

EXCLUSIVE ATM SITE AGREEMENT

THIS AGREEMENT is made on the 22nd day of

September

14
2012

BETWEEN

- (1) **Bank Machine Limited** (Company Registration Number 03610221) whose registered address is situate at 1 Park Row, Leeds, West Yorkshire, United Kingdom LS1 5AB ("**Bank Machine**") and whose principal place of business and address for service hereunder is at One, The Beacons, Beaconsfield Road, Hatfield, Hertfordshire, United Kingdom AL10 8RS; and
- (2) **Sound Gurus Limited** (Registered in England and Wales with company number 06682795) whose registered address is situate at 142-144 East End Road, Finchley, London, N2 0RZ ("**the Merchant**").

This Agreement is subject to the Merchant undertaking the various obligations which are set out in this Agreement and which are important and involve the Merchant's personal responsibility and liability. Bank Machine urges the Merchant to read all of the terms of this Agreement before signing and completing it with Bank Machine. Bank Machine also advises the Merchant to take independent legal advice as to the nature and effect of this Agreement. The Merchant acknowledges that it has considered and agreed to the provisions of this Agreement by executing this Agreement on the final page.

Background:

The Merchant has applied to Bank Machine to consider whether the Premises are suitable for the installation of an ATM at the ATM Site and, if so, to install the ATM at the ATM Site (defined below) and operate the same in accordance with the terms of this Agreement.

It is agreed as follows:

Definitions:

In this Agreement, the following words and phrases shall bear the following meanings:

- | | |
|-------------------------------------|---|
| "Additional Locations" | means the ATM Site and Premises whereat the Parties have agreed to install and operate any further ATMs under the terms of this Agreement during its term; |
| "Agreement" | means this Agreement and any exhibits and schedules attached hereto; |
| "ATM" | means any automated teller machines provided under this Agreement and including all ancillary equipment, components, software, data and Signage supplied by Bank Machine; |
| "ATM Site" | means any part of the Premises where the Parties have agreed to place an ATM; |
| "Bank Machine Replenishment" | means that Bank Machine is responsible for the replenishment of the Vault Cash; |

"Charge"	means any fee that Bank Machine levies on any Transaction at its sole discretion;
"Crime Prevention Measures"	means any measures as Bank Machine shall reasonably determine as necessary from time to time for the security of the ATM, the ATM Site and the Premises, including but not limited to the installation of alarms, CCTV, fog system, safe upgrades and door upgrades;
"Force Majeure"	any event that is beyond the reasonable control of a Party despite the due diligence of the affected Party and that is not the result of the fault or negligence of the Party affected by the Force Majeure event. A Force Majeure event shall be any event, including without prejudice to the generality of the foregoing, an event caused by or resulting from a change in applicable law, war, rebellion, civil commotion, strikes, lock outs and industrial disputes, fire, explosion, earthquake, acts of God, flood, drought, or bad weather, the requisitioning or other act or order by any Government department, council or other constituted body;
"Free to Use"	means where there is no Charge for a Transaction;
"Interchange Fees"	means the fees receivable by Bank Machine from the LINK network for processing any operation at the ATM as established by LINK from time to time;
"Interchange Fee Baseline"	means the Interchange Fees in force at the date of this Agreement;
"Merchant Replenishment"	means that the Merchant is responsible for the replenishment of the Vault Cash;
"Party or Parties"	means Bank Machine or the Merchant or both;
"Payment Date"	means is the last day of the month following the end of a quarter;
"Pay to Use"	means where there is a Charge for a Transaction;
"Premises"	means any site listed in Clause 1 or in Schedule A (if applicable) or any Additional Location including where appropriate and without limitation all nearby adjacent and/or adjoining land operated or owned by the Merchant;
"Signage"	includes but is not limited to trademarks, logos, signage, material and other advertisements supplied with the ATM on installation or subsequently introduced by Bank Machine to the ATM or the ATM Site;
"Site Assessment"	means the process of assessing whether the Premises, the availability of planning consents and the terms of any

there where
you need us

Landlord consents are
suitable for the installation of an ATM, at the sole discretion,
of Bank Machine;

"Technical Survey"

means the technical Premises survey conducted by Bank Machine prior to any proposed installation taking place;

"Transaction(s)"

means any successful LINK cash withdrawal from an ATM;

"Transaction Date"

means the date of the first Transaction from an ATM;

"Vault Cash"

means the monies loaded into and contained in an ATM;

1. ATM Sites

- 1.1. The Merchant hereby grants to Bank Machine an exclusive right, privilege and licence to install and operate a Bank Machine Replenishment ATM at the Premises in accordance with this Agreement.
- 1.2. The ATM Site shall be agreed by both Parties and its location within the Premises and the installation of the ATM are subject a Technical Survey being carried out in accordance with the provisions of clause 4.
- 1.3. The ATM shall be situated at the ATM Site at the Premises specified below and any subsequent Additional Locations shall be included in a supplemental schedule A (if applicable).
 - 1.3.1. Sound Gurus Limited 142-144 East End Road, Finchley, London, N2 0RZ
- 1.4. The Merchant grants to Bank Machine a licence to access the ATM Site as necessary for the performance of its obligations under the terms of this Agreement.

