

PointWire Service Terms and Conditions

1. Interpretation

Definitions. In these Conditions, the following definitions apply:

- 1.1.1. **Authorised Signatory:** an individual authorised to deal on behalf of legal matters on PointWire's behalf being either a director or someone authorised by a director of PointWire.
- 1.1.2. **Associate:** any company in the same group as PointWire
- 1.1.3. **Business Day:** a day other than a Saturday, Sunday, any public holiday in England or any day in PointWire's mandatory shutdown during the last two weeks of December.
- 1.1.4. **Charges:** the charges payable by PointWire or the Customer for the supply of the Services in accordance with clause 4.
- 1.1.5. **Commencement Date:** means the date stated in the Statement of Work.
- 1.1.6. **Conditions:** these terms and conditions.
- 1.1.7. **Contract:** the contract between PointWire and the Customer for the supply of Services consisting of these Conditions, and the relevant Statement of Works.
- 1.1.8. **Deliverables:** all documents, products and materials developed by PointWire or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
- 1.1.9. **End Customer:** an end user requesting Services delivered either solely by PointWire, or by PointWire and the Customer, where the procurement relationship may or may not be directly owned by either party.
- 1.1.10. **Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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.
- 1.1.11. **Manager:** a person appointed by the Customer who can respond to any queries sent by the Support Manager.
- 1.1.12. **PointWire Materials:** has the meaning set out in clause 3.5.
- 1.1.13. **Services:** the services, including without limitation any Deliverables, to be provided by PointWire under the Contract as set out in the Statement of Works.
- 1.1.14. **Specification:** the description or specification for the Services agreed in writing by PointWire and the Customer and included in the Statement of Works.
- 1.1.15. **Statement of Works (SOW):** a document containing the scope of a project including any limitations, assumptions, demands of resources required by the Customer or End Customer, needed by PointWire to ensure the successful delivery of the Services.

- 1.1.16. **Support Manager:** a person who is appointed by PointWire to liaise with the Manager during the performance of Services covered under the scope of this contract.
- 1.1.17. **Third Party Licence:** any software or hardware licence relating to any software or hardware provided by PointWire to the Customer and/or which relates to any software and/or hardware in relation to which Services are provided.

Throughout these Conditions, the following assumptions and rules also apply:

- 1.2.1. a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2. a reference to a party includes its successors or permitted assigns;
- 1.2.3. a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.4. any phrase introduced by the terms 'including', 'include', 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.2.5. a reference to writing or written includes e-mails.

2. Application of terms

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3. Supply of Services

- 3.1 PointWire shall not commence works before the Specification has been agreed in writing by both PointWire and the Customer.
- 3.2 Subject to Clause 3.1, PointWire shall from the Commencement Date and for the duration of this Contract provide the Services to the Customer and/or, where relevant, the End Customer in accordance with the terms of the Contract. Where there is an obligation on the Customer under the Contract which can only be or is better discharged by the End Customer the Customer shall procure that the End Customer discharge such obligation promptly and in full.
- 3.3 The Parties shall each use reasonable endeavours to meet their performance dates in relation to the Services, and each shall notify the other where this is not possible and why.
- 3.4 In the provision of the Services, PointWire shall:
 - 3.4.1 co-operate with the Customer in all matters relating to the Services;
 - 3.4.2 perform the Services with the reasonable care, skill and diligence in accordance with good practices in the IT & Cyber Security industry;

