IUF Group Limited

Terms and Conditions

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

- **Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- **Business Hours:** the period from 9.00 am to 18.00 pm on any Business Day.
- **Commencement Date:** has the meaning given in clause 2.2.
- **Conditions:** these terms and conditions as amended from time to time in accordance with clause 21.8.
- **Content Management Services:** where set out in the Proposal, the provision of content management and uploading services by the Supplier in respect of Materials.
- **Contract:** the contract between the Supplier and the Customer for the supply of Hardware, Software and/or Services in accordance with these Conditions.
- **Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be interpreted accordingly.
- **Corrective Maintenance:** in accordance with clause 9.3: (a) making any adjustments to the Maintained Equipment; and (b) replacing any parts or components of the Maintained Equipment, in each case, which are required to restore the Maintained Equipment to Good Working Order.
- **Customer:** the person or firm who purchases the Hardware and/or Services from the Supplier.
- **Customer Hardware:** all hardware, cabling, power outlets, enclosures and other equipment and facilities to be provided by the Customer in respect of the Installation Services, as set out in the Proposal or as otherwise notified to the Customer by the Supplier.
- **Customer Software:** all software to be provided by the Customer in respect of the Installation Services, as set out in the Proposal or as otherwise notified to the Customer by the Supplier.
- **Deliverables:** any deliverables specified in the Proposal (being outputs of the Services and, for the avoidance of doubt, not Hardware or Software).
- **Delivery Location:** has the meaning given in clause 4.1.
- **Excluded Causes:**
    - **a.** except during the Warranty Period, a defect in the manufacturer's design of the Maintained Equipment;

- **b.** except during the Warranty Period, faulty materials or workmanship in the manufacture of the Maintained Equipment;
- **c.** use of the Maintained Equipment with equipment or materials not supplied or approved in writing by the Supplier;
- **d.** any maintenance, alteration, modification or adjustment performed by persons other than the Supplier or its employees or agents;
- **e.** the Customer or a third party moving the Maintained Equipment;
- **f.** the use of the Maintained Equipment in breach of any of the provisions of the terms under which the Maintained Equipment was supplied;
- **g.** a failure, interruption or surge in the electrical power or its related infrastructure connected to the Maintained Equipment;
- **h.** a failure or malfunction in the air conditioning or other environmental controls required for the normal operation of the Maintained Equipment, or an error or omission in the correct use of that air conditioning or other environmental controls by the Customer;
- **i.** the neglect or misuse of, or damage to, the Maintained Equipment (including, but not limited to, physical damage);
- **j.** use of software other than the Software supplied by the Supplier.

- **Excluded Maintenance:** any Corrective Maintenance or Preventative Maintenance required to restore any malfunctioning or failed Maintained Equipment to Good Working Order where the malfunction or failure results from or is caused by any of the Excluded Causes.
- **Force Majeure Event:** has the meaning given to it in clause 20.
- **Good Working Order:** the functioning of the Maintained Equipment in accordance with the relevant operating manuals and/or specifications or otherwise within expected parameters.
- **Hardware:** the hardware (or any part of them) set out in the Proposal.
- **Hardware Specification:** any specification for the Hardware, including any relevant plans or drawings, that is agreed in writing by the Customer and the Supplier.
- **Heightened Cybersecurity Requirements:** any laws, regulations, codes, guidance from regulatory and advisory bodies (whether mandatory or not), international and national standards, and sanctions, which are applicable to the Customer relating to security of network and information systems and security breach and incident reporting requirements, which may include the Cybersecurity Directive ((EU) 2016/1148), Commission Implementing Regulation ((EU) 2018/151), the Network and Information systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time.
- **Hosting Environment:** the cloud-based or server-based hosting facility provided in respect of the Materials by the Customer or (where so specified in the Proposal) the Supplier.

- **Hosting Services:** where set out in the Proposal, the provision of the Hosting Environment by the Supplier.
- **Initial Term:** the initial term set out in the Proposal.
- **Installation Date:** the proposed date for provision of the Installation Services, as set out in the Proposal or as otherwise agreed between the parties.
- **Installation Services:** where set out in the Proposal, the provision by the Supplier of installation services at the Site in respect of Hardware and/or Software.
- **Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, moral rights, trade marks 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.
- **Maintained Equipment:** the equipment specified in the Proposal.
- **Materials:** the content provided to the Supplier by the Customer from time to time for incorporation in the System and/or the Hosting Environment.
- **Order:** the Customer's order for the supply of Hardware, Software and/or Services, as set out in the Customer's written acceptance of the Proposal.
- **Preventative Maintenance:** means: (a) testing that the Maintained Equipment is functional; and (b) making any adjustments as may be required to ensure the Maintained Equipment remains in Good Working Order, in accordance with clause 9.2.
- **Proposal:** the proposal for the provision of the Hardware, Software and/or Services provided by the Supplier to the Customer.
- **Renewal Term:** has the meaning set out in clause 2.3.
- **Response Time:** the applicable response times as set out in the SLA.
- **Services:** the services to be supplied by the Supplier to the Customer (if any) set out in the Proposal, being any or all of the Installation Services, Preventative Maintenance, Corrective Maintenance, Content Management Services and/or Hosting Services, as the case may be.
- **Service Specification:** the description or specification for the Services (or any of them) set out on the Proposal or otherwise provided in writing by the Supplier to the Customer.
- **Site:** the location specified in the Proposal.
- **SLA:** the target standards of performance (whether in relation to Response Times or otherwise) in relation to Corrective Maintenance and/or Preventative Maintenance as set out in the Proposal.

