

TERMS AND CONDITIONS FOR SALES AND MARKETING SERVICES

1. INTERPRETATION

1.1 The following definitions and rules of interpretation shall apply:

Agreement: means the agreement incorporating these Terms;

Charges: means the fees and other charges set out in the Project Agreement;

Client's Equipment: means any equipment, systems, cabling or facilities provided by the Client and used directly or indirectly in relation to the Services;

Client's Manager: means the Client's manager responsible for overseeing the provision of the Services;

Deliverables: means the deliverables which are created by Panovus in the provision of the Services and specified in the Project Agreement;

Document(s): means any document in writing and any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;

Hosting: means any hosting provided by Panovus, including in relation to any website, software or other application, if described in the Project Agreement;

In-put Material: means all Documents, information and other materials (including any computer programs, data, reports and specifications) provided by the Client relating to the Services, including any materials specified in the Project Agreement;

Intellectual Property Rights: means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

Project Agreement: means the terms sheet accompanying these Terms, which sets out the key terms of the Agreement;

Milestone(s): means the date(s) by which the Services (or part(s) thereof) are estimated to be provided or completed, as set out in the Project Agreement;

Personnel: means any employee(s), authorised agents or contractors of a party;

Pre-existing Materials: means all Documents, information and materials (including any computer programs, data, reports and specifications) provided by either party relating to the Services which existed prior to the commencement of the Agreement or which are developed at any time independently of that party's obligations under the Agreement;

Services: means the services to be provided by Panovus as set out in the Project Agreement, together with any other services which Panovus provides or agrees to provide to the Client;

Panovus's Manager: means Panovus's manager responsible for the management of the Services.

Software: means any software licensed or otherwise provided by Panovus, as described in the Project Agreement;

Software Licence Terms: means Panovus's standard software licence terms, a copy of which is available from Panovus upon request;

Terms: means these terms and conditions for sales and marketing services; and

VAT: means value added tax chargeable under English law for the time being and any similar additional tax.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of the Agreement.

1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 Words in the singular shall include the plural and vice versa.

1.5 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.

1.6 A reference to writing or written includes faxes and e-mail (provided, in the case of Panovus, that the email has been authorised by Panovus's CEO or GM), save that email may not be used for the purpose of serving notice of breach or termination.

1.7 Where the words 'include(s)', 'including' or 'in particular' are used in the Agreement, they are deemed to have the words 'without limitation' following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.

1.8 Any obligation in the Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

1.9 References to clauses and schedules are to the clauses and schedules of the Agreement.

2. SERVICES

2.1 Panovus shall provide the Services on the terms of the Agreement, which may not be varied or amended unless agreed in writing in accordance with the terms of clause 5 below.

2.2 The parties agree that the Agreement shall govern all services provided by Panovus to the Client and that all other terms and conditions contained in any document(s) passing between the parties, including those set out in purchase orders, proposals or offers, shall have no contractual effect unless the parties agree otherwise in writing in accordance with the requirements of clause 5 below.

3. PANOVUS'S OBLIGATIONS

3.1 Panovus shall use reasonable endeavours to provide the Services and to deliver the Deliverables to the Client in accordance with the Agreement in all material respects.

3.2 Panovus shall use reasonable endeavours to meet any agreed performance dates or Milestones but any such dates shall be estimates only and time for performance by Panovus shall not be of the essence.

3.3 Panovus shall use all reasonable endeavours to obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services and ensure that the Personnel engaged in providing the Services will be sufficiently qualified and have the necessary levels of skill and expertise as may be required to carry out any tasks for which they are responsible in relation to the Services.

3.4 Panovus shall appoint Panovus's Manager who shall have authority to act on behalf of Panovus on all matters relating to the Services. Panovus shall use reasonable endeavours to ensure that the same person acts as Panovus's Manager throughout the term of the Agreement, but may replace him or her from time to time where reasonably necessary.

3.5 Where Panovus agrees to license Software to the Client, all such licensing shall be on the terms set out in the Software Licence Terms, unless otherwise agreed in writing.

