

PULSE STRUCTURAL MONITORING LIMITED

Standard Terms and Conditions

Under this Agreement the Company agrees to provide Services to the Customer in accordance with the Contract (which incorporates the terms and conditions set out in this document).
In respect of rental and, where applicable, the provision of Services – parts A and C of these terms and conditions apply.
In respect of Sale and, where applicable, the provision of Services – parts B and C of these terms and conditions apply.
In respect of provision of the Services in circumstances where there is no Rental or Sale – Part C only of these terms and conditions shall apply.

Definitions and Interpretation

In these terms and conditions the following words and expressions shall have the following meanings and apply to all Parts:

“Affiliate”

means subsidiary or holding company of any company or any other subsidiary of such a holding company (the terms “subsidiary” and “holding company” having the meanings assigned to them under Section 1159, Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) a nominee);

“Company”

means Pulse Structural Monitoring Limited, a Company registered in England (Registration Number 07432819) with a registered address at Ferryside, Ferry Road, Norwich, Norfolk, NR1 1SW;

“Company Group”

means the Company, its Affiliates, its and their respective officers and employees (including agency personnel);

“Company Background Technology”

means technical information and know-how, including any invention, improvement or discovery, whether or not patentable, that is conceived, owned or controlled by Company Group prior to the date of this Contract, or that is generated or created independently of this Contract during or after the term of this Contract, or any improvement, modification or enhancement to Company’s technical information and know-how that is conceived during the performance of this Contract, including any patent rights which claim such technical information, know-how or both;

“Confidential Information”

means all data, information (including business, technical and other information), knowledge, ideas and work that is provided or made available from one party to the other in any tangible or intangible form, whether directly or indirectly for the purpose of this Contract;

“Contract”

means the contract between the parties for the rental or sale of the Equipment and, where applicable, the provision of Services, evidenced by an Order of the Customer and acceptance by the Company and including these terms and conditions and any Order;

“Customer”

means the legal entity identified upon any Order who is hiring or purchasing the Equipment, or for whom Company is performing Services for pursuant to the Contract;

“Customer Group”

means the Customer, its Customer Subcontractors, its client, its and their Affiliates, its and their respective officers and employees (including agency personnel), but shall not include any member of the Company Group;

“Customer Subcontractor”

means any party (other than a member of the Company Group) who is a party to a contract with the Customer for the provisions of goods or services to the Customer;

“Documents”

means all documentation produced by the Company pursuant to this Contract including any reports, drawings, plans, specifications, calculations, models and records which for the avoidance of doubt does not include Company Background Technology;

“Equipment”

means the equipment rented or sold by the Company to the Customer, or the equipment required for the performance of the Services under the Contract;

“EU”

means the European Union.

“Minimum Period”

means the minimum contract duration as stipulated upon the Order.

“Order”

means the agreement between the parties on a case by case basis detailing the specific scope of Services to be performed under this Contract.

“Price”

means the value to be paid by Customer to Company for performance of the Services as stipulated upon the relevant Order.

“Rental Charges”

means the charges defined under clause 2 of Part A hereof; “Rental Period” means the period defined in clause 1.1 of Part A hereof;

“Replacement Value”

means the manufacturer’s list price for the time being applicable (including the costs of any modifications), or if none such exists, the list price of that piece of equipment which most closely matches, together with all associated costs including but not limited to the costs of transportation, tax and licences;

“Sale”

means the sale of the Equipment by the Company to the Customer under the Contract;

“Second-hand Equipment”

means Equipment which is other than New Equipment;

“Services”

includes but is not limited to the provision of Service Personnel by the Company to the Customer to support the initial project planning and the Equipment specification, procurement, mobilisation, deployment and operation to the extent that this is provided for in the Contract;

“Service Personnel”

means the consultancy and/or technical services to be performed by Company in accordance with the scope of work applicable to and further described within each service Order

“Service Personnel”

means employees of the Company and/or employees of the Company Subcontractors supplied by the Company under the Contract to perform the Services.

“UK/EU Trade Laws”

means: (i) the Export Control Act 2002 and any secondary legislation made under the powers thereof including, but not limited to, the Export Control Order 2008; (ii) Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items; and (iii) any UK or EU embargoes and economic or financial sanctions of certain countries, persons and entities or bodies administered and implemented by the Department for Business, Innovation and Skills (Export Control Organisation) and HM Treasury (Asset Freezing Unit) or their successors.

“US”

means the United States of America.

“US Trade Laws”

means: (i) the Export Administration Regulations and the International Traffic in Arms Regulations administered by the US Department of the Treasury (Bureau of Industry and Security) and the US Department of State (Directorate of Defence and Trade Controls); and (ii) any US embargoes and economic or financial sanctions of certain countries, persons and entities or bodies administered and implemented by the US Department of the Treasury (Office of Foreign Assets Control) acting under Presidential national emergency powers contained in the International Emergency Economic Powers Act or under authority granted by specific legislation.

The masculine includes the feminine and the neuter and vice versa. The singular includes the plural and vice versa.

A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order regulation or instrument as it is in force for the time being taking account of any amendment, extension, application, consolidation or re-enactment and includes any subordinate legislation for the time being in force under it.

Condition headings are included in these terms and conditions for ease of reference only and shall not affect the interpretation or construction of any of the terms and conditions herein.

If there is any conflict or ambiguity between the content of these terms and conditions and those stated upon the Order (if any), then the Order shall take precedence.

Part A. Rental of Equipment

1 Period of Rental

1.1 The Rental Period commences upon the day the Equipment is dispatched by the Company or collected by or on behalf of the Customer from the Company's premises or such other premises as specified by the Company and shall continue until the Equipment is returned thereto between the hours of 8.30a.m and 5.00p.m Mondays to Fridays and a receipt is issued by the Company or is collected by the Company; the foregoing shall apply even if the Company has agreed to cease Rental Charges.

1.2 Where the Equipment is lost during the Rental Period or is returned or collected other than in good repair and full working order and/or is damaged, the period of rental shall continue for such period as is necessary in the circumstances for the Equipment to be repaired, restored to full working order or replaced (as considered necessary by the Company, acting reasonably) or the Replacement Value is received by the Company whichever is the earlier.

2 Rental and other Charges

2.1 Rental Charges will be calculated daily with part days being charged as full days.

2.2 All Rental Charges are quoted in pounds sterling, unless otherwise expressly stated in writing.

2.3 Rental Charges relate solely to the rental of the Equipment and additional charges will be paid by the Customer for installation and transportation of the Equipment where this is undertaken by or on behalf of the Company. Where applicable, these additional charges are detailed in the Contract.

2.4 Where the Equipment is returned or collected and is found not to be in the same condition (fair wear and tear being excluded) that it was at the time of despatch then the Customer shall be responsible for the costs of the Company returning the Equipment to its condition at the time of despatch, including any necessary cleaning, disinfecting and like charges, plus an administration charge of fifteen per cent (15%) of such costs. Where the Equipment is incapable of being restored to its previous condition, the Customer shall be responsible for, and shall pay on demand, the cost of replacement (on a full indemnity basis).

2.5 Where the Equipment is lost during the Rental Period the Customer shall pay to the Company on demand the full cost of replacement (on a full indemnity basis).

2.6 Except where otherwise provided for in the Contract, the Customer agrees to pay all costs (including export and import costs), taxes (including withholding tax), levies, and duties assessed by any foreign government or body against the Equipment and associated apparatus in connection with temporary importation and/or exportation of the same and the Customer shall indemnify the Company Group from and against any such costs, taxes, levies and duties.

2.7 The Customer shall obtain and pay for all and any permits, licences and other consents and permissions required to enable the Equipment to perform the work required by the Customer and shall indemnify the Company Group from and against any claims, losses or damages (including, without limitation, all mobilisation and other Company costs) suffered by them arising from a failure to obtain the same.

2.8 Mobilisation and demobilisation expenses including air fares and other travel costs, subsistence and hotel charges, freight charges and all other reasonable expenses associated with the mobilisation and demobilisation of the Company's personnel and Equipment will be recharged to the Customer at cost plus an administration charge of 15 per cent (15%).

3 Payment Terms – Rental

3.1 Subject to the provisions of clause 2 of Part C, invoices for Rental and other charges will be issued at the end of each calendar month and/or at the expiration of the Rental Period.

4 Warranties

4.1 The Company warrants that at the time the Equipment is collected or delivered it will substantially perform the functions specified in the manufacturer's specification.

4.2 Any description, illustration, specification, drawing and material contained in any catalogue, price list, brochures, leaflets and other descriptive matters of the Company represent the general nature of the Equipment described therein but do not form part of this Contract.

4.3 The warranties stated above are the only warranties made by the Company in respect of the Rental of the Equipment. The Company does not make, and the Customer hereby expressly waives, all other warranties of merchantability and fitness for a particular purpose to the fullest extent permitted by law.

5 Title

5.1 Nothing in the Contract shall convey to the Customer any title to or any right in the Equipment including but not limited to all proprietary rights or ownership of any modifications. The Customer's sole right in relation to the Equipment or any modifications is to possess and use the same in accordance with the terms and conditions herein contained.

5.2 Upon the termination of the Contract all rights in and to the Equipment shall automatically revert to the Company. The Company shall have the right to enter any premises (including any vessel whether at sea or at port) to take immediate possession of the Equipment without further notice or demand.

6 Obligations of the Customer

Without prejudice to the obligations expressed in other clauses of these terms and conditions, during the continuance of the Contract the Customer shall:

6.1 arrange and maintain at its expense all prudent insurance cover, including but not limited to third party liability and cover against loss or damage to the Equipment for its full Replacement Value and:

(a) such insurance shall commence from the time and date of despatch for the period of Rental up to and including the date when the Equipment is delivered back to and received by the Company and acknowledged by it in writing;

(b) the Customer shall produce on demand a copy of the policy or policies;

(c) the Customer shall hold on trust for the Company all policy proceeds in or towards satisfaction of the Customer's obligations hereunder;

6.2 give the Company immediate written notice of any loss, damage or claim relating to the Equipment and shall on demand reimburse the Company in respect thereof in accordance with clause 2 of Part A;

6.3 ensure that the Equipment is located at the delivery address (or vessel) stated in the Contract or such other address as may be expressly agreed between the parties in writing;

6.4 maintain effective control of the Equipment and maintain the Equipment in a secure location when not in use;

6.5 permit the Company, or an authorised representative of the Company, on reasonable notice to inspect and/or repair the Equipment;

6.6 ensure that at the Customer's expense, the Equipment is kept safe and without risks to health;

6.7 obtain at the Customer's expense all necessary licences, certificates, permits, authorisations required for the operation of, or in connection with, the Equipment and shall maintain the same in full force until the Equipment is collected or returned in accordance with clause 1.1 of Part A;

6.8 punctually pay all duties concerning the Equipment;

6.9 not by any act or default render the Equipment liable to any distress, execution or other legal process;

6.10 immediately notify the Company by telephone and subsequently confirm in writing if the Equipment is involved in any accident resulting in injury to persons or damage to property. The Customer shall not admit liability or compromise any claim relating to the Equipment without the prior express consent of the Company in writing;

6.11 not do or fail to do, any act whereby the Equipment or its use would as a result contravene any statute, rule, regulation, or byelaw or any such licence, certificate, permit authorisation for the time being in force pertaining to the possession use, maintenance or safety of the Equipment;

6.12 not assign, sell, mortgage, pledge, rent, part with possession, or otherwise deal with the Equipment or with any interest therein, or attempt to do any of the foregoing;

6.13 not assign the Contract without the express prior written consent of the Company;

6.14 not permit the Equipment to be used by any other party than the Customer and its employees without the express prior written consent of the Company;

6.15 indemnify the Company Group from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities incurred in any way by reason of the Customer's breach of any of these terms and conditions including but not limited to all such costs, expenses and liabilities incurred in ascertaining the location of the Equipment and uplifting the Equipment therefrom;

6.16 pay all invoices in accordance with clause 0 of Part A and clause 2 of Part C;

6.17 upon expiry of the rental period, return the Equipment in accordance with these terms and conditions.