- **Software:** any Third-Party Supplier Software, Third-Party Software and/or Supplier Software supplied by the Supplier to the Company, as set out in the Proposal or incorporated within Hardware (as the case may be).
- **Supplier:** IUF Group Limited registered in England and Wales with company number 14563961.
- **Supplier Materials:** has the meaning given in clause 13.1(h).
- **Supplier Software:** any proprietary software of the Supplier.
- **System:** the system comprising Hardware, Supplier Software, Third-Party Supplier Software and Third-Party Software.
- **Term:** the Initial Term and any Renewal Terms.
- **Third-Party Supplier Software:** any proprietary software of a third party to be licensed to the Supplier for use in relation to the Customer, whether incorporated within Hardware or supplied by the Supplier on a standalone basis.
- **Third-Party Software:** any proprietary software of a third party to be licensed to the Customer, whether incorporated within Hardware or supplied by the Supplier on a standalone basis.
- **Third-Party Licences:** has the meaning set out in clause 11.1.
- **Vulnerability:** a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.
- **Warranty Period:** has the meaning given in clause 5.1.

1.2 Interpretation:

- **(a)** A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- **(b)** A reference to a party includes its personal representatives, successors and permitted assigns.
- **(c)** A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- **(d)** Any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- **(e)** A reference to writing or written includes email.

2. Basis of Contract and Duration

- **2.1** The Order constitutes an offer by the Customer to purchase Hardware, Software and/or Services on the basis of the Proposal in accordance with these Conditions. For the avoidance of doubt, once accepted by the Supplier pursuant to clause 2.2, the

Order and the resulting Contract cannot be cancelled (other than in accordance with clause 18) or amended without the Supplier's prior written consent (which the Supplier may withhold or grant in its sole discretion).

- **2.2** The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- **2.3** Unless terminated earlier in accordance with clause 18, the Contract shall continue for the Initial Term and shall automatically extend for 12 months (**Renewal Term**) at the end of the Initial Term and at the end of each Renewal Term (or, if the Contract is for the supply of Hardware only, until the Hardware has been delivered). Either party may give written notice to the other party, not later than 90 days before the end of the Initial Term or the relevant Renewal Term, to terminate this agreement at the end of the Initial Term or the relevant Renewal Term, as the case may be.
- **2.4** Except with regard to any Hardware Specification or Service Specification, any samples, drawings, descriptive matter or advertising issued by IUF Group Limited and any illustrations, descriptions or examples of the Software, Hardware and/or Services contained in the Supplier's marketing material are issued or published for the sole purpose of giving an approximate idea of the Software, Hardware and/or Services described in them. They shall not form part of the Contract nor have any contractual force.
- **2.5** These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- **2.6** Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.
- **2.7** All of these Conditions shall apply to the supply of Hardware, Software and Services except where application to one or the other is specified.
- **2.8** The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

3. Hardware

- **3.1** The Hardware to be supplied by the Supplier (if any) are described in the Proposal or, where applicable, the Hardware Specification.
- **3.2** The Supplier reserves the right to amend the specification for the Hardware if required by any applicable statutory or regulatory requirement, or if a third party supplier of such Hardware amends the specification.

4. Delivery of Hardware

- **4.1** The Supplier shall deliver the Hardware to the location set out in the Proposal or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Hardware are ready.

- **4.2** Delivery of the Hardware shall be completed on the completion of unloading of the Hardware at the Delivery Location.
- **4.3** Any dates quoted for delivery of the Hardware are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Hardware that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Hardware.
- **4.4** If delivery of the Hardware is delayed beyond the date quoted for delivery (if any), the Supplier shall pay the Customer, as liquidated damages, 2% of the price payable for the delayed Hardware for each week's delay, up to a maximum of 10% of that price, provided that the Supplier shall have no liability to pay liquidated damages where the delay is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Hardware.
- **4.5** If the Supplier fails to deliver the Hardware, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Hardware. The Supplier shall have no liability for any failure to deliver the Hardware to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Hardware.
- **4.6** If the Customer fails to accept delivery of the Hardware within three Business Days of the Supplier notifying the Customer that the Hardware are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Hardware:
    - **(a)** delivery of the Hardware shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Hardware were ready; and
    - **(b)** the Supplier shall store the Hardware until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- **4.7** The Supplier may deliver the Hardware by instalments, which (at the Supplier's option) shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. Quality of Hardware

- **5.1** The Supplier warrants that on delivery, and for a period of 12 months (unless otherwise stated in the Proposal or SLA) from the date of purchase (**Warranty Period**), the Hardware shall:
    - **(a)** conform with their description and any applicable Hardware Specification; and
    - **(b)** be free from material defects in design, material and workmanship.

