

# Agreement

relating to the marketing of software products

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**Agreement Reference:** Document360 Terms & Conditions for the payment of Introductory Commissions - 19.10.2023 v3.

## **Parties**

- (1) DOCUMENT360 LIMITED, incorporated and registered in England and Wales with company number 13728159, whose registered office is at Planwell House, 35 Edgington Way, Sidcup, England, DA14 5BH (**Company**).
- (2) The **Partner** is the person or entity identified in the Commission Agreement Form and who is authorised by the Company to Introduce Company Products pursuant to the terms of this Agreement.

## **Recitals**

- (A) The Partner has a large number of contacts, and can make further contacts, in the Territory that may be interested in purchasing the Company Products from the Company.
- (B) The Company wishes to be introduced to such contacts, and is willing to pay the Partner a commission on the terms of this agreement if such contacts purchase services from it.
- (C) The Partner is willing to introduce contacts to the Company in return for commission as specified in this agreement.

## **Agreed terms**

### **1. Interpretation**

1.1 The following definitions and rules of interpretation apply in this agreement.

**Associated Entities:** in relation to the Company:

- (a) Integration360 Limited (incorporated and registered in England and Wales with company number 06976607); and
- (b) any other person who is, from time to time, a subsidiary or holding company of the Company, or is a subsidiary of the Company's holding company.

**Agreed Purposes:** to follow up Introductions made by the Partner, to perform the Company's obligations under this agreement, to directly market similar products and services to the Company Products and such other lawful purposes notified to the Partner in writing from time to time.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England.

**Commencement Date:** has the meaning given to it in clause 9.

**Commission:** has the meaning given to it in clause 3.1.

**Commission Agreement Form:** the form signed by the parties, that references this Agreement, and governs the terms and conditions of business between them. No Commission is due or payable to any Partner unless a Commission Agreement Form has been completed.

**Company Personal Data:** any personal data which the Partner processes in connection with this agreement, in the capacity of a processor on behalf of the Company.

**Company Products:** all or any part(s) of any products listed in Schedule 1 and the associated documentation relating to each of them together with any other products and related documentation developed by the Company and which the Company may permit the Partner, by express notice in writing, to market pursuant to this agreement.

**Data Protection Legislation:**

- (a) to the extent UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data; and
- (b) to the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which the party is subject, which relates to the protection of personal data.

**Effective Date:** the date specified on the Commission Agreement Form.

**EU GDPR:** the General Data Protection Regulation ((EU) 2016/679).

**Introduction:** the provision to the Company of the contact details of an employee or authorised representative of a Prospective Customer and who is of sufficient standing to authorise or recommend the purchase of the Company Products from the Company.

**Introduce, Introduces, and Introduced** shall be interpreted accordingly.

**Introduction Date:** for each Prospective Customer, the date during the term of this agreement on which the Partner first Introduces such Prospective Customer to the Company.

**Introduction Period:** for each Prospective Customer, 6 months from the Introduction Date, irrespective of whether such period ends before or after the date of termination of this agreement.

**Net Income:** the payments made to the Company for the Company Products (excluding the professional services implementing or installing them and excluding all other services such as training and support and maintenance) under a Relevant Contract less any value added tax or other sales tax on them, any out of pocket expenses incurred by the Company in supplying the Company Products and any discounts or rebates granted by the Company.

**Quarter:** each period of three calendar months ending on 31 March, 30 June, 30 September and 31 December.

**Prospective Customer:** a person resident or having its principal place of business in the Territory to whom the Company has not at any time previously supplied Company Products or any other goods or services and with whom the Company has not been in bona fide negotiations to provide the Services in the 6 months before the Introduction Date.

**Registration Process:** means the process by which a person or entity registers their interest to promote the Company Products in return for commission or reward.

**Relevant Contract:** a contract for the supply of Company Products entered into during the Introduction Period between the Company or one of its Associated Entities and a Prospective Customer that was Introduced by the Partner.

**Reserved Customers:** means both:

- (c) the customers specified in the Commission Agreement Form which comprise the customer groups in respect of which the Company has appointed an exclusive introducer and/or has reserved to itself; and
- (d) any other customer groups in respect of which the Company informs the Partner by written notice that it has appointed or will appoint an exclusive introducer and/or has reserved to itself.