Part B. Sale of Equipment

1 General Terms

1.1 Each order or acceptance of a quotation for Equipment purchase by the Customer from the Company shall be deemed to be an offer by the Customer to buy Equipment subject to these terms and conditions.

1.2 No order placed by the Customer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Equipment to the Customer.

2 Description

2.1 The quantity and description of the Equipment shall be as set out in the Company's quotation or acknowledgement of order.

2.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Equipment described in them and shall not form part of the Contract.

3 Price

- 3.1 Unless otherwise agreed by the Company in writing, the price for the Equipment shall be the price set out in the Company's quotation or acknowledgement of order.
- 3.2 Unless otherwise stated all prices shall be quoted on an Ex-works (Pulse facility, Woking, United Kingdom) basis as per the Incoterms 2010 definition. The price for the Equipment shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Customer shall pay in addition when it is due to pay for the Equipment.
- 3.3 All sale prices are quoted in pounds sterling, unless otherwise expressly stated in writing.

4 Retention of Title

- 4.1 The Equipment is at the risk of the Customer from the time of despatch.
- 4.2 The terms of this clause apply until the whole sale price of Equipment has been paid to the Company. Ownership and title to the Equipment shall remain with the Company and shall not pass to the Customer until the whole sale price has been paid to the Company notwithstanding delivery of the Equipment to the Customer or to any independent carrier or any other third party.
- 4.3 Until ownership of the Equipment has passed to the Customer (in accordance with clause 4.2 above), the Customer shall:
- (a) store the Equipment (at no cost to the Company) separately from all other goods of the Customer or any other third party in such a way that they remain readily identifiable as the Company's property;
 - (b) not destroy, deface or obscure any identifying mark or packaging on or relating to the Equipment; and
 - (c) maintain the Equipment in satisfactory condition and keep it insured on the Company's behalf for its full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company.
- 4.4 The Customer's right to possession of the Equipment shall terminate immediately if the terms of clause 4.2 of this Part B are breached and:
- (a) the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purposes only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
 - (b) the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
 - (c) the Customer encumbers or in any way changes any of the Equipment.
- 4.5 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Equipment is or may be stored in order to inspect it, or, where the Customer's right to possession has terminated, to recover it.
- 4.6 On termination of the Contract, howsoever caused, the Company's rights contained in this clause 4 shall remain in effect.

5 Warranties

- 5.1 The Company warrants it has the right to sell the Equipment to the Customer.
- 5.2 Company warrants that the Equipment shall be free from material defects for a period of 12 (twelve) months from delivery. If during this warranty period any error, omission or defect is identified by the Buyer, then the exclusive remedy shall be for Company at its sole cost and discretion to rectify the error, omission or defect on a return-to-manufacturer basis or provide a replacement item.
- 5.3 In relation to Equipment manufactured or modified by the Company in accordance with the Customer's specification:
- (a) the sole obligation of the Company is to meet the specification of the Customer;
 - (b) the Customer shall be responsible for the specification provided and shall indemnify the Company Group from and against all claims, losses, damages, costs, expenses and liabilities in respect of any failure of the Equipment to perform any function provided it meets the specification;
 - (c) the customer shall be responsible for and shall save, indemnify, defend and hold harmless the Company Group from and against all claims, losses, damages, costs, expenses and liabilities in respect of a breach of a third party's intellectual property rights which arises from, relates to or is in connection with the use of the specification provided.

6 Software

- 6.1 Company shall be the original vendor of software that it has developed for commercial purposes. No title, ownership, copyright or other intellectual property right in any other Software is transferred with the Equipment and any additional warranties in respect of any implied condition or warranty of merchantability or fitness for purpose are excluded. All Software is licensed and not sold.

7 Intellectual Property

- 7.1 All rights of title to, copyright in and ownership of any items created under the Contract, including but not limited to, drawings, specifications, calculations, other documents, computer tapes, discs and other essential recording material, or provision of services shall vest in or remain with Company.
- 7.2 Neither Party shall have the right of use, other than for the purposes of the Contract, whether directly or indirectly, of any patent copyright, proprietary right or confidential know how, trademark or process provided by the other Party.

