2. Where relevant, an Insurer which transmits communications and documentation to other Market Users on the Platform does so as the agent of its Client Customer.

4.2.3. Each Individual User that has access to the Platform is duly authorised, where appropriate, to bind the Insurer, and that the Insurer is duly authorised to enter the Interchange Agreement and to conclude Platform Contracts and Platform Facilities for and on behalf of itself, and/or on behalf of any syndicate at Lloyd's of London for which it performs the role(s) of managing agent (and the terms of that relationship also allow the Insurer to enter contractual relationships on behalf of all of the members of any such syndicate without the need for any further consents) and/or on behalf of any Client Customer for which it performs underwriting services.

### **5. USE OF THE PLATFORM BY MARKET USERS**

- 5.1. Use of the Platform by each Market User (on behalf of itself or its Client Customer on whose behalf it has entered this Interchange Agreement or any Platform Contract or Platform Facility) in accordance with the Agreement is a valid means of communicating offer and acceptance in respect of the transacting of Platform Contracts (including, without limitation, Endorsements) and Platform Facilities and compliance with the steps set out within this Interchange Agreement for creating, entering into or varying (as the case may be) a legally binding Platform Contract, Endorsement or Platform Facility shall be a valid means of so creating, entering into or varying such Platform Contract or Endorsement or Platform Facility.

- 5.2. Valid and enforceable obligations may be created by communication of Messages between Market Users on the Platform in compliance with this Interchange Agreement. Client expressly waives any rights to object to the validity of any Platform Contract or Platform Facility solely on

the ground that communication between Market Users occurred through the use of Messages on the Platform. A Message shall be deemed to have been received by a Recipient when it is made available by the Platform such that it is capable of being viewed by such relevant Authorised User (and/or Market User on whose behalf such Authorised User is acting).

- 5.3. Client shall have no intention (on behalf of itself or its Client Customer on whose behalf it is authorised to enter this Interchange Agreement and/or Platform Contracts or Platform Facilities) to create legal relations in respect of a Platform Contract or Platform Facility until such time as the steps set out in Paragraph 6 of this Interchange Agreement have been completed.
- 5.4. Use of the Platform does not preclude any Market User from using any means, other than by way of the Platform, to communicate any offer or acceptance of a contract of or for insurance or reinsurance, including binding authority arrangements and other facilities for cover, and does not limit or restrict any right of any Market User to create, enter into or vary such a contract by any means other than the Platform. For the avoidance of doubt, any action taken or option selected by any Market User whilst using any function(s) of the Platform shall always be subject and without prejudice to any contractual term(s), Condition(s) and/or Subjectivit(ies) of any Platform Contract or Platform Facility agreed between Market Users.
- 5.5. A Message containing: (i) a draft Platform Contract or Platform Facility; (ii) a Request to Quote; or (iii) a Quote, transmitted from a Sender to a Recipient using the Platform shall not in any circumstance be deemed to create a legally binding contract and neither the receipt of a Message containing a Request to Quote nor an acknowledgment of receipt of such Message by an Insurer shall have any binding legal effect on either the Sender or the Recipient.
- 5.6. Any communications or exchanges between Market Users by way of the Chat function (including where such exchanges may or do result in or amount to a contract or agreement between the parties, or evidence thereof) shall not affect the requirements of Paragraphs 6, 7 and 8 herein, with regard to the steps necessary for the conclusion or variation of a legally enforceable Platform Contract or Platform Facility.

## **6. FORMATION OF PLATFORM CONTRACTS**

- 6.1. There shall be no intention on the part of any Market User to create legal relations or enter into a binding Platform Contract until such time as, either:
  - 6.1.1. a Broker has received a Message from an Insurer on the Platform, which includes a Written Line, confirming that the Insurer accepts the Broker's prior Firm Order Offer or Firm Order Counter-Offer sent to that Insurer over the Platform; or
  - 6.1.2. an Insurer has received a Message containing a Firm Order Acceptance from a Broker, indicating that the Broker has unconditionally accepted the terms of the Insurer's earlier Bindable Quote; andin either case, so long as such Message is received before a Message withdrawing the Insurer's Bindable Quote or the Broker's Firm Order Offer or Firm Order Counter-Offer (as the case may be) has been received by the Recipient on the Platform, which will be deemed a revocation of the Insurer's Bindable Quote or the Broker's Firm Order Offer or Firm Order Counter-Offer.
- 6.2. Where an Insurer's Bindable Quote contains a Validity Period, the Quote will remain open for acceptance within that Validity Period, and if the Bindable Quote is not accepted by the Broker within the Validity Period, it will be deemed rescinded by the Insurer at the expiry of the Validity Period.
- 6.3. Where a Broker or an Insurer (as the case may be) receives a Message of the type described in Paragraph 6.1, its Client Customer (where relevant) will enter into a legally binding Platform Contract on the terms contained in the Bindable Quote or the Firm Order Offer or the Firm Order Counter-Offer (as the case may be), which will be formed at the time the Recipient receives such Message. Where a Broker has sent a Message containing a Firm Order

Acceptance, the Insurer shall thereafter send a Message confirming its Written Line on the terms of the Platform Contract that has been agreed.

- 6.4. The existence and terms of a Platform Contract following the satisfaction of Paragraph 6.1 above shall not be dependent upon, and are entirely without prejudice to, the existence of any other contracts, either concluded on the Platform by Market Users or otherwise, relating to the same Risk.
- 6.5. The terms of Condition(s) and/or Subjectivit(ies) will govern whether, and at what point, the Insurer shall be on risk under such Platform Contract:
  - 6.5.1. If an Insurer sends a Message containing a Written Line, which: (i) is stated to be subject to Condition(s) and/or Subjectivit(ies); and (ii) does not include any Deadline, the resulting Platform Contract will include any Condition(s) and/or Subjectivit(ies) as terms and the Insurer will be on risk from the time that the Firm Order Acceptance confirming unconditional acceptance of such Conditions and/or Subjectivi(ies) is received by the Insurer on the Platform.
  - 6.5.2. If an Insurer sends a Message containing a Written Line, which: (i) is stated to be subject to Condition(s) and/or Subjectivit(ies); (ii) includes a Deadline by which a Condition or Subjectivity must be complied with; and (iii) confirms that the Insurer will Hold Cover, the resulting Platform Contract will be concluded and the Insurer will be on risk from the time that the Firm Order Acceptance confirming unconditional acceptance of all such Conditions and/or Subjectivi(ies) is received by the Insurer from the Broker on the Platform, until such time that one or more Condition(s) and/or Subjectivit(ies) is determined by the Insurer to have gone unsatisfied and the relevant Deadline(s) have expired, and the Insurer has taken the steps set out in Paragraph 6.5.4.2. Notwithstanding the foregoing, if, before the expiry of a Deadline, the Broker sends a Message stating that one or more Condition(s) and/or Subjectivit(ies) is not capable of being satisfied, the Insurer may remove its Written Line by taking the steps set out in Paragraph 6.5.4.2.
  - 6.5.3. If an Insurer sends a Message containing a Written Line, which: (i) is stated to be subject to Condition(s) and/or Subjectivit(ies); (ii) includes one or more Deadlines before which any Condition(s) and/or Subjectivit(ies) must be complied with; and (iii) confirms that the Insurer has stated No Cover Given, the resulting Platform Contract will be concluded when the Firm Order Acceptance confirming unconditional acceptance of all such Conditions and/or Subjectivities is received by the Insurer from the Broker on the Platform, but the Insurer will not be on risk until either:
    - 6.5.3.1. the Broker receives a Message on the Platform from the relevant Insurer stating that any and all Condition(s) and/or Subjectivit(ies) shall no longer apply; or the last Message in a series of Messages each stating that one or more Condition(s) and/or Subjectivit(ies) no longer apply, with the result that all Condition(s) and/or Subjectivit(ies) are stated to no longer apply; or
    - 6.5.3.2. the Broker sends a Message to the Insurer to notify the Insurer that it has complied with all Condition(s) and/or Subjectivit(ies), and subsequently receives a Message from the Insurer which confirms that all Condition(s) and/or Subjectivit(ies) have been complied with to the Insurer's satisfaction.
  - 6.5.4. If a Deadline expires before the Insurer has sent a Message to the Broker stating that all Condition(s) and/or Subjectivit(ies) have been complied with to its satisfaction, the Platform will show the Insurer that the Deadline has expired and the Insurer can either:
    - 6.5.4.1. send a Message to the Broker on the Platform notifying the Broker that the Deadline is extended, and the date and time to which it is extended, in which case, if the Insurer is on risk by reason of a Hold Cover, it will continue to be on risk, and if the Insurer has stated No Cover Given, the Platform Contract will continue to be in force but without the Insurer on risk; or

- 6.5.4.2. send a Message to the Broker on the Platform notifying the Broker that the Written Line has been removed, in which case the Platform Contract will be deemed terminated from the time that the Broker receives the Message confirming the removal of the Written Line on the Platform.

## **7. ENDORSEMENTS TO/VARIATIONS OF PLATFORM CONTRACTS ON THE PLATFORM**

- 7.1. A Platform Contract can be varied on the Platform by the agreement of the Market Users that are party to that Platform Contract. A Platform Contract shall only be deemed to have been varied on the Platform where the conditions of this Paragraph 7 have been satisfied.
- 7.2. A Platform Contract can be varied by the agreement of an Endorsement by an Insurer at the request of a Broker (on behalf of the relevant Client Customer) that concluded any Platform Contract as follows:
  - 7.2.1. The Broker sends a Message which contains an Endorsement to an Insurer, and that Message will also include the Endorsement Role of that Insurer, as selected by the Broker.
  - 7.2.2. The Broker can withdraw an Endorsement before it is accepted or rejected by an Insurer, by sending a Message to any Insurer that has received the Endorsement, stating that the Endorsement has been withdrawn.
  - 7.2.3. If the Insurer's Endorsement Role, with respect to the relevant Endorsement, is either leader or agreement party, the Insurer will be deemed to have accepted and agreed the Endorsement to the Platform Contract, and to be bound by the variation detailed therein, on behalf of itself and any other Insurers for whom the leader or agreement party enjoys underwriting authority, when the Broker (before the Broker has withdrawn that Endorsement) receives a Message on the Platform from the Insurer that it has accepted the Endorsement, notwithstanding the receipt or otherwise of Messages from other Market Users relating to that Endorsement.
  - 7.2.4. If the Insurer's Endorsement Role, with respect to the relevant Endorsement, is a notify party, it will be bound by the Endorsement, and the variation to the Platform Contract detailed therein, when the Broker receives a Message on the Platform from the lead Insurer which enjoys underwriting authority on behalf of the notify party that it has accepted the Endorsement, notwithstanding the agreement or otherwise of any other Market User(s) relating to that Endorsement.
  - 7.2.5. If the Insurer's Endorsement Role is "does not apply", the Insurer will not be bound by that Endorsement, or the variation to the Platform Contract detailed therein, notwithstanding the agreement or otherwise of any other Market User(s) relating to that Endorsement.
  - 7.2.6. For the avoidance of doubt, if any Insurer sends a Message to a Broker stating that it declines an Endorsement, that Insurer will not be bound by that Endorsement or the variation to the Platform Contract contained therein.
- 7.3. A Broker can propose a revision to any Insurer's proportion of a Platform Contract, as indicated in the Written Line that concluded the Platform Contract, by sending a Message on the Platform to an Insurer, which contains an offer of a revision to the Insurer's Written Line of the Platform Contract. No variation to the Insurer's Written Line of the Platform Contract shall be deemed accepted and binding on the Insurer until the Broker (having offered a variation to the Written Line) receives a Message on the Platform confirming that the Insurer accepts the variation to the Written Line. For the avoidance of doubt, nothing in this Interchange Agreement is intended to affect any rights a Broker has to sign down one or more Written Lines.
- 7.4. The existence and terms of an Endorsement are entirely without prejudice to the existence of any other endorsements concluded between the relevant Market Users otherwise than over the Platform.

7.5. The underwriting capacity behind an Insurer's Written Line on a Platform Contract can be changed by the agreement of a Stamp Correction as follows:

7.5.1. The Insurer sends a Message which contains a proposed change to their stamp(s), and therefore to the underlying underwriting capacity provision.

7.5.2. No variation to the Insurer's stamp(s) on the Platform Contract shall be deemed accepted and binding until the Insurer receives a Message on the Platform confirming that the Broker accepts the stamp change.

7.6. The Insurers on a Platform Contract can be changed by the agreement of a Stamp Removal as follows:

7.6.1. The Broker sends a Message which contains a proposed removal of the stamp(s) used by an Insurer when agreeing a Platform Contract.

