

1 INTELLECTUAL PROPERTY

1.1 Types of IP

In this Agreement:

Third Party IP means, in relation to either party, any Intellectual Property right, title or interest that is:

- (a) provided by that party to the other party in relation to the relevant SOW;
- (b) owned by a third party, such third party not being a member of the providing party's Group; and
- (c) either:
 - (i) expressly identified in writing by the providing party (on or prior to providing that Intellectual Property) as owned by that third party; or
 - (ii) obviously on its face owned by that third party.

Pre-existing IP means, in relation to either party, any Intellectual Property right, title or interest, other than Third Party IP, which is both:

- (a) provided by that party to the other party in relation to the relevant SOW; and
- (b) owned by, licensed to or in the possession of the providing party's Group, either:
 - (i) on or prior to the Commencement Date; or
 - (ii) after the Commencement Date, but not in relation to the relevant SOW.

Developed IP means any Intellectual Property right, title or interest which is, or is to be, incorporated in any Deliverable, other than Third Party IP and Pre-existing IP.

1.2 Third party IP

Ownership of all Third Party IP remains with the relevant third party and its licensors and notwithstanding Clause 6 (Confidentiality) of this Agreement:

(a) *Customs provided IP:* on delivery of any of Customs' Third Party IP to Supplier, Customs shall ensure that Supplier receives a non-exclusive licence to all Intellectual Property rights and interests in that Third Party IP to the extent necessary to enable Supplier to perform its obligations under this SOW, except as provided in paragraphs (i) and (ii) below:

(i) If Supplier is notified in writing by or on behalf of Customs of the terms and conditions of use of any Third Party IP prior to Supplier's receipt of that Third Party IP, that Third Party IP will be licensed on such terms and conditions.

(ii) If paragraph (i) does not apply but it is obvious on its face that any Third Party IP is owned by a third party, that Third Party IP will (subject to any agreement otherwise between the third party and Supplier) be licensed to Supplier on such terms and conditions as the third party generally licenses such Intellectual Property in such circumstances.

(b) *Supplier provided IP:* on delivery of any of Supplier's Third Party IP to Customs, Supplier shall ensure that Customs receives a valid licence for that Third Party IP, on the following terms:

(i) If Customs is notified in writing by or on behalf of Supplier of the terms and conditions of use of that Third Party IP prior to Customs' receipt of that Third Party IP, that Third Party IP will be licensed on such terms and conditions.

(ii) If paragraph (i) does not apply but it is obvious on its face that that Third Party IP is owned by a third party, that Third Party IP will (subject to any agreement otherwise between that third party and Customs) be licensed to Customs on such terms and conditions as that third party generally licenses such Intellectual Property in such circumstances.

(iii) If paragraphs (i) and (ii) do not apply, Customs will have a non-exclusive, perpetual, royalty-free licence to all Intellectual

Property rights and interests in that Third Party IP, but only in relation to the purpose for which that Third Party IP was provided under the relevant SOW.

1.3 Pre-existing IP

Ownership of each party's Pre-existing IP remains with that party and its licensors, and notwithstanding Clause 9 (Confidentiality) of this Agreement:

- (a) *Customs provided IP*: on delivery of Customs' Pre-existing IP to Supplier, Customs grants Supplier a non-exclusive licence to all Intellectual Property rights and interests in that Pre-existing IP to the extent necessary to enable Supplier to perform its obligations under the relevant SOW;
- (b) *Supplier provided IP in Deliverables*: in relation to all IP in a Deliverable, Supplier grants Customs a non-exclusive, royalty-free, perpetual licence to all Intellectual Property rights and interests in that Supplier Pre-existing IP on payment in full of the Charges that are directly allocated in Schedule 6 of the relevant SOW to that Deliverable;

1.4 Developed IP

All Developed IP in a Deliverable will vest absolutely and exclusively in Customs on payment in full of the Charges that are directly allocated to that Deliverable in the relevant SOW (usually in Schedule 6 of that SOW) and without the need for any further act by Customs (except as required by law). Customs grants to Supplier a non-exclusive licence to all Intellectual Property rights and interests in the Developed IP to the extent necessary to enable Supplier to perform its obligations under the relevant SOW.

Supplier will ensure that all Moral Rights in the Developed IP are (prior to their creation) waived. Moral Rights means the moral rights of the author of a copyright work (including any right to be identified as the author of the work or to object to derogatory treatment of the work) in any jurisdiction.

1.5 Pre-payment licence

From the date each Deliverable is provided to Customs and until the date that Customs pays the Charges that are directly allocated to that Deliverable in the relevant SOW, Supplier grants Customs a limited, non-exclusive, royalty-free licence to use, copy and modify all Supplier Pre-existing IP and Developed IP in that Deliverable for its internal purposes and only to the extent necessary to obtain the benefit of the relevant SOW. Any licence granted will expire five (5)

Working Days after the due date for payment of the Charges allocated to that Deliverable.

1.6 Further assurance

Each party undertakes (at Customs' expense) to execute and deliver any document and to do all things as may reasonably be required in order to assist (in respect of matters within that party's control) the other party to obtain the full benefit of this Clause 15 (Intellectual Property) according to its true intent (including to assist Customs to register Customs in any country as proprietor of any Developed IP and to perfect its title to any Developed IP).

2 IP INDEMNITY

2.1 Indemnity

Each party (*the Indemnifying Party*) will indemnify and hold the other party (*the Indemnified Party*) harmless against all liability, expense, cost, loss or damage relating to, and will at its cost defend or settle, any claim, suit, action or proceeding (collectively an *Action*) brought against the Indemnified Party to the extent that the Action is based on a claim that the Indemnified Party's use of any Intellectual Property provided by the Indemnifying Party under the relevant SOW (whether contained in any Pre-Existing IP, Third Party IP, Developed IP or otherwise) constitutes a breach of any Intellectual Property right or interest, provided that:

- (a) the Indemnified Party fully co-operates with the Indemnifying Party in defending or settling the Action and makes its Personnel available to give statements, advice and evidence as the Indemnifying Party may reasonably request;
- (b) the Indemnified Party notifies the Indemnifying Party promptly in writing of any Action and gives the Indemnifying Party complete authority and information required for the conduct of the defence or settlement of the Action; and
- (c) the Indemnifying Party will have the sole control of the conduct of any Action and all negotiations for its settlement or compromise.

2.2 Exclusion

The indemnity in Clause 2.1 (Indemnity) will not apply to the extent that such Action arises: as a result of any use of the Intellectual Property by the Indemnified Party other than in accordance with this Agreement.