2. Term of Agreement

- 2.1. Subject to earlier termination in accordance with the provisions of this Agreement, the term of this Agreement shall for each ATM installed hereunder commence on the date of this Agreement for an initial period of 5 years from the Transaction Date of that ATM (the "Initial Period"). Unless either Party serves no less than three months' written notice of termination on the other, such notice to determine no later than the last day of the Initial Period or any Extension Period, this Agreement shall continue for further consecutive periods of three years (each an "Extension Period").

3. Fees

- 3.1. Bank Machine shall be entitled to levy a Charge on ATM Users for a Transaction.
- 3.2. In consideration of the rights granted by the Merchant, Bank Machine shall pay to the Merchant, payable quarterly in arrears on the Payment Date from and including the Transaction Date:
 - 3.2.1. An annual peppercorn rent, if demanded; and
 - 3.2.2. 25% of the Charge levied for each Transaction processed by the ATM in any calendar month.
- 3.3. In the event that at any time during the term of this Agreement the LINK network reduce the Interchange Fees below the Interchange Fee Baseline, Bank Machine may reduce the fees set out at clause 3.2 by a percentage equal to the percentage difference between the

Interchange Fee Baseline and the new Interchange

Fees. Bank Machine may exercise this right by providing the Merchant with notice of the new Interchange Fees.

- 3.4. The fees paid to the Merchant under this Agreement are inclusive of VAT (and all other taxes or duties which are payable in law), rates, service charges and all other relevant outgoings subject to other relevant provisions of this Agreement. For avoidance of doubt, any and all fees shall cease to be payable for the period where an ATM is not transacting due to any refurbishment or relocation works being undertaken at the Premises by the Merchant or where there has been a contravention of Clause 4.8. and/or clause 5.3.

4. Installation

- 4.1. Upon entering into this Agreement:

4.1.1. the Merchant shall:

- 4.1.1.1. at its own expense obtain and provide Bank Machine with the prior written consent of any superior landlord(s) of the Premises, any persons with a superior interest in the Premises to the Merchant and/or of any mortgagees thereof to the installation and operation of the ATM and to the signature of this Agreement and any such other consent that Bank Machine deems necessary or desirable, all of which shall be subject to Bank Machine's approval; and
- 4.1.1.2. whether or not the same shall be apparent on a visual inspection of the Premises and/or the ATM Site, identify to Bank Machine any and all pipes, cables or other conduits, access panels, emergency shut-off or other valves, switches or controls in the proximity of the proposed ATM Site. Neither Bank Machine nor any of its contractors shall have any liability to the Merchant (save for liability for death or personal injury caused by the negligence of Bank Machine or its contractors) for any damage or loss of whatever nature resulting from the Merchant's failure to comply with this clause.
- 4.1.2. Bank Machine shall:
- 4.1.2.1. conduct a Site Assessment;
- 4.1.2.2. if the Site Assessment is satisfactory (at Bank Machine's sole discretion), commission a Technical Survey of the Premises;
- 4.1.2.3. if the Technical Survey is satisfactory (at Bank Machine's sole discretion), apply for and obtain any necessary building regulations or planning consents for the installation of the ATM;
- 4.1.2.4. if Bank Machine considers at its sole discretion that any necessary building regulations or planning consents are readily obtainable without any onerous or prejudicial conditions, confirm the installation date with the Merchant.

- 4.2. For the avoidance of doubt, the installation of the ATM shall be conditional upon Bank Machine at its sole discretion approving the installation subject to:

- 4.2.1. receipt of prior written consent of any superior landlord(s) or mortgagees of the Premises;
- 4.2.2. the results of the Site Assessment, the Technical Survey, and the availability of any necessary building regulations or planning consents without any onerous, unusual or prejudicial conditions.

