



PLAYERDATA LIMITED

**TERMS AND CONDITIONS FOR THE SUPPLY AND SUBSCRIPTION
OF SERVICES AND HARDWARE TO CLUBS**

PLAYERDATA LIMITED – TERMS AND CONDITIONS FOR THE SUPPLY AND SUBSCRIPTION OF SERVICES AND HARDWARE TO CLUBS

These Terms and Conditions (“Terms,” “Conditions” or “Agreement”) is entered into by and between PlayerData Limited, a company incorporated and registered in Scotland with company number SC571960 whose registered office is at 101 George Street, Edinburgh, EH2 3ES (“PlayerData”) and YOU, an organization or individual acting on behalf of the organization names on the Order Confirmation (“Customer”). PlayerData and Customer agree that the following terms and conditions will apply to the services provided under this Agreement and Orders placed thereunder. PlayerData and Customer may hereafter be referred to individually as a “Party” or collectively as the “Parties.”

Recitals

WHEREAS, PlayerData develops and provides software, hardware and applications related to the tracking and analysis of athletic performance;

WHEREAS, Customer wishes to utilize PlayerData Software, Hardware, and Services; and

WHEREAS, PlayerData and Customer wish to enter into a business relationship upon the terms and conditions hereinafter contained;

NOW, THEREFORE, in consideration of the covenants and agreements herein set forth, the Parties agree as follows:

1. INTERPRETATION

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

1.1. Definitions:

“**Additional Services**” means the additional services set out in the Order Confirmation;

“**Agreement**” means the contract between PlayerData and the Customer for the supply of and subscription for the Services and the Hardware in accordance with these Conditions and the Order Confirmation.

“**Authorized Users**” means those players, members or other users of the Customer who are authorized by the Customer to use the Services;

“**Business Day**” means a day, other than a Saturday, Sunday or public holiday in Scotland, when banks are open for business;

“**Business Hours**” means the period from 9:00 am GM to 9:00 pm GMT on any Business Day;

“**Charges**” means the sums payable for the Services and the hire of the Hardware, as set out in the Order Confirmation and as may be increased by PlayerData from time to time in accordance with Clause 9.2;

“**Commencement Date**” has the meaning given in Clause 2.3;

“**Conditions**” means these terms and conditions as amended from time to time in accordance with Clause 18;

“**Control**” shall be defined the Party executing this Agreement or that Party’s parent, subsidiaries, affiliates, officers, agents, employees, successors and assigns who may control

all or substantially all of the Party's business;

"Customer" means the person or firm who purchases the Services and hires the Hardware from PlayerData as set out in the Order Confirmation.

"Data Processing Agreement" means the data processing agreement set out at <https://storage.googleapis.com/playerdata-legal/Data%20Processing%20Agreement%20-%20EDGE%20for%20Teams.pdf>.

"Data Protection Legislation" means: (i) all applicable data protection and privacy legislation in force from time to time in the UK and US including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; and (ii) all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications);

"Delivery" means the transfer of physical possession of the Hardware to the Customer at the location agreed between the parties;

"Extended Term" shall have the meaning given to it in the Order Confirmation;

"Hardware" means the wearable technology equipment owned by PlayerData and hired to the Customer, including all substitutions, replacements or renewals of such equipment and all related accessories, manuals and instructions provided for it;

"Initial Term" shall have the meaning given to it in the Order Confirmation;

"Intellectual Property Rights" means all intellectual property rights, including patents, utility models, rights to inventions, copyrights, moral rights, trademarks and service marks, business names, domain names, trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Order" means the Customer's order for the Services and the Hardware, as set out in the online order form submitted by the Customer via the Website, or the Customer's written acceptance of PlayerData's quotation, as the case may be;

"Order Confirmation" means the order confirmation email sent by PlayerData to the Customer which sets out PlayerData's formal acceptance of the Order submitted by the Customer, provided that the same may be amended, supplemented or replaced from time to time by agreement in writing between the parties in accordance with Clause 18.2;

"PlayerData" means PlayerData Limited, a company incorporated and registered in Scotland with company number SC571960 whose registered office is at C/O Forrit, Waverley Gate, 2-4 Waterloo Place, Edinburgh, EH1 3EG;

"Services" means the subscription services as set out in the Order Confirmation;

"Software" means the EDGE Analyst software applications provided by PlayerData as part of the Services;

"UK GDPR" has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018; and

“VAT” means value added tax chargeable in the UK;

“Virus” means any thing or device (including any software, code, file or program) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any program or data, including the reliability of any program or data (whether by re-arranging, altering or erasing the program or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices; and

“Website” means the website hosted by or on behalf of PlayerData situated at www.playerdata.com.

- 1.2. The terms “controller”, “processor”, “data subject”, “personal data”, “personal data breach”, “processing” and “appropriate technical and organizational measures” shall have the meanings given to them in the UK GDPR.
- 1.3. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.4. A reference to “writing” or “written” includes email.
- 1.5. Any words following the terms “including”, “include”, “in particular”, “for example” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.6. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7. A reference to a Party includes its successors and permitted assignees.

2. BASIS OF CONTRACT

- 2.1. The Order constitutes an offer by the Customer to subscribe to the Services and hire the Hardware in accordance with these Conditions. The Customer acknowledges that it is responsible for ensuring that the Order is complete and accurate.
- 2.2. After the Customer has submitted the Order, PlayerData shall issue an email to the Customer to confirm that PlayerData has received the Order. The Customer acknowledges that: (i) this email does not constitute an acceptance of the Order; and (ii) PlayerData’s acceptance of the Order will only take place as described in Clause 2.3.
- 2.3. The Order shall only be deemed to be accepted when PlayerData issues a written Order Confirmation to the Customer at which point and on which date the Agreement shall come into existence (“Commencement Date”). The Customer acknowledges that the Agreement will relate only to those Services and Hardware confirmed in the Order Confirmation. The Customer acknowledges that the agreed units of Hardware shall be as set out in the Order Confirmation.
- 2.4. Any samples, drawings, descriptive matter or advertising issued by PlayerData, and any descriptions or illustrations contained in PlayerData’s catalogues or brochures or displayed on the Website, are issued or published for the sole purpose of giving an approximate idea of the Services and Hardware described in them. They shall not form part of the Agreement or

have any contractual force.

- 2.5. These Conditions apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.6. Any quotation given by PlayerData shall not constitute an offer, and is only valid for a period of twenty (20) Business Days from its date of issue.
- 2.7. The Customer acknowledges that the Agreement comprises the following documents:
 - 2.7.1. the Order Confirmation; and
 - 2.7.2. these Conditions.
- 2.8. If there is any conflict or ambiguity between the terms of the documents listed in Clause 2.7, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

3. COMMENCEMENT AND DURATION

The Agreement shall commence on the Commencement Date. Unless terminated earlier in accordance with Clause 14, the Agreement shall continue for the Initial Term, and shall automatically extend for the Extended Term at the end of the Initial Term and at the end of each Extended Term. The parties may agree in writing not later than one (1) month before the end of the Initial Term or the relevant Extended Term, to terminate the Agreement at the end of the Initial Term or the relevant Extended Term, as the case may be.

4. PLAYERDATA'S RESPONSIBILITIES

- 4.1. PlayerData shall use reasonable endeavors to:
 - 4.1.1. supply the Services, and if requested the Additional Services, in accordance with the Agreement in all material respects and with reasonable skill and care;
 - 4.1.2. make the Software available for twenty-four (24) hours a day, seven (7) days a week, except for during planned maintenance and unscheduled maintenance.
- 4.2. As part of the Services, PlayerData shall provide:
 - 4.2.1. training to the Customer and / or the Authorized Users on how to use and operate the Hardware and Software on a date agreed between the parties; and
 - 4.2.2. Unlimited minutes of technical support including providing additional training to Authorized Users and answering specific questions from the Customer as the use of the Software or Hardware.
- 4.3. PlayerData does not warrant that the Customer's use of the Services will be uninterrupted or error-free, or that the Services obtained by the Customer will meet the Customer's requirements at all times, provided that PlayerData will use reasonable endeavours to: (i) avoid the aforementioned where reasonably possible and notify the Customer of any instances where services may be interrupted in advance via email; and (ii) resolve to fix any errors that may occur over the course of the Agreement as soon as reasonably possible on being notified by the Customer.
- 4.4. PlayerData is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including