- 3.6 Panovus shall observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Client's premises where the Services are performed, provided that the Client gives Panovus advance written notice of the same.
- 4. CLIENT'S OBLIGATIONS**
- 4.1 The Client shall:
- (a) co-operate with Panovus in all matters relating to the Services and appoint the Client's Manager(s) in relation to the Services, who shall have the authority contractually to act on behalf of the Client on matters relating to the Services;
 - (b) provide, for Panovus, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Client's premises, office accommodation, data and other facilities as reasonably required for the performance of the Services;
 - (c) provide, in a timely manner, such In-put Material and other information as Panovus may reasonably require, and ensure that it is accurate in all material respects;
 - (d) be responsible (at its own cost) for preparing and maintaining any relevant Client premises for the supply of the Services and inform Panovus of all health and safety rules and regulations and any other reasonable security requirements that apply at any such premises;
 - (e) ensure that all Client'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 relevant legal standards or requirements; and
 - (f) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services
- 4.2 If Panovus's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, Panovus shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.
- 4.3 The Client hereby represents and warrants that Panovus entering into the Agreement and/or providing the Services shall not give rise to any proceedings claims or demands (or circumstances likely to give rise to the same) by any employee, agent or contractor (of either the Client, its affiliates or any supplier) pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006. The Client agrees to indemnify Panovus fully and keep it indemnified in respect of any cost, loss, damage or expense suffered or incurred by reason of any breach of the aforementioned warranty.
- 4.4 The Client shall be liable to pay to Panovus, on demand, all reasonable costs, charges or losses sustained or incurred by Panovus (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Client's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Agreement, subject to Panovus confirming such costs, charges and losses to the Client in writing.
- 4.5 The Client shall not, without the prior written consent of Panovus, at any time from the date of the Agreement to the expiry of 12 months after the termination of the Agreement, solicit or entice away from Panovus or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of Panovus in the provision of the Services.
- 4.6 Any consent given by Panovus in accordance with clause 4.5 shall be subject to the Client paying to Panovus a sum equivalent to 50% of the then current annual remuneration of Panovus's employee, consultant or subcontractor or, if higher, 50% of the annual remuneration to be paid by the Client to that employee, consultant or subcontractor. The parties agree that the foregoing represents a genuine pre-estimate of the costs reasonably likely to be suffered by Panovus in the aforementioned circumstances, including costs associated with disruption to work and consequent recruitment and training.
- 5. CHANGE CONTROL**
- 5.1 The Client's Manager(s) and Panovus's Manager(s) shall, at least once every month, discuss matters relating to the Services. If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing.
- 5.2 If either party requests a change to the scope or execution of the Services, Panovus shall, within a reasonable time, provide a written estimate to the Client of:
- (a) the likely time required to implement the change;
 - (b) any necessary variations to Panovus's Charges arising from the change;
 - (c) the likely effect of the change on the Services (and in particular the Milestones); and
 - (d) any other impact of the change on the Agreement.
- 5.3 Panovus may charge for the time it spends assessing a request for change from the Client on a time and materials basis in accordance with clause 6.
- 5.4 Neither party shall be obliged to proceed with any change unless or until the parties have varied the Agreement in accordance with clause 13. Neither party shall unreasonably withhold or delay its consent to a change request made by the other.
- 5.5 Notwithstanding clauses 5.1 – 5.3 above, Panovus may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not substantially affect the nature, scope of, or the charges for the Services.
- 6. CHARGES AND PAYMENT**
- 6.1 In consideration of the provision of the Services by Panovus, the Client shall pay the Charges in accordance with the payment requirements set out in the Project Agreement. Charges are based upon Panovus's knowledge at the date the Charges are provided and in relation to the scope of the Services described in the Project Agreement.
- 6.2 The Client shall pay each invoice submitted to it by Panovus, in full and in cleared funds (net of all charges), within 30 days of receipt to a bank account nominated in writing by Panovus. Unless agreed otherwise, all invoices will be paid in Pounds Sterling. Time for payment shall be of the essence of the Agreement.
- 6.3 All Charges, expenses and any other amounts due are stated exclusive of Value Added Tax or similar sales tax, if applicable, which will be paid by the Client at the prevailing rate from time to time.
- 6.4 Unless agreed otherwise in writing, the Charges do not include expenses incurred by Panovus in connection with the provision of the Services and the Client agrees to reimburse all reasonable travel, subsistence and other expenses incurred in connection with the provision of the Services. If it appears that the expenses and/or disbursements are likely to exceed any