- **5.2** So far as it is able to do so, the Supplier shall pass on to the Customer the benefits of any manufacturers' warranties in respect of the Hardware.
- **5.3** Subject to clause 5.4, if:
    - **(a)** the Customer gives notice in writing to the Supplier during the Warranty Period within a reasonable time of discovery that some or all of the Hardware do not comply with the warranty set out in clause 5.1;
    - **(b)** the Supplier is given a reasonable opportunity of examining such Hardware; and
    - **(c)** the Customer (if asked to do so by the Supplier) returns such Hardware to the Supplier's place of business at the Customer's cost, the Supplier shall, at its option, repair or replace the defective Hardware, or refund the price of the defective Hardware in full.
- **5.4** The Supplier shall not be liable for the failure of Hardware to comply with the warranty set out in clause 5.1 if:
    - **(a)** the Customer makes any further use of such Hardware after giving a notice in accordance with clause 5.3;
    - **(b)** the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Hardware or (if there are none) good trade practice regarding the same;
    - **(c)** the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;
    - **(d)** the Customer alters or repairs such Hardware without the written consent of the Supplier;
    - **(e)** the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
    - **(f)** the Hardware differ from their description or any applicable Hardware Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements or changes otherwise made by the relevant third party manufacturer.
- **5.5** Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Hardware' failure to comply with the warranty set out in clause 5.1.
- **5.6** These Conditions shall apply to any repaired or replacement Hardware supplied by the Supplier, provided that the Warranty Period in respect of them shall run from the date of delivery of the original Hardware and shall not restart.

6. Title and Risk

- **6.1** The risk in the Hardware shall pass to the Customer on completion of Delivery as stated in clause 4.2.

- **6.2** Title to the Hardware shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Hardware and Services, in which case title to the Hardware shall pass at the time of payment of all such sums.
- **6.3** Until title to the Hardware has passed to the Customer, the Customer shall:
    - **(a)** store the Hardware separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property (unless, where applicable, they are first installed by the Supplier);
    - **(b)** not remove, deface or obscure any identifying mark or packaging on or relating to the Hardware;
    - **(c)** maintain the Hardware in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
    - **(d)** notify the Supplier immediately if it becomes subject to any of the events listed in clause 18.1(c) and 18.1(d); and
    - **(e)** give the Supplier such information as the Supplier may reasonably require from time to time relating to:
        - **(i)** the Hardware; and
        - **(ii)** the ongoing financial position of the Customer.
- **6.4** At any time before title to the Hardware passes to the Customer, the Supplier may require the Customer to deliver up all Hardware in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Hardware are stored in order to recover them.

7. Supply of Services

- **7.1** Where specified in the Proposal, the Supplier shall supply the Services to the Customer.
- **7.2** The Supplier shall use all reasonable endeavours to meet any performance dates or timescales for the Services specified in the Proposal or otherwise agreed between the parties, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services. The Supplier shall not be liable for any delay in performance of the Services that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate instructions, information, facilities, or anything else on which the Supplier's ability to provide the Services is dependent, that are relevant to the Services.
- **7.3** The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- **7.4** The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