- 4.3. Bank Machine shall be able to terminate this Agreement in whole or in part forthwith upon notice to the Merchant in the event that Bank Machine at any time prior to the installation of the ATM considers that:

- 4.3.1. the written consent of any superior landlord(s) or mortgagees of the Premises is insufficient or requires compliance with onerous or unusual conditions; or
- 4.3.2. the results of the Site Assessment, the Technical Survey or the availability of or the conditions attached or likely to be attached to any necessary building

regulations or planning consents render the installation of the proposed ATM uneconomical, unsafe or unsuitable for any reason whatsoever.

- 4.4. Merchant shall, within seven days of written demand, reimburse and indemnify Bank Machine for the costs of carrying out the Site Assessment, the Technical Survey, the installation costs, applying for any necessary consents and any reasonably incurred expenses incurred in connection with any of them (including contractors' and professional charges on an indemnity basis together with VAT thereon) in the event that the installation of an ATM fails to proceed or Bank Machine are required to remove an ATM as a result of:
 - 4.4.1. the Merchant failing to obtain any superior landlord or mortgagee consents; or
 - 4.4.2. any Premises fail the Site Assessment or the Technical Survey or because of any act or omission of the Merchant, his servants, employees, contractors or invitees.
 - 4.5. Bank Machine shall be responsible for and the Merchant shall permit:
 - 4.5.1. making necessary alterations to the ATM Site;
 - 4.5.2. arranging installation of electricity points, lighting and any Crime Prevention Measures considered necessary by Bank Machine;
 - 4.5.3. arranging installation of telecommunications and computer connections.
 - 4.6. Any ATM to be installed pursuant to the terms of this Agreement shall be delivered and installed by Bank Machine at its expense on or around a date agreed between both Parties, subject to circumstances outside of Bank Machine's reasonable control. In entering into this Agreement, Bank Machine is deemed to have obtained the Merchant's approval to the design and appearance of the ATM Site, any ATM and the work programme for the delivery and installation of each ATM subject to the terms of this Agreement.
 - 4.7. The Merchant warrants that:
 - 4.7.1. any lease or proprietary interest under which it holds the Premises is not inconsistent with the provisions of this Agreement and is held by the Merchant for a period that is at least equal to the term specified in Clause 2 hereof;
 - 4.7.2. the Merchant is not prohibited by such lease or the terms of its proprietary interest from entering into this Agreement;
 - 4.7.3. the necessary consents have been obtained from any superior landlord or party with a superior interest in the Premises to the Merchant; and
 - 4.7.4. the Merchant has the necessary power, capacity and authority to enter into this Agreement.
 - 4.8. Once an ATM has been installed at an ATM Site the Merchant shall not disconnect, unplug, move, attempt to move, adjust or adapt any ATM or Signage (or any part of them) in any way without the prior written consent of Bank Machine.
 - 4.9. The Merchant shall defend, indemnify and hold harmless Bank Machine in respect of all losses, claims, liabilities, charges, costs and expenses incurred or suffered (including contractors' and professional charges on an indemnity basis together with VAT thereon) by Bank Machine as a result of any delay to the agreed delivery date, installation date or location of an ATM caused, by any actions or omissions of the Merchant or its servants, agents, sub-contractors or any others for whom the Merchant is responsible at law.
- 5. Operation and Maintenance**
- 5.1. Bank Machine shall be responsible, at its sole cost and expense, for the maintenance and repair of any ATM subject to the terms of this Agreement, save where the maintenance or repair has been necessitated as a result of a negligent act, omission

or breach of this Agreement by the Merchant, its servants, agents, sub-contractors or any others for whom the Merchant is responsible at law, in which case the costs of any required repairs shall be borne by the Merchant.

5.2. The ATM shall, unless otherwise provided in this Agreement be a Bank Machine Replenishment ATM.

5.3. The Merchant shall at its own cost during the term of this Agreement:

- 5.3.1. clean and maintain the area surrounding the ATM Site and ensure that the ATM Site is kept clear of any ATM receipts and other debris;
- 5.3.2. wipe down the ATM daily with a soft cloth as part of normal Premises cleaning and immediately notify Bank Machine if an ATM requires emergency cleaning or maintenance;
- 5.3.3. supply electricity as required for the normal operation of an ATM and ensure that, where independently metered, such electricity supply and the supply of any telecommunications services to the ATM are used solely for the purposes of supplying the ATM;
- 5.3.4. permit Bank Machine to deduct from any fees or rents payable to the Merchant hereunder any sums that the Merchant owes Bank Machine under the terms of this Agreement;
- 5.3.5. supply adequate illumination of and around the ATM Sites during the normal hours of public access;
- 5.3.6. provide clear visibility of and unobstructed access to any ATM during the normal hours of public access and the Merchant shall not install or fit any CCTV cameras, windows, apertures or mezzanine floors overlooking the ATM that could compromise the security of its users;
- 5.3.7. permit all ATM users with unlimited access to any ATM, during the normal hours of public access;
- 5.3.8. allow Bank Machine (and its staff, agents and contractors) access to the Premises and the ATM Site at all necessary times for the purpose of delivering, installing, operating, replenishing, maintaining and removing an ATM (or the cash therein) or responding to an alarm linked to the ATM;
- 5.3.9. (in the case of an ATM malfunction) advise Bank Machine of the malfunction immediately and give Bank Machine (and its staff and contractors) immediate access to facilitate repairs;
- 5.3.10. only place an out of service notice (the content of which shall be approved by Bank Machine) on an ATM with the written consent of Bank Machine and for the period of time agreed by Bank Machine;
- 5.3.11. discharge all business rates invoices in respect of the Premises and any ATM Site;
- 5.3.12. provide no less than 30 days advance notice "in writing" to Bank Machine of any future periods whereby the Premises will be unoccupied or untended and/or of any circumstances in which the Merchant intends to cease trading or dispose of any rights in the Premises or the business carried on thereat;
- 5.3.13. carry out a daily inspection of an ATM and all Premises security measures and Crime Prevention Measures including sensors and movement detectors and the Merchant shall notify Bank Machine immediately by telephone of any defects or suspected interference;
- 5.3.14. comply with any rules or regulations notified by Bank Machine in connection with any ATM, provided that such rules and regulations are fair and reasonable and necessary for the performance and security of an ATM; and
- 5.3.15. at all times comply with the covenants of any lease under which the Merchant holds the Premises including without limitation the satisfaction of any rent and service charge demands.

5.4. Without prejudice to any remedy available to Bank Machine pursuant to this Agreement or at law in the event that, as a result of a breach of any of the Merchant's obligations set out in clause 5.3:

5.4.1. Bank Machine incurs any expenses relating to a failed cash replenishment, a failed or abortive installation or a failed or abortive engineer visit, the Merchant shall on demand defend, indemnify and hold harmless Bank Machine for any loss, liabilities, penalties, damages, costs, claims and expenses (including contractors' and professional charges on an indemnity basis together with VAT thereon) without limitation; and

5.4.2. For each day or part thereof an ATM is unable to perform Transactions, the Merchant shall be liable to pay Bank Machine liquidated damages in an amount equal to the average daily number of transactions processed by the ATM, multiplied by the sum of the relevant Interchange Fees in force from time to time and any relevant Charge. The average daily number of transactions shall be calculated by adding the total number of transactions per month for the six months immediately prior to the date the ATM ceases to function as a result of the breach and dividing the result by 6 and dividing the result by 30.

6. Signage and Advertising

6.1. Bank Machine shall have the right to:

6.1.1. place any Signage on and around an ATM;

6.1.2. (in order to advertise the existence of an ATM at the Premises) place in or on the windows and/ or the exterior of the Premises, Signage that may be electrically lighted 24 hours a day and 7 days a week; and

6.1.3. make available any advertising and services on an ATM, including without limitation financial transaction services, mobile phone top up services and any other services it deems appropriate.

6.2. The Merchant shall not, without the written consent of Bank Machine place any signage, stickers or other materials on an ATM or remove or adjust any Signage placed by Bank Machine.

6.3. Bank Machine shall be entitled to display advertisements both on the surface of an ATM and on the display screens of the same.

7. Ownership

7.1. The Merchant acknowledges that any ATM together with any Vault Cash (where the ATM is a Bank Machine Replenishment ATM) and any associated intellectual property rights are, and shall at all times remain the property of Bank Machine. The Merchant shall take no action, nor permit any individual to take any action that would cause any ATM or any Vault Cash from time to time therein to be encumbered with any distress, levy of execution, lien or security interest.

7.2. Notwithstanding the method of affixing any ATM to its ATM Site, nothing at law or hereunder shall render any ATM a fixture of the Premises and at all times subject to the provisions of this Agreement, Bank Machine shall be free to remove all ATMs from the Premises.

8. Insurance

8.1. The Merchant shall be responsible for:

8.1.1. insuring the Premises;

8.1.2. insuring the contents of the Premises (other than any ATM);

8.1.3. appropriate public liability insurance;

8.2. Bank Machine shall be responsible for the insurance of:

8.2.1 the ATM; and

8.2.2 the Vault Cash.

9. Restrictive Covenant

9.1. From and including the date of this Agreement and for a period of twelve months after the end of this Agreement howsoever determined, the Merchant shall not permit the installation of any automated teller machine that is not operated by Bank Machine (or any other equipment which in the reasonable opinion of Bank Machine is similar to or in competition with an ATM) at the Premises.

9.2. Throughout the term of this Agreement, the Merchant shall not offer any form of cash back services at the Premises.

9.3. The Merchant warrants and acknowledges that:

9.3.1. the restrictive covenants contained herein are reasonable, protect a legitimate business interest of Bank Machine and do not work harshly on the Merchant; and

9.3.2. Bank Machine in providing the ATM and incurring the installation costs of the ATM contemplated by this Agreement is giving adequate consideration to the Merchant for providing these restrictive covenants.

10. Underperformance Management, Relocation and Refurbishment

10.1. In the event that in Bank Machine's reasonably held opinion the Agreement becomes uneconomically viable or in the event that the mean average number of Pay to Use Transactions falls below a monthly average of 2,500 or the mean average number of Free to Use Transactions falls below a monthly average of 5,500 in any consecutive period of three calendar months:

10.1.1. Bank Machine shall be entitled to:

10.1.1.1. introduce or cease to levy a Charge as appropriate; or

10.1.2. Bank Machine shall be entitled to remove the ATM and terminate this Agreement and the Parties shall have no liability to each other save for any accrued to the Parties prior to the effective date of termination.

10.2. In the event that the provisions of clause 10 apply and the ATM is converted to a Free to Use ATM, the fees payable to the Merchant pursuant to clause 3.2 shall cease to apply with effect from the date of the first Transaction after the conversion of the ATM. The Merchant and Bank Machine shall in good faith and acting reasonably and in the best commercial interests of both parties, renegotiate the fees payable to the Merchant. For any interim period before the Parties agree new fees (which agreement shall state the new fees and the date the same come into effect, shall be in writing and shall be signed by the Parties and appended hereto), Bank Machine shall pay to the Merchant, payable quarterly in arrears on the Payment Date 2 pence for each Free to Use Transaction processed by the ATM in any calendar quarter.

10.3. Bank Machine may request in writing, consent from the Merchant to relocate an ATM to an alternative position, such consent not to be unreasonably withheld nor delayed. Bank Machine shall be responsible for the costs related to any such relocation and shall make good any damaged caused thereby to the Premises.

10.4. The Merchant may request in writing, consent from Bank Machine to carry out refurbishment works at the ATM Site or request the relocation of an ATM to an alternative

ATM Site within the Premises. In the event that Bank Machine shall grant such consent (which shall not be unreasonably withheld nor delayed), the Merchant shall be responsible for and shall indemnify and hold Bank Machine harmless for any and all costs related to any such refurbishment and or relocation of the ATM. For the avoidance of doubt, it shall not be unreasonable for Bank Machine to withhold consent on grounds of any legitimate commercial or security concerns of Bank Machine and any new location shall if reasonably required be subject to a new Site Assessment and/or Technical Survey)

- 10.5. Where an ATM is unable to produce Transactions due to on-going refurbishment and/or relocation works pursuant to clause 10.3 or 10.4, Bank Machine shall be entitled to suspend any fees payable to the Merchant until such time the relocation or refurbishment works are completed, the ATM is securely installed and producing Transactions.

11. Force Majeure

- 11.1. Neither Party shall be under any liability to the other for, damage, delay or any other matters of that nature whatsoever arising out of a Force Majeure event; provided always that both Parties shall use reasonable endeavours (but without an obligation to incur cost) to minimise the period of disruption caused by the Force Majeure.

12. Early Termination

- 12.1. Bank Machine shall each be entitled immediately to terminate this Agreement (in whole or in part) by notice in writing to the Merchant at any time after the occurrence of any of the following events:

- 12.1.1. a material breach by the Merchant of any provision of this Agreement which is not capable of remedy;
- 12.1.2. a breach by the Merchant of any provision of this Agreement which breach is capable of remedy, but which is not remedied within 21 days of the Merchant receiving written notice from Bank Machine describing the breach;
- 12.1.3. the Merchant disposes or threatens to dispose of the Premises or its interest therein or disposes or threatens to dispose of its interest in the business carried on at the Premises;
- 12.1.4. where the Merchant being a Company suffers a change of control within the meaning of section 1124 of the Corporation Tax Act 2010 (unless the transferee of the Merchant's business, the Premises, or the Merchant's rights therein as applicable agrees to novate or take assignment of this Agreement);
- 12.1.5. an order is made or a resolution is passed for the winding up of the Merchant, or an administrator is appointed to manage the affairs, business and property of the Merchant, or notice of intention to appoint such an administrator is given, or a receiver or manager or administrative receiver is appointed in respect of all or any of the Merchant's assets or undertaking, or circumstances arise which entitle the court or a creditor to appoint a receiver or manager or administrative receiver or which entitle the court to make a winding-up order, or the Merchant makes a voluntary arrangement with its creditors;
- 12.1.6. where the Merchant, being a sole trader ceases to trade or threatens to cease trading, or becomes subject to bankruptcy proceedings or where the Merchant, being a partnership, is dissolved or wound up.

- 12.2. Bank Machine shall be entitled immediately to terminate this Agreement (in whole or in part) by notice in writing to the Merchant at any time after the occurrence of any of the following events:

- 12.2.1. if the Agreement becomes unprofitable in Bank Machine's reasonable opinion;

- 12.2.2. where in Bank Machine's reasonably held opinion, the security of an ATM has been compromised or is likely to be compromised in the near or immediate future;
- 12.2.3. where expressly permitted to do so elsewhere in this Agreement.

12.3. The Merchant shall be entitled to terminate this Agreement (in whole or in part) by notice in writing to Bank Machine for any material breach by Bank Machine of any provision of this Agreement which is not capable of remedy following at least 30 days prior written notice from the Merchant to Bank Machine notifying Bank Machine of the breach and setting out the details of the same;

12.4. Without limitation of Bank Machine's remedies herein and at law, in the event that the Merchant fails to meet any of its obligations under this Agreement, the Merchant shall defend, indemnify and hold harmless Bank Machine upon the determination of this Agreement (or the determination of the Agreement in relation to any ATM Site) for any loss, liabilities, penalties, damages, costs, claims and expenses (including contractors' and professional charges on an indemnity basis together with VAT thereon) incurred by Bank Machine as a result of the Merchant's breach. Bank Machine shall be entitled to exercise a general right of set off in relation to any sums owed by the Merchant to Bank Machine and withhold payment of such sums as are required to satisfy the Merchant's liability pursuant to this clause, the balance, if any, of which shall be payable to Bank Machine on demand.

12.5. For the avoidance of doubt, any of the rights of Bank Machine to terminate this Agreement may be exercised in relation to the entire Agreement or any one of the ATM Sites severally from the entire Agreement. Notwithstanding the termination of this Agreement in relation to a particular ATM Site, this Agreement shall continue to apply in full force and effect to the remaining ATM Sites in respect of which the right to terminate has not been exercised for so long as at least one ATM remains installed.. In providing notice to terminate pursuant to the terms of this Agreement, Bank Machine shall stipulate whether it is exercising its rights of termination in relation to the entire Agreement or any particular ATM Site or ATM Sites.

13. Removal of an ATM on Termination

13.1. Within 30 days after the date of termination of this Agreement, howsoever caused, Bank Machine shall (and the Merchant shall permit access to Bank Machine to allow the same) remove any ATM and any ancillary equipment installed by it at each of the ATM Sites at a time as the Merchant and Bank Machine shall acting reasonably agree, and Bank Machine shall make good any damage thereby caused to the ATM Site. The removal of the ATM shall be at the sole cost of Bank Machine PROVIDED ALWAYS THAT in the event of termination of the Agreement by Bank Machine pursuant to clause 12.1, the Merchant shall be solely responsible for any and all costs relating to the deinstallation of the ATM.

14. Confidentiality

14.1. All information, documents and data disclosed by either Party in relation to this Agreement is proprietary and confidential. Both Parties agree to use the same solely in accordance with the provisions of this Agreement and agree that they shall not at any time during or after expiry or termination of this Agreement disclose the same whether directly or indirectly to any third party without the prior written consent of the other Party.

14.2. The obligations of non-disclosure and confidentiality shall not extend to a Party in respect of anything which:

- 14.2.1. is in the public domain other than as a result of a breach of those obligations;

- 14.2.2. was in that Party's records prior to the date of this Agreement;
- 14.2.3. is required to be disclosed under a legal or regulatory duty or pursuant to a written request for disclosure from a public or other competent authority or a court of competent jurisdiction.

15. Indemnity

- 15.1. The Merchant shall be responsible for and shall keep Bank Machine fully indemnified against all loss and/or damage of whatever nature, resulting directly or indirectly from the Merchant's own actions or omissions or those from its servants, agents, sub-contractors or any others for whom the Merchant is responsible at law.
- 15.2. In the event that an ATM is lost, damaged, destroyed, broken into or an ATM is unable to operate due to any negligence, unlawful or wrongful acts, or any omission or breach of obligation, including without limitation and without prejudice to the generality of the foregoing any provisions relating to the upkeep and maintenance of the Crime Prevention Measures, by the Merchant its servants, agents or sub-contractors or any others for whom the Merchant is responsible for at law, the Merchant shall defend, indemnify and hold harmless Bank Machine for any loss, liabilities, penalties, damages, costs, claims and expenses (including contractors' and professional charges on an indemnity basis together with VAT thereon) without limitation.
- 15.3. Any dispute as to the liabilities, cause or extent of the above loss or damages shall be determined by an expert with appropriate skills and qualifications jointly agreed on and instructed by the parties whereas:
 - 15.3.1. if the parties are unable to agree on the appointment of the expert, the expert shall be appointed by the Chief Executive of the Security Industry Authority or such other person as the Chief Executive may nominate in his place;
 - 15.3.2. the person appointed shall not act as an arbitrator; and
 - 15.3.3. the fees and expenses of the expert shall be borne in the proportions determined by him, or equally if no determination as to costs is made.
- 15.4. A determination or certification by an expert under this Agreement is, in the absence of manifest error, conclusive and binding on the Parties provided that nothing herein shall prevent the Parties at any time from seeking urgent injunctive relief from a court of competent jurisdiction.
- 15.5. The Merchant acknowledges and accepts that in the event that any ATM is not capable of performing Transactions, the Merchant shall not be entitled to any claim in relation to any loss of revenue because of lost Transactions or any other form of compensation for Transactions that could have been performed had that ATM been operational.
- 15.6. Nothing in this Agreement shall render Bank Machine responsible in contract or tort (including negligence) for any economic loss including loss of revenue, profits, contracts, business or anticipated savings, the loss of goodwill or reputation, or for any special, indirect or consequential losses whether or not contemplated at the outset of the Agreement.

16. Joint Promotion/ Use of Trademarks and Logos

- 16.1. Bank Machine shall be entitled to include the locations of the ATM Sites on all promotional materials prepared concerning the Bank Machine ATM network.

- 16.2. Bank Machine may formulate joint public relations and advertising programs to promote the usage of the Bank Machine ATM network. Each Party shall be authorised, for the sole purpose of such joint promotion, to use the other's trademarks, name or trading style, other brand identifiers and any relevant logos or designs. The Merchant acknowledges that Bank Machine may use the Merchant's trademarks, name or trading style, other brand identifiers and any relevant logos or designs in conjunction with those of third parties such as banks or other organisations participating in Bank Machine's ATM network.
- 16.3. Bank Machine and/or the Merchant shall have the right to disclose to third parties the fact that they have entered into this Agreement but not the commercial terms or details of the Agreement which can only be disclosed by a Party to third parties with the written consent of the other Party unless required to do so by a competent authority or court of competent jurisdiction.
- 16.4. All trade names, logos, trademarks and other brand identifiers used by Bank Machine are the intellectual property of and belong to Bank Machine and/or its licensors. The Merchant shall not, subject to clause 16.2 make any use of Bank Machine's intellectual property without Bank Machine's prior written consent. No advertising shall be used or produced by the Merchant, in any form featuring such intellectual property or implying any connection whatsoever with Bank Machine without the prior written approval of Bank Machine.
- 17. Group Sharing**
- 17.1. Bank Machine shall be entitled to share its occupation of the ATM Site with any company which is the holding company of or a subsidiary of Bank Machine or such holding company (the terms "subsidiary" and "holding company" are defined in section 1159 of the Companies Act 2006) provided that any such holding company or subsidiary shall not acquire any tenancy rights as a consequence.
- 18. Jurisdiction**
- 18.1. This Agreement shall be governed by and construed in accordance with the laws of England and Wales, and the Parties irrevocably submit to the non-exclusive jurisdiction of the courts in England and Wales.
- 19. General**
- 19.1. This Agreement represents the whole agreement between the Parties in respect of its subject matter and overrides any other prior verbal or written understandings. The Parties acknowledge that they have expressly negotiated and agreed the terms of this Agreement before executing it and each Party waives its entitlement to make a claim in relation to a representation that is not set out or referred to in this agreement but not so as to disentitle it to a remedy for fraudulent concealment or fraudulent misrepresentation.
- 19.2. No amendment to this Agreement shall be binding unless made in writing and signed by duly authorised representatives of both Parties.
- 19.3. The Merchant shall not assign, charge or otherwise transfer to a third party (including by way of trust) any of its rights or obligations under this Agreement without the prior written consent of Bank Machine (such consent not to be unreasonably withheld or delayed).
- 19.4. No waiver of any breach of the other Party's obligations under this Agreement shall represent a waiver in respect of any subsequent breach. A Party may release or compromise a right under this agreement or grant indulgence in respect of a liability to it without affecting its other rights. A Party providing its consent to an act that under this agreement requires that consent shall not prejudice that Party's right to withhold consent to a similar act.

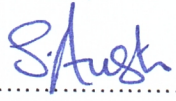
- 19.5. The provisions of this Agreement, as far as they are capable of being complied with, shall continue to be operative notwithstanding its determination howsoever caused and a provision that either in its terms or from its intent is intended to survive termination of this Agreement shall remain in force however the termination occurs.
- 19.6. Where applicable, the Merchant shall inform Bank Machine of any previously refused planning permissions for the Premises.
- 19.7. Nothing in this Agreement shall give rise to a partnership or joint venture between the parties and nothing herein shall give rise to a relationship of landlord and tenant or any estate in land between the Parties in relation to the Premises and/or the ATM Site.
- 19.8. The Parties respectively shall ensure that any other necessary party shall, execute and complete all such documents, acts and things as may reasonably be required on or subsequent to completion of this Agreement for securing each of the obligations of the Parties under this Agreement.
- 19.9. This Agreement may be entered into in separate counterparts but shall not be effective until each Party has executed at least one counterpart. Once executed, each counterpart shall be an original, and both counterparts shall constitute the same instrument.
- 19.10. None of the provisions of this Agreement shall confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on a party who is not named as a Party to this Agreement.
- 19.11. Any notice suspending or terminating the whole or any part of this Agreement shall be made in writing and shall be either delivered personally or sent by first class recorded delivery to the Party to whom the notice is addressed at the address set out in this Agreement or such other addresses in the United Kingdom as either Party may specify by notice in writing to the other, and in the absence of evidence of earlier receipt shall be deemed to have been duly given:
- 19.11.1. if delivered personally, when left at that address; or
- 19.11.2. if sent by first class recorded delivery, at the time recorded by the delivery agent.
- 19.12. For the purposes of this Agreement, electronic mail shall not be deemed to be "in writing".
- 19.13. If any provision of this Agreement is held to be void or unenforceable in whole or in part, this Agreement shall continue to be valid as to the other provisions of this Agreement and the remainder of the affected provision. If a provision of this Agreement or a procedure to be carried out in its implementation is or becomes illegal or unenforceable, the remaining provisions and procedures shall not be affected. The parties shall, acting reasonably and in the best commercial interest of both parties, negotiate in good faith in order to agree the terms of a mutually satisfactory provision or procedure to be substituted for the provision or procedure found to be illegal or unenforceable. If they are unable to reach agreement and the illegality or unenforceability arises because a specified period or area is excessive, the Agreement is to be deemed to be modified to the minimum extent necessary to make it effective whilst remaining substantially in accordance with the commercial intent of the parties.
- 19.14. This Agreement shall be binding on and shall continue for the benefit of the agreed assigns of each of the Parties.

- 19.15. The Merchant shall have provided Bank Machine with true and accurate copies of personal identification and shall notify Bank Machine in writing of any changes to the details provided in order to enable Bank Machine to comply with its legal obligations. The Merchant shall defend, indemnify and hold harmless Bank Machine for any loss, liabilities, penalties, damages, costs, claims and expenses (including contractors' and professional charges on an indemnity basis together with VAT thereon) that Bank Machine may incur or suffer as a result of the Merchant providing misleading or fraudulent personal identification or any misrepresentation by the Merchant whether before or during the term of this Agreement.
- 19.16. Upon expiry or termination of this Agreement for any reason, neither Party shall have any further obligation to the other under this Agreement, save as otherwise provided in this Agreement or in respect of any rights or obligations which have accrued prior to expiry or termination.

IN WITNESS WHEREOF the Parties hereto have
executed this Deed by their duly authorised officers (where applicable) delivered as of the
date and year first above written.

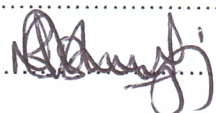
Executed as a Deed by Bank Machine Limited
acting by:

Director 

Director/Secretary 

Executed as a Deed by Sound Gurus Limited
acting by:

Director  Print Full Name: M. H. Kaur

Director/Secretary  Print Full Name: N. Bhimji

(Or where there is only one director, please have your signature witnessed below)

in the presence of:

Witness (signature).....

Print Full Name.....

Address.....

Occupation.....

**Please return two signed copies of this Agreement and a completed Bank Form to
The Legal & Contracts Department at Bank Machine's Principal Place of Business:
One, The Beacons, Beaconsfield Road, Hatfield, Hertfordshire AL10 8RS.**

\\HUKFPD1\Shared\Finance\Commercial\Contracts\Drafted Contracts 2013\CIT Deployed\Chris coyle - 18.07.2013 - sound gurus -
smaller merchant agreement - Clt deployed ptu.docx