**Reserved Territories:** means:

- (e) the areas specified in the Commission Agreement Form which comprise the areas in respect of which the Company has appointed an exclusive introducer and/or the areas which the Company has reserved to itself; and
- (f) any other areas in respect of which the Company informs the Partner by written notice that it has appointed or will appoint an exclusive introducer and/or has reserved to itself.

**Shared Personal Data:** the personal data to be shared by the Partner to the Company, confined to the following categories of information relevant to employees and other representatives of the Partner and Prospective Customers (including individual representatives of corporate customers):

- (a) identity data, including names, usernames or similar identifiers, date of birth and gender;
- (b) contact data, including billing addresses, delivery addresses, email addresses and telephone numbers; and
- (c) marketing and communications data, including data subjects' preferences in receiving marketing information.

**Territory:** Worldwide, other than a country, region or territory that is subject to a trade restriction or trade embargo by the United Kingdom of Great Britain & Northern Ireland or the United States of America.

**Trade Marks:** the marks identified in Schedule 2 together with any further trade or service marks which the Company may permit or procure permission for the Partner by express notice in writing to use in respect of the Company Products.

**UK GDPR:** has the meaning given to it in the Data Protection Act 2018.

**Year:** the period of 12 months from the Effective Date and each consecutive period of 12 months thereafter during the term of this agreement.

- 1.2 Clause and Schedule headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 A reference to **writing** or **written** includes fax and e-mail.
- 1.10 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.11 References to clauses and Schedules are to the clauses and Schedules of this agreement.
- 1.12 References to **controller, processor, data subject, personal data, personal data breach, processing** and **appropriate technical and organisational measures** have the meanings set out in the Data Protection Legislation.

## **2. Introductions**

- 2.1 The Company appoints the Partner on a non-exclusive basis to identify Prospective Customers for the Company in the Territory and to make Introductions of such persons on the terms of this agreement.
- 2.2 If requested by the Company, no later than 28 days after the Commencement Date, and before the commencements of every Quarter thereafter during the term of this agreement, the Company and the Partner shall jointly agree in writing the Prospective Customers (including any class or group of Prospective Customers) in respect of whom the Partner shall seek to make Introductions before the Partner approaches such Prospective Customers or makes any Introductions in respect of them.
- 2.3 The Partner shall:
- (a) use its best endeavours to make Introductions of Prospective Customers agreed pursuant to clause 2.1;
  - (b) report in writing to the Company from time to time on progress made with Prospective Customers;
  - (c) comply with all reasonable and lawful instructions of the Company;
  - (d) have no authority, and shall not hold itself out, or permit any person to hold itself out, or otherwise create the impression that it is authorised to bind the Company in any way, and shall not do any act which might reasonably create the impression that the Partner is so authorised;
  - (e) not make or enter into any contracts or commitments or incur any liability for or on behalf of the Company, including for the supply of the Company Products or the provision of any services, or the price for them, and shall not negotiate any terms for the provision of the Company Products with Prospective Customers;
  - (f) not, without the prior written consent of the Company, during the term of this agreement perform any services similar to making Introductions, in the Territory, on behalf of any person who provides products similar to the Company Products;
  - (g) disclose to each Prospective Customer that it represents the Company and that it has no authority or ability to negotiate the terms of the supply of the Company Products or enter into any contract on behalf of the Company;
  - (h) observe all directions and instructions given to it by the Company in relation to the promotion and advertisement of the Company Products to the extent that such promotions or advertisements refer to the Company Products or otherwise use the Trade Marks, and shall not make any written statement as to the quality or manufacture of the Company Products without the prior written approval of the Company; and

- (i) not, without the Company's prior written consent, make or give any representations, warranties or other promises concerning the Company Products which are not contained in the Company's marketing material; and
  - (j) Follow the Registration Process as notified to the Partner, by the Company from time to time, and failure to comply may render any Introduction invalid.
- 2.4 Where a Prospective Customer is Introduced by the Partner, and the Prospective Customer then introduces the Company to a third party who purchases Company Products from the Company, the Partner shall not, by virtue of such initial Introduction, be deemed to have Introduced the third party to the Company.
- 2.5 The Partner shall not actively market the Company Products in the Reserved Territories or to Reserved Customers.
- 2.6 For these purposes, **actively market** shall be understood to mean actively approaching or soliciting customers, including the following actions:
  - (a) visits;
  - (b) direct mail, including the sending of unsolicited emails;
  - (c) advertising in media, on the internet or other promotions, where such advertising or promotion is specifically targeted at customers in Reserved Territories and/or at Reserved Customers;
  - (d) online advertisements addressed to customers in Reserved Territories and/or to Reserved Customers and other efforts to be found specifically by users in Reserved Territories and/or belonging to the Reserved Customers, including the use of territory-based banners on third party websites and paying a search engine or online advertisement provider to have advertisements or higher search rankings displayed specifically to users in Reserved Territories and/or belonging to the Reserved Customers; and
  - (e) advertising or promotion in any form, or translation of the Partner's website into a language other than an official language of any country forming part of the Territory, that the Partner would not reasonably carry out but for the likelihood that it will reach customers in Reserved Territories and/or Reserved Customers.
- 2.7 The Company reserves the right to market the Company Products directly to customers inside or (if applicable) outside the Territory.

### **3. Commission and payment**

- 3.1 Unless another arrangement has been agreed in writing between the parties in respect of certain Introductions, the Partner shall be entitled to Commission if a Prospective Customer Introduced by the Partner enters into a Relevant Contract.

- 3.2 The amount of commission payable is specified in the Commission Agreement Form and shall be a percentage of the Company's Net Income received during year one only of each Relevant Contract as calculated from its commencement date (**Commission**).
- 3.3 The Company shall promptly notify the Partner in writing of the following:
- (a) the date it enters into a Relevant Contract;
  - (b) the amount of the payments due under the Relevant Contract; and
  - (c) the dates on which payments are payable under the Relevant Contract,
- no later than 10 Business Days after it enters into such Relevant Contract
- 3.4 Subject to the provisions of clause 3.6 below, all Commission payable pursuant to clause 3.2 and 3.3 above, shall be due to the Partner within 30 days from the date that cleared funds have been received by the Company for the Relevant Contracts. If the Company receives payment under any Relevant Contract in instalments, then Commission shall be calculated and paid on such instalments as they are received by the Company.
- 3.5 On request, the Company shall within 14 days of the end of the Quarter in which the Company received the corresponding payment for the Company Products send to the Partner a written statement setting out, in respect of such Quarter, and in respect of each Relevant Contract:
- (a) the Commission paid or payable to the Partner;
  - (b) the payments for the Company Products received and details of any sums due which have not been received; and
  - (c) how the Commission has been calculated, including details of all deductions made in determining Net Income.
- 3.6 The Company will promptly inform the Partner when it receives cleared funds for any Relevant Contracts. The Partner shall then invoice the Company for the Commission payable in accordance with clause 3.4, together with any applicable VAT or equivalent sales tax and the due date for payment by the Company of such Commission shall be 30 days from the date of receipt of a valid invoice.
- 3.7 Commission shall be payable to the Partner in US dollars unless otherwise agreed in writing by the Company.
- 3.8 All sums payable under this agreement:
- (a) are exclusive of value added tax or other applicable sales tax, which shall be added to the sum in question;



- (b) shall be paid in full without any deductions (including deductions in respect of items such as income, corporation, or other taxes, charges and/or duties) except where the payer is required by law to deduct withholding tax from sums payable to the payee. If the payer is required by law to deduct withholding tax, then the payer and the payee shall co-operate in all respects and take all reasonable steps necessary to:
    - (i) lawfully avoid making any such deductions; or
    - (ii) enable the payee to obtain a tax credit in respect of the amount withheld.
- 3.9 The Company shall keep separate accounts and records giving correct and adequate details of all Relevant Contracts entered into by the Company, all payments received under them and all deductions made in the calculation of Net Income. The Company shall permit the duly appointed representatives of the Partner at all reasonable times, but no more than once in any 12 month period, to inspect all such accounts and records and to take copies of them. For the avoidance of doubt, all rights in such records (including database right and copyright) shall belong to the Company.
- 3.10 Without prejudice to the provisions of clause 3.8 above, the Company reserves the right to demand and receive a refund for any Commission paid to a Partner in connection with a Relevant Contract where such Relevant Contract is found to be invalid, or unenforceable or for any other reason the Company is obliged to refund Net Income in respect of which it has already paid Commission. The Company's right to a refund pursuant to this clause 3.10 shall extend to include a right of set-off against any Commission due to that Partner under any other Relevant Contract.
- 3.11 No Commission is due or payable to any Partner in circumstances where the Prospective Customer and the Partner are one and the same entity or connected to one another. For the purpose of this clause 3.11, 'connected' means that one or other party has control over the other or both are under common control by a third party, and 'control' can be through voting power, or rights reserved under a contract which obliges one party to behave in a manner directed by the other.
- 3.12 If any dispute arises as to the amount of Commission payable by the Company to the Partner, the same shall be referred to the Company's auditors or accountants for settlement and their decision, save in the case of manifest error, shall be final and binding on both parties.
- 3.13 No Commission or other compensation shall be payable where the Company contracts with a third party in the circumstances described in clause 2.4.

3.14 Termination of this agreement, howsoever arising, shall not affect the continuation in force of this clause 3 and the Company's obligation to pay Commission to the Partner in accordance with it.

#### **4. Obligations of the Company**

4.1 The Company shall provide the Partner at all material times with the information the Partner reasonably requires to perform its obligations, including marketing information for and details of the Company Products, and information about the Company.

4.2 The Company shall inform the Partner if the Company discontinues any Company Products.

4.3 The Company shall not be responsible for any expenses incurred by the Partner unless such expenses have been agreed by the Company in writing, in advance.

4.4 The Company shall be under no obligation to:

- (a) follow up any Introduction made by the Partner; or
- (b) enter into a Relevant Contract.

#### **5. Compliance**

5.1 Each party shall at its own expense comply with all laws and regulations relating to its activities under this agreement, as they may change from time to time, and with any conditions binding on it in any applicable licences, registrations, permits and approvals.

5.2 The Partner shall comply with the Mandatory Policies as the Company may update them from time to time.

#### **6. Anti-bribery**

6.1 The Partner shall comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.

6.2 The Partner shall ensure that any person associated with the Partner who is performing services or providing goods in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Partner in this clause 6 (**Relevant Terms**). The Partner shall in all circumstances be responsible for the observance and performance by such persons of the Relevant Terms and shall in all circumstances be directly liable to the Company for any breach by such persons of any of the Relevant Terms howsoever arising.

6.3 Breach of this clause 6 shall be deemed a material breach, which is irredeemable, under clause 10.1(a).

## **7. Protection and processing of personal data**

7.1 Without relieving, removing or replacing their obligations or rights under Data Protection Legislation, both parties will comply with all applicable requirements of the Data Protection Legislation.

7.2 The Partner shall disclose to the Company the Shared Personal Data collected by the Partner for the Agreed Purposes. Both parties shall act as controllers in respect of the Shared Personal Data.

7.3 The Partner shall:

- (a) ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of the Shared Personal Data to the Company for the Agreed Purposes; and
- (b) give full information to any data subject whose personal data may be processed under this agreement of the nature of such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to the Company and its successors and assignees.

7.4 The Company shall:

- (a) process the Shared Personal Data only for the Agreed Purposes;
- (b) ensure that any further recipients of the Shared Personal Data are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this agreement;
- (c) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data; and
- (d) not transfer any Shared Personal Data outside the UK or the EEA unless the Company ensures that:
  - (i) the transfer is to a country approved under the applicable Data Protection Legislation as providing adequate protection; or
  - (ii) there are appropriate safeguards or binding corporate rules in place pursuant to the applicable Data Protection Legislation; or

- (iii) it otherwise complies with its obligations under the applicable Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; or
- (iv) one of the derogations for specific situations in the applicable Data Protection Legislation applies to the transfer.

7.5 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:

- (a) consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
- (b) promptly inform the other party about the receipt of any data subject rights request;
- (c) provide the other party with reasonable assistance in complying with any data subject rights request;
- (d) not disclose, release, amend, delete or block any Shared Personal Data in response to a data subject rights request without first consulting the other party wherever possible;
- (e) assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with the Information Commissioner or other regulators;
- (f) notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;
- (g) maintain complete and accurate records and information to demonstrate its compliance with this clause 7 and allow for audits by the other party or the other party's designated auditor; and
- (h) provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation.

7.6 The parties have determined that, for the purposes of the Data Protection Legislation, the Partner shall process the Company Personal Data as a processor on behalf of the Company in respect of the following processing activities:

- (a) storing the Company Personal Data;
- (b) marketing the Company Products; and
- (c) complying with the terms of this agreement.

7.7 Without prejudice to the generality of clause 7.1, the Partner shall, in relation to Company Personal Data:

- (a) process that Company Personal Data only on the documented instructions of the Company, which shall be to process the Company Personal Data for the purpose of complying with the terms of this agreement, unless the Partner is required by Data Protection Legislation to otherwise process that Company Personal Data. Where the Partner is relying on Data Protection Legislation as the basis for processing Company Processor Data, the Partner shall notify the Company of this before performing the processing required by the Data Protection Legislation unless they prohibit the Partner from so notifying the Company on important grounds of public interest. The Partner shall inform the Company if, in the opinion of the Partner, the instructions of the Company infringe Data Protection Legislation;
- (b) implement appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Company Personal Data and against accidental loss or destruction of, or damage to, Company Personal Data;
- (c) ensure that any personnel engaged and authorised by the Partner to process Company Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
- (d) assist the Company insofar as this is possible (taking into account the nature of the processing and the information available to the Partner), and at the Company's cost and written request, in responding to any request from a data subject and in ensuring the Company's compliance with its obligations under Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (e) notify the Company without undue delay on becoming aware of a personal data breach involving the Company Personal Data;
- (f) at the written direction of the Company, delete or return Company Personal Data and copies thereof to the Company on termination of the agreement unless the Partner is required by Data Protection Legislation to continue to process that Company Personal Data; and
- (g) maintain records to demonstrate its compliance with this clause and allow for reasonable audits by the Company or the Company's designated auditor, for this purpose, on reasonable written notice.

7.8 The Company hereby provides its prior, general authorisation for the Partner to:

- (a) appoint the Partner's IT cloud service providers to store the Company Personal Data (**Purpose**) as sub-processors for that purpose only, provided that the Partner:

- (i) shall ensure that the terms on which it appoints such sub-processors comply with Data Protection Legislation, and are consistent with the obligations imposed on the Partner in clause 7.1 and clause 7.7;
  - (ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Partner; and
  - (iii) shall inform the Company of any intended changes concerning the addition or replacement of the processors, thereby giving the Company the opportunity to object to such changes; and
- (b) transfer Company Personal Data outside of the UK or the EEA as required for the Purpose, provided that the Partner shall ensure that all such transfers are effected in accordance with Data Protection Legislation. For these purposes, the Company shall promptly comply with any reasonable request of the Partner, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the UK Information Commissioner from time to time (where the UK GDPR applies to the transfer).

## **8. Limitation of liability**

8.1 Nothing in this agreement shall limit or exclude the liability of either party for:

- (a) death or personal injury caused by its negligence; or
- (b) fraud or fraudulent misrepresentation.

8.2 Subject to clause 8.1 above:

- (a) the Company shall not under any circumstances whatever be liable to the other, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
  - (i) any loss of profit, sales, revenue, or business;
  - (ii) loss of anticipated savings;
  - (iii) loss of or damage to goodwill;
  - (iv) loss of agreements or contracts;
  - (v) loss of use or corruption of software, data or information;
  - (vi) any loss arising out of the lawful termination of this agreement or any decision not to renew its term, or
  - (vii) any loss that is an indirect or secondary consequence of any act or omission of the party in question; and

- (b) the Company's total aggregate liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall in all circumstances be limited to the amount actually paid by the Partner to the Company under this agreement in the 12 months preceding the date on which the claim arose.

## 9. Commencement and duration

This agreement shall commence on the Effective Date and shall continue, unless terminated earlier in accordance with clause 10, for one Year (**Initial Term**) and shall automatically extend for Yearly periods (**Extended Term**) at the end of the Initial Term and at the end of each Extended Term. The Partner may give written notice, not later than 90 days before the end of the Initial Term or the relevant Extended Term, to terminate this agreement at the end of the Initial Term or the relevant Extended Term, as the case may be. The Company may terminate this agreement for convenience and without cause at any time on giving the Partner 90 days prior written notice.

## 10. Termination

- 10.1 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 28 days after being notified in writing to do so;
  - (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
  - (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
  - (d) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
  - (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party;
  - (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

- (g) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.1(d) to clause 8.1(j) (inclusive); or
- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

10.2 Without affecting any other right or remedy available to it, the Company may terminate this agreement with immediate effect by giving written notice to the Partner if:

- (a) the Partner fails to pay any amount due under this agreement on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
- (b) there is a change of control of the Partner (within the meaning of section 1124 of the Corporation Tax Act 2010).

## **11. Consequences of termination**

11.1 On termination of this agreement, the following clauses shall continue in force: clause 1, clause 3, clause 5 and clause 12.

11.2 Termination of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

## **12. General**

12.1 **Force Majeure.** Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if that delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate this agreement by giving 14 days' written notice to the affected party.



## **12.2 Assignment and other dealings.**

- (a) The Partner shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the Company's prior written consent.
- (b) The Company may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights under this agreement.

## **12.3 Confidentiality.**

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.3(b).
- (b) Each party may disclose the other party's confidential information:
  - (i) to its employees, officers, representatives, subcontractors or advisers who need to know that information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12.3(b); and
  - (ii) as may be required by law, to a court of competent jurisdiction or any governmental or regulatory authority.
- (c) No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

## **12.4 Entire agreement.**

- (a) This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies for any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- (c) Nothing in this agreement limits or excludes any liability for fraud.

12.5 **Variation.** No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.6 **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

- (a) Waive that or any other right or remedy.
- (b) Prevent or restrict the further exercise of that or any other right or remedy.

12.7 **Severance.** If any provision or part-provision of this agreement 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 that 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 this agreement.

**12.8 Notices.**

(a) Any notice or other communication given to a party under or in connection with this agreement shall be in writing and sent to the address specified on the Commission Agreement Form. Notices shall be delivered:

- (i) personally;
- (ii) sent by pre-paid first class post or other next working day delivery service;
- (iii) by commercial courier; or
- (iv) by email to the following addresses (or an address substituted in writing by the party to be served on at least five Business Days' prior written notice):

Company: The address given on the Commission Agreement Form.

Partner: The address given on the Commission Agreement Form.

(b) A notice or other communication shall be deemed to have been received:

- (i) if delivered personally, when left at the address referred to in clause 12.8(a);
- (ii) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting;
- (iii) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or
- (iv) if sent by email, one Business Day after transmission.

- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

- 12.9 **No partnership or agency.** Notwithstanding the identification of the introducer as a “Partner”, nothing in this agreement 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. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 12.10 **Third party rights.** No one other than a party to this agreement ,their successors and permitted assignees, shall have any right to enforce any of its terms.
- 12.11 **Governing law.** This agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 12.12 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

## **Schedule 1 Company Products**

Document360, details of which can be found at the Company's website:  
[www.document360.com](http://www.document360.com)

## Schedule 2 Trade Marks

### **UK00003633172**

Status:Registered

Mark text: DOCUMENT360

File date: 27 April 2021

Classes: 9, 35, 42Add to shortlist

### **UK00003705874**

Status: Registered

Mark text: DOCUMENT360

File date: 01 October 2021

Classes: 9, 35, 42Add to shortlist

### **UK00003705874**

Status: Registered

Mark text: DOCUMENT360

File date: 01 October 2021

Classes: 9, 35, 42