8. Supply of Installation Services

- **8.1** Where specified in the Proposal, the Supplier shall provide the Installation Services.
- **8.2** The Customer shall, at its own expense, prepare the Site in accordance with the information provided by the Supplier in advance of the Installation Date. The Customer may request reasonable assistance from the Supplier to in respect of queries relating to such preparation.
- **8.3** The Supplier shall use its reasonable endeavours to complete installation of each item of Hardware and each item of Software at the Site on the Installation Date.
- **8.4** The Customer shall be responsible for ensuring that each item of Customer Hardware and Customer Software is installed and is in working order and available to the Supplier by the Installation Date.
- **8.5** If provision of the Installation Services is delayed at the request of, or because of the acts or omissions of, the Customer, and such delay has results in an increase in cost to the Supplier of carrying out its obligations under this Contract, the Supplier may, at its sole discretion, notify the Customer that it wishes to increase the charges payable by the Customer by the amount of such additional cost. The Supplier may invoice the Customer for any additional charges that become payable in this way.
- **8.6** The Installation Date and any related dates or timescales in relation to the Installation Services are approximate only, and the time of performance is not of the essence. The Supplier shall not be liable for any delay in completion of the Installation Services that is caused by a Force Majeure Event or the Customer's failure to fulfil its obligations under this clause 8 or otherwise, or to provide the Supplier with adequate instructions, information or facilities that are relevant to the Installation Services.
- **8.7** The Customer shall, within five Business Days from completion of the Installation Services, provide to the Supplier a written notice of any defects or deficiencies relating to the Installation Services, which the Customer shall address to the Supplier's Client Services Manager. The Supplier shall remedy any such defects and deficiencies within a reasonable time.
- **8.8** Satisfactory completion of the Installation Services shall be deemed to have occurred on the earlier of:
    - **(a)** the expiry of five days after the completion of the Installation Services, unless the Customer has given any written notice under clause 8.7; or
    - **(b)** the use of the Hardware and/or Software by the Customer in the normal course of its business.
- **8.9** Unless expressly stated otherwise in the Proposal, Installation Services will only be provided during Business Hours (where agreed, the provision of Installation Services outside of Business Hours is subject to an additional charge).

9. Supply of Preventative Maintenance and Corrective Maintenance

- **9.1** Where specified in the Proposal, the Supplier shall provide the Customer with Corrective Maintenance and/or Preventative Maintenance.

- **9.2** The Supplier shall perform Preventative Maintenance at the frequency specified in the Proposal, provided that any such dates or schedule shall be estimates only and time shall not be of the essence for the performance of Preventative Maintenance. Where the Supplier determines that the performance of Preventative Maintenance requires attendance at the Site, it shall attend during Business Hours (unless otherwise specified in the Proposal or SLA that Preventative Maintenance will also be provided outside Business Hours or will be provided only outside Business Hours).
- **9.3** On the Customer informing the Supplier that the Maintained Equipment is malfunctioning or has failed or is otherwise not in Good Working Order, the Supplier shall:
    - **(a)** use all reasonable endeavours to commence Corrective Maintenance of the Maintained Equipment within the relevant Response Time; and
    - **(b)** where, in the Supplier's opinion, it cannot reasonably perform Corrective Maintenance remotely, use all reasonable endeavours to attend at the Site during Business Hours (unless otherwise specified in the Proposal or SLA that Corrective Maintenance will also be provided outside Business Hours or will be provided only outside Business Hours) within the relevant Response Time.
- **9.4** In performing any Corrective Maintenance or Preventative Maintenance, the Supplier shall use all reasonable endeavours to restore any malfunctioning or failed Maintained Equipment to Good Working Order either remotely or while in attendance at the Site. Where this is not reasonably practicable, or not reasonably practicable within Business Hours (in the case of Preventative Maintenance and Corrective Maintenance), the Supplier shall either arrange for a further visit to the Site within Business Hours to complete the repair, or remove the Maintained Equipment or part of the Maintained Equipment for repair off-site.
- **9.5** The Supplier shall not be required to perform any maintenance or support in relation to:
    - **(a)** software other than Supplier Software, Third-Party Supplier Software or Third-Party Software; or
    - **(b)** Supplier Software, Third-Party Supplier Software or Third-Party Software where the Customer is in breach of this Contract or, in respect of Third-Party Software, the relevant Third-Party Licences.
- **9.6** The Supplier shall use reasonable endeavours to perform the Corrective Maintenance and/or Preventative Maintenance in accordance with the SLA.
- **9.7** In performing the Preventative Maintenance and Corrective Maintenance, the Supplier shall use all reasonable endeavours to source spare parts required to restore the Maintained Equipment to Good Working Order, but does not provide any guarantee or assurance that it will be able to do so (including, but not limited to, where the Maintained Equipment (or any of it) has reached end-of-life and is no longer supported by the manufacturer). The Customer acknowledges that any inability to source spare parts may require that the relevant Maintained Equipment is replaced, together with any peripherals or related items that are incompatible with the replacement, all of which (and the related removal and installation costs) will be separately chargeable and

payable by the Customer). Where the Supplier is able to obtain spare parts, the Supplier shall charge the Customer for any such spare parts and the Customer agrees to pay for them.

- **9.8** All spare parts and/or replacements provided by the Supplier to the Customer shall become part of the Maintained Equipment and the property of the Customer. Subject to receipt from the Customer of full payment in respect thereof, the Supplier will assign to the Customer, with full title guarantee and free from all third-party rights, all spare parts and/or replacements provided by the Supplier. All parts and components removed from the Maintained Equipment by the Supplier in the course of performing the Preventative Maintenance or Corrective Maintenance shall no longer constitute part of the Maintained Equipment and will be the property of the Supplier. The Customer will assign to the Supplier, with full title guarantee and free from all third-party rights, all parts and components removed from the Maintained Equipment by the Supplier in accordance with this clause 9.8. For the purposes of this clause 9.8, assign includes transfer ownership of.
- **9.9** The Customer shall:
    - **(a)** ensure that the Maintained Equipment is installed and kept at the Site, under suitable conditions, as specified in any documentation provided with, or in relation to, the Maintained Equipment (or, if none, in accordance with good practice), and permit only trained and competent personnel to use it and follow any operating instructions as the Supplier may give from time to time;
    - **(b)** notify the Supplier promptly if the Maintained Equipment is discovered to be operating incorrectly;
    - **(c)** at all reasonable times permit full and free access to the site and to the Maintained Equipment to the Supplier, its employees, contractors and agents, and provide them with adequate and safe working space, and any telecommunications facilities as are reasonably required to enable the Supplier to perform the Corrective Maintenance and/or Preventative Maintenance while at the Site;
    - **(d)** provide the Supplier with any information that is reasonably requested in the performance of Corrective Maintenance and Preventative Maintenance;
    - **(e)** take any steps reasonably necessary to ensure the safety of the Supplier's personnel when attending the Site;
    - **(f)** not allow any person other than the Supplier to maintain, alter, modify or adjust the Maintained Equipment without the prior written approval of the Supplier; and
    - **(g)** not move the Maintained Equipment from the Site without the prior written approval of the Supplier.
- **9.10** The Supplier is not obliged to perform any Excluded Maintenance.
- **9.11** Where the Supplier is performing or has performed Corrective Maintenance or Preventative Maintenance in circumstances where it is established that the Maintained Equipment was not in Good Working Order due to:

- **(a)** any of the Excluded Causes;
- **(b)** power failure or interruption;
- **(c)** internet connectivity or network problems or issues;
- **(d)** failure of equipment other than the Maintained Equipment;
- **(e)** the Customer's failure to follow, adhere to or implement advice previously provided by the Supplier, the Supplier may charge, and the Customer shall pay, the Additional Services Fees in respect of that work.

- **9.12** The Supplier shall not be liable for any delay in performance of the Services that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate instructions, information or facilities that are relevant to the Services.

10. Supply of Content Management Services and Hosting Services

- **10.1** Where specified in the Proposal, the Supplier shall update the System with Materials provided from time to time by the Customer, by uploading the relevant updates to the Hosting Environment.
- **10.2** The Customer shall provide the Materials:
  - **(a)** in approved form such that they are ready to be updated to the System without further approval by the Supplier;
  - **(b)** in such format, and deliver them to the Supplier by such method, as the Supplier shall from time to time specify;
  - **(c)** by such date(s) as the Supplier may specify in order to meet any updating schedule requested by the Customer.
- **10.3** The Supplier shall use its reasonable endeavours to complete such updates by any dates, or in accordance with any period schedule, specified in the SLA, but any such dates or schedules shall be estimates only and time shall not be of the essence for completion of the updates (or any of them). If no date or timescale is specified within the SLA, the Supplier shall use its reasonable endeavours to complete such updates as soon as is reasonably practicable.
- **10.4** The Customer shall ensure that the Materials do not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in breach of any third party Intellectual Property Rights) (**Inappropriate Content**).
- **10.5** The Customer shall grant the Supplier access to the System and, where applicable, the Hosting Environment in order to update information held on the System.
- **10.6** The Supplier reserves the right to remove Materials (or any part of them) from the System, and to not update them (or any part of them) to the System, where it reasonably suspects such content is Inappropriate Content (but, for the avoidance of doubt, the Supplier shall be under no obligation to vet the Materials for Inappropriate Content), and

the Customer shall at all times be and remain responsible for the Materials and for any Inappropriate Content contained in them).

- **10.7** The Supplier shall be under no obligation to check the Materials prior to updating them to the System, whether as to typographical or other errors, or otherwise, and the Customer accepts sole responsibility for Materials provided to the Supplier and updated to the System.
- **10.8** The Customer shall indemnify the Supplier against all damages, losses and expenses arising as a result of any action or claim that the Materials constitute Inappropriate Content.
- **10.9** Unless otherwise specified in the Proposal, the Customer shall be responsible for providing the Hosting Environment and giving the Supplier access to it. The Customer shall be responsible for any delays in the Supplier's provision of the Content Management Services resulting from the Customer's failure to do so.
- **10.10** Where the Proposal so provides, the Supplier will provide the Hosting Environment, in which event the following shall apply:
    - **(a)** The Supplier shall provide the Hosting Environment for the purposes and on the basis set out in the Proposal.
    - **(b)** The Customer shall pay the charges in the amount and at the frequency set out in the Proposal.
    - **(c)** The Supplier shall not be responsible for any loss or damage to the Hosting Environment or the Materials hosted within where such loss or damage is caused by Materials provided by the Customer.
    - **(d)** The Supplier warrants that the Hosting Environment will be provided with reasonable care and skill, and in accordance with the SLA.
    - **(e)** The Supplier does not warrant that:
        - **(i)** the Hosting Environment will be free from Vulnerabilities; or
        - **(ii)** the Hosting Environment or the Customer's access to, or use of, the Materials stored within the Hosting Environment will be uninterrupted or error-free;
        - **(iii)** the Hosting Environment will comply with any Heightened Cybersecurity Requirements.
- **10.11** The Customer shall be solely responsible for ensuring that it has back-up copies of all Materials, which shall be stored and maintained by the Customer outside the Hosting Environment. The Customer acknowledges and agrees that the Supplier's sole obligation in relation to loss of, or damage to, Materials stored within the Hosting Environment shall be to request a copy of the Customer's relevant back-up and to upload that copy to the Hosting Environment as soon as is reasonably practicable. The Customer agrees that the Supplier shall have no liability in respect of loss of, or damage to, Materials.

