

Alliot Technologies Limited – Provision of Novacene.io software application.

For clients using the Novacene.io software application provided by Alliot Technologies Limited part of an IoT Solution or as a standalone platform the terms offered will be based on standard terms of business <https://www.alliot.co.uk/wp-content/uploads/Alliot-General-Terms-and-Conditions-9-Jan-2023.pdf>

The Novacene.io software platform will rely on the following EULA Unless updates 01/12/2021

End-User License Agreement

These are the terms and conditions of supply of Novacene IoT Ltd in relation to the provision of Platform Services. These terms shall be deemed accepted by our customers upon their placing an order with us:

1. Definitions and Interpretation

1.1. The following definitions and rules of interpretation apply in this agreement:

“Acceptance Date” means the date on which the Platform is accepted by the Customer;

“Acceptance Tests” means the tests specified in the SoW and/or such other tests as may be agreed in writing between the Customer and Novacene for the purposes of confirming that the Platform operates according to the functional requirements in the SoW;

“Additional Services” means any additional services requested by the Customer to be provided by Novacene as set out in the SoW;

“Annual Support Fee” means a fee, set out in the SoW or a separate commercial quotation, to be charged for the optional provision of support services to the Customer by Novacene;

“Change” shall have the meaning given to it in clause 4.1;

“Change Control Procedure” means the change control procedures set out in Schedule 5;

“Commencement Date” means the commencement date of this Agreement as set out in the Customer Specific Terms.

“Confidential Information” means all information of a confidential nature (whether in oral, written or electronic form) disclosed by a party (or its representatives) to the other party (or its representatives), including any information that would be regarded as confidential by a reasonable business person relating to the business, affairs, suppliers, customers or plans of the disclosing party and the operations, product information, services, know-how, designs, trade secrets or software of the disclosing party;

“Customer” means the organisation or person who purchases services from Novacene as set out at the beginning of this Agreement;

“Customer Specific Terms” shall have the meaning given clause 2 of the main body of this Agreement.

“Deliverables” means any deliverables to be provided by Novacene as set out in the SoW.

“Fees” means the fees and charges for the provision of the Deliverables as set out in the SoW;

“Extended SoW” means any future statement of work in the format set out in Schedule 3 that is agreed executed by both Parties, which set out the Services, Deliverables, Fees, Project Plan and other relevant details in relation to additional locations or properties;

“Initial SoW” means the statement of work set out in Schedule 2, which sets out the Services, Deliverables, Fees, Project Plan and other relevant details agreed between the Parties at the Commencement Date;

“Initial Term” shall have the meaning given to it in the Customer Specific Terms;

“Intellectual Property Rights” means all copyright and other intellectual property rights, howsoever arising and in whatever media, whether or not registered, including (without limitation) patents, trademarks, service marks, trade names, registered design and any applications for the protection or registration of these rights and all renewals and extensions thereof throughout the world;

“Live Operational Use” means the use of the Platform in pursuance of the business of the Customer;

“Misuse” means use of the Platform in a way for which it was not intended to be used according to the SoW;

“Planned Acceptance Date” means the date specified in the Project Plan on which the Platform is intended to be accepted by the Customer in accordance with this Agreement;

“Platform” means hosted platform, being provided by Novacene for the use by the Customer, as set out in the Statement of Work, including any enhancements and modifications made, and for the avoidance of doubt the Platform does not include IoT network hardware such as sensors, gateways, etc;

“Project” means the Platform development, delivery and testing of the Platform and the other Deliverables, all as specified in the SoW;

“Project Plan” means the timing and sequence of events agreed between the Customer and Novacene for the performance of this Agreement, as set out in the SoW;

“Project Specific Terms” means any additional or amendment terms and conditions that are included within an Extension SoW;

“Rates” means the daily or hourly rates for different categories of staff and services set out in the rate card provided by Novacene to the Customer, which shall be maintained during the Initial Term, or any updated rate card provided by Novacene to the Customer after the end of the Initial Term;

“Registered Users” means any individual who has been nominated by the Customer to have a user account on the Platform under the organisation account of the Customer in accordance with any rules and restrictions set out in the Statement of Work;

“Representatives” means, in relation to a Party, its employees, officers, representatives and advisers;

“Services” means the Platform access, development services, support services and other services to be provided by Novacene to the Customer as set out in the SoW and other terms of this Agreement;

“Service Expiry Date” has the meaning as defined in the relevant SoW;

“SoW” (or “Statement of Work”) means the Initial SoW and any Extended SoW;

“SoW Commencement Date” means the date specified in any Extension SoW as the date on which it commences;

“Specified Equipment” means the configuration of computer or computers, including operating systems, on which the Platform is to function as specified in the SoW;

“Standard Working Hours” means the hours of 9.00am to 5.30pm UK time Monday through to Friday excluding UK Bank Holidays;

“System” means collectively the Specified Equipment and the Platform;

“Warranty Period” means the period of three calendar months immediately following the Acceptance Date;

1.2. In this Agreement unless the context otherwise requires:

1.2.1. words importing any gender include every gender;

1.2.2. words importing the singular number include the plural number and vice versa;

1.2.3. words importing persons include firms, companies and corporations and vice versa;

1.2.4. references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement;

1.2.5. reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule;

1.2.6. the headings to the clauses, schedules and paragraphs of this Agreement shall not affect the interpretation;

1.2.7. any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;

1.2.8. any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;

1.2.9. any party who agrees to do something shall be deemed to fulfil that obligation if that party procures that it is done;

1.2.10. any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms, and

1.2.11. reference to writing or written includes email.

2. Novacene Obligations

2.1. Subject to the payment of Fees when due, Novacene shall provide the Customer with the Services and Deliverables set out in the SoW, in accordance with the Terms and Conditions of this Agreement, including provision of:

2.1.1. development services as set out in the SoW in accordance with the Project Plan in order to customise or develop the Platform for the Customer;

2.1.2. log in details for, access rights to use the Platform in accordance with clause 2.2;

2.1.3. any other Deliverables expressly set out in the SoW.

2.2. Subject to payment of Fees when due, Novacene grants the Customer a non-exclusive, non-transferable right to permit its nominated Registered Users to access the Platform and use the software made available on the Platform, and to use the Services for the duration of this Agreement.

2.3. Unless explicitly itemised in the SoW, Novacene shall not be responsible for any other services including without limitation hardware and Platform installation, systems integration, data conversion, data import and training.

2.4. For the avoidance of doubt, Novacene shall not be responsible under any circumstances for backup and archiving of the Platform or of any data used by the Platform on computer equipment belonging to the Customer or the Customer's appointed computer hosting supplier.

2.5. Novacene shall use all reasonable endeavours to complete the services within estimated time-frames but time shall not be of the essence in the performance of any Services

3. The Customer's Obligations

3.1. The Customer shall:

3.1.1. Make available to Novacene, free of charge, such technical facilities and resources, (including but not limited to unhindered access to the Specified Equipment including remotely for access at Novacene premises), as are reasonably necessary to enable Novacene to carry out its obligations under this Agreement;

3.1.2. Make available suitably qualified employees as may be required for Novacene to carry out its obligations under this Agreement and ensure that its employees and other independent contractors co-operate reasonably with Novacene and its employees in carrying out the Project;

3.1.3. Promptly furnish Novacene with such information and documents as it may reasonably request for the proper performance of its obligations under this Agreement;

3.1.4. Ensure that its representative is available as reasonably required by Novacene; and

3.1.5. Use best endeavours to co-operate with and assist Novacene to such extent as Novacene may reasonably require to perform Novacene's obligations under this Agreement.

3.2. Novacene reserves the right to initiate a Change Request if the Project is delayed by the failure of the Customer to carry out its obligations under this Agreement or if the project is delayed by the acts or omissions of an employee, agent or third party supplier of the Customer or if the project is delayed by circumstances beyond the reasonable control of Novacene.

3.3. It is hereby acknowledged that by legal precedent online Platforms inherently contains from time to time defects, faults and difficulties however well developed and supported and acceptance of Deliverables under this Agreement shall not be unreasonably withheld due to minor faults in the Platform.

3.4. The Customer acknowledges that all and any Deliverables from Novacene to the Customer or from a third party contracted by Novacene in respect of this Agreement are of specific importance to Novacene meeting the agreed schedule in the Project Plan and accepts full responsibility for any delay in accepting the Deliverables.

4. Change Control

4.1. If either Party identifies a requirement for a change to the terms of this Agreement, including the Initial SoW or any Extension SoW, (a "Change") the change request procedure set out in Schedule 6 shall be followed.

4.2. For the avoidance of doubt, if the Parties wish to any additional locations, properties or projects to be covered by this Agreement, they shall do so by agreeing and executing an Extension SoW in accordance with clause 3 of the main body of this Agreement.

5. Acceptance Tests

5.1. It shall be the sole responsibility of the Customer to execute the Acceptance Tests.

5.2 The Customer shall accept the Platform immediately after the Platform has passed the Acceptance Tests and shall sign Novacene Acceptance Certificate without delay.

5.3. If the Platform fails to pass the Acceptance Tests, repeat tests shall be carried out without delay following the release of corrected Platform by Novacene until the Platform passes the Acceptance Tests.

5.4. If at any time the Customer or any of its appointed agents, contractors or customers under its authority shall commence Live Operational use of the whole or any part of the Platform then the Customer shall be deemed to have accepted the Platform in its entirety.

5.5. If at any time the Customer shall give access to the Platform for commercial use by any of its staff, appointed agents, contractors or customers then the Customer shall be deemed to have accepted the Platform in its entirety.

5.6. If following one month after the delivery of the Platform, there are no unresolved fault reports logged by the Customer with Novacene that evidence that the Platform does not pass the Acceptance Tests then the Customer shall be deemed to have accepted the Platform in its entirety.

5.7. It shall be the responsibility of the Customer to create suitable Acceptance Test scripts that accurately reflect the SoW and to provide suitable data for the Acceptance Tests. The scripts and data must be made available to Novacene not less than one month prior to the expected commencement date of Acceptance Tests according to the Project Plan.

6. Representatives and Progress Meetings

6.1. Each Party shall nominate in writing upon the signing of this Agreement, the person who shall act as its representative for the purposes of this Agreement and who shall be responsible for providing any information which may be required by the other party to perform its obligations under this Agreement.

6.2. The parties shall procure that their respective representatives shall meet by physical meeting or conference telephone call, as agreed, at least once a month (or as otherwise may be agreed) between the date of this Agreement and the Planned Acceptance Date to discuss and minute the progress of the Project.

6.3. The representative of Novacene shall maintain a log of issues, risks and actions that affect the project. The representative of the Customer shall exercise due diligence in cooperatively assisting the representative of Novacene to mitigate risks, resolve issues and complete actions in a timely fashion.

7. Support

7.1. On payment of the Annual Support Fee, Novacene shall provide the Customer with the following support commencing on the date agreed for one year and renewable thereafter:

7.1.1. Help Desk: Novacene shall provide the Customer with reasonable assistance regarding use of the Platform, and the identification and diagnosis of faults. Novacene shall attempt to resolve any support questions posed by the Customer.

7.1.2. Error Corrections: correction of critical errors or assistance to overcome specific Platform problems. Novacene may, in its sole discretion, correct errors by providing a patch or by releasing a new version of Platform.

7.2. The Customer shall supply in writing to Novacene a detailed description of any fault requiring support and the circumstances in which it arose, and shall submit sufficient material and information as requested by Novacene including screenshots and log files to enable Novacene's support staff to duplicate the problem and shall allow Novacene sufficient access to the Customer's systems to enable diagnosis of the fault.

7.3. Novacene shall respond to calls and progress calls during Standard Working Hours.

7.4. All support shall be provided by electronic or other communication methods. Novacene shall not provide on-site support under this Agreement.

7.5. Novacene shall be under no obligation to provide support in respect of:

7.5.1. problems resulting from any modifications or customisation of the Platform not authorised in writing by Novacene. For the avoidance of doubt, modifications to the Platform shall include but not be limited to changes to the logical or physical database schema of the Platform, changes to the computer hardware configuration, and hand-modified changes to the data within the database;

7.5.2. incorrect or unauthorised use of the Platform or Misuse of the Platform or operator error;

7.5.3. any fault in the Specified Equipment or any other device or network hardware;

7.5.4. any programs or Platform or API used in conjunction with the Platform which have not been supplied or agreed by Novacene;

7.5.5. use of the elements of the Platform in any combination other than those specified in any operating instructions supplied by Novacene;

7.5.6. use of the Platform with hardware, operating systems or other supporting technologies other than the Specified Equipment; and

7.5.7. The Customer's failure to use upon the any new release of the Platform within 30 days of its receipt from Novacene.

7.6. Any time spent by Novacene investigating any fault pursuant to the circumstances described in clause 7.8 shall be chargeable at Novacene's then current Rates. Novacene shall invoice such charges at its discretion and such shall be paid within 30 days of the date of said invoice.

7.7. Novacene reserves the right to discontinue the Support and Maintenance for any prior version of the Platform if a superseding version has been available to the Customer.

7.8. Novacene shall not be obliged to make modifications or provide Support in relation to the Customer's computer hardware, operating system, third party Platform or any data feeds or external data.

7.9. The Customer shall:

7.9.1. operate the platform, maintain data in accordance with all instructions issued by Novacene;

7.9.2. by arrangement, grant access to premises and/or systems at all times for support;

7.9.3. make hardware accessible to Novacene's support staff and, when required, enable logons or passwords with suitable access permissions required for such support staff;

7.9.4. permit Novacene to install the current version of the Platform from time to time when upgrades or fixes occur;

7.9.5. provide notice of intention to change hardware or operating system or data-feeds. If any of these changes have a major effect on the Platform then Novacene reserves the right to increase its charges

7.10. The Customer shall pay to Novacene the Annual Support Fee on or before the Support Commencement Date. No support services shall be provided before the Annual Support Fee has been paid in full.

7.11. The Customer shall renew the support annually by paying the Annual Support Fee to Novacene on or before the anniversary of the Support Commencement Date unless 90 days' notice in writing is provided to Novacene to cancel the renewal of the service.

7.12. The support service may be cancelled at any time during the supported year but no refund of the Annual Support Fee or part thereof shall be payable to the Customer.

7.13. Novacene may increase the Annual Support Fee for any annual renewal of the support by providing not less than 90 day's notice in writing to the Customer before the anniversary of support renewal.

8. Platform Service Levels

8.1. Novacene shall comply with the Platform availability and services levels set out in its Service Level Agreement's

9. Warranties

9.1. Novacene warrants that the Platform shall perform substantially in accordance with the SoW on the Specified Equipment, minor interruptions and errors excluded;

9.2. Novacene shall not be liable under clause 9.1 if a failure to meet the warranties set out in it is caused by:

9.2.1. computer equipment or computer Platform, other than the Platform delivered by Novacene; or

9.2.2. modifications or customisation made by or on behalf of the Customer to the Platform, without the authorisation of Novacene; or

9.2.3. Misuse of the Platform.

9.3. If Novacene receives a written notice from the Customer identifying a valid and substantiated breach of the warranty set out in clause 9.1, then Novacene shall, at its own expense, promptly remedy such breach or failure provided that Novacene shall have no liability or obligations under the warranty unless it shall have received written notice of the defect or error within the Warranty Period.

10. Intellectual Property Rights

10.1. The Customer acknowledges and agrees that Novacene and/or its licensors own the Intellectual Property Rights in the Platform as at the date of this Agreement and as developed during

the term of this Agreement. Except as expressly stated herein, this Agreement does not grant to or transfer to the Customer any Intellectual Property Rights in respect of the Platform.

10.2. Novacene shall indemnify the Customer on demand against all costs, claims, demands, expenses and liabilities of whatsoever nature arising out of or in connection with any claim that the use or possession of the Platform infringes the Intellectual Property Rights of any third party subject to such infringement having been deliberately and consciously entered into on the part of Novacene.

10.3. The Customer shall promptly notify Novacene in writing of any allegations of infringement of which it is aware and shall not make any admissions without Novacene prior written consent;

10.4. The Customer, at Novacene's request and expense, shall allow Novacene to conduct and/or settle all negotiations and litigation resulting from any such claim subject to Novacene taking over such conduct within 10 working days after being notified of the claim and provided that Novacene diligently pursues the settlement of any such claim; and

10.5. The Customer shall, at the request of Novacene, afford all reasonable assistance with such negotiations or litigation, and shall be reimbursed by Novacene on demand for all expenses properly incurred in doing so.

10.6. If the Customer's use or possession of the Platform or any part of the Platform in accordance with this Agreement, is held by a court of competent jurisdiction to constitute an infringement of a third party's Intellectual Property Rights, then Novacene shall promptly and at its own expense:

10.6.1. procure for the Customer the right to continue using and possessing the Platform or the infringing part; or

10.6.2. modify or replace the Platform (or part thereof) without detracting from the overall performance of the Platform, so as to avoid the infringement.

10.7. If the remedies set out above in clause 10.6 above are not in Novacene's opinion reasonably available, then the Customer shall cease using the Platform and Novacene shall refund to the Customer the corresponding portion of the Fees whereupon this Agreement shall immediately terminate.

11. Fees and Expenses

11.1. In consideration of Novacene carrying out the Project, the Customer shall pay to Novacene the Fees which shall be invoiced to the Customer in the specified proportions set out in the SoW and subject to the terms set out in clause 12.

11.2. In consideration of any Additional Services, the Customer shall pay to Novacene the amounts invoiced by Novacene to the Customer using the Rates set out in the SoW.

11.3. The Customer shall pay to Novacene all reasonable travelling, accommodation and other reasonable out-of-pocket expenses incurred by Novacene staff in the course of the Project.

12. Terms of Payment

12.1. Payment of sums due by the Customer to Novacene shall be made within 30 days of the receipt of an invoice from Novacene. All payments under this Agreement shall be made in Pounds Sterling unless otherwise agreed in writing between the Parties.

12.2. All monetary amounts stated within this Agreement are exclusive of VAT, which shall be payable by the Customer at the rate and in the same manner for the time being prescribed by law against submission of a valid tax invoice.

12.3. Without prejudice to any other right reserved by Novacene in this Agreement, if any sum payable under this Agreement is in arrears for more than fourteen (14) days from the due date of payment then Novacene shall be entitled to charge interest on a day-to-day basis on any such arrears as from the invoice date at the rate permitted from time to time under the provisions of the Late Payment of Commercial Debts (Interest) Act 1998.

13. Liability and Insurance

13.1. Novacene shall, during the term of this Agreement, maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance, in respect of its liabilities arising out of or connected with this Agreement, such cover to be to a minimum value of £2,000,000. Novacene shall on request supply copies of the relevant certificates of insurance to the Customer as evidence that such policies remain in force. Novacene undertakes to use reasonable commercial efforts to pursue claims under such insurance policies.

13.2. Nothing in this Agreement shall be construed as excluding or limiting the liability of a Party for:

13.2.1. death or personal injury caused by its negligence, or the negligence of its personnel, agents or sub-contractors;

13.2.2. fraud or fraudulent misrepresentation;

13.2.3. any other liability which cannot be limited or excluded by applicable law.

13.3. Subject to clause 14.3, in no event shall Novacene be liable for any damages resulting from loss of or corruption of data or information, or loss of goods, use, profits, business, anticipated savings, goodwill or similar losses, nor for any damages that are an indirect or secondary consequence of any act or omission of Novacene whether such damages were reasonably foreseeable or actually foreseen.

13.4. In no event shall Novacene be liable for any damages resulting from the Misuse of the Platform.

13.5. Subject to clause 14.2 and 14.3, Novacene's maximum liability to the Customer under this Agreement or otherwise for any cause whatsoever (whether in the form of the additional cost of remedial services or otherwise) shall be for direct costs and damages only and shall be limited to the greater of:

13.5.1. the sum for which Novacene carries comprehensive insurance cover pursuant to clause 13.1 above; or

13.5.2. a sum equivalent to the price paid to Novacene for the products or services that are the subject of the Customer's claim, plus damages limited to 25% of the same amount for any additional costs directly, reasonably and necessarily incurred by the Customer in obtaining alternative products and/or services.

13.6. The parties acknowledge and agree that the limitations contained in this clause 14 are reasonable in the light of all the circumstances.

14. Termination

14.1. Either party shall be entitled to terminate this Agreement forthwith at any time by written notice to the other party if:

14.1.1. the other party commits a material breach of any of the terms of this Agreement (and if the breach is capable of remedy) fails to remedy the breach within 30 days after receipt of notice in writing to do so; or

14.1.2. the other party becomes subject to an administration order; a receiver or administrative receiver or similar is appointed over, or an encumbrancer takes possession of any of the other party's property or assets; the other party enters into an arrangement or composition with its creditors, ceases or threatens to cease to carry on business, becomes insolvent, or ceases to be able to pay its debts as they fall due.

14.2. Without prejudice to any other rights or remedies to which Novacene may be entitled, Novacene may terminate this Agreement with immediate effect by giving written notice to the Customer, if the Customer fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than twenty (20) Business Days after being notified in writing to make such payment.

14.3. Any termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

14.4. In the event of termination of this Agreement Novacene shall compute a project completion percentage by comparing completed tasks with tasks on the project plan. The Customer shall then pay to Novacene the same percentage of the Fees. Novacene shall evidence completed tasks to the Customer by demonstrating working functionality or source code.

15. Confidentiality

15.1. Each party shall keep the other party's Confidential Information confidential and shall not:

15.1.1. use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this Agreement; or

15.1.2. disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Agreement.

15.2. The provisions of this clause shall not apply to any Confidential Information that:

15.2.1. is or becomes generally available to the public (other than as a result of its disclosure by the receiving Party or its Representatives in breach of this clause);

15.2.2. was available to the receiving party on a non-confidential basis before disclosure by the disclosing party; or

15.2.3. was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party.

15.3. A party may disclose the other party's Confidential Information to those of its Representatives who need to know such Confidential Information for the purpose of exercising or performing its rights and obligations under or in connection with this Agreement, provided that each party shall ensure that its Representatives to whom it discloses the other party's Confidential Information are under a similar obligation of confidentiality as under this clause and at all times, the disclosing party remains liable for the failure of any Representatives to comply with that obligation.

15.4. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible.

15.5. The provisions of this clause shall continue to apply after termination or expiry of this Agreement for a period of two years from the date of termination or expiry.

16. Non-Hiring of Personnel

16.1. For the duration of this Agreement and for a period of twelve months thereafter neither Party shall employ or make an offer of employment to any employee of the other Party without the express permission in writing of the other Party. "Employ" means the engagement of such person as an employee, director, contractor or subcontractor directly or indirectly including via an employment agency or other company.

17. Data Protection

17.1. Each party shall, at its own expense, ensure that it complies with, and reasonably assist the other party to comply with, data protection laws in respect of any personal data (as defined in data protection laws) that is processed or transferred in connection with this Agreement.

17.2. To the extent that Novacene collects or processes any personal data in relation to account set-up for Registered Users (for example, name and email address), the parties acknowledge that

Novacene shall be 'data controller of that personal data and shall handle such personal data in accordance with all data protection laws.

17.3. It is the sole responsibility of the Customer to ensure that the Platform is not used in any way that infringes applicable data protection laws.

17.4. The parties acknowledge that as at the date of this Agreement neither party acts as data processor of behalf of the other. If at any point during the term of this Agreement, either party considers that one party is acting as data processor on behalf of the other, then the parties will negotiate in good faith a separate data processing agreement to cover any matters required by applicable data protection laws.

18. Agency, Partnership

18.1. This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement.

18.2. This Agreement shall not establish the relationship of master and servant as between the Customer and Novacene or its personnel. The Customer shall not be entitled to require Novacene or its personnel to carry out any work other than as provided for by this Agreement.

19. Amendments

19.1. This Agreement may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the Parties.

20. Assignment

20.1 This Agreement is personal to the parties and, subject to clause 20.2 below, neither this Agreement nor any rights, licences or obligations under it may be assigned by either party without the prior written approval of the other party.

20.2. Notwithstanding the foregoing, either party may assign this Agreement to any acquirer of all or of substantially all of such party's equity securities, assets or business relating to the subject matter of this Agreement or to any entity controlled by, that controls, or is under common control with a party to this Agreement. Any attempted assignment in violation of this clause shall be void and without effect.

21. Entire Agreement

21.1. This Agreement supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the subject matter of this Agreement. However, the obligations of the parties under any pre-existing non-disclosure agreement shall remain in full force and effect in so far as there is no conflict between the same. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.

22. Force Majeure

22.1 "Force Majeure Event" means any circumstance not within a party's reasonable control including, without limitation:

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

22.1.2. epidemic or pandemic;

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

22.1.4. nuclear, chemical or biological contamination or sonic boom;

22.1.5. any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition[, or failing to grant a necessary licence or consent];

22.1.6. collapse of buildings, fire, explosion or accident; and

22.1.7. interruption or failure of utility service.

22.2. Provided it has complied with 23.1, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event ("Affected Party"), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

22.3. The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

22.4. The Affected Party shall:

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

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

22.5. If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 3 months, the party not affected by the Force Majeure Event may terminate this agreement by giving 2 weeks' written notice to the Affected Party.

23. Notices

23.1. All notices under this Agreement shall be in writing.

23.2. Notices shall be deemed to have been duly given:

23.2.1. when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

23.2.2. when sent, if transmitted by e-mail and a transmission report or return receipt indicating failure of transmission is not generated; or

23.2.3. on the fifth business day following mailing, if mailed by Royal Mail; or

23.2.4. on the tenth business day following mailing, if mailed by airmail, postage prepaid, in each case addressed to the address or e-mail address set out in the Customer-Specific Terms or as otherwise notified in writing to the other party.

24. Severance

If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

25. