



Leica Geosystems Ltd
 Davy Avenue
 Knowlhill, Milton Keynes,
 Bucks, MK5 8LB

Tel/ Fax: +44 1908 256500
 E-Mail: smart.net@leica-geosystems.com
 Website: www.leica-geosystems.com

Leica Smart Net Service Level Agreement one per Licence

CUSTOMER DETAILS (Please complete fully and in capital letters)

Company Name: _____ Address: _____ _____ _____ VAT No: _____	Contact Name: _____ Phone - Office: _____ Phone - Mobile: _____ Fax: _____ E-mail Address: _____ Company Registration _____
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PAYMENT METHOD (Please select a payment method)

<input type="checkbox"/> Invoice/Purchase Order <input type="checkbox"/> Credit Card Payment

RECEIVER DETAILS

Brand Name: _____	Model: _____
Serial Number: _____	*Firmware Version: _____

**It is the customer's responsibility to ensure that firmware versions are up to date for Network RTK corrections.*

REGISTRATION DETAILS (Please select an option)

Register Own Sim: <input type="checkbox"/>	Request Sim: <input type="checkbox"/>
*Annual low user RTK	£1,200 (max 40hrs p/month)
**Annual low high user RTK	£2,000 (unlimited)
<input type="checkbox"/> RTK Mobile No: _____	Price £ _____
Annual low user DGPS	£450 (max 40hrs p/month)
Annual high user DGPS	£750 (unlimited)
<input type="checkbox"/> DGPS Mobile No: _____	Price £ _____
Multiple Licence Discount 5%	
Starting Date (dd/mm/yy): _____	Expiration Date (dd/mm/yy): _____
<p><i>* A review of low user RTK usage will be made after the 1st quarter of the contract. Should usage be higher than 40hrs per month, an additional charge of £1,000 will be incurred to transfer to the high user subscription for the remainder of the contract.</i></p> <p><i>** Customers agree to sign up to the high user RTK for a minimum period of 12 months.</i></p>	

This quotation is given subject to Leica's terms and conditions of contract, which are attached. No other terms will be accepted. The customer may place an order with Leica Geosystems Limited by signing, dating and sending this quotation to the fax number, which appears below.

No binding contract shall be formed until Leica have advised in writing that it has accepted an order from the customer

The customer hereby agrees to be bound by the terms and conditions of Leica Geosystems Limited.

Name: _____ **Date:** _____

Company: _____ **Signature:** _____

Name: _____ **Signature:** _____

On behalf of Leica Geosystems **Date:** _____

Between:

(1) Leica Limited (Leica)

(2) [Company name][a company registered in England and Wales or Scotland (company registration number [insert number]),] whose registered office is at [address] **(Company).**

(3) Background

A Leica has access to a national reference station infrastructure across Great Britain, based on Global Navigation satellite Systems (GNSS). The main infrastructure is provided by Ordnance Survey and is termed as OS Net. OS Net reference stations collect real time GPS position observations. These observations are then made available in Leica Binary 2 (LB2), Radio Technical Commission for Maritime Services (RTCM) or some other format **The OS Net feed from this national reference station infrastructure, is used with Leica solely owned SpiderNet software, to generate national GNSS networked products to end users, The national GNSS network provided by Leica is termed as Smart Net.**

B Leica and the Company agree to enter into this framework agreement so as to grant the Company the right to access and use Smart Net pursuant to the terms of Contracts which the parties may execute from time to time.

Operative Terms:

1 Definitions and interpretations

Business Day means any day on which banks in England and Wales are open for business excluding Saturdays, Sundays and public holidays.

Communications Provider means Energis Communications Limited company number 02630471 registered office address: 185 Park Street, LONDON, SE1 9DY or any other communications provider advised by Leica to the Company from time to time.

Confidential Information means the terms and conditions of this Agreement, the terms and conditions of any Contract and any information that relates to the affairs of one party to this Agreement and that is acquired by the other party in anticipation of or as a result of this Agreement. This excludes information which is in the public domain other than through the breach of any duty of confidentiality.

