

Conditions of Contract for the supply of goods and / or services by The University of Manchester 2018

1. Definitions

- 1.1 In this Agreement (except where the context otherwise requires) the defined words and expressions shall have the meanings specified below:

“Agreement” means this agreement, including these Conditions of Contract, the Sales Order and any Schedule.

“Background Intellectual Property” means any Intellectual Property made available by either Party for use in the provision of the Goods and / or Services or necessary to exploit the Deliverables, but not arising from and developed in the course of the provision of the Goods and / or Services and belonging to such Party or to which such Party has rights which permits its use in the provision of the Goods and / or Services and to exploit the Deliverables.

“Business Day” means a day, excluding Saturdays and Sundays, on which banks are generally open in London, England, for the transaction of normal banking business.

“Confidential Information” means all secret or not generally known information or information which is not easily accessible to others or of a commercially sensitive nature disclosed or made available in any way by one Party (“Discloser”) to the other (“Recipient”) for use in connection with the provision of the Goods and / or Services (including the Background Intellectual Property of the Discloser and the Deliverables) and marked or labelled by the Discloser as “Proprietary”, “Confidential” or “Sensitive” at the time of disclosure.

“Contract Price” means the sum to be paid for the Goods and / or Services as specified in the Sales Order.

“Customer” means the person, firm or company whose details are set out in the Sales Order attached to this Agreement.

“Deliverables” means the deliverables set out in the Sales Order produced by the University for the Customer.

“Effective Date” means the date specified in the Sales Order attached to this Agreement.

“Goods” means the goods (or any instalment or part of them) to be supplied pursuant to the Agreement.

“Intellectual Property Rights” means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off,

unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

“Party” means either the Customer or the University individually or together as the **“Parties”**

“Sales Order” means the Sales Order attached to this Agreement.

“Services” means the services, including the Deliverables, to be provided by the University as specified in the Sales Order.

“University” means the University of Manchester (a Royal Charter corporation registered under number RC000797, an exempt charity) and all its servants, agents, successors and assigns.

“UMI³” means “The University of Manchester I3 Limited” which is the University's wholly owned technology, development and exploitation company.

1.2 In this Agreement, unless the context otherwise requires:

- (a) references to a **clause** or **schedule** are to a clause of or a schedule to this Agreement; and
- (b) words in the singular include the plural and vice versa and words of any gender include every other gender and references to legal persons shall include natural persons and vice versa; and
- (c) headings in these conditions shall not affect their interpretation; and
- (d) a reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it; and
- (e) a reference to **writing** or **written** includes e-mail; and
- (f) any obligation in this Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

2. Appointment and Term

2.1 This Agreement sets out the terms and conditions pursuant to which the University agrees to provide to the Customer the Goods and / or Services specified in the Sales Order.

- 2.2 The Customer shall engage the University and the University shall provide the Goods and /or Services in accordance with this Agreement.
- 2.3 The Agreement shall commence on the Effective Date and shall continue until the Goods are delivered and where applicable Services are completed in accordance with the Sales Order or until the Agreement is terminated in accordance with clauses 12 or 13.

3. Supply of Goods and Services

Supply of Services

- 3.1 The University shall use reasonable endeavours to carry out the Services in accordance with this Agreement.
- 3.2 Any forecasts given by the University as to the time of performance of the Services, or any aspect thereof, are given in good faith but are estimates only and shall not be binding on the University. The time of performance of the Services, or any aspect thereof, shall not be of the essence unless otherwise specified in the Sales Order.
- 3.3 The University shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the University shall notify the Customer in any such event.
- 3.4 The Customer shall co-operate with the University in any manner reasonably required by the University in order to carry out the Services, including provision of information, data and assistance, and making available suitably qualified employees.
- 3.5 Where the Services are to be performed on the Customer's premises, or the premises of a third party, the Customer shall:
 - 3.5.1 ensure that the University's personnel have full and free access during working hours to the premises to enable the University to perform the Services;
 - 3.5.2 take all such steps as may be necessary to ensure the safety of any of the University's employees, agents and sub-contractors who visit the premises concerned; and
 - 3.5.3 indemnify the University for all injury to its employees, agents and sub-contractors, and for loss and damage to the University's property, while such persons or property are on the premises of the Customer, other than injury to persons or loss or damage to property caused by the negligence of the University.
- 3.6 Where the Services consist of or includes the University acting as an expert witness in the context of court proceedings, the Customer shall comply with all the relevant provisions of the Civil Procedure Rules 2013 in force from time to time.

Supply of Goods

- 3.7 The quantity, description and delivery time for the Goods shall be as set out in the Sales Order.
- 3.8 Any forecasts given by the University as to the time of delivery of the Goods, or any aspect thereof, are given in good faith but are estimates only and shall not be binding on the University. All times, dates or periods given for the delivery of the Goods are provided in good faith and the University will endeavour to meet them, but time of delivery or any aspect thereof, shall not be of the essence.
- 3.9 The Customer shall co-operate with the University in any manner reasonably required by the University in order to deliver the Goods, including provision of information, data and assistance, and making available suitably qualified employees.
- 3.10 Unless otherwise agreed by the University in writing the Goods will be delivered from the University and the price of the Goods is exclusive of carriage, packing and insurance to the Customer's premises. The Goods may be delivered by separate instalments and the University will inform the Customer of any such arrangements.
- 3.11 The Customer shall provide a delivery point to the University for receipt of the Goods at the Customer's premises, or the premises of a third party. For receipt of the Goods, the Customer shall:
- 3.11.1 ensure that the University's personnel have full and free access during working hours to the premises to enable the University to deliver the Goods;
 - 3.11.2 take all such steps as may be necessary to ensure the safety of any of the University's employees, agents and sub-contractors who visit the premises concerned; and
 - 3.11.3 indemnify the University for any injury to its employees, agents and sub-contractors, and for loss and damage to the University's property, while such persons or property are on the premises of the Customer, other than injury to persons or loss or damage to property caused by the negligence of the University.
- 3.12 If the Customer is unable to take delivery of the Goods at the time arranged, the University may arrange storage for the Goods, any such storage would be at the Customer's cost and risk.
- 3.12 From the time of delivering the Goods, the maintenance, risk and insurance shall be the sole responsibility of the Customer, notwithstanding that until the Customer has made final payment to the University, the Goods shall remain the property of the University. The Customer will keep the Goods comprehensively insured against loss or damage by accident, fire, theft and other risks usually covered by such insurance until such time as full payment for the Goods is made to the University. The ownership of the Goods shall pass to the Customer on receipt of the final payment to the University.

4. The Contract Price

- 4.1 In consideration of the performance of the obligations on the part of the University pursuant to this Agreement, the Customer shall pay to the University the Contract

Price as set out in the Sales Order subject to any adjustment to the Contract Price that the University may make in accordance with clause 4.3.

- 4.2 The Contract Price under this Agreement is quoted exclusive of sales, value added and other like taxes which shall be chargeable and payable in addition where applicable at the rate for the time being in force.
- 4.3 The University reserves the right to request an adjustment in the Contract Price (notwithstanding that the University may have provided a fixed quotation for the total charges for providing the Goods and / or Services) to take account of any variations in the University's costs in supplying the Goods and / or Services.

5. Terms of Payment

- 5.1 The Customer shall pay the Contract Price within 30 days of the date of the University's invoice save that payment shall become due forthwith on the occurrence of any of the events referred to in clause 12 or 13.1, save where termination is occasioned as a result of the default of the University.
- 5.2 In its obligations to pay the Contract Price, the Customer shall not be entitled to exercise any set-off, lien or any other similar right or claim.
- 5.3 Interest shall be payable by the Customer on any late payment of the Contract Price on a daily basis at the rate of 8% per annum above the base rate from time to time of National Westminster Bank plc.

6. Additional Goods and Services and Costs

- 6.1 If the Customer requires the University to provide goods and services not contained in the Sales Order ("Additional Goods and/or Services"), or to change the nature of the Goods and / or Services set out in the Sales Order, it shall make a request for such Additional Goods and/or Services or any changes to the University in a timely manner in writing and signed by the Customer.
- 6.2 If at the request of the Customer the University agrees to provide Additional Goods and Services and/or any changes, the Customer:
 - 6.2.1 shall be liable to pay the University such additional charges as the University may reasonably determine; and
 - 6.2.2 shall be bound by this Agreement for the duration of and in respect of the Additional Goods and Services and/or any changes provided.

7. Expenses

- 7.1 Where specified in the Sales Order, the Customer shall promptly reimburse (or procure the reimbursement of) all reasonable expenses properly and necessarily incurred by the University in the course of the provision of the Goods and/ or the Services, subject to production of receipts or other appropriate evidence of payment.

8. Warranties

- 8.1 The University warrants that it shall provide the Goods and Services with reasonable care and skill using reasonably qualified and experienced staff.
- 8.2 All other conditions or warranties (whether express or implied by statute or common law or arising from conduct or a previous course of dealing or trade custom or usage or otherwise howsoever) are hereby expressly excluded to the fullest extent permitted by law.

9. Limitation of liability

- 9.1 This clause 9 sets out the entire financial liability of the University (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- 9.1.1 any breach of this Agreement; and

- 9.1.2 any use made by the Customer of the Goods and / or Services, the University Background Intellectual Property or any part of them; and

- 9.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Goods and / or Services and/or this Agreement.

- 9.2 Nothing in this Agreement limits or excludes the liability of the University:

- 9.2.1 for death or personal injury resulting from negligence; or

- 9.2.2 for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the University; or

- 9.2.3 for any liability incurred by the Customer as a result of any breach by the University of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.

- 9.3 Defective Performance of the Goods and / or Services

- 9.3.1 If the University's breach of this Agreement causes a defect or error in the provision by it of the Goods and / or Services (or any part of it) which arises within 12 months of the delivery of the Goods and / or Services, the University will, at its own discretion, either credit to the Customer the price paid by the Customer for the Goods and / or Services (or such part of it) or re-perform or provide (save as to the time of performance) the Goods and / or Services concerned.

- 9.3.2 In order to exercise its rights under this clause 9.3 the Customer shall inform the University within seven days of the date when such defect or error appeared in the Goods and / or Services as provided, setting out full details in writing of the defect or error. The University shall not be liable to the Customer for any such defect or error not notified to it in accordance with this clause 9.3.2.

- 9.3.3 The University shall not be liable for any defect or error in the performance of the Goods and / or Services arising out of the acts, omissions, negligence or default of the Customer or its employees, agents or sub-contractors, including in particular (but without prejudice to the generality of the foregoing) any failure by the Customer to comply with any recommendations of the University and any errors, omissions or other defects in any instructions, information, drawing designs or specifications provided by or on behalf of the Customer or by a third party.
- 9.4 In carrying out the Goods and / or Services the University may use information provided to it by third parties. The University will use all reasonable endeavours to ensure the reliability of any third party sources but the University shall not be liable for any defect or error in the provision of the Goods and / or Services any loss or damage caused to the Customer or to any third party due to the inaccuracy of information provided to the University by the Customer or a third parties.
- 9.5 Subject to clause 9.2, the University shall not be liable for:
- 9.5.1 loss of profits (direct or indirect);
 - 9.5.2 loss of revenue, loss of production or loss of business (in each case whether direct or indirect);
 - 9.5.3 loss of goodwill, loss of reputation or loss of opportunity (in each case whether direct or indirect);
 - 9.5.4 loss of anticipated savings or loss of margin (in each case whether direct or indirect);
 - 9.5.5 loss of goods;
 - 9.5.6 loss of contract;
 - 9.5.7 loss of use;
 - 9.5.8 loss or corruption of data or information; or
 - 9.5.9 indirect, consequential or special loss
- arising out of or in connection with this Agreement, whether in contract, tort misrepresentation under statute or otherwise, howsoever caused including negligence and any liability under an indemnity contained in this Agreement and / or arising from a breach of, or a failure to perform or defect or delay in performance of, any of the Parties' obligations under this Agreement.
- 9.6 Subject to Clause 9.2, the total liability of the University (whether in contract or for negligence or in breach of statutory duty or otherwise howsoever) to the Customer for any loss or damage of whatsoever nature and howsoever caused shall be limited to the Contract Price.

10. Indemnity

- 10.1 The Customer shall indemnify the University in respect of any costs, claims, demands or expenses incurred by the University and/or for which it may be liable to any third party including, but not limited to, infringement of any third party rights, such as intellectual property rights, due to or arising from the acts, omissions or defaults of the Customer.

11. Representations

- 11.1 This Agreement shall be governed exclusively by the provisions contained herein, except where excluded, varied, amended or incompatible with the Sales Order, in which case the terms contained in the Sales Order shall take precedence.
- 11.2 Subject to clause 11.1, no statement, description, information, warranty, condition or recommendation contained in any, catalogue, price list, advertisement or communication or made verbally by any of the University's agents or employees shall be construed to enlarge, vary or override in any way any of the provisions of this Agreement.

12. Cancellation

- 12.1 Save as provided elsewhere in this Agreement the Customer shall not be entitled to cancel the provision of the Goods and / or Services without the agreement in writing of the University and upon the payment to the University of such amount as may be necessary to indemnify the University against any demonstrable loss incurred by it resulting from the cancellation.

13. Termination

- 13.1 This Agreement may be terminated by either Party for any breach of any of the material obligations set out in this Agreement, by giving not less than thirty (30) days' written notice to the other of its intention to terminate. The notice shall include a detailed statement describing the nature of the breach. If the breach is capable of being remedied and is remedied within the thirty-day notice period, then the termination shall not take effect. If the breach is of a nature such that it can be fully remedied but not within the thirty-day notice period, then termination shall also not be effective if the Party involved begins to remedy the breach within that period, and then continues diligently to remedy the breach until it is remedied fully. If the breach is incapable of remedy, then the termination shall take effect at the end of the thirty-day notice period in any event.
- 13.2 This Agreement may be terminated by the University with immediate effect on written notice if any of the following events occurs:
- 13.2.1 an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the Customer; or
- 13.2.2 the Customer makes a voluntary arrangement with its creditors or becomes subject to an administration order; or

- 13.2.3 the Customer goes into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation approved by the University and in such manner that the company resulting from the reorganisation agrees to be bound by or to assume the obligations imposed on the Customer under this Agreement); or
- 13.2.4 any distraint execution or other process is levied or enforced on any property of the Customer and is not paid out withdrawn or discharged within 21 days; or
- 13.2.5 the financial position of the Customer deteriorates to such an extent that in the opinion of the University the capability of the Customer adequately to fulfil its obligations under this Agreement has been placed in jeopardy; or
- 13.2.6 the Customer is guilty of fraud or dishonesty or acts in any manner which in the reasonable opinion of the University brings or is likely to bring the University into disrepute or is materially adverse to the interests of the University.
- 13.3 If the University continues to supply any service to the Customer after the termination of the University's appointment this shall not be construed as a waiver of the termination of or as a renewal of the University's appointment.
- 13.4 The University may terminate this Agreement by giving no less than [three] months' notice in writing to the Customer.
- 13.5 On termination of the Agreement for any reason:
- (a) the Customer shall immediately pay to the University all of the University's outstanding unpaid invoices, in respect of the Goods and / or Services supplied but for which no invoice has been submitted, the University shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - (b) the Customer shall return all of the University Background Intellectual Property and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the University may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement;
 - (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry; and
 - (d) clauses which expressly or by implication survive termination shall continue in full force and effect.

14. Intellectual property

- 14.1 As between the University and the Customer, all Intellectual Property Rights and all other rights in the Deliverables and the University Background Intellectual Property shall be owned by the University. Subject to clause 14.2, 14.3 and 14.4, the University licenses all such rights in the Deliverables to the Customer free of charge and on a

non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Goods and / or Services. If the University terminates this Agreement under clause 13.1, this licence will automatically terminate.

- 14.2 If the Customer requires access to use any of the University's relevant Background Intellectual Property which was developed by the University or by any of the University's employees, students, agents and appointees working on the Services, for the purposes of exploiting any Deliverables, the University will not unreasonably refuse to grant to the Customer a licence to such relevant Background Intellectual Property for such purpose to be negotiated on fair and reasonable terms provided such licence is requested in writing by the Customer within six (6) months of the completion of the Services.
- 14.3 The terms of any licence agreement provided for in Clause 14.2 above shall be negotiated in good faith by the Customer and UMI³ and shall contain all such terms and conditions which are usual and customary in a licence agreement, including but not limited to royalties, limitation of liability, audit provisions, termination, governing law provisions.
- 14.4 The Customer acknowledges that, where the University does not own any Background Intellectual Property, the Customer's use of rights in University Background Intellectual Property is conditional on the University obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the University to license such rights to the Customer.

15. Confidentiality and Data Protection

- 15.1 Each Party will use reasonable endeavours not to disclose to any third party any Confidential Information and not to make to any third party any disclosure of Confidential Information which would prejudice either the rights of the other Party under or pursuant to this Agreement. Any information disclosed orally that is identified as Confidential Information shall be confirmed in writing within 30 days of disclosure and will be treated the same as if it had been reduced to a tangible form at the time of disclosure.
- 15.2 The Recipient shall be entitled to use the Confidential Information only for the purposes of this Agreement and to disclose the Confidential Information in confidence to such of its employees that need to know in order to carry out that Party's obligations under this Agreement.
- 15.3 The Recipient shall incur no obligation under Clause 15.1 with respect to information which:
- 15.3.1 is known to the Recipient before the Effective Date, and not impressed already with any obligation of confidentiality to the Discloser; or
 - 15.3.2 is or becomes publicly known without the fault of the Recipient; or
 - 15.3.3 is obtained by the Recipient from a third party in circumstances where the Recipient has no reason to believe that there has been a breach of an obligation of confidentiality owed to the Discloser; or

- 15.3.4 is independently developed by the Recipient; or
 - 15.3.5 is approved for release in writing by an authorised representative of the Discloser; or
 - 15.3.6 the Recipient is specifically required to disclose pursuant to an order of any Court of competent jurisdiction in order to fulfil the Court Order but the Recipient is only released from its obligation to the extent of such order.
- 15.4 The Customer acknowledges that the University is subject to the provisions of the Freedom of Information Act 2000 (as amended from time to time) and that the University is therefore subject to legal duties which may require the disclosure of information in relation to this Agreement. If the University holds information in relation to this Agreement on behalf of the Customer, the Customer agrees to assist and cooperate with the University to enable it to comply with the Freedom of Information Act 2000.
- 15.5 Each Party shall comply with EU General Data Protection Regulation 2016/679 ("GDPR") and the UK Data Protection Act 2018 (as applicable) ("the Data Protection Laws") In particular where a Party ("Processor") is processing personal data on behalf of the other Party ("Controller") it shall:
- 15.5.1 process it only for the purposes of complying with its obligations under this Agreement, in accordance with the Controller's documented instructions from time to time and good industry practice;
 - 15.5.2 ensure that appropriate technical and organisational measures shall be taken to ensure a level of security of Controller personal data appropriate to the risk (including measures taken against unauthorised or unlawful processing of Controller personal data and the accidental loss or destruction of, or damage to, such data) and promptly provide to the Controller details of those measures from time to time on receipt of Controller's written notice;
 - 15.5.3 not transfer, or otherwise directly or indirectly disclose, any Controller personal data to a third party or to a country or territory outside the European Economic Area without the prior written consent of the Controller which may be refused or granted subject to such conditions as Controller deems necessary; and
 - 15.5.4 immediately and fully notify the Controller on receipt of any notices received by the Processor relating to the processing of Controller personal data including (but not limited to) data subject requests, complaints and/or correspondence or if any Controller personal data has been disclosed in breach of this clause or if it is lost, becomes corrupted, is damaged or is deleted in error and provide the Controller with such information and assistance as the Controller may require in relation to such notice or breach (at no cost to the Controller). The Processor shall provide and implement technical and organisational measures to help the Controller fulfil its obligations in relation to such notices from or on behalf of data subjects in connection with the rights conferred on them by Data Protection Law. For

the avoidance of doubt, in no event shall the Processor respond directly to any notice relating to any Controller personal data.

15.6 The Processor shall comply with the provisions set out in Article 28 of the GDPR (together with any provisions referenced therein) which shall have effect as obligations on the Processor as if set out in full in this clause and the expressions “controller” and “processor” used in those provisions and incorporated in this Agreement pursuant to this clause shall be deemed references to the Controller and the Processor respectively. References to “personal data”, “processing”, “data subject” shall have the meanings set out in the applicable Data Protection Law.

