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| --- | --- |
| **Start date** | 20th December 2023 |
| **The supplier:**  **Your company name and**  **registration number** |  |
| **Your company email address for notices** |  |
| **Nature of your business (please summarise)** | Travel Money Provider |
| **Purpose of this NDA  (the purpose)** | To engage and discuss end to end travel money proposition for Marks and Spencer PLC |
| Our signature Your signature | |



**Supplier Partnership NDA**



This non-disclosure agreement (**NDA**) is between:

* **you**, the supplier named in the schedule below; and
* **us**, Marks and Spencer PLC (a company registered in England with company number 214436), whose registered office is at Waterside House, 35 North Wharf Road, London, W2 1NW.

|  |  |
| --- | --- |
| **Schedule** |  |

**Background**

We both own confidential technical and commercial information relating to our businesses. This NDA will apply to all the confidential information you and we share in connection with the purpose set out in the schedule.

**1 Types of information**

**a** The types of information this NDA applies to are explained below.

**Commercially sensitive information** is any information which is clearly marked as being commercially sensitive, is obviously commercially sensitive (that is, could damage your or our ability to work competitively), or you and we have agreed is commercially sensitive.

**Confidential information** is all information provided by you or us for the purpose set out in the schedule and is secret or otherwise not publicly available. This includes, but is not limited to:

* commercially sensitive information;
* commercial, financial, marketing, or technical information;
* know-how, trade secrets, business methods; and
* other information relating to the purpose or this NDA (whether or not it is in writing);

except excluded information.



**Excluded information** is any confidential information which:

* is, or has become, publicly available (other than as a result of you or us not keeping it secret);
* the person receiving it already had, in writing, before the start date shown in the schedule, and which no promise of confidentiality applies to;
* was rightfully revealed by a third party; or
* must be revealed or shared by law, or at the instruction of a court, government department or agency, stock exchange or any other relevant body with sufficient authority, as long as the person revealing or sharing the information discusses this with the other party beforehand.

**Know-how** means special skills, knowledge, experience or techniques gained or used in connection with the purpose.

**Personal data** is any information that could be used to identify an individual person.

**b** Where this NDA refers to a ‘person’, this may be an individual or a company, organisation, business, group, government department or other body.

1 Non-disclosure agreement

**2 When the NDA starts and ends**

**a** This NDA will start on the start date shown in the schedule and last for three years.

**b** The obligations under clause 3 below will end three years from the date the confidential information was provided, even if this NDA has ended.

**3 Confidentiality obligations**

**a** We both must keep the following strictly private and confidential.

* The reason you and we are entering into this NDA and any discussions or negotiations between us
* All confidential information relating to the purpose

**b** We both must not provide each other’s confidential information to any person other than those who need it for the purpose set out in the schedule. We both must make sure that any person who receives our confidential information keeps to this NDA, and each will be held responsible if they don’t.

**c** We both can use each other’s confidential information only for the purpose.

**d** Nothing in this NDA offers or creates any contract for goods or services.

**e** This NDA does not a grant any licence or rights relating to confidential information.

**f** We own all the rights to our confidential information, and you own all the rights to your confidential information.

**g** The obligations of a recipient of confidential information under this NDA shall extend to protect the provider of such confidential information and each of the members of the provider’s group. In relation to us, this will be treated as extending the protection to, among others, Marks and Spencer Financial Services plc***.***

**4 Commercial points**

**a** We will own any intellectual property rights (legal rights and interest in things created, such as inventions, designs, logos, products, materials, items that have patents, trademarks, copyright rights, and any other unique thing) in anything you create for us or on our behalf (created works) in connection with the purpose set out in the schedule.

**b** You give up any and all moral rights (such as the right to be identified as an author or director) in any created works.

**5 Confidentiality measures**We both must:

* keep each other’s confidential information, and all documents and other material which includes confidential information, separate and secure.
* not use, reproduce, alter, move or store any of our confidential information in a computer or electronic information-retrieval system that can be accessed remotely, unless the system is encrypted in line with good industry practice.
* only make the confidential information available to employees who need to see and use it for the purpose set out in the schedule, and make sure that each of those employees keeps to this NDA; and
* only make copies of our confidential information if this is necessary for the purpose.

**6 Legal requirement to share**

You and we may give confidential information to an authorised third partyand/or customer auditor(s) if we have to do so by law, regulatory requirement or in line with a government instruction, and must tell the other party about this (unless this is not legally allowed).

**7 No liability**

You and we have no liability (except in the case of death or personal



injury arising from negligence or fraudulent misrepresentation) for any loss or damage the other may suffer as a direct or indirect result of each of our confidential information (for example, because of any mistakes in the confidential information).

**8 No obligation and returning information**

**a** We are each entitled at any time to not provide, or to stop   
providing, any confidential information to the other.

**b** Neither of us have to reimburse any costs or expenses the other party needs to pay in connection with any discussions or negotiations relating to the purpose set out in the schedule.

**c** You and we must, as soon as reasonably possible after   
receiving a written request from the other, either:

* return all written confidential information held , which includes any copies, analyses, created works, memos or other notes held; or
* destroy all such confidential information and provide a certificate, from a director, confirming that the information has been destroyed.

Returning or destroying the confidential information will not end the confidentiality obligations under this NDA (see clause 3).

You and we must also, as far as possible, remove any confidential information from any computer, word processor or other device.

**9 Data protection**

**a** You and we must keep to the Data Protection Act, the GDPR (General Data Protection Regulation), and any other law or regulation relating to personal data that applies in connection with the purpose of this NDA.

**b** You and we must not share any personal data in connection with the purpose.

**10 General**

**a** You and we cannot transfer or remove our rights and responsibilities under this agreement.

**b** No person other than you and us will have the right to enforce this NDA, unless we agree otherwise in writing.

**c** Nothing in this NDA creates any partnership or agency agreement between you and us.

**d** If any term of this NDA is or becomes invalid, illegal or unenforceable, that term will be considered to not be included in this NDA and will not affect the remaining terms, which will continue to apply.

**e** Both of our obligations under this NDA will also apply to any other members of either of our groups and their representatives and advisers. You and we are responsible for making sure they keep to this NDA.

**11 Notices**

You must email notices to us at [Company.Secretary@marks-and-spencer.com.](mailto:Company.Secretary@marks-and-spencer.com) We will send notices to you at your email address shown in the schedule at the front of this NDA.

**12 Law**

This NDA is governed by, and interpreted in line with, English law. Any legal action in connection with this NDA will be dealt with in the English Courts

2 Non-disclosure agreement



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3 Non-disclosure agreement