Contract means a contract signed by an authorised signatory of each party, containing terms between the parties relating to the specific use of the Smart Net Feed in respect of the GNSS End-user Services which incorporates by reference the terms of this Agreement.

Contract Year means each period of four (4) complete Quarters.

Disclosing Party means the party disclosing Confidential Information. GPS Global Positioning System, which is operated by the United States Department of Defense, which are solely responsible for the accuracy, daily operation and maintenance of the satellites. GNSS Global Navigation Satellite System, which incorporates signals from all global systems i.e GPS (US), GLONASS (Russian) and any future developments in satellite navigation that is adopted by Leica LTD.

DGNSS means Real Time Data derived from the use of the GNSS L1 and Code observables (and additionally in some instances the Phase observable (as commonly understood in the context of GNSS signals)). The observation epoch for these GNSS observations will be one (1) second.

Effective Date means the date specified at the beginning of this Agreement and if no date is so specified then the date this Agreement is executed by the second in time of both parties.

End-user means a customer of the Company who is a user of the GNSS End-user Services pursuant to a relevant Contract.

First Contract Year means the period commencing on a Relevant Commencement Date and ending on the expiry of four (4) complete Quarters thereafter.

GNSS End-user Services means the Real Time Data provided by the Company to an End-user pursuant to a relevant Contract.

Intellectual Property Rights means copyright, patent, trade mark, design right, topography right, database right, trade secrets, know-how, rights of confidence, broadcast rights and all other similar rights anywhere in the world whether or not registered and including applications for registration of any of them.

Subscription Fee means the amount the Company shall pay for the use of and access to Smart Net specified in and pursuant to each Contract.

Link means a commercial data communications line between the Company and the Communications Provider to access the Smart Net Feed pursuant to Clause 5.

Minimum Subscription Fee means the minimum Subscription fee for each Contract Year, if any, stated in each Contract which shall be paid to Leica by the Company in full following receipt by the Company of an invoice for the same (unless otherwise stated in that Contract) and shall be treated as a recoupable advance against the Subscription Fee due in each Contract Year for that particular Contract. For the avoidance of doubt, Subscription Fees under one Contract shall not be cross collateralised with minimum Subscription fees due under any other Contract and minimum Subscription fees for each Contract year may only be recouped against Subscription Fees payable in the same Contract Year.

Notice means a Price Change Notice, a Review Notice, a Variation Notice and/or any other communication required to be given by one party to the other under this Agreement and/or any Contract.

Price Change Notice means the notice from Leica to the Company setting out any increase of the Subscription Fee (other than a RPIX price increase) including, without limitation, applicable discounts which are expressed by reference to a monetary value payable under each Contract and/or the Minimum Subscription Fee payable under this Agreement and/or under each Contract.

Quarter means a three (3) month period starting on 1 January, 1 April, 1 July or 1 October.

Real Time GNSS Data means improved positional accuracy gained through RTK and/or DGNSS, which are derived using the OS Net Feed.

Ordnance Survey is the national mapping agency for Great Britain and are the owners of the OS Net reference stations and exclusive GPS data feed to Leica.

Recipient means the party receiving Confidential Information.

Relevant Commencement Date means the commencement date specified in each applicable Contract.

means the notice from Leica to the Company requesting a review of a particular Contract. Such notice shall state the representatives of each party required to attend the review meeting along with the time, date and location of the review meeting.

Review Notice

RPIX means the all items retail price index excluding mortgage interest payments published by the government of the United Kingdom.

RTK means Real Time Kinematic Data derived from the use of the GNSS L1, L2 code and phase observables. The observation epoch for these GNSS observations will be one (1) second.

Smart Net means the GNSS network correction infrastructure, and service provided by Leica.

Trade Marks means the Leica trade marks specified in the applicable Contract.

Variation Notice means the notice from Leica to the Company setting out any variations (other than those contemplated under Clause 12.2) Leica may specify in its sole discretion.

1.1 Headings are inserted for convenience only and shall not affect the interpretation of any provision of this Agreement or the Contracts.

1.2 Unless the contrary intention appears, words importing the masculine gender shall include the feminine and vice versa and words in the singular include the plural and vice versa in this Agreement and all Contracts.

1.3 A reference to any statute or statutory provision in this Agreement or the Contracts includes a reference to that statute or statutory provision as amended, extended or re-enacted from time to time.

1.4 Any reference to a party shall mean a party to this Agreement.

1.5 The Company acknowledges that, apart from the Company itself, no person, firm, company or other organisation (including, without limitation, any company or organisation which is under common or partly under common ownership with the Company) shall have any rights whatsoever under this Agreement or the Contracts to which the Company is a party.

2 This Agreement and the Contracts

2.1 The purpose of this Agreement is to set out the obligations of Leica and the Company and to provide the framework for the non-exclusive, non-transferable and revocable access and use of the Smart Net for the purpose of allowing the Company to develop, market and provide GNSS End-user Services.

3 Term

3.1 This Agreement shall commence on the Effective Date and shall remain in force thereafter unless or until terminated in accordance with this Clause 3 or Clause 10.

4 Company's warranty and Reservation of rights

4.1 The Company represents and warrants to Leica that it has the ability to carry out the obligations assumed by it under this Agreement and all Contracts and that by virtue of entering into this Agreement and all Contracts, it is not and will not be in breach of any express or implied obligation to any third party binding upon it.

5 Access to Smart Net

5.1 The Company shall arrange (at its own cost and risk) a Link with the Communications Provider for the purpose of accessing Smart Net.

5.2 Leica reserves the right to modify, enhance or make additions to Smart Net in any way whatsoever as Leica may in its discretion decide but shall not be obliged to do so. Leica agrees to give the Company not less than three (3) months' notice of any change in the format of the observations of the Smart Net that Leica deems will result in the Company being unable to access the Smart Net pursuant to this Agreement.

5.3 Whilst the OS Net Feed currently relies on GPS, Leica reserves the right to use additional or alternative global navigation satellite systems at its own discretion, therefore creating a full GNSS service.

5.4 Leica will provide the Company with a list of all reference station coordinates, which may be amended from time to time by Leica at its sole discretion.

6 Conditions of Use

6.1 The Company shall not grant any End-user access to Smart Net.

6.2 All Smart Net End-user Services created by the Company must be geospatially coordinated with reference to the Leica realisation of the European Terrestrial Reference System (ETRS89) as the reference datum. This reference system is described at <http://lareq.ensq.ign.fr/EUREF/> and a full set of OS Net base station coordinates will be made available to the Company. Leica agrees to give the Company one (1) week's notice prior to changing any OS Net base station coordinates and/or changing the number of OS Net base stations. The Company undertakes to incorporate and reflect such changes in the GNSS End-user Services and in respect of its own or third party base stations under Clause 7.1.5 within two (2) weeks of Ordnance Survey's notice.

6.3 The company acknowledges that accuracies are fully dependent upon the company's GPS/GNSS receiver, company's location, satellite geometry & availability and that no guarantee of accuracy is given by Leica.

6.4 The company acknowledges that the service may be interrupted, or the validity of data may be affected, by local conditions such as blockages of signal, interference, the availability of GSM/GPRS via the company's designated communications provider or other phenomenon.

7 Company responsibilities

7.1 The Company shall:

7.1.1 be responsible for establishing and maintaining a Link with the Communications Provider to access and receive Smart Net.

7.1.2 keep the Link in the Company's exclusive possession and control.

7.1.3 subject to Clause 7.1.8 below, keep Smart Net confidential and not disclose the features, capabilities or contents of Smart Net to any third party.

7.1.4 except to correct the data from Smart Net pursuant to a Contract or as expressly provided in this Agreement (specifically under Clause 13.2), not use, reproduce, dispose of, deal with, rent, lease, sub-licence, loan, modify, adapt, reverse engineer or disassemble the whole or any part of Smart Net or any information derived from Smart Net.

7.1.5 use its best endeavours to ensure that it uses all adequate technological and security measures including, without limitation, such measures as Leica may reasonably recommend from time to time, to ensure that the Link and Smart Net is secure from unauthorised use or access and is only used in accordance with the terms of this Agreement. The company is strictly prohibited from re-transmitting the Smart Net service in any way.

7.1.6 at all times indemnify and keep indemnified Leica against all and any costs, claims, damages or expenses incurred by Leica or for which Leica may become liable with respect to any unauthorised use of Smart Net arising as a result of any action or inaction on the part of the Company.

7.1.7 not use or grant access to Smart Net in any way or for any way or for any purpose other than those expressly permitted by this Agreement or a relevant Contract.

7.1.8 use all reasonable endeavours to promote Smart Net as part of the GNSS End-user Services and shall provide Leica with a free copy, for its own internal reference, of all new promotional material on request.

7.2 The Company hereby understands and acknowledges that Smart Net and any related GNSS End-user Services are not, and nor are they intended, to be used for any safety critical or safety related use or application and shall not use the Smart Net in such way.

7.3 For the avoidance of doubt, Clause 7.2 means that Smart Net and any related GNSS End-user Services are not, and nor are they intended, to be used in any system where the conditions, operation, control or performance of that system is reliant upon any aspect of Smart Net or any related GNSS End-user Services.

8 Intellectual Property Rights

8.1 The Company shall not acquire any rights in OS Net except as expressly provided in this Agreement and shall not acquire any rights in any Data processing and/or correction methods employed by the Company.

9 Subscription Fee

9.1 A Subscription Fee is due and payable to Leica on the provision of GNSS End-user Services by the Company in accordance with the terms of each Contract. Subscription Fees are due whether or not the Company has received any payment in respect of such Smart Net End-user Services. No allowance will be made by Leica for any discounts given by the Company.

9.3 Leica shall invoice the Company for the Minimum Subscription Fee due at any time on or after the commencement date of each Contract Year under a Contract (and, for the avoidance of doubt, may re-invoice in order to take account of Clause 12.1 and/or 12.2 and/or 12.4). The Company shall pay the Minimum Royalty in accordance with Clause 9.6.

9.4 Where the First Contract Year is longer in duration than twelve (12) months then within thirty (30) days following the last day of the First Contract Year

Leica shall calculate the pro rata daily sum due in respect of the excess days and add this sum to the Minimum Subscription Fee specified above in respect of the First Contract Year and shall use this figure as the Minimum Subscription Fee due in respect of the First Contract Year when calculating the sum due to Leica at the conclusion of the First Contract Year, which in all other respects shall be calculated in accordance with Clause 9.5 below.

9.5 Within thirty (30) Business Days following the last day of each Contract Year Leica shall calculate the total Subscription Fee due from the Company since the commencement of that Contract Year and to the extent that the Subscription Fees due in that Contract Year are less than the Minimum Subscription Fee due for that Contract Year Leica shall issue the Company with an invoice representing the shortfall (if any). If however the Subscription Fees due exceeds the Minimum Subscription Fee due then Leica shall invoice the Company for the Subscription Fee due.

9.6 The Company shall pay all invoices in pounds sterling within thirty (30) Business Days of the invoice date without deduction or set-off. Leica reserves the right to charge interest at two per cent (2%) per annum above the base rate of the Bank of England, calculated and applied daily on any outstanding balances until payment is received, whether before or after judgment.

