

# FRIZZENTI STANDARD EQUIPMENT TERMS AND CONDITIONS

The Customer's attention is drawn in particular to the provisions of clause Error! Reference source not found..

## 1. Interpretation

1.1. In these Conditions, the following definitions apply:

<b>Agreement</b>	the supply agreement including these Conditions, the Frizzenti Standard Trade Terms and Conditions and the Frizzenti Standard POS Materials Terms and Conditions between Frizzenti and the Customer for the sale and purchase of the Products;
<b>Business Day</b>	a day (other than a Saturday or a Sunday) on which banks are open for business in London;
<b>Conditions</b>	the Frizzenti standard equipment terms and conditions set out in this document;
<b>Customer</b>	the person, firm or company who purchases the Products from Frizzenti;
<b>Delivery</b>	the transfer of physical possession of the Equipment to the Customer at the Premises;
<b>Deposit</b>	a deposit payable in respect of a Container;
<b>Equipment</b>	equipment for the dispense of draught Products, such as fonts, dispense heads and taps, including all ancillary equipment and any alterations, additions or replacements thereto;
<b>Intellectual Property Rights</b>	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
<b>Force Majeure Event</b>	an event or circumstance beyond a party's reasonable control;
<b>Frizzenti</b>	Frizzenti UK Limited incorporated and registered in England and Wales with company number 08406177 whose registered office is at Pennant House 1-2 Napier Court Napier Road, Reading RG1 8BW;
<b>Maintenance Services</b>	the maintenance services as detailed in clause 4.1;
<b>Products</b>	any products which Frizzenti agrees in the Agreement to supply to the Customer (including any of them or any part of them) but excluding any POS Materials and any Equipment; and
<b>Services</b>	the installation of the Equipment in accordance with clause 3 and the Maintenance Services.

## 2. Equipment

2.1. Frizzenti shall lease the Equipment to the Customer for the use at the Premises subject to these Conditions. Where agreed, Frizzenti shall also provide the Services in respect of the Equipment. Frizzenti shall be entitled to sub-contract any to its obligations under this Agreement.

## 3. Title, Risk and Insurance

3.1. The Equipment shall at all times remain the property of Frizzenti, and the Customer shall have no right, title or interest in or to the Equipment (save the right to possession and use of the Equipment subject to the terms and conditions of this Agreement).

3.2. The risk of loss, theft, damage or destruction of the Equipment shall pass to the Customer on Delivery. The Equipment shall remain at the sole risk of the Customer during the Term during which the Equipment is in the possession, custody or control of the Customer (**Risk Period**) until such time as the Equipment is redelivered to Frizzenti. During the Term and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances:

- 3.2.1. insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as Frizzenti may from time to time nominate in writing;
- 3.2.2. insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as Frizzenti may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment; and
- 3.2.3. insurance against such other or further risks relating to the Equipment as may be required by law, together with such other insurance as Frizzenti may from time to time consider reasonably necessary and advise to the Customer.

3.3. All insurance policies procured by the Customer shall be endorsed to provide Frizzenti with at least twenty (20) working days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall upon Frizzenti's request name Frizzenti on the policies as a loss payee in relation to any claim relating to the Equipment. The Customer shall be responsible for paying any deductibles due on any claims under such insurance policies.

3.4. The Customer shall give immediate written notice to Frizzenti in the event of any loss, accident or damage to the Equipment arising out of or in connection with the Customer's possession or use of the Equipment. If the Customer fails to effect or maintain any of the insurances required under this agreement, Frizzenti shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.

3.5. The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to Frizzenti and proof of premium payment to Frizzenti to confirm the insurance arrangements.

## 4. Delivery and Installation

4.1. Frizzenti shall arrange for the delivery of the Equipment to, and the installation of it at, the agreed location (**Premises**).

4.2. The Customer shall at its own expense prepare the Premises for the installation of the Equipment, provide the proper environmental and operational conditions necessary for the efficient working and maintenance of the Equipment before it is delivered and comply fully with any reasonable instructions or guidelines issued by or on behalf of Frizzenti in connection with the installation of the Equipment.

4.3. The Customer shall procure that a duly authorised representative of the Customer shall be present at the delivery of the Equipment. Acceptance of Delivery by such representative shall constitute conclusive evidence that the Customer has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended (save as regards any latent defects not reasonably apparent on inspection). If required by Frizzenti, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.

4.4. If in the opinion of Frizzenti or its contractor it is necessary to remove or otherwise disconnect any of the Customer's existing equipment at the Premises in order to carry out the installation of the Equipment, then the Customer shall permit, and obtain all necessary consents for, that removal and/or disconnection and shall give Frizzenti and its contractor all necessary assistance to enable that work to be carried out.

## 5. Maintenance

- 5.1. Subject to the other provisions of this clause 5, Frizzenti shall use its reasonable endeavours to fix any faults in the Equipment. Any parts replaced in the provision of such services shall become the property of Frizzenti.
- 5.2. Frizzenti shall use its reasonable endeavours to provide the Services as soon as is reasonably possible after being notified by the Customer of any fault, but having regard to the availability of personnel, commitments to other customers and the seriousness of the reported problem.
- 5.3. Frizzenti shall not be liable to provide the Maintenance Services:
  - 5.3.1. in respect of any equipment other than the Equipment;
  - 5.3.2. where they are required as a result of neglect or misuse;
  - 5.3.3. where they are required as a result of the Equipment being maintained or modified or attempts to maintain or modify the Equipment have been made by anyone other than Frizzenti's or its contractor's personnel, or the Customer under the guidance of Frizzenti's or its contractor's personnel.
- 5.4. Frizzenti shall be entitled to charge the Customer for any work undertaken as a result of any of the causes stated in clause 5.3 or the Customer failing to comply with any of its obligations under this Agreement at the rates prevailing at the time of repair. Such charges shall be payable by the Customer on demand.
- 5.5. If the Equipment requires replacement due to loss or damage caused by flood, fire, vandalism or rodent damage, or as a result of the Equipment being put otherwise than to normal use, the Customer shall be liable to pay Frizzenti on demand the full replacement cost of the Equipment together with labour charges relating to the supply and installation of the replacement.

## 5. Customer's Obligations

5.6. The Customer must:

- 5.6.1. keep the Equipment at all times at the agreed Premises and shall not move or attempt to move any part of the Equipment to any other location without Frizzenti's prior written consent;
- 5.6.2. keep the Equipment in clean and in good condition, and operate it reasonably and in accordance with any guidelines or specifications issued by or on behalf of Frizzenti or the manufacturer of the Equipment;
- 5.6.3. only use the Equipment for dispensing sparkling and still wines supplied by Frizzenti or its approved suppliers. Where the Customer uses such Equipment to dispense other products, Frizzenti reserves the right to charge the Customer a weekly fee for the ongoing maintenance of the Equipment Frizzenti shall notify the Customer of the fee which shall be due monthly on demand;
- 5.6.4. not, without the prior written consent of Frizzenti, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
- 5.6.5. alter the Equipment without Frizzenti's prior written permission or if required by law;
- 5.6.6. properly clean any product dispense lines on a 14 day cycle, or on a shorter cycle if required by the circumstances. Where the Customer fails to do so, it shall pay to Frizzenti on demand the cost of any work carried out to return the lines to the correct quality. In addition, if product python lines require replacement due to the Customer adopting incorrect cleaning practices, the Customer shall pay to Frizzenti on demand all costs associated with the replacement (including labour charges);
- 5.6.7. maintain operating and maintenance records of the Equipment and make copies of such records readily available to Frizzenti, together with such additional information as Frizzenti may reasonably require;
- 5.6.8. notify Frizzenti immediately if any defect in the Equipment becomes apparent and provide Frizzenti and its contractor with accurate information regarding that defect;
- 5.6.9. keep Frizzenti fully informed of all material matters relating to the Equipment;
- 5.6.10. permit Frizzenti or its duly authorised representative to inspect the Equipment at all reasonable times and for such purpose to enter upon the Premises, and shall grant reasonable access and facilities for such inspection;
- 5.6.11. not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of Frizzenti in the Equipment;
- 5.6.12. not suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so confiscated, seized or taken, the Customer shall notify Frizzenti and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Equipment and shall indemnify Frizzenti on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- 5.6.13. not use the Equipment for any unlawful purpose;
- 5.6.14. ensure that at all times the Equipment remains identifiable as being Frizzenti's property and wherever possible shall ensure that a visible sign to that effect is attached to the Equipment;
- 5.6.15. deliver up the Equipment at the end of the Term or on earlier termination of this Agreement at such address as Frizzenti requires, or if necessary allow Frizzenti or its representatives access to the Premises for the purpose of removing the Equipment;
- 5.6.16. not do or permit to be done anything which could invalidate the insurances referred to in clause 3;
- 5.6.17. take such steps (including compliance with all safety and usage instructions provided by Frizzenti) as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
- 5.6.18. provide Frizzenti and its contractor with such other information and assistance as they may reasonable require in connection with the provision of the Services including full access to the Premises and the Equipment, and access to relevant employees of the Customer;
- 5.6.19. ensure that any wine supplied by or on behalf of Frizzenti that is dispensed using the Equipment, is dispensed and resold only in the condition prescribed by Frizzenti from time to time and so as to meet any relevant brand specification issued by Frizzenti.