Part C. Terms Applicable to all Contracts

1 Provision of Services

- 1.1 The Company undertakes to make available to the Customer sufficient Service Personnel to ensure performance and completion of the Services in accordance with the provisions of the Contract.
- 1.2 All Service Personnel shall, for the work which they are required to perform, be competent, properly qualified, skilled and experienced in accordance with good industry practice.
- 1.3 Except where otherwise provided for in the Contract:
- 1.3.1 the Customer agrees to pay all costs (including export and import costs), taxes (including withholding tax), levies, and duties assessed by any foreign government or body against the Equipment and associated apparatus in connection with importation and/or exportation of the same and the Customer shall indemnify, save, defend and hold harmless the Company Group from and against any such costs, taxes, levies and duties;
 - 1.3.2 the Customer agrees to pay all costs, taxes, levies, or duties assessed by any foreign government in respect of the salary and other payments made by the Company Group to its own employees and the Customer shall indemnify, save, defend and hold harmless the Company Group from and against any such costs, taxes, levies, or duties.
- 1.4 The Customer shall obtain and pay for all and any permits, licences and other consents and permissions required to enable the Equipment and the Service Personnel to perform the work required by the Customer and shall indemnify, save, defend and hold harmless the Company Group and the Service Personnel from and against any claims, losses or damages (including, without limitation, all mobilisation and other Company costs) suffered by them arising from Customer's failure to obtain the same.
- 1.5 Mobilisation and demobilisation expenses including Service Personnel air fares and other travel costs, subsistence and hotel charges, freight charges and all other reasonable expenses associated with the mobilisation and demobilisation of the Service Personnel and Equipment will be recharged to the Customer at cost plus an administration charge of 15 per cent (15%).
- 1.6 The fee specified in the Contract for the Services will be payable by the Customer to the Company. Subject to the provisions of clause 2 of Part C, invoices for this fee will be issued by Company to the Customer at the end of each calendar month.
- 1.7 Where the Company supplies Service Personnel, the Customer:
- 1.7.1 shall provide at its own cost all necessary power sources and other support equipment necessary to enable the Equipment to be operated in a safe and satisfactory manner;
 - 1.7.2 acknowledges that the work intended to be carried out by the Customer shall remain the sole responsibility of the Customer;
 - 1.7.3 shall provide at its own cost reasonable sleeping and living accommodation and food for the Service Personnel;
 - 1.7.4 shall provide at its own cost:
 - (i) an appropriate operating environment for the Equipment in accordance with the manufacturer's recommendations and any applicable laws or regulations; and
 - (ii) a safe operating environment to allow the Service Personnel to provide the services in accordance with any applicable laws or regulations.
- 1.8 The Company shall have the right at its sole discretion from time to time to substitute the Service Personnel upon giving reasonable notice to the Customer and the Customer shall co-operate with and assist the Company in effecting such substitutions.
- 1.9 The Customer shall ensure that the Service Personnel remain at the worksite for a period of time not longer than is considered to be appropriate in terms of best industry practice, applicable health and safety legislation and any applicable limits set by the operator of the worksite. The Customer shall pay for the cost of replacing the Service Personnel in accordance with these standards together with an administration charge of 15% of the costs of doing the same ("the Substitution Costs"). The Substitution Costs shall without limitation include airfares and other travel costs to and from the Company's offices together with subsistence and all other reasonable expenses. The Company will use reasonable endeavours to ensure that the Service Personnel (and any substitute Service Personnel) are available to be replaced (or substituted) in line with the Customer's normal working patterns and personnel rotations.
- 1.10 In so far as practicable the Service Personnel will use reasonable endeavours to service and repair the Equipment at the worksite. However, both parties acknowledge that due to the complex technical nature of the Equipment and the fact that the Service Personnel may not have the competency to carry out repairs to the Equipment, it may not be practicable to repair the Equipment at the worksite. Any servicing or repair of the Equipment requiring return of any vessel to port or return of any Equipment to the Customer's premises or the Company's premises will be made

known as soon as is reasonably practicable to the Customer's designated representative. The costs of returning the Equipment will be borne by the Customer who shall indemnify and hold harmless Company Group from any such costs.

- 1.11 Where it is agreed between the parties that Service Personnel designated by the Company should visit the Customer's site to attempt to repair the Equipment, the Customer shall be responsible for, and as such shall reimburse the Company on a full indemnity basis for, payment of the Service Personnel's charges together with all travel costs, subsistence and related expenses.
- 1.12 Any costs, losses, expenses, damages or liabilities of any nature suffered by Customer associated with transit time including without limitation any delays to and from port or to and from the Company's premises after discovery of a malfunction, defect or breakdown of Equipment will be classed as Consequential Loss and Customer shall not be entitled to reduce any payments to the Company due to such instance.
- 1.13 All Services undertaken by the Service Personnel shall be under the direction and supervision of the Customer but the actual operation of the Equipment and the manner of performance of Services in connection therewith and as described in the Order shall be under the direction and control of the Company. The Company is an independent contractor and is not for the purposes of the Contract acting as an agent of the Customer. The Service Personnel will co-operate with the Customer's personnel with a view to operating the Equipment in accordance with their reasonable requirements and properly performing the Services. Employees of the Customer shall not be under the direction and control of the Company or its Service Personnel.
- 1.14 Company shall not be liable in any way, whether under this Contract, contract, tort or at law, for any periods of delay, due to the Equipment being repaired, inspected or maintained, and such will not constitute an entitlement or right for Customer to reduce or retain payments to the Company. This Clause 1.15 shall also apply in the instance where Company is unable to perform repair, inspection or maintenance of Equipment due to access to the Equipment not being made available to Customer by Company. Customer shall indemnify, save, defend and hold harmless Company from any costs, damages, fees, expenses, liabilities incurred by Company as a result of delay under this Clause 1.15.

2 Payment Terms – General

- 2.1 Customer shall pay Company the Price as stipulated upon the relevant Order.
- 2.2 Invoices are payable by the Customer to Company within thirty days of the invoice date.
- 2.3 Notwithstanding any other provision in these terms and conditions, all payments payable to the Company under the Contract which have not been previously paid shall become due immediately on contract termination.
- 2.4 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer had a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.
- 2.5 If the Customer fails to pay to the Company or any member of the Company Group any sum due pursuant to the Contract, the Customer shall be liable to pay interest on such sum from the due date for payment at the annual rate of 8% above the Bank of England Official Bank Rate, accruing on a daily basis and compounded every three months until payment is made, all whether before or after any judgment.
- 2.6 No payment shall be deemed to have been received by the Company until the Company has received cleared funds.
- 2.7 In respect of any and all payments due by the Customer time shall be the essence of the Contract.