- **10.12** The Customer and its licensors retain all Intellectual Property Rights in the Materials and grants the Supplier a licence to such Intellectual Property Rights to the extent required by the Supplier to perform its obligations under this Contract.
- **10.13** The Customer shall indemnify the Supplier against all damages, losses and expenses arising as a result of any action or claim that the Materials infringe any Intellectual Property Rights of a third party.

11. Supply of Software

Where specified in the Proposal, the Supplier shall provide:

- **11.1**
    - **(a)** any Third-Party Supplier Software; and/or
    - **(b)** any Third-Party Software to the Customer under the standard licence terms provided by the relevant third parties (**Third-Party Licences**), copies of which shall be provided to the Customer (or which are accessible via the Hardware), and the Customer agrees to be bound to the relevant third parties by such licence terms.
- **11.2** The Customer shall comply with the Third-Party Licences and shall indemnify and hold the Supplier harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of such terms howsoever arising.
- **11.3** The Supplier may treat the Customer's breach of any Third-Party Licences as a breach of this Contract.
- **11.4** The Supplier shall provide any Supplier Software under the terms of this Contract.
- **11.5** The Supplier warrants that the Supplier Software will conform in all material respects to its specification for a period of 90 days from the date of this licence unless otherwise specified in the SLA (**Software Warranty Period**). If, within the Software Warranty Period, the Customer notifies the Supplier in writing of any defect or fault in the Supplier Software in consequence of which it fails to conform in all material respects to its specification, and such defect or fault does not result from the Customer, or anyone acting with the authority of the Customer, having amended the Supplier Software or used it outside the terms of the licence set out in clause 12 for a purpose or in a context other than the purpose or context for which it was designed or in combination with any other software not provided by the Supplier, or it has not been loaded onto Supplier-specified or suitably configured equipment, the Supplier shall, at the Supplier's option, do one of the following:
    - **(a)** repair the Supplier Software;
    - **(b)** replace the Supplier Software; or
    - **(c)** terminate the licence set out in clause 12 immediately by notice in writing to the Customer and refund any of the charges paid by the Customer in respect of the Supplier Software as at the date of termination (less a reasonable sum in respect of the Customer's use of the Supplier Software to the date of termination) on return of the Supplier Software and all copies thereof, provided the Customer provides all the information that may be necessary to assist the

Supplier in resolving the defect or fault, including a documented example of any defect or fault, or sufficient information to enable the Supplier to re-create the defect or fault.

- **11.6** The Supplier does not warrant that the use of the Supplier Software will be uninterrupted or error-free.
- **11.7** The Customer acknowledges that the only warranties in relation to the Third-Party Software or the supply thereof are those contained in the licence from the third-party supplier(s) of the same, and that to the extent that any of such warranties are given to the Supplier, it will pass on the benefit of such warranties to the Customer.

12. Licence for Supplier Software

- **12.1** In consideration of the charges paid or payable by the Customer to the Supplier, the Supplier grants to the Customer a non-exclusive licence for the Term to use the Supplier Software at the Site and/or by the specified number of users, as set out in the Proposal.
- **12.2** In relation to scope of use of the Supplier Software:
    - **(a)** For the purposes of clause 12.1, use of the Supplier Software shall be restricted to use of the Supplier Software in object code form for its intended purpose in relation to the normal business of the Customer (which shall not include allowing the use of the Supplier Software by, or for the benefit of, any person other than the Customer).
    - **(b)** The Customer may not use the Supplier Software other than as specified in clause 12.2(a) without the prior written consent of the Supplier, and the Customer acknowledges that additional fees may be payable on any change of use approved by the Supplier.
    - **(c)** The Customer may make as many backup copies of the Supplier Software as may be necessary for its lawful use. The Customer shall record the number and location of all copies of the Supplier Software and take steps to prevent unauthorised copying.
    - **(d)** Except as expressly stated in this clause 12, the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Supplier Software in whole or in part except to the extent that any reduction of the Supplier Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Supplier Software with the operation of other software or systems used by the Customer, unless the Supplier is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Supplier to carry out such action or to provide such information (and shall meet the Supplier's reasonable costs in providing that information) before undertaking any such reduction.
- **12.3** The Customer shall not:

- **(a)** sub-license, assign or novate the benefit or burden of this licence in whole or in part;
- **(b)** allow the Supplier Software to become the subject of any charge, lien or encumbrance; or
- **(c)** deal in any other manner with any or all of its rights and obligations under this agreement, without the prior written consent of the Supplier.

- **12.4** The Supplier may at any time sub-license, assign, novate, charge or deal in any other manner with any or all of its rights and obligations under this licence, provided it gives written notice to the Customer.
- **12.5** Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- **12.6** The Supplier shall indemnify the Customer against all damages, losses and expenses howsoever arising out of any action or claim, that the Supplier Software infringes any Intellectual Property Rights of a third party (**Claim**), provided that the Customer shall:
  - **(a)** as soon as reasonably practicable, give written notice of the Claim to the Supplier, specifying the nature of the Claim in reasonable detail;
  - **(b)** not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Supplier (such consent not to be unreasonably conditioned, withheld or delayed);
  - **(c)** give the Supplier and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Customer, so as to enable the Supplier and its professional advisers to examine them and to take copies (at the Supplier's expense) for the purpose of assessing the Claim; and
  - **(d)** subject to the Supplier providing security to the Customer to the Customer's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Supplier may reasonably request to avoid, dispute, compromise or defend the Claim.

13. Customer's Obligations

- **13.1** The Customer shall:
  - **(a)** ensure that the terms of the Proposal and any applicable Service Specification and/or Hardware Specification are complete and accurate in relation to the Customer's requirements;
  - **(b)** co-operate with the Supplier in all matters relating to the Services;
  - **(c)** provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;

- **(d)** provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- **(e)** prepare the Customer's premises for the supply of the Services;
- **(f)** obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- **(g)** comply with all applicable laws, including health and safety laws; and
- **(h)** keep all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.

- **13.2** If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
  - **(a)** without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - **(b)** the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 13.2; and
  - **(c)** the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

14. Charges and Payment

- **14.1** The prices for Hardware and/or Software shall be the prices set out in the Proposal.
- **14.2** The charges for Services shall be as set out in the Proposal or, if no charges are so specified, shall be calculated on a time and materials basis:
  - **(a)** the charges shall be calculated in accordance with the Supplier's daily fee rates, as set out in its current price list at the date of the Contract;
  - **(b)** the Supplier's daily fee rates for each individual person are calculated on the basis of an eight-hour day from 9.00 am to 6.00 pm worked on Business Days;
  - **(c)** the Supplier shall be entitled to charge an overtime rate of 150% of the daily fee rate on a pro rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 14.2(b); and

- **(d)** the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

- **14.3** The Supplier reserves the right to:
  - **(a)** increase the charges for the Services on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the Commencement Date and shall be based on the latest available figure for the percentage increase in the Retail Prices Index;
  - **(b)** increase the price of the Hardware, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Hardware to the Supplier that is due to:
    - **(i)** any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and third party supplier costs);
    - **(ii)** any request by the Customer to change the delivery date(s), quantities or types of Hardware ordered, or (where applicable) the Hardware Specification; or
    - **(iii)** any delay caused by any instructions of the Customer in respect of the Hardware or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Hardware.
- **14.4** In respect of Hardware and Software, the Supplier shall invoice the Customer on or at any time after the time specified in the Proposal. In respect of Services, the Supplier shall invoice the Customer as set out in the Proposal.
- **14.5** The Customer shall pay each invoice submitted by the Supplier:
  - **(a)** within 30 days of the date of the invoice unless otherwise specified in the Proposal; and
  - **(b)** in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.
- **14.6** All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Hardware at the same time as payment is due for the supply of the Services or Hardware.

- **14.7** If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 18, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 14.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from seven days after the dispute is resolved until payment.
- **14.8** If the Customer disputes any invoice:
    - **(a)** the Customer shall notify the Supplier in writing within seven days of the date of receipt of the invoice, specifying the reasons for disputing the invoice;
    - **(b)** the Supplier shall provide all evidence as may be reasonably necessary to verify the disputed invoice;
    - **(c)** the Customer shall pay to the Supplier all amounts not disputed by the Customer on the due date as set out in clause 14.5;
    - **(d)** the parties shall negotiate in good faith to attempt to resolve the dispute promptly; and
    - **(e)** if the parties have not resolved the dispute within 30 days of the Customer giving notice to the Supplier, the dispute shall be resolved in accordance with clause 21.10.
- **14.9** All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

15. Intellectual Property Rights

- **15.1** All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.
- **15.2** The Supplier grants to the Customer a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy any Deliverable (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.
- **15.3** The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 15.2.
- **15.4** The Customer grants the Supplier 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 of the Contract for the purpose of providing the Services to the Customer.