5.7. Where the Customer wishes to install and maintain the Equipment itself, the Customer agrees:

- 5.7.1. to carry out the work at its own risk;
  - 5.7.2. to comply with the manufacturer's guidelines and any instructions issued by Frizzenti or its contractor from time to time;
  - 5.7.3. to ensure that the work is only carried out by competent engineers who have the necessary qualifications and experience to complete the work safely;
  - 5.7.4. to comply with all applicable legislation and codes of practice, including those relating to health and safety.
- 5.8. Subject to clause 9.2, neither Frizzenti nor the Owner shall be liable for any loss, damage or liability of any kind that the Customer may suffer as a result of it installing or maintaining the Equipment (or any related spare parts supplied by Frizzenti, its contractor or the Owner from time to time).
- 5.9. Frizzenti reserves the right to suspend or refuse to provide the Services when, in Frizzenti's reasonable opinion, conditions at the Location represent a hazard to the health or safety of any of Frizzenti's or its contractor's personnel or representatives.
- 5.10. The Customer acknowledges that Frizzenti shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by the Customer or its officers, employees, agents and contractors, and the Customer undertakes to indemnify Frizzenti on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure

by the Customer to comply with the terms of this Agreement.

## 6. Warranties

- 6.1. Insofar as the Equipment comprises or contains equipment or components which were not manufactured or produced by Frizzenti, the Customer shall be entitled only to such warranty or other benefit as Frizzenti has received from the manufacturer.
- 6.2. This Agreement sets forth the full extent of Frizzenti's obligations and liabilities in respect of the Equipment and its leasing to the Customer. In particular, there are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on Frizzenti except as specifically stated in this Agreement. Any condition, warranty or other term concerning the Equipment which might otherwise be implied into or incorporated within this Agreement, whether by statute, common law or otherwise, is expressly excluded.
- 6.3. Frizzenti warrants that the Services shall be provided with reasonable skill and care. All other warranties, conditions or other terms implied by statute or common law (including fitness for purpose) are excluded to the fullest extent permitted by law.
- 6.4. Any dates quoted for delivery of the Equipment or performance of the Services are approximate only and Frizzenti shall not be liable for any delay in delivery or performance howsoever caused.
- 6.5. The Customer shall give Frizzenti a reasonable opportunity to remedy any failure by Frizzenti to comply with its obligations under the Agreement before the Customer incurs any costs and / or expenses in remedying the matter itself. If the Customer does not do so then Frizzenti shall have no liability to the Customer.
- 6.6. Any advice or recommendation given by Frizzenti or its employees, contractors or agents to the Customer or its employees or agents as to the storage, application or use of the Equipment which is not confirmed in writing is followed or acted upon entirely at the Customer's own risk, and accordingly Frizzenti shall not be liable for any such advice or recommendation which is not so confirmed.
- 6.7. In no circumstances shall Frizzenti be deemed to have represented that the Equipment is fit for any particular purpose.