7.6.2. No removal of the Insurer's stamp(s) on the Platform Contract shall be deemed accepted and binding until the Broker receives a Message on the Platform confirming that the Insurer accepts the removal of their stamp(s). For the avoidance of doubt, if the Insurer accepts the removal of their stamp(s), and with effect from the Broker's receipt of the Insurer's Message accepting the Stamp Removal, the Insurer will no longer be bound in respect of the stamp(s) so removed to the terms of the Platform Contract that they previously agreed. Mid-term participant changes of any sort will be managed via Endorsement pursuant to Paragraph 7.2.

## **8. FORMATION OF PLATFORM FACILITIES**

8.1. There shall be no intention on the part of any Market User to create legal relations or enter into a binding Platform Facility until such time as, either:

8.1.1. a Market User has received a Message from another Market User on the Platform which includes a Written Line, confirming acceptance of the terms of the proposed Platform Facility; or

8.1.2. a Market User has received a Message from another Market User, confirming that its Bindable Quote has been unconditionally accepted as a Firm Order; and

in either case, so long as such Message is received before a Message withdrawing the offer to enter into a Platform Facility has been received on the Platform, which will be deemed a revocation of the Sender's offer.

8.2. Where a Market User receives a Message of the type described in Paragraph 8.1, the Sender and Recipient will enter into a legally binding Platform Facility on the terms contained in such Platform Facility, which will be formed at the time the Recipient receives such Message.

8.3. The existence and terms of a Platform Facility following the satisfaction of Paragraph 8.1 above shall not be dependent upon, and are entirely without prejudice to, the existence of any other contracts, either concluded on the Platform by Market Users or otherwise, relating to the same binding authority arrangements.

## **9. VARIATION OF TERMS OF THE INTERCHANGE AGREEMENT**

9.1. Whitespace may make any variation to the terms of this Interchange Agreement that it reasonably considers necessary provided the following conditions are all met:

9.1.1. Whitespace has consulted on such change with the business user group;

9.1.2. Whitespace provides written notice in advance of such change in accordance with the following:



9.1.2.1. where the change is in respect of any new or additional functionality of the Platform (added by Whitespace after the Effective Date) and does not vary the then-current terms applicable to the then-existing functionality of the Platform, then such notice may be provided at any time before the effective date of variation;

9.1.2.2. where the change is not covered by Paragraph 9.1.2.1 then such notice shall be provided no less than 60 days prior to the effective date of variation;

9.1.3. the same variation applies to all Market Users from the same date; and

9.1.4. Whitespace has also at the same time as providing the notice in writing, published the varied terms on the Whitespace website, with all changes highlighted.

## **10. COMMENCEMENT AND SURVIVAL**

The terms of this Interchange Agreement will take effect at the same time as the Agreement and shall survive termination of the Agreement and remain in full force and effect with respect to any Platform Contracts or Platform Facilities to which the Client is or was party in accordance with the applicable terms and conditions of such Platform Contracts and Platform Facilities, and the general law applying in respect of the same.

## **11. LIABILITY**

11.1. Nothing in the Agreement or this Interchange Agreement shall exclude or limit Client's liability arising out of a breach of this Interchange Agreement.

## **12. THIRD PARTY RIGHTS**

12.1. Client expressly agrees on behalf of itself and its Client Customer that, subject always to Paragraph 12.2, a current or former Market User of the Platform and/or its Client Customer for that purpose shall be entitled to enforce the provisions in this Interchange Agreement (including Paragraph 3.1) directly against the Client and/or its Client Customer as if such current or former Market User and/or its Client Customer were a Party to this Agreement.

12.2. In addition to any defence or set-off available to the Client (and/or its Client Customer) pursuant to the terms of this Agreement, to the extent the Client's (or its Client Customer's) breach of this Interchange Agreement is caused by the Market User's (or its Client Customer's) breach of Market User Agreement, Client (or its Client Customer) shall be entitled to rely on such breach by way of defence or set-off of any claim by Market User (or its Client Customer) under this Interchange Agreement.

12.3. Subject to the terms of this Paragraph 12, all Market Users (other than Client) and those Market Users' Client Customers shall be third-party beneficiaries of the terms of this Interchange Agreement, including in respect of Platform Contracts or Platform Facilities they have entered into with Client (or its Client Customer).

12.4. Client and Whitespace may amend, renew, rescind, terminate or otherwise vary all or any of this Interchange Agreement or any term of it without the consent of any person (including the Market Users and/or their Client Customers) who has the right to enforce this Interchange Agreement or the relevant term even if such amendment, renewal, rescission, or termination may extinguish or alter that person's entitlement under this Interchange Agreement or the relevant term.