

Prime Principle Limited's online Classroom Monitor access terms and conditions

1 Interpretation

1.1 The definitions and rules of interpretation in this condition 1 apply in these conditions:

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| "Agreement" | the contract between you and us for access to the Services, incorporating the Order Form and these conditions; |
| "Authorised Class Limit" | the number of individual classes as stated on the Order Form; |
| "Authorised Users" | those of your employees and independent contractors who you authorise to use the Classroom Monitor Software through the Hosting Services under our Agreement; |
| "Business Day" | any day which is not a Saturday, Sunday or public holiday in England; |
| "Classroom Monitor Software Specification" | the functionality and performance specifications for the Classroom Monitor Software, as described on our website; |
| "Classroom Monitor Software" | our proprietary software known as "Classroom Monitor" as described for information purposes only on our website, including any error corrections, updates, upgrades, modifications and enhancements to it provided to you under the Agreement; |
| "Confidential Information" | information that is proprietary or confidential and is either: (a) clearly labelled as such; or (b) identified as such in clause 13.5 or clause 13.6; |
| "Effective Date" | the date we write to you accepting your order pursuant to the Order Form; |
| "Hosting Services" | the services that we provide to allow your Authorised Users to access and use the Classroom Monitor Software, including hosting set-up and ongoing services, all as described in clauses 3.2 to 3.6 (inclusive); |
| "Maintenance and Support" | any error corrections, updates and upgrades that we may provide or perform with respect to the Classroom Monitor Software and Hosting Services, as well as any other support or training services we provide, all as described in clauses 4.3 to 4.5 (inclusive); |
| "Normal Business Hours" | 9.00 am to 5.00 pm local UK time, Monday to Friday, excluding public holidays; |
| "Order Form" | our standard order form; |

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| “Our Account Team” | the individuals we appoint from time to time who shall serve as our primary contacts for your activities under the Agreement; |
| “Services” | the Hosting Services and/or Maintenance and Support as applicable, given the context in which the term “Services” is used; |
| “we”, “us” and “our” | Prime Principle Limited, company number 05112203, whose registered office is at 30 Woolpack Lane, Nottingham, NG1 1GA; |
| “you” and “your” | the school named on the Order Form; and |
| “Your Data” | the data, including, but not limited to, assessment criteria, input into the information fields of the Classroom Monitor Software by you, your Authorised Users, or by us on your behalf. |

- 1.2 Clause and paragraph headings shall not affect the interpretation of these conditions.
- 1.3 A person includes a corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.8 A reference to writing or written includes faxes and e-mail.

2 Application of these conditions

- 2.1 These conditions shall:
- 2.1.1 apply to and be incorporated into the Agreement; and
- 2.1.2 prevail over any inconsistent terms or conditions contained, or referred to, in your purchase order, confirmation of order, acceptance of a quotation, or specification or other document supplied by you, or implied by law, trade custom, practice or course of dealing.
- 2.2 Your submission of the Order Form, any other purchase order, or your acceptance of our quotation, constitutes an offer by you to purchase the Services on these conditions. No offer you place shall be accepted by us other than by a written acknowledgement issued and executed by us.

3 Hosting Service

- 3.1 We shall provide the Hosting Service.
- 3.2 We shall procure, install and configure hosting equipment to provide access to the Classroom Monitor Software.
- 3.3 We shall provide Internet connectivity through an Internet service provider at the hosting facility to make the Classroom Monitor Software available for use via a connection to the Internet. You shall make your own, and shall ensure that your Authorised Users shall make their own, arrangements for Internet access in order to access the Classroom Monitor Software.
- 3.4 Subject to clause 3.5 we shall endeavour to achieve no less than 99% availability of the Classroom Monitor Software for your use in accordance with this agreement.
- 3.5 Where downtime in excess of the level set out in clause 3.4 is unavoidable (normally only in situations where substantial maintenance is required) we will give you as much notice of such downtime as possible and will endeavour to work with you to schedule the downtime to minimise the impact on your use of the Classroom Monitor Software.
- 3.6 We shall develop a back-up schedule, perform scheduled back-ups, provide routine and emergency data recovery, and manage the archiving process in relation to Your Data. In the event of data loss, we shall provide recovery services to try to restore the most recent back-up of Your Data as provided for in clause 7.1.
- 3.7 We will use our reasonable endeavours to transfer your data from any compact disc based Classroom Monitor software you are already licensed to use.
- 3.8 We shall provide release management services to ensure that new releases, patch releases and other new versions are implemented as we deem necessary to maintain the Hosting Services. For the avoidance of doubt, updates which are necessary to maintain your access and use of the Classroom Monitor Software (as the Classroom Monitor Software is supplied as at the date of this agreement) will be supplied free of charge.

