

TERMS AND CONDITIONS OF BUSINESS

DISCOVERY DESIGN LIMITED (TRADING AS DISCOVERY DESIGN) TERMS AND CONDITIONS OF BUSINESS (v1/2017)

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 10.

1. INTERPRETATION

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.

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 8.

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 13.5.

Contract: the contract between the Supplier and the Customer for the supply of Services which includes the Order, any Specification and these Conditions.

Customer: the person or firm who purchases Services from the Supplier.

Customer Content: all content and material and Intellectual Property Rights therein which are provided by the Customer to Supplier for use in the performance of the Services.

Customer Default: has the meaning set out in clause 7.

Deliverables: the deliverables set out in the Order produced by or on behalf of the Supplier for the Customer.

Delivery Location: has the meaning set out in Clause 3.4.

Goods: the goods (or any part of them) set out in the Order.

Force Majeure Event: means an event pursuant to clause 13.1.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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.

Losses means claims, demands, actions, awards, judgments, settlements, costs, expenses, liabilities, damages and losses (including all interest, fines, penalties, management time and legal and other professional costs and expenses).

Order: the Customer's order for the supply of Goods and/or Services.

Services: the services, including the Deliverables and any Goods, supplied by the Supplier to the Customer as set out in the Specification.

Specification: a description, proposal or specification of the Services and/or Goods as may be provided in writing by the Supplier to the Customer.

Supplier: Discovery Design Limited registered in England and Wales with company number 03556279 and registered office at 5/6 Kensington, Cockton Hill Road, Bishop Auckland, Co Durham, DL14 6HX.

Supplier Materials: has the meaning set out in clause 7.1(g).

1.2. Interpretation:

(a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(b) Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

(c) A reference to **writing** or **written** includes email.

2. BASIS OF CONTRACT

2.1. The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

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. Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of the Contract or have any contractual force.

2.4. 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 trade, custom, practice or course of dealing.

2.5. 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.

2.6. All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. GOODS

3.1 The Goods are described in the Specification.

3.2 The Supplier reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

3.3 The Customer shall ensure that if the Supplier requires the Customer to return any packaging material to the Supplier, the Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

3.4 Unless otherwise agreed, the Customer shall collect the Goods from the Supplier's premises at Salvus House, Aykley Heads, Durham City, County Durham, DH1 5TS or such other location as may be advised by the Supplier before delivery (**Delivery Location**) within three Business Days of the Supplier notifying the Customer that the Goods are ready.

3.5 Delivery of the Goods shall be completed on the completion of loading of the Goods at the Delivery Location.

3.6 Any dates quoted for delivery of the Goods 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 Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate instructions that are relevant to the supply of the Goods.

3.7 If the Supplier fails to deliver the Goods, 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 Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event the Customer's failure to provide the Supplier with adequate instructions related to the supply of the Goods.

3.8 If the Customer fails to accept or take delivery of the Goods within 14 Business Days of the Supplier notifying the Customer that the Goods 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 Goods:

(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the 7 Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

(b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

3.9 If 30 Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods.

3.10 The Customer shall not be entitled to reject the Goods if the Supplier delivers up to and including 5 per cent more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.

3.11 The Supplier may deliver the Goods by instalments, which 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.

4. QUALITY OF GOODS

in order to recover them.

- 4.1 The Supplier warrants that on delivery, the Goods shall:
- (a) conform in all material respects with their description; and
 - (b) be free from material defects in design, material and workmanship;

4.2 Subject to Clause 4.3, if:

- (a) the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in Clause 4.1;
- (b) the Supplier is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

4.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in Clause 4.1 if:

- (a) the Customer makes any further use of such Goods after giving a notice in accordance with Clause 4.2;
- (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 Goods or (if there are none) good trade practice;
- (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 Goods 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;
- (f) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

4.4 Except as provided in this Clause 4, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in Clause 4.1.

4.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under Clause 4.2.

5. TITLE AND RISK

5.1 The risk in the Goods shall pass to the Customer on completion of delivery.

5.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods.