9.7 The Company shall pay VAT and any other applicable taxes at the rate prevailing at the date of the invoice.

9.8 Notwithstanding anything herein contained or implied, Leica may set-off any amount or amounts which would otherwise be payable or owing by Leica to the Company under or pursuant to this Agreement against all monies, debts or liabilities due or owing by the Company to Leica unless and until the Company has paid, satisfied or discharged all such monies, debts and liabilities and has satisfied all of its other obligations to Ordnance Survey. The Company hereby irrevocably authorises Leica to deduct from any monies otherwise payable by Leica to the Company hereunder or pursuant to this Agreement any monies or the amount of any debts or liabilities due or owing or to become due or owing by the Company to Leica and to retain any monies or amounts to be deducted for Ordnance Survey's own absolute benefit.

9.10 In the event that the Subscription Fee due to Leica is equal to a sum less than the nearest £0.01 Leica reserves the right to round the same up to the nearest £0.01.

10 Termination

General

10.1 This Agreement or any Contract may be terminated by Leica on giving the Company twelve (12) months' written notice. Where withdrawal of the Smart Net is deemed necessary by Leica as a result of the exercise of rights by a third party or Ordnance Survey's reasonable anticipation of the exercise of such rights, the provisions of this Clause 10.1, requiring not less than twelve (12) months' notice to be provided by Leica to the Company, shall not apply.

10.2 This Agreement or an affected Contract may be terminated by the Company in the event that the variation under a Variation Notice and/or any price increases under a Price Change Notice pursuant to Clause 12.1 and/or 12.2 are not accepted by the Company. To terminate under this Clause 10.2, the Company must give Leica 30 Business Days' written notice within 30 Business Days of the Company's receipt of the Variation Notice under Clause 12.1 and/or the Price Change Notice under 12.2. In such an event, the Company shall be entitled to a rebate, which will be fair and reasonable in relation to any unexpired period of the term of an affected Contract.

10.3 This Agreement or any Contract may be terminated immediately by one party on giving written notice:

10.3.1 if the other party is in breach of any of the terms of this Agreement or any Contract and such breach is incapable of being remedied;

10.3.2 if the other party is in breach of any of the terms of this Agreement or any Contract and the breach, being remediable, is not remedied within thirty (30) Business Days

from the date of a written request to do so provided that, where the Company has committed such breach, until any such breach has been remedied the Company shall comply with all reasonable requests from Leica to prevent any further similar breaches of the terms of this Agreement or any Contract including, without limitation, requests to prevent any unauthorised use of the Smart Net;

10.3.3 if the other party commits three (3) successive or concurrent breaches of this Agreement or any Contract during any twelve (12) month period, whether or not such breaches are remedied within any required period;

10.3.4 if the other party discloses Confidential Information of the first party or authorises use of the first party's Intellectual Property Rights to an unauthorised third party; or

10.3.5 if the parties are in dispute over any rights in or use of Intellectual Property Rights or Confidential Information.

Termination Rights without Notice Period

10.4 Leica may terminate this Agreement or any Contract with immediate effect on giving written notice to the Company in the event that the Company:

10.4.1 is unable to pay its debts within the meaning of Section 123 of the *Insolvency Act 1986*;

10.4.2 ceases to carry on business;

10.4.3 has a receiver, administrative receiver, administrator or similar officer appointed over all or any part of the assets or undertaking of the Company;

10.4.4 makes an assignment for the benefit of, or a composition with, its creditors generally or another arrangement of similar import;

10.4.5 goes into liquidation or is the subject of a winding up order otherwise than for the purposes of a bona fide amalgamation or reconstruction; or

10.4.6 undergoes any process similar to the matters referred to in Clauses 10.4.3 and 10.4.5 in any jurisdiction other than that of the UK.