- 3.4.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that its obligations are fulfilled in accordance with the Contract;
 - 3.4.4 ensure that the Services and Deliverables will conform with all material respects with the Specification, and that the Deliverables shall be fit for the purpose detailed in the relevant Statement of Work;
 - 3.4.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - 3.4.6 use suitable quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the End Customer, will be free from known defects in workmanship, installation and design;
 - 3.4.7 obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations in relation to the provision of the Services;
- 3.5 In the receipt of the Services the Customer shall:
- 3.5.1 co-operate with PointWire in all matters relating to the Services;
 - 3.5.2 provide PointWire with all information and access to personnel, equipment and premises as PointWire shall reasonably request;
 - 3.5.3 hold all materials, equipment and tools, drawings, specifications and data supplied by PointWire to the Customer (**PointWire Materials**) in safe custody at its own risk, maintain PointWire Materials in good condition until returned to PointWire, and not dispose or use PointWire Materials other than in accordance with PointWire's written instructions or authorisation;
 - 3.5.4 not do or omit to do anything which may cause PointWire to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business.
- 3.6 PointWire may, on prior notice to the Customer, make changes to the Services or the manner in which they are delivered, provided such changes do not have a material adverse effect on the Customer's business operations.
- 3.7 PointWire shall have no obligation to provide the Services where prevented from doing so by any act or omission of the Customer or End Customer or anyone acting for or on behalf of either the Customer or End Customer.
- 3.8 The Services are provided on a fair usage basis and PointWire reserves the right to restrict supply of the Services or terminate the Contract in the event that the Customer (in PointWire's reasonable opinion) makes unreasonable demands (whether in quantity or scope) for the Services.

4. Charges and Payment

- 4.1 In consideration of provision of the Services, the Customer shall pay the Charges. These Charges shall be paid to PointWire within 30 days of the date of PointWire's invoice.

- 4.2 Where a direct relationship between the End Customer and PointWire is established for charges, the Customer agrees to flow these Conditions and all its terms, to the End Customer.
- 4.3 The Customer shall pay all costs (at PointWire's then prevailing rates) and reasonable expenses incurred by PointWire in connection with or as a result of any request from the Customer for further work which is not included in the Statement of Works which PointWire agrees to undertake and/or any work necessitated by any failure of the Customer to comply with these Conditions or any Statement of Works.
- 4.4 The Customer shall reimburse any reasonable travel or subsistence expenses incurred by PointWire where such expenses are incurred for the purpose of providing the Services, provided that any request for reimbursement is in the form of a proper invoice accompanied by appropriate receipts.
- 4.5 If the Customer fails to make any payment due to PointWire under these Conditions by the due date for payment, then, without limiting PointWire's remedies under clause **Error! Reference source not found.**, the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 4.6 All amounts payable under these Conditions shall be exclusive of VAT or relevant local sales tax (if any) or any relevant local sales taxes which shall be paid at the rate and in the manner for the time being prescribed by law.
- 4.7 PointWire may increase the Charges as from each anniversary of the Commencement Date. Any increase shall be notified to the Customer at least three months before such anniversary.
- 4.8 All amounts due under these Conditions shall be paid by the Customer to PointWire in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law), unless otherwise agreed by the Statement of Works, or in writing by an Authorised Signatory.
- 4.9 PointWire reserves the right to charge for any extra work required as a result of the Customer not complying with PointWires procedures and/or completing any required training or which is outside the scope of the Services.

5. Intellectual Property Rights

- 5.1 All Intellectual Property Rights in the Deliverables shall belong to PointWire and the Customer shall have no rights in respect of any of the Deliverables except as expressly granted under these Conditions. The Customer shall do or procure to be done all such further acts and things and sign or procure the signature of all such other documents as PointWire may from time to time require for the purpose of giving PointWire the full benefit of the provisions of this clause 5.1.
- 5.2 PointWire undertakes at its own expense to defend the Customer or, at its option, settle any claim or action brought against the Customer alleging that the use or possession of any of the Deliverables (or any part of them) by the Customer in accordance with these Conditions infringes the UK Intellectual Property Rights of a third party (**Claim**) and shall

be responsible for any reasonable losses, damages, costs (including legal fees) and expenses incurred by, or awarded against, the Customer as a result of or in connection with any such Claim. For the avoidance of doubt, this clause o shall not apply where the Claim in question is attributable to possession, use, development, modification or maintenance of the Deliverables (or any part thereof) by the Customer other than in accordance with the terms of these Conditions, use of the Deliverables in combination with any hardware or software not supplied or specified by PointWire, if the infringement would have been avoided by the use of the Deliverables not so combined, or use of a non-current release of any software associated with the Services unless otherwise directed by PointWire.

5.3 Clause o is conditional on the Customer:

- 5.3.1 as soon as reasonably practicable, giving written notice of the Claim to PointWire, specifying the nature of the Claim in reasonable detail;
- 5.3.2 not making any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of PointWire (such consent not to be unreasonably conditioned, withheld or delayed);
- 5.3.3 giving PointWire and its professional advisers at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Customer, so as to enable PointWire and its professional advisers to examine them and to take copies (at PointWire's expense) for the purpose of assessing the Claim; and
- 5.3.4 subject to PointWire providing security to the Customer to the Customer's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, taking such action as PointWire may reasonably request to avoid, dispute, compromise or defend the Claim.

5.4 If any Claim is made, or in PointWire's reasonable opinion is likely to be made, against the Customer, PointWire may at its sole option and expense:

- 5.4.1 procure for the End Customer the right to continue using, developing, modifying or maintaining the Deliverables (or any part of them) in accordance with the terms of these Conditions;
- 5.4.2 modify the Deliverables so that they cease to be infringing;
- 5.4.3 replace the Deliverables with non-infringing works; or
- 5.4.4 terminate the Contract immediately on notice to the Customer and repay to the Customer all sums which the Customer has paid to PointWire under these Conditions during the year in which the termination occurs, less a charge for the Services performed up to the date of termination.

5.5 Notwithstanding any other provision in these Conditions, clause o shall not apply to the extent that any claim or action referred to in that clause arises directly or indirectly through the breach of any Third-Party Licence relating to any Open-Source Software so incorporated howsoever arising.

5.6 This clause 5 constitutes the Customer's exclusive remedy and PointWire's only liability in respect of Claims and, for the avoidance of doubt, is subject to clause 6.

6. Limits of liability

6.1 Except as expressly stated in clause 0:

6.1.1 PointWire shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer including, but not limited to, any End Customer), 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:

6.1.1.1 Special, indirect or consequential loss or damage, even though PointWire was aware of the circumstances in which such loss and/or damage could arise;

6.1.1.2 loss of profits;

6.1.1.3 loss of anticipated savings;

6.1.1.4 loss of business opportunity;

6.1.1.5 loss of or goodwill;

6.1.1.6 loss of, or damage to (including corruption of), data.

6.1.2 the Customer agrees that, in entering into the Contract, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in these Conditions or (if it did rely on any representations, whether written or oral, not expressly set out in these Conditions) that it shall have no remedy in respect of such representations and (in either case) PointWire shall not in any circumstances have any liability otherwise than in accordance with the express terms of these Conditions; and

6.1.3 PointiWire's total aggregate liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall in all circumstances be limited to a maximum of £2,000,000 in relation to any liability for which PointWire is insured and a maximum of £50,000 in the aggregate for all liabilities for which PointWire is not insured.

6.2 The exclusions in clause 6.1 shall apply to the fullest extent permissible at law but PointWire does not exclude liability for:

6.2.1 death or personal injury caused by the negligence of PointWire, its officers, employees, contractors or agents;

6.2.2 fraud or fraudulent misrepresentation;

6.2.3 breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 Supply of the Goods and Services Act 1982; or

6.2.4 any other liability which cannot be excluded by law.

6.3 The Customer acknowledges that:

6.3.1 it is exclusively responsible for ensuring the security, completeness and accuracy of all inputs and outputs and compliance with the standards of the National Cyber Security Centre;

6.3.2 the level of the Charges reflects the allocation of risk between the parties set out in these Conditions; and

6.3.3 it is in a better position than PointWire to assess and manage its risk in relation to commissioning the Services.

6.4 All dates supplied by PointWire for the provision of Services shall be treated as approximate only. PointWire shall not in any circumstances be liable for any loss or damage arising from any delay in delivery beyond such approximate dates.

6.5 All references to PointWire in this clause 6 shall, for the purposes of this clause only, be treated as including all employees, subcontractors of PointWire and its Associates, all of whom shall have the benefit of the exclusions and limitations of liability set out in this clause, in accordance with clause 17.

6.6 The Customer shall comply with the Third-Party Licences and shall indemnify PointWire 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 and other reasonable professional costs and expenses) suffered or incurred by PointWire arising out of or in connection with the Customer's breach of the terms of any such Third-Party Licences.

6.7 PointWire may treat the Customer's breach of any Third-Party Licence as a breach of these Conditions.

7. Confidentiality and Competition

7.1 A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

7.2 The Customer warrants that it shall not (and shall procure that each member of the group of companies to which the Customer belongs shall not) at any time during the term of the Contract and for a period of 2 years from the termination or expiry of the Contract:

- 7.2.1 canvass, solicit or otherwise seek the custom of any customer or prospective customer of PointWire, with a view to providing Services (or other goods, services or other supplies which PointWire can, from time-to-time, supply to that customer) to that customer or prospective customer in competition with PointWire (or any part of it), where PointWire has introduced that customer or prospective customer to the Customer, or otherwise made the Customer aware of that customer or prospective customer, with the intention that PointWire would or may purchase Services from the Customer so that the eventual end-user of such Services would be that customer or prospective customer;
 - 7.2.2 induce or attempt to induce any customer or prospective customer of PointWire to cease, or refrain from, conducting business with, or to reduce the amount of business conducted with or to vary adversely the terms upon which it conducts business with PointWire, or do any other thing which is reasonably likely to have such an effect; or
 - 7.2.3 solicit, induce to terminate employment, or otherwise entice away whether directly or indirectly through another firm or company, any employee of PointWire professionally or otherwise directly associated with PointWire (but there is no restriction on the Customer employing any person who is employed or acting for PointWire where that person responds to a bona fide public advertisement for employees).
- 7.3 This clause 7 shall survive termination of the Contract.

8. Assignment and subcontracting

- 8.1 The Customer shall not assign, novate, charge, subcontract or deal in any other manner with any or all of its rights and obligations under the Contract without the prior written consent of PointWire (such consent not to be unreasonably withheld or delayed).
- 8.2 PointWire may at any time assign, novate, charge, subcontract or deal in any other manner with any or all of its rights and obligations under the Contract, provided it gives written notice to the Customer.
- 8.3 Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 8.4 Notwithstanding **Error! Bookmark not defined.**8.1, a party assigning any or all of its rights under these Conditions may disclose to a proposed assignee any information in its possession that relates to the Contract or its subject matter, the negotiations relating to it and the other party which is reasonably necessary to disclose for the purposes of the proposed assignment, provided that no disclosure pursuant to this clause shall be made until notice of the identity of the proposed assignee has been given to the other party.

9. Duration

The Contract shall, subject to termination under clause 10, remain in force for the term referred to in the relevant Statement of Works .

10. Termination

10.1 Without prejudice to any rights that have accrued under the Contract or any of its rights or remedies, either party may at any time terminate the Contract with immediate effect by giving written notice to the other party if:

- 10.1.1 the other party 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;
- 10.1.2 the other party commits a material breach of any term of the Contract (other than failure to pay any amounts due under 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;
- 10.1.3 the other party repeatedly breaches any of the terms of the Contract 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 Contract;
- 10.1.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 10.1.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 10.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 10.1.7 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party;
- 10.1.8 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- 10.1.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 10.1.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 10.1.11 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 10.1.4 to clause 10.1.11 (inclusive); and

- 10.1.12 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 10.2 PointWire may, without prejudice to its other rights or remedies, terminate the Contract immediately by notice to the Customer if the Customer:
 - 10.2.1 undergoes a change of Control;
 - 10.2.2 sells all of its assets or is merged or re-organised in circumstances where it is not the surviving entity; or
 - 10.2.3 disputes the ownership or validity of PointWire's Intellectual Property Rights.

11. Effect of termination

- 11.1 Other than as set out in these Conditions, neither party shall have any further obligation to the other under the Contract after its termination.
- 11.2 Any provision of these Conditions which expressly or by implication is intended to come into or continue in force on or after termination of these Conditions shall remain in full force and effect.
- 11.3 Termination of the Contract, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.
- 11.4 Notwithstanding its obligations in this clause 10, if a party is required by any law, regulation, or government or regulatory body to retain any documents or materials containing the other party's Confidential Information, it shall notify the other party in writing of such retention, giving details of the documents and/or materials that it must retain.
- 11.5 On termination of the Contract for any reason, the Customer's right to receive the Services shall cease automatically and each party shall as soon as reasonably practicable:
 - 11.5.1 return, destroy or permanently delete (as directed in writing by the other party) any documents, handbooks, CD-ROMs or DVDs or other information or data provided to it by the other party containing, reflecting, incorporating or based on Confidential Information belonging to the other party. If required by the other party, it shall provide written evidence no later than 14 days after termination of the Contract that these have been destroyed and that it has not retained any copies of them (except for one copy that it may use for audit purposes only and subject to the confidentiality obligations in 7);
 - 11.5.2 return all of the other party's equipment and materials, failing which, the other party may enter the relevant premises and take possession of them. Until these are returned or repossessed, the party in possession shall be solely responsible for their safe-keeping, and any electronic data shall be considered deleted, for the purposes of this clause 10.2, where it has been put beyond use by the deleting party.
- 11.6 On termination of the Contract for any reason, PointWire shall:
 - 11.6.1 promptly refund such portion of the Charges as relates to the period after expiry or termination on a pro rata basis provided always that no such refund shall be given if PointWire has terminated the Contract pursuant to clause 10;

11.6.1 as soon as reasonably practicable, vacate the Customer's premises leaving them clean and tidy and removing any goods, materials or equipment belonging to it. Any goods, materials or equipment that have not been removed after 30 days after termination of the Contract may be disposed of by the Customer as it thinks fit.

11.7 On termination of the Contract for any reason, the Customer shall immediately pay any outstanding unpaid invoices and interest due to PointWire. PointWire shall submit invoices for any Services that it has supplied, but for which no invoice has been submitted, and the Customer shall pay these invoices immediately on receipt.

12. Waiver

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

13. Remedies

Except as expressly provided in these Conditions, the rights and remedies provided under these Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

14. Entire Agreement

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

14.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Conditions.

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

15. Variation

No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

16. Severance

16.1 If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Conditions.

16.2 If any provision or part-provision of these Conditions is deemed deleted under clause 16.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

17. Third-party rights

No one other than a party to the Contract, their successors and permitted assignees, shall have any right to enforce any of its terms unless such right is specifically granted under the Contract.

18. Force majeure

- 18.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party.
- 18.2 If termination occurs under clause 0, all sums paid to PointWire by the Customer under the Contract shall be refunded to the Customer, except that PointWire shall be entitled to payment on a *quantum meruit* basis for all work done before termination, provided that PointWire takes all reasonable steps to mitigate the amount due.

19. Notices

- 19.1 Any notice or other communication given to a party under or in connection with this contract shall be in writing and shall be sent by email to an email address detailed in the relevant Statement of Works with a copy (in the case of any notice from the Customer to PointWire) to genine@pointwire.com.
- 19.2 Any notice or communication shall be deemed to have been received at 9.00 am on the next Business Day after transmission.
- 19.3 This clause 19 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

20. Dispute resolution

- 20.1 It is the intention of the parties to settle amicably by negotiation all disagreements and differences of opinion on matters of procedure and management arising out of the Contract. Accordingly, it is agreed that the procedure set out in this clause 0 shall be followed before the serving of written notice terminating the Contract, or in relation to any matter of dispute between the parties concerning procedure or management.
- 20.2 If any disagreement or difference of opinion arises out of the Contract, the matter shall be disposed of as follows:
- 20.2.1 the Manager and the Support Manager shall meet to attempt resolution. Should they not meet within 14 days of the date on which either party convenes a meeting to resolve the matter, or should they not be able to resolve the matter with 14 days of first meeting; then
- 20.2.2 the matter shall promptly be referred by either party to the chief executive officer of the Customer and a director of PointWire for immediate resolution.
- 20.3 If, within 14 days of the matter first having been referred to the individuals in clause 0 no agreement has been reached as to the matter in dispute, the dispute resolution process set out in this clause 0 shall be deemed to have been exhausted in respect of the matter in dispute, and each party shall be free to pursue the rights granted to it by these Conditions in respect of such matter without further reference to the dispute resolution process.

20.4 For the avoidance of doubt, this clause shall not prevent either party from seeking injunctive relief in the case of any breach or threatened breach by the other of any obligation of confidentiality or any infringement by the other of the first-named party's Intellectual Property Rights.

21. Governing law

21.1 This agreement 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.

22. Jurisdiction

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