## 7. Intellectual Property Rights

- 7.1. All Intellectual Property Rights in or arising out of or in connection with the Frizzenti Brands, the Products, the Equipment and the Services shall be owned by Frizzenti and/or its licensors (**Frizzenti IPR**).
- 7.2. Frizzenti grants to the Customer, or shall procure the direct grant to the Customer of, a non-exclusive licence during the Term to use the Frizzenti IPR to onsell the Products subject to the terms of this Agreement.
- 7.3. The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 7.2.
- 7.4. The Customer grants Frizzenti a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the Term for the purpose of providing the Services to the Customer.

## 8. Confidentiality

- 8.1. 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 8.2.
- 8.2. Each party may disclose the other party's confidential information:
- 8.2.1. to its Affiliates, employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Agreement. Each party shall ensure that its Affiliates, employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 8; and
- 8.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 8.3. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Agreement.

## 9. Liability

- 9.1. This clause 9 (together with clause 14 (Liability) of the Frizzenti Standard Trade Terms and Conditions) sets out the entire financial liability of Frizzenti (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Customer in respect of any breach of the Agreement, and any representation, statement or tortious act or omission (including negligence), arising under or in connection with the Agreement.
- 9.2. Nothing in the Agreement shall limit or exclude the liability of Frizzenti for:
- 9.2.1. fraud, fraudulent misrepresentation, or death or personal injury resulting from its negligence or that of its employees;
- 9.2.2. breach of the terms implied by section 12 of the Sale of Goods Act 1979 or of section 2 of the Consumer Protection Act 1987.
- 9.3. Subject to clause 9.2, Frizzenti shall not be liable to the Customer, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any
- 9.3.1. loss of profit;
- 9.3.2. loss of or damage to goodwill;
- 9.3.3. loss of sales or business;
- 9.3.4. loss of business opportunity;
- 9.3.5. loss of agreements or contracts;
- 9.3.6. loss of revenue or anticipated saving;
- 9.3.7. loss or corruption of data or information, or for
- 9.3.8. any special, indirect or consequential damage or loss suffered by the Customer that arises under or in connection with the Agreement.
- Each of the sub-clauses 9.3.1 to 9.3.8 shall be deemed to be independent of the others.
- 9.4. Subject to clause 9.2, Frizzenti total liability arising under or in connection with the use of the Equipment by the Customer, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited to £10,000.
- 9.5. Subject to clause 9.2, Frizzenti shall not be liable to any purchaser of the Products from the Customer in respect of any claim whatsoever.
- 9.6. The Customer shall, in relation to any loss or damage that may give rise to a claim under the Agreement against Frizzenti, take all reasonable steps to avoid or mitigate that loss or damage, including by pursuing any relevant third party, or claiming under any relevant insurance policy in respect of the loss or damage.

## 10. Termination

- 10.1. If any of the events listed in clause 10.2 occurs or Frizzenti reasonably believes that any such event is about to occur and notifies the Customer accordingly then, without limiting any other right or remedy available to Frizzenti, Frizzenti may cancel or suspend all further deliveries under the Agreement or any other contract between the Customer and Frizzenti without incurring any liability to the Customer, and all outstanding sums in respect of Products delivered to the Customer shall become immediately payable.
- 10.2. The events referred to in clause 10.1 are:
- 10.2.1. the agreement between Frizzenti and the supplier of the Products is terminated;
- 10.2.2. the Customer fails to observe or perform any of its obligations or duties under the Agreement or any other contract between Frizzenti and the Customer;
- 10.2.3. a petition is presented, or a meeting is convened for the purpose of considering a resolution or other steps are taken by any person with a view to the appointment of an administrator (whether out of court or otherwise) against or for the winding up of the

Customer or an administration order or a winding up order is made against or a provisional liquidator appointed with respect to the Customer;

- 10.2.4. an encumbrancer takes possession of, or a trustee or administrative receiver or similar officer is appointed in respect of, all or any part of the business or assets of the Customer, or distress or any form of execution is levied or enforced upon or sued out against any of those assets and is not discharged within 7 days of being levied, enforced or sued out;
- 10.2.5. the Customer is unable to pay its debts as they fall due or the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, or the Customer suspends, threatens to suspend, ceases, or threatens to cease (i) carrying on all or substantially the whole of its business; or (ii) making payments with respect to all or any class of its debts;
- 10.2.6. any voluntary arrangement is proposed in respect of the Customer or the Customer proposes or makes any composition or arrangement with, or any assignment for the benefit of, its creditors;
- 10.2.7. the Customer (being an individual) dies or becomes in Frizzenti's opinion, incapable of managing his or her affairs, or is the subject of a bankruptcy petition or order;
- 10.2.8. any event occurs which Frizzenti determines may have an adverse effect on the Customer's financial condition, business or ability to perform its obligations under the Agreement.
- 10.3. The termination of the Agreement howsoever arising shall be without prejudice to the rights and duties of either the Customer or Frizzenti accrued prior to termination.

## 11. Non-circumvention

- 11.1. During the term of this Agreement, the Customer shall not, without the written consent of Frizzenti, directly or indirectly contact or respond to any approach from the manufacturer or supplier of the Equipment.
- 11.2. The Customer agrees that it shall not in any manner whatsoever enter into an agreement relating to the commercialisation (including distribution) of the Products other than (i) in conjunction with Frizzenti or (ii) with the prior written consent of Frizzenti.
- 11.3. The Customer shall not in any manner, directly or indirectly attempt to circumvent the operation of this Agreement.
- 11.4. The Customer acknowledges that Frizzenti would not provide any of the confidential information to the Customer without compliance by the Customer with each and every term and condition of this Agreement.
- 11.5. The Customer shall ensure that its Affiliates, employees, officers, representatives, subcontractors or advisers comply with all the obligations of the Customer in this Agreement.

## 12. Force Majeure

Frizzenti shall not be liable or be deemed to be in breach of contract for any failure or delay in performance of its obligations to the Customer under the Agreement as a result of causes beyond Frizzenti's reasonable control, including (but not limited to) strikes, lock outs, trade disputes, adverse weather conditions, default of suppliers or sub-contractors, failure of energy sources or transport networks, breakdown of plant or equipment, or inability or delay in obtaining supplies of adequate or suitable materials.

## 13. Consequences of Termination

- 13.1. On termination of this Agreement, the Customer's right to possession of the Equipment shall cease and the Customer shall return the Equipment to any place which Frizzenti may reasonably require. If the Equipment is not returned within two working days of the end of this Agreement, Frizzenti shall be entitled to collect the Equipment at the expense of the Customer.
- 13.2. The Equipment must be returned in working order and good condition (fair wear and tear excepted) commensurate with its age. It should be clean, complete with all necessary parts. If it is not in such condition then Frizzenti shall, at the cost of the Customer, carry out such work at its rates prevailing at the time of repair as is necessary to bring the Equipment back into such safe and good condition. Frizzenti shall notify the Customer of the cost which shall be due on demand.

## 14. Entire Agreement

- 14.1. 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.
- 14.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in 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.

## 15. Notices

- 15.1. Any notice or other communication given to a party under or in connection with the Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.
- 15.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.1; 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
- 15.3. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## 16. General

- 16.1. 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 English Law, and the parties submit to the exclusive jurisdiction of the English Courts with regard to any such dispute or claim.
- 16.2. Frizzenti may assign, novate or sub-contract the Agreement or any part of it to any person, firm or company. The Customer shall not be entitled to assign or novate the Agreement or any part of it without the prior written consent of Frizzenti.
- 16.3. Each right or remedy of Frizzenti under the Agreement is without prejudice to any other right or remedy of Frizzenti whether under the Agreement or not.
- 16.4. If any provision or part-provision of the 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 such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.
- 16.5. Failure or delay by Frizzenti in enforcing or partially enforcing any provision of the Agreement shall not be construed as a waiver of any of its rights under the Agreement. Any waiver by Frizzenti of any breach of, or any default under, any provision of the Agreement by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Agreement.
- 16.6. No provisions of the Agreement are intended to create any rights or benefit enforceable by third parties against Frizzenti or the Customer under the Agreements (Rights of Third Parties) Act 1999.