3 Delivery

- 3.1 Unless otherwise agreed in writing by the Company, delivery of the Equipment shall take place at the Company's place of business.
- 3.2 Any dates specified by the Company for delivery of the Equipment are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 3.3 If for any reason the Customer fails to accept delivery of any of the Equipment when it is ready for delivery, or the Company is unable to deliver the Equipment on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
- (a) risk in the Equipment shall pass to the Customer;
 - (b) the Equipment shall be deemed to have been delivered; and
 - (c) the Company may store the Equipment until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 3.4 The Customer shall provide at the delivery point and at its expense adequate and appropriate equipment and manual labour for loading the Equipment.
- 3.5 The quantity of any consignment of Equipment as recorded by the Company on dispatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence providing the contrary.
- 3.6 Company's sole liability and Customer's sole remedy for non-delivery of the Equipment shall be limited to replacing the Equipment within a reasonable time or issuing a credit note at the pro-rata Contract rate against any invoice raised for such goods.

4 Defects

- 4.1 The Customer shall notify the Company of any defect in the condition of the Equipment or want of specification within 48 hours of the collection or delivery of the Equipment, and failure to do so shall be conclusive proof that it has examined the Equipment and found it to be in good condition and capable of performing its functions in accordance with the manufacturer's specification.
- 4.2 The Company will undertake reasonable efforts to promptly provide replacements or corrections to any part of the Equipment that does not substantially perform the functions specified in the manufacturer's specification where such failure is identified by the Customer and notified to the Company within 48 hours of collection or delivery.
- 4.3 Company's liability to the Customer Group in contract, under statute, in tort (including negligence) at law or otherwise for the rectification of any defects in the Services and for the consequences of such defects shall be limited to the re-performance by Company Group of the Services at its own cost, however are subject to Clause 1. Customer will provide Company, at Customer's costs, with all required transportation to and from the relevant site where Services have been performed in order to undertake remedial work. The Company Group will only be liable to re-perform defects which are discovered by Customer within a period of six (6) months from completion of the Services under the relevant Service Order. Notwithstanding the other provisions of this Clause 4 and Clause 7 or of the Contract, the Company and Customer recognise that in order to satisfactorily perform its Services, Company requires to rely upon the completeness and accuracy of all information supplied to Company by or via Customer. Customer warrants the completeness and accuracy of any information supplied to the Company by or via the Customer for the performance of the Services. Customer agrees that Company shall not be liable whether under the Contract, in contract, in tort or otherwise at law for its use or reliance upon any such supplied information.

5 Anti-Bribery and Corruption Compliance

- 5.1 In relation to the Contract, the Customer irrevocably and unconditionally warrants and represents:
- (a) that it will comply with all applicable laws, statutes, regulations, and codes relating to bribery, corruption, anti-trust, money laundering, trade sanctions, financial sanctions and criminal matters including, but not limited to, the Bribery Act 2010, Modern Slavery Act 2015, the United States Foreign Corrupt Practices Act 1977, any other anti-bribery laws and regulations of the countries in which any aspect of this Contract will take place, and all such legislation as the same may be modified, supplemented or replaced, and will not cause the Company to be subject to punitive measures under any laws;
 - (b) that the Customer has, and shall maintain in place throughout the duration of the Contract, its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, Modern Slavery Act 2015 and the United States Foreign Corrupt Practices Act 1977 to prevent contravention of the laws and regulations referred to in paragraph 5.1.1 and to ensure compliance with local law and will enforce them where appropriate.
- 5.2 The Customer shall procure that any persons associated with the Customer, including Customer Subcontractors: (i) will not do, or omit to do, any act that will cause or lead the Company to breach the laws and regulations referred to in paragraph 5.1.1 and (ii) will not cause the Company to be subject to punitive measures under any laws.
- 5.3 The Company may, at its sole discretion, withhold any payments which are payable to the Customer in terms of the Contract and the Company may also, at its sole discretion, suspend the Contract at any time and without liability if it believes in good faith that the Customer has breached any of the obligations it has undertaken pursuant to this clause 5.
- 5.4 The Company may terminate the Contract immediately on notice to the Customer if it believes in good faith and on reasonable grounds that the Customer has breached any of the obligations it has undertaken pursuant to this clause 5. If the Customer terminates the Contract for a suspected breach of this clause 5, the Customer shall not be entitled to claim compensation or any further remuneration regardless of any activities or agreements with additional third parties entered into before such termination of the Contract.
- 5.5 For the purposes of this clause, the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act) and section 8 of that Act respectively as may be modified, supplemented or replaced.
- 5.7 The Customer shall indemnify and hold harmless the Company from and against any losses, liabilities, penalties, damages, costs, taxes, levies, duties, claims, expenses (including but not limited to legal fees and investigation expenses) and any associated fines and penalties incurred by, or awarded against, the Company as a result of any breach of the obligations set out in this clause 5 by the Customer or persons associated with the Customer, any person working for the Customer or any third party retained by the Customer.

6 Compliance with Trade Laws

- 6.1 The Customer acknowledges that the Company and the Equipment is subject to UK/EU Trade Laws and US Trade Laws and the Customer warrants that it shall comply in all respects with UK/EU Trade Laws, US Trade Laws and any other applicable trade laws and will not cause the Company to be subject to punitive measures under any laws. The Company shall be under no obligation to supply any Equipment or Services to the Customer under the Contract if the Company determines, at its sole discretion, that to do so would breach UK/EU Trade Laws, US Trade Laws or any other applicable trade laws, or cause the Company to be subject to punitive measures under any laws.
- 6.2 Subject to clause 6.1, the Company shall be responsible for obtaining any export licence(s) required for the export of the Equipment by the Company to the jurisdiction(s) specified in the Contract as delivery locations, and the Customer warrants that it will use the Equipment only in those jurisdiction(s) and for the purposes specified in the Contract.
- 6.3 The Customer warrants that it shall comply in all respects with the export and re-export restrictions set forth in any export licence(s) acquired by the Company pursuant to clause 6.2 and that it shall comply with any end-user undertaking(s) given by the Customer in relation to any such export licence(s).
- 6.4 In the event that the Customer intends to export Equipment from the jurisdiction(s) to which that Equipment was delivered by the Company pursuant to the Contract to any other jurisdiction, the Customer shall be responsible for obtaining any necessary export licence(s) from the relevant authorities. The Customer specifically agrees to determine whether a UK or US export licence is required and to obtain any required licence(s) prior to exporting.