16. Confidentiality

- **16.1** Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or

suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 16.2.

- **16.2** Each party may disclose the other party's confidential information:
    - **(a)** to its employees, officers, representatives, contractors or subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 16; and
    - **(b)** as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- **16.3** No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

17. Limitation of Liability

- **17.1** The restrictions on liability in this clause 17 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- **17.2** Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
    - **(a)** death or personal injury caused by negligence;
    - **(b)** fraud or fraudulent misrepresentation;
    - **(c)** breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
    - **(d)** defective products under the Consumer Protection Act 1987.
- **17.3** Subject to clause 17.2 and clause 17.6, each party's total liability to the other in respect of all breaches of duty occurring within any contract year shall not exceed the cap.
- **17.4** In clause 17.3:
    - **(a) cap.** The cap is the total charges paid or payable by the Customer in respect of the period of 12 months preceding the event giving rise to the liability in question;
    - **(b) contract year.** A contract year means a 12-month period commencing with the Commencement Date or any anniversary of it; and
    - **(c) total charges.** The total charges means all sums paid by the Customer and all sums payable under the Contract in respect of goods and services actually supplied by the Supplier, whether or not invoiced to the Customer.

- **17.5** Subject to clause 17.2 and clause 17.6, neither party shall have any liability to the other for the following types of loss, which are wholly excluded:
    - **(a)** loss of profits;
    - **(b)** loss of sales or business;
    - **(c)** loss of agreements or contracts;
    - **(d)** loss of anticipated savings;
    - **(e)** loss of use or corruption of software, data or information;
    - **(f)** loss of or damage to goodwill; and
    - **(g)** indirect or consequential loss.
- **17.6** In respect of the parties' respective liabilities under the indemnities in clause 10.8, clause 10.13, clause 11.2 and clause 12.6:
    - **(a)** the exclusions in clause 17.5 shall not apply;
    - **(b)** clause 17.3 shall not apply;
    - **(c)** the relevant party's total liability to the other party under each indemnity shall be limited to £1,000,000 (one million pounds) per annum.
- **17.7** The Supplier has given commitments as to compliance of the Hardware, Software and Services (as the case may be) with relevant specifications in clause 5, clause 7 and clause 11.5. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- **17.8** This clause 17 shall survive termination of the Contract.

18. Termination

- **18.1** Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
    - **(a)** (in the case of termination by the Supplier) the Customer fails to pay any undisputed amount due under Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
    - **(b)** the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so;
    - **(c)** the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in

another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

- **(d)** the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

- **18.2** Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Hardware and/or Software under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment (except where such amount is disputed in accordance with clause 14.8), the Customer becomes subject to any of the events listed in clause 18.1(c) and clause 18.1(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

19. Consequences of Termination

- **19.1** On termination of the Contract:
  - **(a)** the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices (except where such payments are disputed in accordance with clause 14.8) and, where applicable, interest and, in respect of Services, Hardware and/or Software supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer in accordance with clause 14.5;
  - **(b)** the Customer shall return all of the Supplier Materials and any Software or Hardware which have not been fully paid for. If the Customer fails to do so within 30 days of termination, then the Supplier 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 Contract;
  - **(c)** where the Supplier is providing Hosting Services, the Supplier shall return to the Customer all Materials then stored in the Hosting Environment.
- **19.2** Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- **19.3** Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

20. Force Majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.

21. General

21.1 Assignment and other dealings

- **(a)** The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- **(b)** The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

21.2 Notices

- **(a)** Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
    - **(i)** delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
    - **(i)** sent by email to the following addresses (or an address substituted in writing by the party to be served):
        - **Supplier:** legal@iufgroup.co.uk
        - **Customer:** the email address (or any of them) to which the Proposal was sent or, if not sent via email, the email address (or any of them) customarily used by the Supplier to correspond with the Customer.
- **(b)** Any notice shall be deemed to have been received:
    - **(i)** if delivered by hand, at the time the notice is left at the proper address;
    - **(ii)** if sent by pre-paid first-class post or other next working day delivery service, at 11.00 am on the second Business Day after posting; or
    - **(iii)** if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- **(c)** This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21.3 Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 21.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

21.4 Waiver

- **(a)** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

- **(b)** A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

21.5 No partnership or agency

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

21.6 Entire agreement

- **(a)** The Contract constitutes the entire agreement between the parties.
- **(b)** Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

21.7 Third party rights

- **(a)** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- **(b)** The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

21.8 Variation

Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

21.9 Governing law

The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

21.10 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.