16. Force majeure

16.1 If the performance by either Party of any of its obligations under this Agreement (other than an obligation to make payment) shall be prevented by circumstances beyond its reasonable control (including any industrial action on the part of its employees) then such Party shall be excused from performance of that obligation for the duration of the relevant event.

17. Notices

17.1 Any notice given under this Agreement shall be in writing and signed by or on behalf of the Party giving it and sent to the address shown on the Sales Order and will be deemed to have been duly made, delivered or served :

17.1.1 if delivered by hand, at the time of delivery ; or

17.1.2 if delivered by post, 48 hours after being posted or in the case of Airmail 14 days (excluding Saturdays, Sundays and public holidays) after being posted.

18. Dispute Resolution

18.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute arising between them out of or in connection with this Agreement within 30 Business Days of the dispute arising.

18.2 If the dispute cannot be resolved, then the parties shall attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (“CEDR”) Model Mediation Procedure from time-to-time in force.

18.3 To initiate the mediation a party to the Agreement must give notice in writing (the “ADR Notice”) to the other party requesting a mediation in accordance with this clause 18. The mediation is to take place not later than 30 Business Days after the ADR Notice. If there is any issue on the conduct of the mediation upon which the parties cannot agree within 14 Business Days of the ADR Notice, then CEDR shall, at the request of either party, decide the issue for the parties, having consulted with them. Unless otherwise agreed by the Parties, the place of the mediation shall be nominated by the mediator.

- 18.4 Unless otherwise agreed, all negotiations connected with the dispute and any settlement shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings.
- 18.5 If the parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by both the Customer and the University.
- 18.6 If the parties fail to reach agreement within 60 Business Days of the initiation of the mediation, or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the courts.
- 18.7 The commencement of mediation shall not prevent the Parties commencing or continuing court proceedings.

19. Bribery Act

- 19.1 The Parties acknowledge that the Bribery Act 2010 came into effect on 1 July 2011 and agree to abide by the statutory provisions as appropriate to their organisation.

20. General

- 20.1 The Sales Order and Conditions of Contract for the supply of goods and / or services by The University of Manchester 2018 are the Agreement and constitute the entire agreement between the Parties in respect of the Goods and / or Services supplied.
- 20.2 The Agreement will be deemed accepted once a signed Sales Order has been issued by the University and the University commences to fulfil its obligations thereunder.
- 20.3 For the purposes of clarity this Agreement constitutes a contract for the provision of services and not a contract of employment.
- 20.4 No waiver of a breach by either Party of any covenant, condition, obligation or understanding of this Agreement shall be deemed to constitute a waiver of any other breach of the same, or of any other covenant, condition, obligation or understanding; and no failure, forbearance or delay by either Party in exercising any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise by either Party of any right preclude any further exercise thereof, or the exercise of any other right.
- 20.5 Nothing in this Agreement shall be deemed to constitute, evidence or comprise a partnership between the parties or to constitute either party the agent of the other.
- 20.6 Neither party may assign its rights under this Agreement in whole or in part to any person, firm or company without the prior written agreement of the other party.
- 20.7 No amendment, waiver, or variation, of this Agreement, whether in whole or in part, shall be binding on the parties unless set out in writing and signed by or on behalf of the parties by their duly authorised representatives.
- 20.8 Should any part or provision of this Agreement be prohibited or rendered void or unenforceable by any legislation to which it is subject, the part or provision in

question shall be so prohibited or rendered void or unenforceable to the extent to which it is thus prohibited or rendered void or unenforceable, and no further; and the validity or enforceability of any other part of this Agreement shall not thereby be affected. The Parties shall uphold the remainder of this Agreement, and shall negotiate an amendment which, as far as legally feasible, maintains the economic balance between the Parties.

- 20.9 Each Party shall, at its own cost and expense, from time to time do or procure the execution of all documents as may be reasonably necessary in order to give effect to the provisions of this Agreement.
- 20.10 The Parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 20.11 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.
- 20.12 Each Party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).