- 6.5 The Customer undertakes to perform adequate due diligence in order to determine whether the export of Equipment by the Customer would result in the breach of UK/EU Trade Laws or US Trade Laws (whether by the Customer or by the Company) or would cause the Company to be subject to punitive measures under any laws and shall not export the Equipment if it determines that such a breach would occur or such punitive measures could be imposed.
- 6.6 The Company may, at its sole discretion, withhold any payments which are payable to the Customer in terms of the Contract and the Company may also, at its sole discretion, suspend the Contract at any time and without liability if it believes in good faith that the Customer has breached any of the obligations it has undertaken pursuant to this clause 6.
- 6.7 The Company may terminate the Contract immediately on notice to the Customer if it believes in good faith and on reasonable grounds that the Customer has breached any of the obligations it has undertaken pursuant to this clause 6. If the Customer terminates the Contract for a suspected breach of this clause 6, the Customer shall not be entitled to claim compensation or any further remuneration regardless of any activities or agreements with additional third parties entered into before such termination of the Contract.
- 6.8 The Customer shall indemnify the Company from and against any losses, liabilities, penalties, damages, costs, taxes, levies, duties, claims, expenses (including but not limited to legal fees and investigation expenses) and any associated fines and penalties incurred by, or awarded against, the Company as a result of any breach of the obligations set out in this clause 6 by the Customer or persons associated with the Customer, any person working for the Customer or any third party retained by the Customer.

7 Indemnities and Limitation of Liability

- 7.1 The following indemnities shall be provided by the Customer under to the Contract:
- (a) The Customer shall be responsible for and shall indemnify, save, defend and hold harmless the Company Group from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities in respect of (i) personal injury including death or disease of any member of the Customer Group; and (ii) loss of or damage to the property of the Customer Group (whether owned, rented, leased or otherwise); and (iii) for loss of or damage to the property of the Company Group, including the Equipment, while in the care, custody and control of Customer Group, and in all instances which arise from, relate to or is in connection with the performance or non-performance of the Contract irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the Company Group or any other entity or party and this indemnity shall apply irrespective of any claim in delict, under contract or otherwise at law; and
 - (b) the Customer shall be responsible for and shall indemnify, save, defend and hold harmless the Company Group from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of personal injury including death or disease of, or loss of or damage to the property of, any third party arising from the Contract to the extent caused by the negligence or breach of duty (whether statutory or otherwise) of the Customer Group. For the purposes of this clause 7 of Part C "third party" means any party which is not a member of the Company Group or the Customer Group.
 - (c) In precedence over any other indemnity Company may have granted to Customer elsewhere under the Contract, Customer shall assume all liability for and shall save, defend, indemnify and hold harmless Company Group from and against any claim of whatsoever nature arising from pollution howsoever caused originating from the property (whether owned, leased or otherwise provided) of Customer Group arising from or relating to the performance of this Contract notwithstanding the negligence or breach of duty (statutory or otherwise) of the Company Group.
- 7.2 The following indemnities shall be provided by the Company under the Contract:
- (a) The Company shall be responsible for and shall indemnify, save, defend and hold harmless the Customer Group from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities in respect of (i) personal injury including death or disease of any member of the Company Group; and (ii) loss of or damage to the property of the Company Group whether owned, rented, leased or otherwise, (but not including the property of Company Group, including Equipment while in the care, custody and control of the Customer Group), and in both instances which arise from, relate to or is in connection with the performance or non-performance of the Contract irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the Customer Group or any other entity or party and this indemnity shall apply irrespective of any claim in delict, under contract or otherwise at law;
 - (b) The Company shall be responsible for and shall indemnify the Customer Group from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities in respect of personal injury including death or disease of, or loss of or damage to the property of, any third party arising from the provision of the Equipment to the Customer under this Contract to the extent caused by the negligence or breach of duty (whether statutory or otherwise) of the Company Group.
 - (c) Company shall assume all liability for and shall save, defend, indemnify and hold harmless Customer Group from and against any claim of whatsoever nature arising from pollution howsoever caused originating from the property (whether owned, leased or otherwise provided) of Company Group arising from or relating to the performance of this Contract notwithstanding the negligence or breach of duty (statutory or otherwise) of the Customer Group.
- 7.3 The Customer acknowledges and agrees that the allocation of risk contained in this clause 7 of Part C is reflected in the Rental Charges and Sale prices.
- 7.4 Notwithstanding anything to the contrary contained in this Contract, but excluding the provisions of Clauses 7.1, 7.2, 8, 14, 15, 16, 17, 18 and 19 herein, Company's total aggregate liability to the Customer arising out of or in relation to the performance of the Contract, including but not limited to liability for, delay, default, rework or re-performance or replacement, under any cause of action whether in contract, tort or otherwise at law shall not exceed a sum equivalent to twenty percent (20%) of the affected service Order price above which sum Customer shall save, defend, indemnify and hold harmless the Company, regardless of cause and whether any such liability arises by reason of negligence or breach of duty (statutory or otherwise) on the part of the Company Group or any Subcontractor.

8 Consequential Loss

- 8.1 For the purposes of these terms and conditions the expression "Consequential Loss" shall mean:
- (a) consequential or indirect loss under English law; and
 - (b) loss and/or deferral of production, loss of product, loss of use (where "loss of use" shall mean, without limitation, loss of use or the cost of use of property, equipment, materials and services including without limitation, those provided by contractors or subcontractors of every tier or by third parties), loss of revenue, profit or anticipated profit (if any), in each case whether direct or indirect to the extent that these are not included in (a), and whether or not foreseeable at the date of commencement of the Contract.
- Notwithstanding any provision to the contrary elsewhere in the Contract the Company shall save, indemnify, defend and hold harmless the Customer from the Company Group's own Consequential Loss and the Customer shall save, indemnify, defend and hold harmless the Company Group from the Customer Group's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of the Contract.
- 8.2 The indemnities in clause 8.1 of Part C shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in delict, under contract or otherwise at law.

9 Termination

- 9.1 The Customer's failure to pay any sum due on a timely basis is cause for immediate termination by the Company of the Contract.
- 9.2 Either party may terminate the Contract in the event of a material default by the other party that is not cured within the applicable cure period specified in the Contract, or a reasonable cure period (with the minimum being ten (10) days if no other cure period is stated) from receipt of written notice specifying the nature of the default with reasonable particularity.
- 9.3 The Company may terminate the Contract if:
- (a) the Customer has a bankruptcy order made against it or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purposes only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
 - (b) the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
 - (c) the Customer encumbers or in any way charges any of the Equipment prior to full title having passed in accordance with clause 4.2 of Part B;
- Each of the foregoing being an "act of bankruptcy" or "act of administration".
- 9.4 If the Customer states an intention to commit an act of bankruptcy or act of administration the Company may give written notice declaring the Contract is terminated.
- 9.5 Where the Customer is an individual within the meaning of the Consumer Credit Act 1974 the Contract, where it relates to Rental, will terminate at the expiration of three months from the date of execution.
- 9.6 Exercise of the right of termination afforded to either party shall not prejudice legal rights or remedies either party may have against the other in respect of any breach of the terms of the Contract.
- 9.7 In the event that Customer terminated the Contract under Clause 9.2, or under any other right in may have within this Contract, Customer shall pay Company for all Services performed up to and including the date of termination, for all reasonable costs and expenses incurred as a result of termination, and if a Minimum Period is stipulated upon the Order, the sum payable for the entire Minimum Period for any Equipment and/or Services.

10 Force Majeure

- 10.1 Except for payment of money due, any delay or failure in performance of this Contract by either party, shall be excused and shall not give rise to any claim of any nature whatsoever, including for compensation or damages, by the other party, if, and to the extent caused by an occurrence of Force Majeure.

