

IN THE ROYAL COURT OF JERSEY

(SAMEDI DIVISION)

HIS MAJESTY'S ATTORNEY GENERAL

-V-

AFEX OFFSHORE (JERSEY) LIMITED

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DEFERRED PROSECUTION AGREEMENT

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1. **AFEX OFFSHORE (JERSEY) LIMITED** registered number: 117732 ("**AOL**") by its representatives pursuant to authority granted by its Board of Directors, and His Majesty's Attorney General, enter into this Deferred Prosecution Agreement (the "**DPA**").
2. The DPA comes into force on the day when the Royal Court makes a declaration pursuant to Article 7 (2) (a) of the Criminal Justice (Deferred Prosecution Agreements) (Jersey) Law 2023 (the "**DPA Law**").
3. The terms and requirements of the DPA are as follows:

**The indictment and acceptance of the conduct alleged**

4. AOL agrees that the Statement of Facts, attached hereto as Appendix A, is true and accurate to the best of its knowledge and belief.
5. In the event of it becoming necessary for the Attorney General to pursue the prosecution that is now deferred, AOL agrees that it will not contest the admissibility of, nor contradict, the facts stated in the Statement of Facts in any such proceedings, including at any proceedings at which AOL were to enter a guilty plea or at sentencing.
6. The Statement of Facts will be treated as an admission by AOL of the facts stated therein under Article 2 of the Criminal Justice (Evidence and Procedure) (Jersey) Law 1998 in any criminal proceedings brought against AOL for the alleged offences contained in the indictment.

**The term of the DPA**

7. The DPA is effective from the date on which the Court makes a declaration pursuant to Article 7 (2) (a) (the "**Declaration Date**") and ending 12 months from the Declaration Date (the "**Term**").

**The scope of the DPA in this case**

8. The DPA concludes any investigation into AOL by ECCU for suspected offences concerning contraventions of or failures to comply with the Money Laundering (Jersey) Order 2008 (the "**MLO**") (the "**Investigation**").
9. The DPA does not afford any protection against prosecution for conduct not reflected by the indictment, even where that conduct has been disclosed during the course of the Investigation but not charged.
10. However, in the circumstances of this case, provided there is no breach of any other term contained within the DPA, the Attorney General does not intend to conduct any further investigation or prosecution of AOL for the matters revealed by AOL or disclosed to him in the course of the Investigation prior to the date of the DPA.

11. Similarly, these terms do not provide any protection against prosecution for conduct not disclosed to the Attorney General by AOL or entities which have or had ultimate ownership of AOL since the investigation.
12. In addition, this DPA does not provide any protection against prosecution of any present or former officer, director or employee of AOL, or of any persons who perform or performed services for or on behalf of AOL.

#### **The Deferment of the prosecution**

13. In view of AOL's:

- a) Lack of previous criminal convictions;
- b) inclusion in and adherence to a remediation programme and ongoing improvements described in Appendix B and noting, that agreement to the remediation plan and scope, also permits the independent monitor to share any information relevant to AOL's compliance with the DPA or the performance of its terms to the Jersey Financial Services Commission;
- c) agreement, at its own expense, to complete the actions required in in the remediation programme
- d) agreement to remain in existence throughout the Term;
- e) immediate payment of a financial penalty in the amount of £408,240;
- f) immediate payment of the Attorney General's costs of £60,000;
- g) agreement to future cooperation with ECCU in all matters relating to the conduct arising out of the circumstances of the draft indictment;
- h) written undertaking that it will no longer rely on the Obligated Persons provisions for current or any future customers;
- i) agreement to exit certain client relationships as disclosed in a confidential table to the Attorney General and the Court and in a manner approved of by the IM and where appropriate, the Jersey Financial Services Commission

And, where Fleetcor undertakes on behalf of AOL to guarantee the payment of such sums as may be necessary to satisfy the terms and requirements of the DPA

**The Attorney General agrees** that, subject to the Royal Court's approval, the indictment should immediately be suspended for the Term.

14. Additionally, the Attorney General agrees that if AOL fully complies with all its obligations under the DPA, or the DPA as varied with the approval of the Court, the Attorney General will not progress the prosecution against AOL upon the indictment and, at the conclusion of the Term, the DPA will expire.
15. Within 21 days of the expiry of the DPA, the Attorney General will give notice pursuant to Article 12 (1) of the DPA Law, to the Court and to AOL that the proceedings under the indictment are to be discontinued.
16. After the expiry of the DPA the Attorney General may institute fresh proceedings regarding the criminality reflected in the indictment if AOL has provided inaccurate, misleading, or incomplete information to the Attorney General and knew or ought to have known that the information was inaccurate, misleading, or incomplete.

### **Breach**

17. In the event that the Attorney General has reasonable grounds to suspect that AOL failed to comply with the terms of the DPA, the Attorney General agrees to provide AOL with written notice of such alleged failure.
18. AOL within twenty-eight days of receiving such notice, have the opportunity to respond to the Attorney General in writing to explain the nature and circumstances of the alleged failure, as well as any actions AOL has taken to address and remedy the breach.
19. The Attorney General will consider the explanation in deciding whether to make an application to the Court under Article 10 of the DPA Law.
20. If AOL becomes insolvent while the DPA remains in force or makes an application (or has an application made against it) under the Bankruptcy (Désastre) (Jersey) Law 1990 it will notify the Attorney General as soon as reasonably practicable. Failure to do so will constitute a breach of this DPA.


### **Public statements**

21. AOL agrees that it shall not make, and shall not authorise any person to make, any public statement contradicting the matters described in the Statement of Facts.
22. AOL agrees that if it wishes to issue a press release or any other public statement in connection with this DPA, AOL shall first consult with the Attorney General to determine whether (a) the text of the press release or other proposed public statement are true and accurate with respect to matters between the Attorney General and AOL, and (b) the Attorney General has any objection to the release.
23. For the avoidance of doubt, this paragraph does not apply to any disclosure to any supervisory, regulatory, or judicial body or self-regulatory organisation, however any such disclosure shall not contradict the matters described in the Statement of Facts.

### **Warranty**

24. AOL warrants that the information provided to Crown Advocate Brown throughout the DPA negotiations and upon which the DPA is based does not knowingly contain inaccurate, misleading or incomplete information relevant to the conduct AOL has disclosed to the Attorney General.
25. AOL warrants that it will notify the Attorney General and provide where requested to Crown Advocate Brown any documentation or other material that the AOL directors become aware of whilst this DPA is in force which the AOL directors know or suspect would have been relevant to the offences particularised in the indictment.
26. AOL agrees to its legal advisers (Baker and Partners) providing a warranty in the same terms as paragraph 24 to 25 above.

Signed (for and on behalf of AOL)



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DATED: 13/12/2024

Signed:



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Attorney General

DATED: 13 December 2024.