the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

5. CUSTOMER'S OBLIGATIONS

5.1. The Customer shall:

- 5.1.1. co-operate with PlayerData in all matters relating to the Services;
- 5.1.2. keep and maintain the Hardware in good working condition, make no alteration to the Hardware (including removal of component(s)), and not dispose of or use the Hardware other than in accordance with PlayerData's written instructions or authorization;
- 5.1.3. ensure that the Hardware and Software are kept and operated in a suitable environment, used only for the purposes for which they were designed, and operated in a proper manner and, under no circumstances, operated in an unlawful manner;
- 5.1.4. not, without the prior written consent of PlayerData, part with control of, sell or offer for sale, underlet or lend the Hardware or Software or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
- 5.1.5. use all reasonable endeavors to prevent any unauthorized access to, or use of, the Software and/or the Hardware and, in the event of any such unauthorized access or use, promptly notify PlayerData;
- 5.1.6. collect all required consent for any individuals it is gathering and processing data for under this agreement; and

5.2. The Customer acknowledges that PlayerData shall not be responsible for any loss of or damage to the Hardware arising out of or in connection with any negligence, misuse, mishandling of the Hardware or otherwise caused by the Customer or its Authorized Users or any other players, members, officers, employees, agents and contractors, and the Customer undertakes to indemnify PlayerData on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by the Customer to comply with the terms of the Agreement.

6. HARDWARE

6.1. The Customer shall hire the Hardware from PlayerData for the Initial Term and each Extended Term, as appropriate.

6.2. Delivery of the Hardware shall be made by PlayerData. PlayerData shall use reasonable endeavors to effect Delivery by the date and time agreed between the parties. Title and risk shall be governed by Clause 8 of the Agreement.

6.3. Acceptance of Delivery of the Hardware by the Customer shall constitute conclusive evidence that the Customer has examined the Hardware and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended. If required by PlayerData, the Customer shall sign a receipt confirming such acceptance.

6.4. PlayerData shall use all reasonable endeavors to remedy, free of charge, any material defect in the Hardware which manifests itself within the Initial Term or an Extended Term, provided that:

- 6.4.1. the Customer notifies PlayerData of any defect in writing within ten (10) Business

Days of the defect occurring or of becoming aware of the defect;

- 6.4.2. PlayerData is permitted to make a full examination of the alleged defect;
 - 6.4.3. the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorized manipulation by any person other than PlayerData's authorized personnel;
 - 6.4.4. the defect is directly attributable to defective material, workmanship or design.
- 6.5. If the defect in the Hardware does not comply with Clause 6.4, PlayerData shall use all reasonable endeavors to remedy the defect and such remedy shall be at the Customer's expense.
- 6.6. If the defect under Clauses 6.4 and 6.5 cannot be remedied, PlayerData may replace the Hardware. Should the defect arise under Clause 6.5, the Customer will be required to pay for the replacement Hardware. For the avoidance of doubt, the replacement cost will be in addition to the monthly Charges payable for the Services.
- 6.7. Insofar as the Hardware comprises or contains equipment or components which were not manufactured or produced by PlayerData, the Customer shall be entitled only to such warranty or other benefit as PlayerData has received from the manufacturer.

7. SOFTWARE USE

- 7.1. PlayerData hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sub-licenses, to use, and permit the Authorized Users to use, the Software, as part of the Services, solely for the Customer's internal business operations.
- 7.2. The Customer shall not (and shall use all reasonable endeavors to ensure its Authorized Users shall not) access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that: (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (b) facilitates illegal activity; (c) depicts sexually explicit images; (d) promotes unlawful violence; (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or (f) is otherwise illegal or causes damage or injury to any person or property, and PlayerData reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access (or that of an Authorized User) to any material that breaches the provisions of this Clause 7.3.
- 7.3. The Customer shall not (and shall use all reasonable endeavors to ensure its Authorized Users shall not):
- 7.3.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or
 - 7.3.2. attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software.

8. TITLE, RISK AND INSURANCE

- 8.1. The Hardware shall at all times remain the property of PlayerData and the Customer shall have no right, title or interest in or to the Hardware (save the right to possession and use of the Hardware subject to the terms and conditions of the Agreement).
- 8.2. The risk of loss, theft, damage or destruction of the Hardware shall pass to the Customer on Delivery. The Hardware shall remain at the sole risk of the Customer during the Initial Term and each Extended Term and any further term during which the Hardware is in the

possession, custody or control of the Customer (“**Risk Period**”) until such time as the Hardware is redelivered to PlayerData.

- 8.3. The Customer shall give written notice within 48 hours to PlayerData in the event of any loss, accident or damage to the Hardware arising out of or in connection with the Customer’s (or its Authorized Users; or any other players; members; officers; employees; agents; or contractors) possession or use of the Hardware.

9. CHARGES AND PAYMENT

- 9.1. In consideration of the provision of the Services (to avoid doubt including the Software and Hardware) by PlayerData, the Customer shall pay the Charges.

- 9.2. PlayerData may increase the Charges on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and shall provide advance notice if the Charges will increase.

- 9.3. The Customer shall provide to PlayerData valid, up-to-date and complete credit card details acceptable to PlayerData and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides its credit card details to PlayerData, the Customer hereby authorizes PlayerData to bill such credit card:

- 9.3.1. monthly for the monthly Charges for the Services and any Additional Services to be performed during that month;

- 9.3.2. for the initial setup fee on or before the Commencement Date or other date as required by PlayerData; and

- 9.3.3. for any additional expenses reasonably incurred by PlayerData and owed by the Customer, including any applicable expenses under Clause 6, rates for which are included in the “Charges” section of the Order Confirmation.

- 9.4. Without prejudice to any other right or remedy that it may have, if PlayerData has not received payment of any sum due under the Agreement on the due date:

- 9.4.1. the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 9.6.1 will accrue each day at 4% a year;

- 9.4.2. PlayerData may suspend the Customer’s access to all or part of the Services until payment has been made in full and PlayerData shall be under no obligation to provide any or all of the Services while the sums due remain unpaid.

- 9.5. All sums payable to PlayerData under the Agreement:

- 9.5.1. are inclusive of VAT ; and

- 9.5.2. shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

10. INTELLECTUAL PROPERTY RIGHTS

The Customer acknowledges and agrees that PlayerData and/or its licensors own all Intellectual Property Rights in the Software and Hardware and which arise as a result of delivery of the Services. Except as expressly stated herein, the Agreement does not grant the Customer any rights to, under or in, any Intellectual Property Rights, or any other rights or licenses in respect of the Software, Hardware or Services.

11. DATA PROTECTION

- 11.1. Both parties will comply with all applicable requirements of the Data Protection Legislation.
- 11.2. The parties acknowledge that for the purposes of the Data Protection Legislation, in complying with its obligations under the Agreement, PlayerData may take on the role of either controller or processor depending on the nature and purpose of the processing. For further information, please see PlayerData's privacy notice, a copy of which can be made available to the Customer from time to time.
- 11.3. The Data Processing Agreement is deemed to be incorporated into these Conditions by reference herein. If there is an inconsistency between any of the provisions of these Conditions and the provisions of the Data Processing Agreement, the provisions of these Conditions shall prevail.
- 11.4. Where PlayerData is acting as a processor of the personal data under the Agreement:
 - 11.4.1. each party shall comply with the provisions set out in the Data Processing Agreement; and
 - 11.4.2. the Customer will ensure that it has all necessary appropriate consents and notices (in respect of Authorized Users and otherwise) in place to enable lawful transfer of the personal data to PlayerData for the duration and purposes of the Agreement.

12. CONFIDENTIALITY

- 12.1. Each party undertakes that it shall not at any time during the term of the Agreement, and for a period of five (5) years after termination of the Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 12.2.
- 12.2. Each party may disclose the other party's confidential information:
 - 12.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 12; and
 - 12.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Agreement.

13. LIMITATION OF LIABILITY

- 13.1. Nothing in the Agreement shall limit or exclude either party's liability for: (i) death or personal injury caused by its negligence; (ii) fraud or fraudulent misrepresentation; or (iii) any other liability which cannot be limited or excluded by applicable law.
- 13.2. Subject to Clause 13.1, PlayerData shall not be liable to the Customer, whether in contract, delict (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Agreement for:
 - 13.2.1. loss of profits;
 - 13.2.2. loss of sales or business;
 - 13.2.3. loss of agreements or contracts;

- 13.2.4. loss of anticipated savings;
- 13.2.5. loss of or damage to goodwill;
- 13.2.6. loss of use or corruption of software, data or information; or
- 13.2.7. any indirect or consequential loss.

13.3. Subject to Clause 13.1, PlayerData's total aggregate liability to the Customer, whether in contract, for breach of statutory duty, or otherwise, arising under or in connection with the Agreement shall be limited (i) in the Initial Term to the Charges payable in the Initial Term, and (ii) in any Extended Period, to the Charges payable in the relevant Extended Period during which the liability arose.

13.4. The terms implied by sections 11C, 11D and 11E of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Agreement.

14. TERMINATION

14.1. Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if the other party:

14.1.1. commits a material breach of any term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of fourteen (14) days after being notified in writing to do so;

14.1.2. repeatedly breaches any of the terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Agreement; or

14.1.3. ceases to do business, becomes unable to pay its debts as they fall due, becomes or is deemed insolvent, has a receiver, liquidator, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of its assets or business (or is the subject of a filing with any court for the appointment of any such officer), makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction), or any equivalent or similar action or proceeding is taken or suffered in any jurisdiction and the same is not dismissed or discharged within fourteen (14) days thereafter.

14.2. Without affecting any other right or remedy available to it, PlayerData may terminate the Agreement with immediate effect by giving written notice to the Customer if:

14.2.1. the Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 14 days after being notified to make such payment; or

14.2.2. there is a change of control of the Customer.

15. CONSEQUENCES OF TERMINATION

15.1. On termination or expiration of the Agreement:

15.1.1. the Customer shall immediately pay to PlayerData all of PlayerData's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which

no invoice has been submitted, PlayerData may submit an invoice, which shall be payable immediately on receipt;

15.1.2. the Customer shall deliver up the Hardware within 7 days of the end of the term being either the end of the Initial Term or Extended Term as agreed between the parties in accordance with Clause 3 or on earlier termination of the Agreement. The returned Hardware must correspond with the inventory provided by PlayerData at Delivery. Any missing or damaged Hardware (excluding wear and tear) shall be charged;

15.1.3. the following Clauses shall continue in force: 1, 2, 10, 12, 13, 15, 19, 20 and 25.

15.2. On termination or expiration of the Agreement, PlayerData shall give the Customer three (3) months read-only access to the "PlayerData app" for downloading any data before removing the Customer's account.

15.3. Termination or expiration of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiration, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiration.

16. FORCE MAJEURE

PlayerData shall have no liability to the Customer under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of PlayerData or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

17. ASSIGNATION AND OTHER DEALINGS

17.1. The Agreement is personal to the Customer and the Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Agreement.

17.2. PlayerData may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under the Agreement.

18. VARIATION

18.1. Subject to Clause 9.2, no variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorized representatives).

19. WAIVER

No failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial

exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

20. SEVERANCE

If any provision or part-provision of the Agreement 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 this agreement.

21. ENTIRE AGREEMENT

21.1. The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.2. 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 the Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Agreement.

22. NO PARTNERSHIP OR AGENCY

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

22.2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

23. THIRD PARTY RIGHTS

A person who is not a party to the Agreement shall not have any rights to enforce its terms.

24. NOTICES

24.1. Any notice given to a party under or in connection with the Agreement shall be in writing and shall be:

24.1.1. delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

24.1.2. sent by email to the address specified in the Order Confirmation.

24.2. Any notice shall be deemed to have been received:

24.2.1. if delivered by hand, on signature of a delivery receipt;

24.2.2. if sent by pre-paid first-class post or other next Business Day delivery service, at 09:00 on the second Business Day after posting;

24.2.3. if sent by email, at 09:00 on the next Business Day after transmission.

24.3. This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

25. GOVERNING LAW AND JURISDICTION

25.1. The Agreement 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 Scotland.

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

26. ADVICE OF COUNSEL

26.1 Each Party has been represented by independent counsel, performed its own independent investigation, and executes this Agreement after consultation with its independent counsel.

27. HEADINGS AND CAPTIONS

27.1 All headings and captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement, and shall not in any way define, limit, extend or describe the scope or intent of any provision hereof.

28. COUNTERPARTS

28.1 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one agreement binding on all the Parties notwithstanding that all the Parties are not signatories to the original or the same counterpart.