- 10.2 For the purpose of the Contract, "Force Majeure" shall mean any act, omission, cause or circumstance beyond the reasonable control of the Company including, without limitation: acts of God; war or national emergency; rebellion; protests; riot; civil commotion; strikes, lock-outs and industrial disputes (whether or not relating to either party's workforce); fire; explosion; earthquake; flood; drought; epidemic; acts of terrorism or other act or order of any government department, council or other constituted body.
- 10.3 In the event of a Force Majeure event occurring the party that is or may be delayed in performing the Contract shall notify the other party without delay giving the full particulars thereof and shall use all reasonable endeavours to remedy the situation without delay
- 10.4 In the event that any occurrence referred to above causes a prolonged delay (period of ninety (90) days or more) in progress in performing the Services, either party may terminate this Contract or any Order without giving rise to any claim for compensation other than for Services completed up to the time of termination.
- 11 Invalidation of any Provision**
- In the event of one or more of these terms and conditions or any part thereof being or becoming invalid, illegal or unenforceable in any respect, it shall to the extent of such invalidity, illegality, or unenforceability be deemed severable and the remaining terms and conditions and the remainder of such provision shall not in any way be affected or impaired and shall continue in full force and effect.
- 12 Entire Agreement**
- 12.1 The Contract constitutes the complete and exclusive agreement between the parties as to the subject matter hereof and supersedes and takes the place of all documents, minutes of meetings, letters or notes which may be in existence at the date hereof, and of all statements, representation and warranties which may have been made by or on behalf of the parties hereto and all previous agreements with respect thereto.
- 12.2 Each party hereby acknowledges that it has not entered into the Contract in reliance upon any representation made by the other party but not embodied in the Contract.
- 13 Notices**
- Any notice required to be given hereunder, shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may have from time to time been notified for this purpose.
- 14 Insurance**
- 14.1 The Company will effect and maintain the following insurances during the term of the Contract:
- a) *Employers' Liability and/or* (where the jurisdiction of where the Contract is to be performed or under which the employees employed requires the same) Workmen's Compensation insurance covering personal injury to or death of the employees of the Company engaged in the performance of the Services to the minimum value required by any applicable legislation;
- b) *General Third Party Liability* insurance for any incident or series of incidents covering the operations of the Company in the performance of the Contract, with a limit of GBP5,000,000 per occurrence and in the aggregate.
- 14.2 Copies of Certificates of currency shall be made available at the request of the Customer.
- 15 Dispute Resolution**
- 15.1 In the event that any dispute, claim, question, or disagreement arises out of or relating to this Contract, the Parties shall use their best efforts to settle such disputes, claims, questions, or disagreements ("Dispute"). If a Dispute remains unresolved, the Party (or Parties) alleging it is aggrieved shall then give written notice to the other Party (or Parties) setting out the nature of the Dispute, how it arose and the solution it seeks to the Dispute (the "Notice of Dispute"). To this end, the Parties shall use their respective best endeavours to consult and negotiate with each other, in good faith and, recognising their mutual interests, attempt to reach a just and equitable settlement satisfactory to both Parties.
- 15.2 If a mutually satisfactory settlement is then not reached, within a period of thirty (30) days or within such further period as the Parties agree, from the date of the issue first being raised to the other Party, then, at that time, either Party may apply to the courts of England for final settlement of any dispute. Proceedings shall be conducted in the English language and shall take place in London.
- 15.3 Each Party shall bear their own costs in resolving a dispute under this clause and unless the parties otherwise agree, the parties shall bear equally the costs of any mediator engaged.
- 16 Health, Safety and Environment**
- 16.1 The parties place prime importance on health, safety and environment (hereinafter "HS&E") issues and both parties warrant that they subscribe to and actively pursues the highest standards of HS&E performance.
- 16.2 Each party shall take full responsibility for the adequacy, stability and safety of all its operations and methods necessary for the performance of the Services. Failure of a party to satisfy the other party's reasonable requirements with regard to the control of HS&E risks in any material respect will be regarded as due cause for the other party giving notice to terminate all of any part of the Services or the Contract in accordance with Clause 9.
- 17 Intellectual Property**
- 17.1 Except as expressly stated below, upon payment for the Services, title to, copyright in, the right to possession of and the free right to use of all Documents shall vest in the Customer.
- 17.2 The Customer shall retain title to all intellectual property rights, copyrights, design rights, patents and other similar invention rights in or to any of the foregoing (collectively "IP Rights") in or to all intellectual property now or hereafter owned or prepared by Customer ("Customer IP").
- 17.3 Company shall retain all rights, title, and interest in and to Company Background Technology. Customer or its clients, or Customer's other contractors and their subcontractor's shall not have any license, right to use or any other interest of whatever kind or nature in Company Background Technology, or any modifications or improvements thereto (other than the limited right to use such Company Background Technology as may be necessary for the provision of the Services). Such license shall not be sub-licensable nor shall it extend to information relating to the construction, calculation or make up for any processes or models or to the provision of native files owned or provided by the Company.
- 17.4 The Customer will save, indemnify, defend and hold harmless the Company Group from all claims, losses, damages, costs (including legal costs), expenses and liabilities of every kind and nature for, or arising out of, any alleged infringement of any patent or proprietary or protected right arising out of or in connection with the performance of the obligations of the Company under this Contract or use by the Company of technical information or materials or equipment provided by the Customer to the Company.
- 18 Confidentiality**
- 18.1 Both parties shall treat Confidential Information as valuable, proprietary and confidential information and shall not disclose it to any other third party without the prior written permission of the other party, except as permitted below.
- 18.2 Company may disclose Confidential Information to its employees, consultants, directors, officers and associated companies and sub-contractors who need to know the Confidential Information for the performance of the Services.
- 18.3 Both parties may disclose Confidential Information to professional advisors, but only to the extent necessary for the provision of professional advice needed by the party for the performance of the obligations under this Contract, and such disclosure is subject to confidentiality terms no less stringent than those within this Clause 18 .
- 18.4 A party shall not be in breach of confidentiality under this Contract if it can demonstrate that the Confidential Information:
- a) Is already in the public domain.
- b) Is required to be disclosed pursuant to any order of a court of competent jurisdiction but only for the purpose of such disclosure and to the extent required so to be disclosed.
- c) Is required to be disclosed pursuant to any a statute, law, regulation or ordinance but only for the purpose of such disclosure and to the extent required so to be disclosed.
- d) Was (at the time the party received such information from the other party) already in the possession of the receiving party free from any obligation of confidentiality and has not been acquired by the receiving party in breach of any obligation of confidentiality and
- e) Has been disclosed to the party under an express written statement from the providing party that it is not confidential.
- 18.5 The obligation on the parties to maintain confidentiality shall continue beyond the termination of this Contract for a period of five (5) years.
- 19 Tax**
- 19.1 Company is responsible for payment of all taxes and contributions, for which the Company is liable as imposed by a government authority in the UK or in any other country as may be agreed within an individual Service Order.

19.2 Customer is responsible for payment of all taxes and contributions, for which the Customer is liable as imposed by a government authority in the UK or in any other country as may be agreed within an individual Service Order, which are properly chargeable upon the Customer or its employees relating to this Contract.

20 General Terms

20.1 Save where expressly provided herein to the contrary, the failure or delay of either of the parties to insist upon strict performance of any of the provisions of the Contract shall not be construed as a waiver of its rights under the Contract.

20.2 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall only be valid if in writing and shall not be deemed a waiver of any subsequent breach or default whether of a similar nature or otherwise and shall in no way affect the other terms of the Contract.

20.3 For the avoidance of doubt, the rights and obligations under Clauses 7 and 8 of Part C shall survive the termination of the Contract for any reason whatsoever.

20.4 Company reserves the right to sub-contract any or all elements of the manufacture of the Equipment as they deem necessary. This shall not diminish any guarantees or warranties that Company may extend to Customer.

20.5 All Quotations are valid for sixty (30) days from the date of Quotation and the validity may be extended only at the Company's option.

20.6 Each provision of this Contract is severable, and if any provision is determined to be invalid, unenforceable or illegal under any existing or future law by a court, arbitrator of competent jurisdiction or by operation of any law applicable to this Contract or the Services, this invalidity, unenforceability or illegality does not impair the operation of or affect those portions of this Contract that are valid, enforceable and legal.

20.7 Except as expressly provided herein this Contract shall not create any rights or benefits to parties other than to the Company and the Customer.

20.8 The clause headings and sub-headings included in this Contract are intended for convenience only, and are not in any way to be taken account of in construing the meaning of any part of this Contract.

21 Law

The construction, validity and performance of this Contract and matters pertaining thereto will be governed in all respects by the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the English Courts.