5.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods 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 11.3;
- (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

5.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in Clause 11.3 without limiting any other right or remedy the Supplier may have:

- (a) the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and the Supplier may at any time:
 - (i) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored

6. SUPPLY OF SERVICES

6.1 The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects.

6.2 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Specification, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

6.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

6.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

6.5 The Supplier shall endeavour to register any domain name (as specified in an Order) in Customer's name. However, Customer agrees that, if Customer fails to pay any charges or fees in accordance with this Contract, that Supplier shall have the right to transfer such domain name back to Supplier and Customer shall carry out any act so required by Supplier to give effect to such transfer.

6.6 If the Customer requests an Annual Advanced Website Services Package, additional terms and conditions (available from Supplier following a request from Customer) shall apply.

6.7 If applicable to the Services and set out in an Order, the Supplier may agree to submit a website to a number of search engines (such search engines to be selected at the sole discretion of the Supplier). The Supplier has no influence over which websites the search engines list and as a result the Supplier is not liable if the Customer's website is not listed or is not listed to the Customer's satisfaction. The Supplier does not and cannot guarantee any search results on any search engine.

7. CUSTOMER'S OBLIGATIONS

7.1 The Customer shall:

- (a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
- (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;
- (d) provide the Supplier with such access (for example, system access and required login details), information, photographs, manuscripts, illustrations, content, materials and any other Customer Content as the Supplier may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects (together, **Customer Materials**);
- (e) prepare the Customer's premises where required by Supplier for the supply of the Services;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
- (g) keep and maintain 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;
- (h) maintain adequate insurance cover for all Customer property, materials and Customer Content whilst in the possession of Supplier and fully indemnify Supplier on demand from and against all Losses relating to the same; upon delivery of any Deliverable(s) to the Customer, proof and check that all content in such Deliverable(s) is accurate and is otherwise in accordance with the Specification. If the Customer believes that there are any errors or inaccuracies, then Customer must immediately notify the Company in writing (and the Company shall use its reasonable endeavours to correct any such errors, subject always to the scope of the Specification). Any other changes shall be subject to additional charges by Supplier; and
- (i) comply with any additional obligations as set out in the Specification.

- 7.2. The Customer: (i) shall obtain all necessary clearances, licences and consents with respect to the Customer Materials; (ii) shall ensure that the Customer Materials are compliant with all applicable laws and regulations (including any advertising codes); and (iii) warrants that the use of Customer Materials by Supplier shall not infringe any third party Intellectual Property Rights. Customer shall on demand indemnify Supplier from and against all Losses incurred by Supplier arising out of or in connection with Customer's failure to comply with this clause 7.2.
- 7.3. 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) the Supplier shall without limiting its other rights or remedies 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 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 7.2; 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.
- 8. CHARGES AND PAYMENT**
- 8.1. The Charges for the Services shall be on a time and materials basis and:
- (a) the Charges shall be calculated in accordance with the Supplier's standard hourly fee rates, as made available by Supplier to Customer;
- (b) the Supplier's standard hourly fee rates for each individual are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days;
- (c) shall be subject to a minimum charge which shall be equal to the amount chargeable for one hour of Services at the Supplier's then standard hourly fee rates (plus VAT), as made available by Supplier to Customer; 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, but not limited to, 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. For the avoidance of doubt, if any changes to third party technologies result in the Customer requiring additional work or Services or any other changes or modifications to the Deliverables (together, "**Modifications**"), then Supplier shall be entitled to charge the Customer for any such Modifications as agreed with Customer in writing or otherwise at the Supplier's standard hourly fee rates.
- 8.2. The Supplier reserves the right to:
- (a) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods 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 other manufacturing costs);
- (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification for such Goods; or
- (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods; and
- (b) increase its standard hourly fee rates.
- 8.3. Unless stated otherwise in a Specification: in respect of Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery; and in respect of Services, the Supplier shall invoice the Customer upon or following completion of the Services.
- 8.4. The price for Goods shall be the price set out in the Order. The price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by the Customer when it pays for the Goods.
- 8.5. The Customer shall pay each invoice submitted by the Supplier:
- (a) if the Customer is paying for Services on a monthly basis (or otherwise in agreed instalments), within 7 days of the date of the invoice;
- (b) if the Customer is paying for Goods or Services on completion of delivery of the Goods or completion of the Services (as appropriate), within 28 days of the date of the invoice;
- (c) 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.
- 8.6. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**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 at the same time as payment is due for the supply of the Services.
- 8.7. If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per cent per annum above Barclays Bank PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 8.8. The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 9. INTELLECTUAL PROPERTY RIGHTS**
- 9.1. All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.
- 9.2. The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 9.3. All Supplier Materials and any and all source code relating to the Services and/or the Deliverables are the exclusive property of the Supplier. Further, the Customer acknowledges that it shall not have the right to access any such source code nor Supplier's systems and servers (whether hosted by Supplier or a third party) which shall, as between Customer and Supplier, remain under the exclusive control of Supplier.
- 9.4. The Customer grants to Supplier a non-exclusive, worldwide, non-assignable, non-sub-licensable, royalty-free licence to use the Customer Content for the purposes of performing its obligations under this Contract.
- 9.5. The Customer shall not, except as expressly permitted in this Contract: (i) modify, translate, create or attempt to create derivative copies of or copy any software or the Deliverables in whole or in part; (ii) reverse engineer, decompile, disassemble or otherwise reduce the object code of any software to source code form; (iii) distribute, sub-licence, assign, share, timeshare, sell, rent, lease, transmit, grant a security interest in or otherwise transfer any software or the Deliverables or the Customer's right to use the software or the Deliverables.
- 10. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**
- 10.1. Nothing in the Contract shall limit or exclude the Supplier's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet

possession) or any other liability which cannot be limited or excluded by applicable law;

- (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (e) defective products under the Consumer Protection Act 1987.

10.2. Subject to clause 10.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- (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) any loss suffered as a result of connectivity issues (or other server downtime) where such issues are not within the reasonable control of Supplier;
- (g) loss of damage to goodwill; and
- (h) any indirect or consequential loss.

10.3. Subject to clause 10.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to 100% of the total Charges paid under the Contract.

10.4. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

10.5. This clause 10 shall survive termination of the Contract.

11. TERMINATION

11.1. Customer may terminate the Contract (or an Order pursuant to the Contract) by giving Supplier one calendar months' written notice, such notice to expire no earlier than the following billing period (as set out in the Specification or as otherwise determined by Supplier). If the Customer so terminates the Contract or an Order, the Supplier shall not be required to refund any Charges or other monies paid or payable by Customer for the Services.

11.2. Without limiting its other rights or remedies, Supplier may terminate the Contract or an Order at any time with immediate effect by giving written notice to Customer without liability to Customer (subject to clause 10.1). If the Customer makes any payments to Supplier in advance and Supplier terminates the Contract or an Order pursuant to this clause 11.2, Customer shall be entitled to a pro-rata refund for the period following termination for which the Supplier received payment.

11.3. Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) 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), 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;
- (b) 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; or
- (c) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

11.4. Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than five (5) Business Days after being notified to make such payment.

11.5. Without limiting its other rights or remedies, the Supplier may suspend provision of the Services or further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 11.3(b) to clause 11.3(c) or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer

fails to pay any amount due under this Contract on the due date for payment.

12. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Supplier shall be entitled to cease providing all Services and Goods to Customer;
- (b) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (c) the Customer shall return all of the Supplier Materials and any Deliverables and Goods which have not been fully paid for. If the Customer fails to do so, 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;
- (d) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (e) clauses which expressly or by implication survive termination shall continue in full force and effect.

13. GENERAL

13.1. **Force majeure.** Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract ("**Event**") if such Event results from events, circumstances or causes beyond its reasonable control, including (in the case of the Supplier), if a third party supplier causes an Event or causes the Supplier to suffer an Event.

13.2. **Assignment and other dealings.**

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

13.3. **Confidentiality.**

- (a) Each party undertakes that it shall not at any time during the Contract, and for a period of three years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.3(b).
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

13.4. **Entire agreement.**

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous contracts, agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

13.5. **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.6. **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

- (a) waive that or any other right or remedy; or
- (b) prevent or restrict the further exercise of that or any other right or remedy.

13.7. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

13.8. **Notices.**

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier or email.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.8(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by or email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13.9. **Third parties.** No one other than a party to the Contract shall have any right to enforce any of its terms.

13.10. **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.

13.11. **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.