- estimate by a significant amount, Panovus shall endeavour to notify the Client in writing.
- 6.5 Any dispute or query concerning an invoice must be raised within 14 days of receipt, failing which the invoice shall be deemed accepted and any right of dispute waived. The parties shall use best endeavours to resolve any dispute promptly and shall apply the dispute resolution process set out in clause 21 if the dispute is not resolved informally within 14 days of the dispute being raised.
- 6.6 If any sum due under the Agreement is late Panovus may, without prejudice to any other rights or remedies it may have, charge interest on such outstanding sums at a daily rate of 3% above the base rate of HSBC Bank plc from time to time and Panovus also reserves the right to suspend the provision of the Services or any part thereof until such time as all outstanding payments have been made. Such interest shall be paid by the Client on demand.
- 6.7 The parties agree that Panovus may review and increase the Charges, provided that such Charges cannot be increased more than once in any 12 month period. Panovus shall give the Client written notice of any such increase 3 months before the proposed date of that increase, following which the increase shall apply to all Services provided thereafter.
- 6.8 All sums payable to Panovus under the Agreement shall become due immediately on its termination, despite any other provision. This clause 6.8 is without prejudice to any right to claim for interest under the law, or any such right under the Agreement.
- 6.9 Panovus may, without prejudice to any other rights it may have, set off any liability of the Client to Panovus against any liability of Panovus to the Client.
- ## 7. INTELLECTUAL PROPERTY RIGHTS
- 7.1 All Intellectual Property Rights created by Panovus in the course of the provision of the Services will be owned by Panovus. Upon completion of all relevant phases of the Services and on payment in full of all Panovus invoices and without breach of the terms of the Agreement, Panovus agrees to grant to the Client an exclusive, royalty free, worldwide licence and right to use the Deliverables on condition that they be used only for the Client's internal business purposes.
- 7.2 On payment of all relevant invoices as described in clause 7.1 above, Panovus shall further grant to the Client a worldwide, non-exclusive, royalty-free, licence to use Panovus's Pre-existing Materials used in the provision of the Services to the extent reasonably required for the use of the Deliverables by the Client in accordance with the terms of the Agreement. The Client hereby grants Panovus a worldwide, non-exclusive, royalty-free licence to use the Client's Pre-existing Materials to the extent required for the provision of the Services.
- 7.3 Notwithstanding any other provision in the Agreement, Panovus will not be prevented or restricted in any way from using and/or developing for any purpose whatsoever any skills, techniques, ideas, concepts, information or know-how acquired or used by it in providing the Services.
- 7.4 The Deliverables and Panovus's Pre-existing Materials shall be treated as Confidential Information in accordance with the requirements of clause 8 below and the Client shall ensure that any third parties, such as other consultants or suppliers, who are given access to the same must first sign a written agreement imposing confidentiality restrictions at least as restrictive as those in clause 8 below and ensuring that the third party shall comply with any restrictions on use imposed by the Agreement.
- 7.5 All Services performed and Deliverables submitted to the Client for approval shall be deemed accepted if, within ten (10) days after delivery, the Client has not provided to Panovus written notice specifying any basis for not approving the Services and/or Deliverables. Panovus shall not be responsible for any errors or omissions in artwork, illustrations, proofs, copy, deliverables, software or other materials which are accepted by the Client or its employees, and for these purposes, acceptance shall be deemed given either by signature on receipt, or using the said material, or failure to notify any problem within a reasonable period.
- 7.6 The parties agree and acknowledge that the Deliverables may contain materials, such as reports, illustrations, photographs and trade marks, owned by third parties and which are subject to restrictions and other conditions on use. Panovus shall use reasonable endeavours to identify to the Client any such third party rights. Unless otherwise agreed, the Client shall obtain the consent of the relevant third party to any reproduction or other such use and nothing hereby grants or implies any grant of any such rights on the part of Panovus. Panovus does not carry out patent infringement, trademark or other Intellectual Property Rights searches and does not warrant that the results of the Services will be outside the scope of any patent, trademark, copyright, design right or other such registration.
- 7.7 Nothing in the Agreement shall prevent Panovus from doing business with any other third party at any time.
- ## 8. CONFIDENTIALITY
- 8.1 Each party will keep as confidential any information received from the other which is marked as confidential or is of a confidential nature, including but not limited to business plans, financial information, customers, trade secrets and know how. All such confidential information shall be used by the receiving party only insofar as is necessary to provide or receive the Services and shall not be disclosed to any third party without the prior written consent of the disclosing party, except to the recipient's professional advisers or auditors.
- 8.2 The obligations in clause 8.1 will not apply in relation to any information which:-
- (a) is in or comes into the public domain other than as a result of a breach of the Agreement by the receiving party; or
 - (b) is obtained by the receiving party from a third party who owes no obligation of confidence to the disclosing party in relation to such information; or
 - (c) has been developed by or on behalf of the receiving party independently of any information disclosed to it by the disclosing party; or
 - (d) was in the receiving party's possession or known to it prior to receipt from the disclosing party.
- 8.3 A party will not be in breach of this clause 8 where any disclosure of the other party's confidential information is required by law, a court of competent jurisdiction or a competent government or regulatory authority.
- 8.4 Neither party shall issue any press release nor make any other statement to the public in relation to the Agreement or the Services provided hereunder without the prior written consent of the other, which shall not be unreasonably withheld or delayed, except that Panovus may state that the Client is a customer of the Services.
- 8.5 All materials, equipment and tools, drawings, specifications and data supplied by Panovus to the Client (including Pre-existing Materials) shall, at all times, be and remain the exclusive property of Panovus, but shall be held by the Client in safe custody at its own risk and maintained and kept in good

condition by the Client until returned to Panovus, and shall not be disposed of or used other than in accordance with Panovus's written instructions or authorisation.

9. LIMITATION OF LIABILITY

9.1 This clause 9 sets out the entire financial liability of Panovus (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the Client in respect of:

- (a) any breach of the Agreement;
- (b) any use made by the Client of the Services, the Deliverables or any part of them; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.

9.3 Nothing in the Agreement limits or excludes the liability of Panovus:

- (a) for death or personal injury resulting from negligence; or
- (b) for any damage or liability incurred by the Client as a result of fraud or fraudulent misrepresentation by Panovus.

9.4 Subject to clause 9.2 and clause 9.3:

- (a) Panovus shall not be liable for loss of profits; loss of business; depletion of goodwill and/or similar losses; loss of anticipated savings; loss of goods; loss of contract; loss of use; loss or corruption of data or information; or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and
- (b) Panovus's 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 total fees (excluding taxes and expenses) paid by the Client to Panovus under the Agreement during the twelve (12) months immediately preceding the date upon which the cause of action arose.

10. DATA PROTECTION

10.1 Each party agrees to comply with the provisions of the Data Protection Act 1998 and to Directive 95/46/EC of the European Parliament and any regulations implementing it (all referred to together as the 'Data Protection Requirements') insofar as the Data Protection Requirements apply to that party's obligations under the Agreement. In particular and without limitation to the forgoing, the party receiving personal data (the 'Processor') from the other (the 'Controller') shall

- (a) act only on instructions from the Controller and shall take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, any personal data;
- (b) not transfer any personal data outside the countries of the European Economic Area, without the express written consent of the Controller; and
- (c) consider all reasonable suggestions which the Controller may put to the Processor to ensure that the level of protection that Processor provides is suitable and complies with the Data Protection Requirements.

10.2 The Processor shall keep all materials containing personal data in a safe and secure place and shall return them to the Controller as soon as reasonably practicable on termination or expiry of the Agreement or sooner on the Controller's written request.

11. TERM & TERMINATION

11.1 This Agreement shall commence on the Commencement Date and continue thereafter unless or until terminated in accordance with its terms.

11.2 Either party may terminate the Agreement at any time without penalty by giving at least three (3) months written notice.

11.3 Either party may terminate the Agreement immediately by giving written notice if the other party commits a material breach of the terms of the Agreement which is either incapable of remedy or which the defaulting party fails to remedy within 30 days of receiving written notice thereof.

11.4 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Agreement without liability to the other immediately on giving notice to the other if:

- (a) the other party 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 in writing to make such payment; or
- (b) the other party 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
- (c) the other party is or may be (in the reasonable opinion of the other party) unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator or similar appointed or calls a meeting of its creditors or ceases for any other reason to carry on business.

11.5 On termination of the Agreement for any reason:

- (a) the Client shall immediately pay to Panovus all of Panovus's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Panovus may submit an invoice (including for the balance owing of any minimum or guaranteed sum), which shall be payable immediately on receipt;
- (b) the Client shall return all of Panovus's Equipment, Pre-existing Materials and Deliverables. If the Client fails to do so, then Panovus may enter the Client's premises and take possession of them. Until they have been returned or repossessed, the Client shall be solely responsible for their safe keeping; and
- (c) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

11.6 On termination of the Agreement, each party will return to the other party any property belonging to such other party which it has in its possession or control. In the case of termination by the Client, it shall pay to Panovus any additional costs reasonably incurred as a result of the early termination of the Services, such as expenses legitimately incurred following termination and costs relating to sub-contracts, provided Panovus has taken reasonable steps to mitigate any such additional costs.

- 11.7 On termination of the Agreement (however arising) the following clauses shall survive and continue in full force and effect: Clauses 6, 7, 8, 9 and 22.
- 11.8 In the event that the Client terminates the Agreement other than owing to the default of Panovus it shall, as a minimum and without prejudice to any other right or remedy available to Panovus, immediately pay to Panovus a cancellation fee equivalent to (a) the average monthly Charges paid or payable to date under the Agreement, or (b) the Charges which would have been paid or payable in respect of the month following termination, had termination not been effected, if greater.
- 11.9 The Client may suspend or postpone the Services only with the prior written agreement of Panovus. Any postponement or suspension not so authorised shall comprise a material breach of the Agreement.
- 12. FORCE MAJEURE**
- 12.1 A party, provided that it has complied with the provisions of clause 12.2, shall not be in breach of the Agreement, nor liable for any failure or delay in performance of any obligations under the Agreement arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (Force Majeure Event), including but not limited to any of the following: acts of God, including but not limited to fire, flood, earthquake, windstorm or other natural disaster; war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions; terrorist attack, civil war, civil commotion or riots; nuclear, chemical or biological contamination or sonic boom; mandatory compliance with any law; fire, explosion or accidental damage; loss at sea; extreme adverse weather conditions; collapse of building structures, failure of plant machinery, machinery, computers or vehicles; any labour dispute, including but not limited to strikes, industrial action or lockouts; and interruption or failure of utility service, including but not limited to electric power, gas or water.
- 12.2 Any party that is subject to a Force Majeure Event shall not be in breach of the Agreement provided that:
- (a) it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;
 - (b) it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under the Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.
- 12.3 If the Force Majeure Event prevails for a continuous period of more than 2 months, either party may terminate the Agreement by giving 30 days' written notice to the other party.
- 13. VARIATION**
- No variation of the Agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the parties.
- 14. WAIVER**
- 14.1 Failure to exercise, or any delay in exercising, any right or remedy provided under the Agreement or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.
- 14.2 No single or partial exercise of any right or remedy provided under the Agreement or by law shall preclude or restrict the further exercise of any such right or remedy.
- 14.3 A waiver (which may be given subject to conditions) of any right or remedy provided under the Agreement or by law shall only be effective if it is in writing and shall apply only to the party to whom it is addressed and for the specific circumstances for which it is given. It shall not prevent the party who has given the waiver from subsequently relying on the right or remedy in other circumstances.
- 14.4 Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.
- 15. SEVERANCE**
- 15.1 If any provision of the Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.
- 15.2 If a provision of the Agreement (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 16. ENTIRE AGREEMENT**
- 16.1 This Agreement constitutes the whole agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of the Agreement; save that nothing in this clause shall be construed as seeking to limit or exclude any liability for fraud.
- 16.2 Each party acknowledges that, in entering into the Agreement, it does not rely on any statement, representation, assurance or warranty (Representation) of any person (whether a party to the Agreement or not) other than as expressly set out in the Agreement. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract as expressly provided in the Agreement.
- 16.3 In the event and only to the extent of a conflict between the terms of the Agreement and any terms in the Project Agreement, the Agreement shall prevail unless the Project Agreement specifically overrides the conflicting provisions of the Agreement and is signed by the CEO or GM of Panovus.
- 17. ASSIGNMENT**
- 17.1 Save with respect to any Intellectual Property Rights owned or licensed by Panovus, neither party may, without the prior written consent of the other, assign, transfer, charge, mortgage or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 17.2 Panovus may use agents and/or sub-contractors when providing any part of the Services but shall remain responsible for the Services despite any delegation or sub-contracting.
- 17.3 Each party that has rights under the Agreement is acting on its own behalf and not for the benefit of another person.
- 18. NO PARTNERSHIP OR AGENCY**
- Nothing in the Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

19. RIGHTS OF THIRD PARTIES

A person who is not a party to the Agreement shall not have any rights under or in connection with it.

20. NOTICES

20.1 A notice given to a party under the Agreement:

- (a) shall be in writing in English (or accompanied by a properly prepared translation into English);
- (b) shall be signed by or on behalf of the party giving it;
- (c) shall be sent for the attention of the person, at the address or fax number specified in this clause (or to such other address, fax number or person as that party may notify to the other, in accordance with the provisions of this clause); and
- (d) shall be:
 - (i) delivered personally; or
 - (ii) sent by commercial courier; or
 - (iii) sent by fax; or
 - (iv) sent by pre-paid first-class post or recorded delivery; or
 - (v) sent by airmail requiring signature on delivery.

20.2 The addresses for service of a notice (or other communication) are as follows:

- (a) Panovus:
 - (i) address: Atlantic House, Imperial Way, Reading, Berkshire, RG2 0TD
 - (ii) for the attention of: the CEO or GM
 - (iii) fax number: 0118 916 8501.
- (b) Client: The details set out in the Project Agreement

20.3 If a notice has been properly sent or delivered in accordance with this clause, it will be deemed to have been received as follows:

- (a) if delivered personally, at the time of delivery; or
- (b) if delivered by commercial courier, at the time of signature of the courier's receipt; or
- (c) if sent by fax, at the time of transmission; or
- (d) if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second business day after posting; or
- (e) if sent by airmail, five days from the date of posting.

20.4 For the purposes of this clause:

- (a) all times are to be read as local time in the place of deemed receipt; and
- (b) if deemed receipt under this clause is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the

place of receipt), the notice is deemed to have been received when business next starts in the place of receipt.

20.5 To prove delivery, it is sufficient to prove that:

- (a) if sent by fax, the notice was transmitted by fax to the fax number of the party; or
- (b) if sent by pre-paid first class post, the envelope containing the notice was properly addressed and posted.

20.6 The provisions of this clause 20 shall not apply to the service of any process in any legal action or proceedings.

20.7 A notice required to be given under the Agreement shall not be validly served if sent by e-mail.

21. DISPUTE RESOLUTION

21.1 If any dispute arises in connection with the Agreement, Panovus's Manager and the Client's Manager shall, within 14 days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

- (c) If the dispute is not resolved at that meeting, 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 will be nominated by CEDR. To initiate the mediation, a party must give notice in writing (ADR notice) to the other party requesting a mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than 21 days after the date of the ADR notice.

21.2 No party may commence any court proceedings in relation to any dispute arising out of the Agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

22. GOVERNING LAW AND JURISDICTION

22.1 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.

22.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter.