

INSTRUCTUS TERMS AND CONDITIONS

1 BASIS OF CONTRACT

- 1.1 These conditions set out the terms on which Instructus agrees to supply services (as defined in the applicable Booking Form) to the customer. They apply in addition to the terms of each booking form and its other annexes.
- 1.2 Each signed booking form shall form a separate contract between Instructus and the Customer (each a “**contract**”).
- 1.3 If any parts of a contract conflict with each other, the booking form shall prevail over these conditions.
- 1.4 Capitalised word in these conditions shall have the meaning set out in clause 20.

2 COMMENCEMENT AND DURATION

- 2.1 Each contract shall commence once the latter of the following occurring:
 - 2.1.1 the Booking Form has been signed by both parties; or
 - 2.1.2 the Customer has started to pay for to the Services; or
 - 2.1.3 the Customer has accept delivery of the Services.
- 2.2 This Contract will end on the Services End Date set out in the Description of Services on the Booking Form. If no Services End Date is specified, the Contract shall continue until the Services set out in the Booking Form have been completed, unless the Contract is terminated earlier in accordance with these Conditions.

3 INSTRUCTUS' RESPONSIBILITIES

- 3.1 Instructus shall provide the Services:
 - 3.1.1 using reasonable care and skill;
 - 3.1.2 in accordance with the applicable Contract in all material respects; and
 - 3.1.3 in accordance with all applicable laws and regulations.

4 CUSTOMER'S OBLIGATIONS

- 4.1 The Customer shall:

- 4.1.1 co-operate with Instructus in all matters relating to the Services;
 - 4.1.2 appoint a manager for the Services, such person as identified on the Booking Form. That person shall have the authority to contractually bind the Customer on matters relating to the Services (including by signing Change Orders);
 - 4.1.3 provide, for Instructus, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as reasonably required by Instructus;
 - 4.1.4 provide to Instructus in a timely manner all documents, information, items and materials in any form reasonably required by Instructus in connection with the Services and ensure that they are accurate and complete in all material respects;
 - 4.1.5 inform Instructus prior to signing the Booking Form of all health and safety and security requirements that apply at any of the Customer's premises. If the Customer wishes to make a change to those requirements which will materially affect provision of the Services, it can only do so via the change control procedure set out in clause 6 (Change Control);
 - 4.1.6 ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all applicable legal, regulatory and industry standards or requirements;
 - 4.1.7 obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable Instructus to provide the Services, including in relation the use of all Customer Materials and the use of the Customer's Equipment insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the date on which the Services are to start; and
 - 4.1.8 complete any required logistic questionnaires provided by Instructus.
- 4.2 If Instructus' performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, Instructus shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

5 NON-SOLICITATION

- 5.1 The Customer shall not, without the prior written consent of Instructus, at any time from the date of the Contract to the expiry of 12 months after the termination or expiry of the Contract, solicit or entice away from Instructus or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of Instructus in the provision of the Services.
- 5.2 Any consent given by Instructus in accordance with clause 5.1 shall be subject to the Customer paying to Instructus a sum equivalent to 20% of the then current annual remuneration of Instructus' employee, consultant or subcontractor or, if higher, 20% of the annual remuneration to be paid by the Customer to that employee, consultant or subcontractor.

6 CHANGE CONTROL

- 6.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a Change Order has been signed by both parties. A Change Order shall be a document setting out the proposed changes and the effect that those changes will have on:
- 6.1.1 the Services;
 - 6.1.2 Instructus' existing charges;
 - 6.1.3 the timetable of the Services; and
 - 6.1.4 any of the terms of the Contract.
- 6.2 If Instructus wishes to make a change to the Services, it shall provide a draft Change Order to the Customer.
- 6.3 If the Customer wishes to make a change to the Services:
- 6.3.1 it shall notify Instructus and provide as much detail as Instructus reasonably requires of the proposed changes, including the timing of the proposed changes; and
 - 6.3.2 Instructus shall, as soon as reasonably practicable after receiving the information at clause 6.3.1, provide a draft Change Order to the Customer.
- 6.4 If the parties:
- 6.4.1 agree to a Change Order, they shall sign it and that Change Order shall amend the Contract; or

6.4.2 are unable to agree a Change Order, either party may require the disagreement to be dealt with in accordance with the dispute resolution procedure in clause 18 (Multi-tiered dispute resolution procedure).

6.5 Instructus may charge for the time it spends on preparing and negotiating Change Orders which implement changes proposed by the Customer pursuant to clause 6.3 on a time and materials basis at Instructus' standard daily rates applicable at the relevant time.

7 CHARGES AND PAYMENT

7.1 In consideration of the provision of the Services by Instructus, the Customer shall pay the Charges as set out in the Booking Confirmation.

7.2 Where the Charges are calculated on a time and materials basis:

7.2.1 Instructus' daily fee rates for each individual person as set out in Booking Form are calculated on the basis of an eight-hour day, worked during Business Hours;

7.2.2 Instructus shall ensure that every individual whom it engages on the Services completes time sheets to record time spent on the Services, and Instructus shall indicate the time spent per individual in its invoices.

Cancellations

7.3 If the Customer cancels a booking for a Service, it must pay Instructus the cancellation fees set out in the table below. If a booking is initially postponed but later cancelled by the Customer, the cancellation will be treated as if it had occurred at the earlier postponement date(s).

Notice Provided by Customer	Cancellation Fees
More than 180 days' notice prior to commencement of the Service	50% of the total Charges payable for the Service in question
90-180 days prior to commencement of the Service	75% of the total Charges payable for the Service in question
Less than 90 days prior to commencement of the Service	100% of the total Charges payable for the Service in question

EXPENSES

7.4 The following expenses will be charged in addition to the Charges (if applicable):

- 7.4.1 Expenses for copying of handouts, travelling, accommodation and subsistence expenditure during the Services, hire of equipment will be charged at cost.
- 7.4.2 Travel by car will be charged at 45p per mile. Expenses for any other travel accommodation and subsistence during the Services will be charged at cost. Instructus will book business class for air travel.
- 7.4.3 The cost to Instructus of any materials or services procured by Instructus from third parties for the provision of the Services as set out in the Booking Form or approved by the Customer in advance from time to time.
- 7.4.4 Where expenses are incurred in connection with a training event, they will be invoiced after the event, except for accommodation and subsistence that are is paid for by the Customer direct to venue. Other expenses will be invoiced monthly in arrears.

Invoicing and payment

- 7.5 Instructus shall invoice the Customer for the Charges at the times and intervals specified on the Booking Form. If no times or intervals are specified on the Booking Form, Instructus shall invoice the Customer at the end of each month for Services performed during that month.
- 7.6 The Customer shall pay each invoice submitted to it by Instructus within 30 days after receipt. Payment shall be made to a bank account nominated in writing by Instructus from time to time.
- 7.7 Without prejudice to any other right or remedy that Instructus may have, if the Customer fails to pay Instructus any sum due under the Contract on the due date:
 - 7.7.1 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 7.7.1 will accrue each day at 4% per month above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and
 - 7.7.2 Instructus may suspend all or part of the Services until payment has been made in full.
- 7.8 All sums payable to Instructus under the Contract:
 - 7.8.1 are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
 - 7.8.2 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).

8 INTELLECTUAL PROPERTY RIGHTS

8.1 In relation to the Deliverables:

- 8.1.1 Instructus and its licensors shall retain ownership of all Intellectual Property Rights in the Deliverables, excluding the Customer Materials, unless stated otherwise on the Booking Form;
- 8.1.2 Instructus grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence to copy and modify the Deliverables (excluding the Customer Materials) for the purpose of receiving and using the Services and the Deliverables in its business; and
- 8.1.3 the Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 8.1.2 unless stated otherwise on the Booking Form.

8.2 In relation to the Customer Materials, the Customer:

- 8.2.1 and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials; and
- 8.2.2 grants Instructus a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of the relevant Contract(s) for the purpose of providing the Services to the Customer.

8.3 Instructus:

- 8.3.1 warrants that the receipt and use of the Services and the Deliverables by the Customer shall not infringe the rights, including any Intellectual Property Rights, of any third party;
- 8.3.2 shall, subject to clause 11 (Limitation of liability), indemnify the Customer in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with any claim brought against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, use or supply of the Services and the Deliverables; and

8.3.3 shall not be in breach of the warranty at clause 8.3.1, and the Customer shall have no claim under the indemnity at clause 8.3.2, to the extent the infringement arises from:

- (A) the use of the Customer Materials in the development of, or the inclusion of the Customer Materials in any Deliverable;
- (B) any modification of the Deliverables or Services, other than by or on behalf of Instructus;
- (C) use of the Deliverables and/or Services which was not in accordance with the terms of the Contract; and/or
- (D) compliance with the Customer's specifications or instructions, where infringement could not have been avoided while complying with such specifications or instructions and provided that Instructus shall notify the Customer if it knows or suspects that compliance with such specification or instruction may result in infringement.

8.4 The Customer:

8.4.1 warrants that the receipt and use of the Customer Materials in the performance of the Contract by Instructus, its agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party; and

8.4.2 shall indemnify Instructus in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Instructus arising out of or in connection with any claim brought against Instructus, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of the Contract of the Customer Materials.

8.5 If either party (the "**Indemnifying Party**") is required to indemnify the other party (the "**Indemnified Party**") under this clause 8, the Indemnified Party shall:

8.5.1 notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 8.3.2 or clause 8.4.2 (as applicable) ("**IPRs Claim**");

8.5.2 allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Indemnifying Party

shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;

8.5.3 provide the Indemnifying Party with such reasonable assistance regarding the IPRs Claim as is required by the Indemnifying Party, subject to reimbursement by Instructus of the Indemnified Party's costs so incurred; and

8.5.4 not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

9 DATA PROTECTION

9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation.

9.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and Instructus is the processor. The Booking Form sets out details of the agreed data processing.

9.3 The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Instructus for the duration and purposes of the Contract.

9.4 Instructus shall, in relation to any personal data processed in connection with the performance by Instructus of its obligations under the Contract:

9.4.1 process that personal data only on the documented written instructions of the Customer unless Instructus is required by the Data Protection Legislation to otherwise process that personal data;

9.4.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

9.4.3 without prejudice to clause 10 (Confidentiality), ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;

- 9.4.4 not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained;
 - 9.4.5 assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 9.4.6 notify the Customer without undue delay on becoming aware of a personal data breach; and
 - 9.4.7 without prejudice to clause 13.1.2, at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the agreement unless required by applicable law to store the personal data.
- 9.5 Without prejudice to clause 15 (Assignment and other dealings), the Customer consents to Instructus appointing any third party processor of personal data specified in the Booking Form.

10 CONFIDENTIALITY

- 10.1 Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 10.2.
- 10.2 Each party may disclose the other party's confidential information:
- 10.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 10; and
 - 10.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 10.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

11 LIMITATION OF LIABILITY

11.1 **Scope of this clause.** References to liability in this clause 11 include every kind of liability arising under or in connection with the Contract including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

11.2 **Liabilities which cannot legally be limited.** Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

11.2.1 death or personal injury caused by negligence;

11.2.2 fraud or fraudulent misrepresentation; and

11.2.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

11.3 **Cap on Instructus's liability.** Subject to clause 11.2 (liabilities which cannot legally be limited), Instructus' total liability to the Customer for all other loss or damage, shall not exceed 125% of the Charges paid by the Customer under the relevant Contract during the 12 months preceding the event that caused Instructus' liability to the Customer.

11.4 **Specific heads of excluded loss.** Subject to clause 11.2, the Supplier shall not be liable for:

11.4.1 loss of profits;

11.4.2 loss of sales or business;

11.4.3 loss of agreements or contracts;

11.4.4 loss of anticipated savings;

11.4.5 loss of use or corruption of software, data or information;

11.4.6 loss of or damage to goodwill; and

11.4.7 indirect or consequential loss.

11.5 **Exclusion of statutory implied term.** The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

11.6 **No liability for claims not notified within one months.** Unless the Customer notifies Instructus that it intends to make a claim in respect of an event within the notice period, Instructus shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event giving

grounds to the claim and shall expire one month from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

12 TERMINATION

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

12.1.1 the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

12.1.2 an order is made or a resolution is passed for the dissolution or winding-up of the other party or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by the other party or its trustees, officers, directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other party's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the other party takes or suffers any similar or analogous action in consequence of debt;

12.1.3 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.2.2; or

12.1.4 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business.

12.2 Without affecting any other right or remedy available to it, Instructus may also terminate the Contract with immediate effect by giving written notice to the Customer if:

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

12.2.2 there is a change of Control of the Customer.

13 OBLIGATIONS ON TERMINATION AND SURVIVAL

13.1 On termination or expiry of the Contract:

13.1.1 the Customer shall immediately pay to Instructus all of Instructus' outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, Instructus may submit an invoice, which shall be payable immediately on receipt;

13.1.2 Instructus shall on request return any of the Customer Materials not used up in the provision of the Services;

13.1.3 the accrued rights and remedies of the parties as at termination shall not be affected, 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

13.1.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect

13.2 The parties expect that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) will not apply on commencement or termination of the Contract.

14 FORCE MAJEURE

14.1 “**Force Majeure Event**” means any circumstance not within a party's reasonable control including, without limitation:

14.1.1 acts of God, flood, drought, earthquake or other natural disaster;

14.1.2 epidemic or pandemic;

14.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

14.1.4 nuclear, chemical or biological contamination or sonic boom;

14.1.5 any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition[, or failing to grant a necessary licence or consent;

14.1.6 collapse of buildings, fire, explosion or accident;

14.1.7 any labour or trade dispute, strikes, industrial action or lockouts;

14.1.8 non-performance by suppliers or subcontractors; and

14.1.9 interruption or failure of utility service.

14.2 Provided it has complied with clause 14.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under the Contract by a Force Majeure Event (“**Affected Party**”), the Affected Party shall not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

14.3 The Affected Party shall:

14.3.1 as soon as reasonably practicable after the start of the Force Majeure, notify the other party of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

14.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

14.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 4 weeks, the party not affected by the Force Majeure Event may terminate the Contract by giving 7 days' written notice to the Affected Party.

15 **ASSIGNMENT AND OTHER DEALINGS**

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

15.2 Instructus 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 Contract, provided that Instructus gives written notice of such dealing to the Customer.

16 **NO PARTNERSHIP OR AGENCY**

16.1 Nothing in the Contract 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 authorise any party to make or enter into any commitments for or on behalf of any other party.

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

17 COUNTERPARTS

17.1 The Contract may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

18 MULTI-TIERED DISPUTE RESOLUTION PROCEDURE

18.1 If a dispute arises out of or in connection with the Contract or the performance, validity or enforceability of it (“**Dispute**”) then except as expressly provided in the Contract, the parties shall follow the procedure set out in this clause:

18.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (“**Dispute Notice**”), together with relevant supporting documents. On service of the Dispute Notice, the parties' representative shall attempt in good faith to resolve the Dispute;

18.1.2 if the parties' representatives are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to their respective executives responsible for Services, who shall attempt in good faith to resolve it; and

18.1.3 if the executives of the parties are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (“**ADR notice**”) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 60 days after the date of the ADR notice.

18.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 19.8 (Jurisdiction) which clause shall apply at all

19 GENERAL

19.1 Any notice, approval, consent, request, instruction or document to be given or made under the Contract shall be in writing and may be delivered by hand to the relevant party or sent by first class post, recorded delivery letter, registered airmail to the registered office for that party.

19.2 The Contract constitutes the entire arrangement and understanding between the parties and supersedes and extinguishes all prior agreements, negotiations and discussions relating to the subject matter of the Contract. Each party acknowledges that in entering into and performing the Contract it does not do so on the basis of, and does not rely on any statement

or representation (whether innocent or negligent, but excluding fraudulent representations) or warranty or understanding other than as expressly contained in the Contract at the date hereof or subsequently included within the Contract pursuant to Clause 19.3.

- 19.3 Any variation to the Contract must be in writing and signed on behalf of both parties.
- 19.4 If a court decides that any part of the Contract cannot be enforced, that particular part of the Contract will not apply, but the rest of the Contract will.
- 19.5 No party shall make, or permit any person to make, any public announcement, communication or circular concerning the Contract without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), unless required by law or regulation.
- 19.6 A waiver by a party of a breach of any provision shall not be deemed a continuing waiver or a waiver of any subsequent breach of the same or any other provisions. Failure or delay in exercising any right under the Contract shall not prevent the exercise of that or any other right.
- 19.7 No person other than a party to the Contract shall have any rights to enforce any terms of the Contract.
- 19.8 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

20 DEFINITIONS

“**Booking Form**” means an order form with details of the Services and Charges executed by Instructus and the Customer.

“**Business Day**” a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

“**Business Hours**” the period from 9.00 am to 5.00 pm on any Business Day.

“**Change Order**” has the meaning given in clause 6.1.

“**Charges**” the sums payable for the Services, as set out in the Booking Form.

“**Contract**” shall have the meaning set out in clause 1.2.

“**Control**” has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

“Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures” as defined in the Data Protection Legislation.

“Customer's Equipment” any equipment, including tools, systems, cabling or facilities, provided by the Customer, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services including any such items specified in the Booking Form.

“Customer Materials” all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to Instructus in connection with the Services, including the items provided pursuant to clause 4.1.4.

“Data Protection Legislation” the UK Data Protection Legislation, any other European Union legislation relating to personal data and 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).

“Deliverables” any output of the Services to be provided by Instructus to the Customer as specified in the Booking Form and any other documents, products and materials provided by Instructus to the Customer in relation to the Services.

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

“Services” the services as set out in the Booking Form.

“UK Data Protection Legislation” all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

“VAT” value added tax or any equivalent tax chargeable in the UK or elsewhere.

21 INTERPRETATION

21.1 In these Conditions, the following rules apply:

- 21.1.1 words in the singular include the plural and vice versa and words in one gender include any other gender;
- 21.1.2 a reference to:
- a) a **“person”** includes any individual (and their personal representatives), firm, body corporate, association, partnership, government or state (whether or not having a separate legal personality);
 - b) clauses and schedules are to clauses and schedules of the Contract;
 - c) any provision of the Contract is to that provision as amended;
 - d) a **“holding company”** or a **“subsidiary”** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006; and
 - e) statutes and statutory provisions shall be construed as amended or replaced and as including any subordinate legislation made under them in any such case from time to time.
- 21.1.3 Except where expressly stated otherwise, no provision of the Contract shall govern or limit the extent or application of any other provision.
- 21.1.4 The headings in the Contract are inserted for convenience only and shall not affect its interpretation.