11 Effects of termination

In the event of termination or expiry of this Agreement:

11.1 any accrued rights and remedies of either party will not be affected;

11.2 the Company shall immediately disconnect from the Link and cease accessing the Smart Net and destroy all copies of materials relating to the Smart Net in the Company's possession or control and certify to Leica that this has been completed. In the event of termination or expiry of a Contract:

- 11.4 the accrued rights and remedies of the parties will not be affected;
- 11.5 all rights in respect of Smart Net and the provision of GNSS End-user Services granted by the Company to its End-users in respect of such Contract shall hence forth cease;
- 11.6 the Company shall immediately cease providing the GNSS End-user Services applicable to that Contract; and
- 11.7 each party shall comply with its obligations (if any) in relation to termination set out in the Contract.
- 12 Review and variation**
- 12.1 Leica may serve a Price Change Notice on the Company at any time, but no more than once in each Contract Year of each Contract, by giving the Company not less than 30 Business Days' notice. Such increases shall be deemed accepted by the Company and immediately incorporated into this Agreement unless the Company terminates this Agreement or an affected Contract in accordance with Clause 10.2.
- 13 Warranties and Liability**
- 13.1 Leica warrants that it has full right, title and authority to enter into this Agreement and to grant the rights granted under this Agreement.
- 13.2 Smart Net has not been created for any particular customer's or the Company's requirements, whether operationally, functionally, technically, accurately or otherwise. It is the Company's responsibility to ensure that Smart Net is fit for the Company's or its customers' intended use or purpose.
- 13.3 Leica gives no warranty or undertaking as to the uninterrupted continuity of Smart Net (whether in whole or in part). Nor does Leica warrant that the Smart Net is free from faults or defects.
- 13.4 Leica accepts no responsibility or liability whether in contract, tort (including negligence) or otherwise for any loss or damage of any nature arising :
- 13.4.1 any use of Smart Net or Link;
- 13.4.2 any interruption or failure (in whole or part) of any electronic transmission of the Smart Net or Link.
- 13.4.3 any interruption, failure or unavailability or otherwise (in whole or part) of GNSS (or interruption, failure or unavailability of the Smart Net as a result of the same).
- 13.5 Leica excludes, to the fullest extent permissible by law and except as expressly stated in this Clause 13, all warranties, conditions, representations or terms, whether express or implied by common law, statute or otherwise including, but not limited to, any regarding the accuracy, compatibility, fitness for purpose, performance, satisfactory quality or use of Smart Net or Link.
- 15 Events outside anyone's control**
- 15.1 Save for any payment obligation due hereunder, neither party will be responsible for any delay or failure in carrying out obligations under this Agreement and any applicable Contract if the delay or failure is caused by circumstances beyond the reasonable control of the affected party. In such circumstances the affected party will notify the other of any such likelihood as soon as possible. The affected party (or parties) shall be allowed a period of thirty (30) Business Days to carry out its obligations in these circumstances following which time the provisions of Clause 10.3.2 shall apply.
- 16 Confidentiality**
- 16.1 Each party agrees (as Recipient):
- 16.1.1 to use Confidential Information only for the purposes of discussions between the parties relating to their business relationship, and for performing the Recipient's obligations and in accordance with the Recipient's rights under this Agreement or any applicable Contract;
- 16.1.2 to keep all Confidential Information secure, and to disclose it only to those employees, consultants, directors and professional advisers who are directly involved in this Agreement and who are subject to at least the same obligations of confidentiality in relation to the Confidential Information as the Recipient;
- 16.1.3 to notify the Disclosing Party without delay of any unauthorised use, copying or disclosure of the Confidential Information of which it becomes aware and provide all reasonable assistance to the Disclosing Party to stop such unauthorised use and/or disclosure;
- 16.1.4 that Confidential Information shall at all times remain the property of the Disclosing Party. Other than as set out elsewhere in this Agreement and any applicable Contract, no licence of any Intellectual Property Rights is granted by any disclosure of Confidential Information. Confidential Information may not be copied or reproduced by the Recipient without the Disclosing Party's prior written consent, and any permitted copies are also Confidential Information; and
- 16.1.5 except as required by law or by governmental or regulatory requirements, not to disclose Confidential Information to any third parties without the Disclosing Party's prior written consent.
- 16.2 The obligations in this Clause 16 do not apply to any information which the Recipient can demonstrate was previously known to it (unless acquired directly from the Disclosing party or subject to any obligation of confidentiality), or independently developed by it without the use of any Confidential Information.
- 16.3 Neither party may divulge directly or indirectly to the press or any other third party, other than its professional advisers and where it is required by law so to do, details of this Agreement or any applicable Contract or of any dispute between the Company and Leica or (in the case of the Company) between Leica and a third party.
- 17 Data Protection**
- 17.1 For the purposes of this Clause 17 Data Protection Legislation shall mean all current data protection legislation, including (without limitation) the *Data Protection Act 1998* and any orders made or codes of practice issued under it and the *Privacy and Electronic Communications Regulations 2003*.
- 17.2 If the Company provides Leica with any personal data (as defined in the Data Protection Legislation), the Company warrants that such data was obtained and is supplied to Leica in compliance with the Data Protection Legislation.
- 17.3 Leica shall retain any such personal data which the Company provides, in order for Leica to meet its obligations under this Agreement and/or to offer the Company other Leica goods and/or services. The Company acknowledges that Leica may make offers to the Company in respect of such goods and/or services, unless the Company notifies Leica in writing to the contrary, which the Company may do at any time.
- 18 Assignment, Subcontracting and Sublicensing**
- 18.1 The Company shall not be entitled to assign or subcontract any of its rights or obligations under this Agreement or any applicable Contract or appoint any agent to perform such obligations without Ordnance Survey's prior written consent, such consent not be unreasonably withheld.
- 18.2 Leica shall be entitled to assign, transfer or novate the benefits and obligations of this Agreement.
- 19 Partnership, Joint Venture and Agency Excluded**
- 19.1 Nothing in this Agreement or any applicable Contract or any circumstances associated with it or its performance gives rise to any relationship of agency, partnership or employer and employee between Leica and the Company.
- 20 Entire Agreement**
- 20.1 The parties agree that this Agreement and any documents referred to in it constitute the entire agreement and understanding between the parties concerning the subject matter of this Agreement. This Agreement supersedes all understandings, representations and agreements made between the parties concerning such subject matter. However neither party seeks to exclude or limit liability for any fraudulent misrepresentations.
- 21 Waiver**
- 21.1 The waiving (which must be in writing and signed by an authorised representative of the relevant party) on a particular occasion by either party of rights under this Agreement or any applicable Contract does not imply that other rights will be waived.
- 21.2 If a party has a right arising from the other party's failure to comply with an obligation under this Agreement or any applicable Contract and delays in exercising or does not exercise that right, such delay in exercising or failure to exercise is not a waiver of that right or any other right.
- 22 Severability**
- 22.1 Each term of this Agreement and each applicable Contract is a separate term and is intended to stand alone. Should any provision of this Agreement or any applicable Contract be held to be invalid or unenforceable, such provision shall be severed from the remainder of this Agreement or any applicable Contract, which will continue to be valid and enforceable to the fullest extent permitted by law.
- 23 Notices**
- 23.1 Any Notice shall be given in writing by sending the Notice by either prepaid first-class post; facsimile; or delivery by hand to the address/ noted at the head of this agreement or such other contact details as either party shall notify to the other in writing (in accordance with this Clause 24).
- 23.2 Any Notice sent by prepaid first-class post or recorded delivery shall be deemed to have been served 2 Business Days after posting. Any Notice sent by facsimile shall be deemed to have been served on the next Business Day following sending, provided that electronic confirmation of transmission has been received. Any Notice delivered by hand shall be deemed to have been served on the same day if received before 4.00 pm on a Business Day, or on the next Business Day if received after 4.00 pm.
- 24 Contracts (Rights of Third Parties) Act 1999**
- 24.1 A person who is not a party to this Agreement or any applicable Contract has no right under the *Contracts (Rights of Third Parties) Act 1999* to enforce or enjoy the benefit of any terms of this Agreement or any applicable Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 25 Jurisdiction and governing law**
- 25.1 This Agreement and all Contracts will be governed by and construed in accordance with English law and the parties hereby submit to the non exclusive jurisdiction of the English courts.