4 Maintenance and Support service

- 4.1 We shall provide the Maintenance and Support service.
- 4.2 Except in the case of an emergency, maintenance of the hosting equipment, Classroom Monitor Software or other aspects of the Hosting Services that may require interruption of the Hosting Services shall not be performed during Normal Business Hours. However, we may interrupt the Hosting Services outside Normal Business Hours for unscheduled maintenance. We shall at all times endeavour to keep any service interruptions to a minimum.
- 4.3 We will provide maintenance, which will include all regularly scheduled error corrections, software updates and those upgrades limited to improvements to features described in the Classroom Monitor Software Specification.
- 4.4 We shall maintain and update the Classroom Monitor Software. Should you determine that the Classroom Monitor Software does not perform substantially in accordance with the Classroom Monitor Software Specification, you may at any time file error reports. During maintenance periods, we may, at our discretion, provide upgraded versions of the Classroom Monitor Software, install

error corrections and apply patches to the hosted systems. We shall try to avoid unscheduled downtime for Classroom Monitor Software maintenance but cannot guarantee to do so.

- 4.5 We shall provide your Authorised Users with technical support services. We shall accept voicemail, e-mail and web form-based incident submittal seven days a week. Our technical support call centre shall accept calls for English language telephone support during Normal Business Hours. We will use reasonable endeavours to process support requests and determine the source of the problem and respond to you.
- 4.6 You shall provide support and maintenance for data integration tools and processes developed or maintained by you in order to connect the Classroom Monitor Software to your other software and databases.
- 4.7 Before you make changes to integration interfaces between the Classroom Monitor Software and your internal data stores or systems, you must provide us with advance notice to ensure your continued access to the Classroom Monitor Software is not adversely affected by such changes.

5 Your use

- 5.1 In relation to your use of the Classroom Monitor Software:
 - 5.1.1 you shall not use the Classroom Monitor Software in relation to classes exceeding the Authorised Class Limit;
 - 5.1.2 you shall maintain a written list of your Authorised Users from time to time, and you shall provide such list to us as we may reasonably request from time to time;
 - 5.1.3 you shall ensure that each Authorised User keeps a secure password for his use of the Classroom Monitor Software, that such password is changed no less frequently than quarterly and that each Authorised User keeps his password confidential;
 - 5.1.4 we may audit the Classroom Monitor Software to verify your compliance with the terms of the Agreement; and
 - 5.1.5 if such audit reveals that passwords have been provided to individuals who are not Authorised Users, and without prejudice to our other rights, we may promptly disable such passwords and shall not issue any new passwords to such individuals.

6 The Classroom Monitor Software

- 6.1 In relation to the Classroom Monitor Software:
 - 6.1.1 we hereby grant to you on and subject to the terms and conditions of the Agreement a non-exclusive, non-transferable licence to allow your Authorised Users to access the Classroom Monitor Software through the Hosting Services and to use the Classroom Monitor Software solely for the purpose of assessment and report writing procedures in relation to classes up to the Authorised Class Limit;
 - 6.1.2 you shall not, and shall procure that your Authorised Users shall not, store, distribute or transmit any material through the Hosting Services that is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful

violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities;

- 6.1.3 you shall not, and shall procure that your Authorised Users shall not, input any data or provide any data to us for inputting into the Classroom Monitor Software that infringes the intellectual property rights of any third party;
- 6.1.4 the right provided under clause 6.1.1 is granted to you only, and shall not be considered granted to any subsidiary, or holding company of yours or any associated school; and
- 6.1.5 you shall not, and shall procure that your Authorised Users shall not:
 - 6.1.5.1 attempt to duplicate, modify or distribute any portion of the Classroom Monitor Software;
 - 6.1.5.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form any part of the Classroom Monitor Software, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties;
 - 6.1.5.3 use the Classroom Monitor Software or Hosting Services to provide services to third parties;
 - 6.1.5.4 transfer, temporarily or permanently, any of your rights under the Agreement, or
 - 6.1.5.5 attempt to obtain, or assist others in obtaining, access to the Classroom Monitor Software, other than as expressly provided under these conditions.

7 Your Data

- 7.1 We shall follow our standard archiving procedures for Your Data. In the event of any loss or damage to Your Data, your sole and exclusive remedy shall be for us to use our best commercial efforts to restore Your Data lost or damaged from the latest back-up of Your Data we maintain in accordance with our standard archiving procedure. We shall not be responsible for any loss, destruction, alteration or disclosure of Your Data caused by any third party (except those third parties we have sub-contracted to perform services related to Your Data maintenance and back-up).
- 7.2 You warrant that you, or your licensors, are the owners of Your Data and that the use, inputting or reproduction of Your Data by you, your Authorised User or us, does not infringe the intellectual property rights of any third party.
- 7.3 We reserve the right, without liability to you, to remove all or any part of Your Data, permanently or temporarily, where we:
 - 7.3.1 receive a notice issued by you in accordance with clause 10.1.3;
 - 7.3.2 receive notice, otherwise than by way of a notice issued by you, of a claim that Your Data (or any part of it) infringes the intellectual property rights of any third party; or

- 7.3.3 reasonably suspect that Your Data (or any part of it) infringes the intellectual property rights of any third party.

8 Data protection

- 8.1 Each party undertakes to fully comply with its obligations under the Data Protection Act 1998.
- 8.2 We, as data processor, agree to only act on the instructions of you, as data controller, with regards to processing Your Data.
- 8.3 You consent to us holding and processing any personal data you provide (including, personal data included in Your Data and other data relating to you) for the purposes of providing the Services to you.
- 8.4 You warrant that you have obtained appropriate consents to allow us to hold and process any personal data you provide (including, personal data included in Your Data and other data relating to you) for the purposes of providing the Services to you.
- 8.5 You consent to us making personal data you provide (including, personal data included in Your Data and other data relating to you) available to:
 - 8.5.1 those who provide products or services to us (such as our advisers), but only where necessary in order for us to provide the Services to you;
 - 8.5.2 regulatory authorities, governmental or quasi governmental organisations, but only where we are compelled to do so; and
 - 8.5.3 potential purchasers of our business or any part of our business, but only after appropriate confidentiality obligations have been put into place.
- 8.6 You acknowledge that nothing in the foregoing shall prevent us from using personal data you provide in ways that are permitted by the Data Protection Act 1998.

9 Our obligations

- 9.1 We undertake that the Services shall be performed with all reasonable skill and care.
- 9.2 We undertake that the Classroom Monitor Software shall perform substantially in accordance with the Classroom Monitor Software Specification. This undertaking shall not apply to the extent of any non-conformance which is caused by:
 - 9.2.1 use of the Classroom Monitor Software contrary to our instructions, outside the terms of the Agreement, or for a purpose or in a context other than the purpose or context for which it was designed; or
 - 9.2.2 modification or alteration of the Classroom Monitor Software by any party other than ourselves or our agents.
- 9.3 If the Services do not conform with the undertaking in clause 9.1 or the Classroom Monitor Software does not conform with the undertaking in clause 9.2, we will, at our expense, use our best commercial efforts to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance, by providing the Maintenance and Support service. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the undertakings set out in clause 9.1 or clause 9.2. Notwithstanding the foregoing, we

do not warrant that your use of the Classroom Monitor Software and the Services will be uninterrupted or error-free.

- 9.4 The Agreement with you shall not prevent us from entering into similar agreements with third parties, or from developing, using, selling or licensing materials, products or services which are similar to those that we provide to you.
- 9.5 We undertake to use reasonable commercial efforts to adhere to the DfE document entitled "Request for information on the document re: cloud and secure storage posted on the DfE website, response provided by DfE and Schools Commercial team" as amended from time to time.

10 Your obligations

10.1 You shall:

10.1.1 provide us with:

10.1.1.1 all necessary co-operation in relation to the Agreement; and

10.1.1.2 all necessary access to such information as we may require,

in order to render the Services, including but not limited to Your Data, security access information and software interfaces to your other applications;

10.1.2 provide such personnel assistance as may be reasonably requested by us from time to time;

10.1.3 immediately notify us in writing of any claim that Your Data infringes any intellectual property rights belonging to a third party;

10.1.4 comply with, and procure that your Authorised Users comply with, the then current terms of use and acceptable use policy applicable to any website from which access to the Classroom Monitor Software is gained;

10.1.5 comply with all applicable laws and regulations with respect to your activities under the Agreement; and

10.1.6 carry out all your other responsibilities set out in the Agreement in a timely and efficient manner.

11 Charges and payment

11.1 You shall pay the fee set out on the Order Form for the use, hosting and maintenance and support of the Classroom Monitor Software. Unless we agree otherwise in writing, this fee shall be paid by you as a single lump-sum payment. We shall invoice you upon acceptance of the Order Form you have submitted.

11.2 All amounts and fees stated or referred to in the Agreement are exclusive of value added tax, which shall be added to our invoice(s) at the appropriate rate.

11.3 Each invoice is due and payable 30 days after the invoice date. If we have not received payment within five days after the due date, and without prejudice to any other of our rights, interest shall accrue on such due amounts at the rate of 8% above the Bank of England's base rate from time to

time, commencing on the due date and continuing until fully paid, whether before or after the judgment.

12 Proprietary rights

- 12.1 You acknowledge and agree that we and/or our licensors own all intellectual property rights in the Classroom Monitor Software and Services. Except as expressly stated herein, the Agreement does not grant you any rights to, or in, patents, copyrights, database rights, rights in designs, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Classroom Monitor Software, Services or any related documentation.
- 12.2 We confirm that we have all the rights in relation to the Classroom Monitor Software that are necessary to grant all the rights we purport to grant under, and in accordance with, the terms of the Agreement.

13 Confidentiality

- 13.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement. Each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the performance of its obligations under the Agreement.
- 13.2 The obligation of confidence under clause 13.1 shall not apply to information that:
- 13.2.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 13.2.2 was in the receiving party's lawful possession before the disclosure;
 - 13.2.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - 13.2.4 is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 13.2.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 13.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in breach of the terms of the Agreement.
- 13.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 13.5 You acknowledge that the source code and object code of the Classroom Monitor Software, the results of any performance tests of the Classroom Monitor Software and the construction of the Services constitute our Confidential Information.
- 13.6 We acknowledge that Your Data is your Confidential Information.
- 13.7 This clause 13 shall survive expiry or termination of the Agreement, however arising.

14 Indemnity

- 14.1 You shall defend, indemnify and hold us harmless against all claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with your use of the Classroom Monitor Software or Services, and any breach of the warranty in clause 8.4, provided that:
- 14.1.1 you are given prompt notice of any such claim;
 - 14.1.2 we provide reasonable co-operation to you in the defence and settlement of such claim, at your expense; and
 - 14.1.3 you are given sole authority to defend or settle the claim.
- 14.2 You shall defend, indemnify and hold us harmless against all claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with Your Data.
- 14.3 We shall defend you against any claim that the Classroom Monitor Software infringes any United Kingdom patent effective as of the Effective Date, copyright or database right, and shall indemnify you for any amounts awarded against you in judgment or settlement of such claims, provided that:
- 14.3.1 we are given prompt notice of any such claim;
 - 14.3.2 you provide reasonable co-operation to us in the defence and settlement of such claim, at our expense; and
 - 14.3.3 we are given sole authority to defend or settle the claim.
- 14.4 In the defence or settlement of the claim, we may obtain for you the right to continue using the Classroom Monitor Software, replace or modify the Classroom Monitor Software so that it becomes non-infringing or, if such remedies are not reasonably available, terminate the Agreement without any liability to you. We shall have no liability to you if the alleged infringement is based on:
- 14.4.1 a modification of the Classroom Monitor Software by anyone other than us;
 - 14.4.2 your use of the Classroom Monitor Software in a manner contrary to the instructions we give to you; or
 - 14.4.3 your use of the Classroom Monitor Software after we or an appropriate authority notify you of the alleged or actual infringement.
- 14.5 The foregoing states your sole and exclusive rights and remedies, and our entire obligations and liability, for patent, copyright or database infringement.

15 Limitation of liability

- 15.1 This clause 15 sets out our entire financial liability (including any liability for the acts or omissions of our employees, agents and sub-contractors) to you in respect of:
- 15.1.1 any breach of the Agreement;
 - 15.1.2 any use made by you of the Services or the Classroom Monitor Software or any part of them; and

- 15.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.
- 15.2 Except as expressly and specifically provided in our Agreement:
 - 15.2.1 you assume sole responsibility for the results obtained from your use of the Classroom Monitor Software and the Services, and for conclusions drawn from such use. We shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts you provide to us in connection with the Services, or any actions we take at your direction; and
 - 15.2.2 all other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into the Agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded.
- 15.3 Nothing in the Agreement excludes our liability:
 - 15.3.1 for death or personal injury caused by our negligence; or
 - 15.3.2 for fraud or fraudulent misrepresentation; or
 - 15.3.3 any other liability it is unlawful to limit or exclude.
- 15.4 Subject to clause 15.3:
 - 15.4.1 we shall have no liability for any losses or damages which you may suffer, whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:
 - 15.4.1.1 special damage even though we were aware of the circumstances in which such special damage could arise;
 - 15.4.1.2 loss of actual or anticipated profits or savings;
 - 15.4.1.3 loss of revenue or turnover;
 - 15.4.1.4 loss of business, business opportunity or contracts;
 - 15.4.1.5 loss of goodwill or reputation; and
 - 15.4.1.6 loss or corruption of data;or for any indirect or consequential loss or damage; and
 - 15.4.2 our total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to the greater of; i) 200 per cent of the fee set out in the Order Form; and ii) the actual proceeds received by us under our relevant insurance policy or policies in respect of the liability in question.

16 Term and termination

- 16.1 The Agreement shall commence on the Effective Date and shall continue for the period set out in the Order Form, unless otherwise terminated as provided in this clause 16.
- 16.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Agreement without liability to the other if:
- 16.2.1 the other party commits a breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach;
 - 16.2.2 an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other party;
 - 16.2.3 an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);
 - 16.2.4 a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets;
 - 16.2.5 the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt;
 - 16.2.6 the other party ceases, or threatens to cease, to trade; or
 - 16.2.7 the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.
- 16.3 On expiry or termination of the Agreement for any reason:
- 16.3.1 all licences granted under the Agreement shall immediately terminate;
 - 16.3.2 each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party;
 - 16.3.3 we shall use reasonable commercial efforts to destroy or otherwise dispose of any of Your Data in our possession unless we receive, no later than 90 days after the effective date of the termination or expiry of the Agreement, a written request for the delivery to you of the then most recent Microsoft Excel back-up of Your Data. We shall use reasonable commercial efforts to deliver the back-up to you within 30 days of our receipt of such a written request, provided that you have, at that time, paid all fees and charges outstanding at and resulting from expiry or termination (whether or not due at

the date of termination). You shall pay all reasonable expenses we incur in returning or disposing of Your Data; and

- 16.3.4 the accrued rights of the parties as at expiry or termination, or the continuation after expiry or termination of any provision expressly stated to survive or implicitly surviving expiry or termination, shall not be affected or prejudiced.

17 Force majeure

- 17.1 We shall have no liability to you under the Agreement if we are prevented from or delayed in performing our obligations under the Agreement, or from carrying on our business, by acts, events, omissions or accidents beyond our reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving our workforce or any other party), failure of a utility service, telecommunications or transport 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 you are notified of such an event and its expected duration.

18 Waiver

- 18.1 A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 18.2 Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.

19 Severance

- 19.1 If any provision (or part of a provision) of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 19.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

20 Entire agreement

- 20.1 The Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 20.2 Each of the parties acknowledge and agree that in entering into the Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Agreement or not) relating to the subject matter of the Agreement, other than as expressly set out in the Agreement.

21 Assignment

- 21.1 You shall not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under the Agreement.
- 21.2 We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of our rights or obligations under the Agreement.

22 No partnership or agency

- 22.1 Nothing in the Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

23 Third party rights

- 23.1 The Agreement is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else.

24 Notices

- 24.1 Any notice required to be given under the Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out on the Order Form or sent by fax to the other party's fax number as set out on the Order Form.
- 24.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

25 Governing law and jurisdiction

- 25.1 The Agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England.
- 25.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement.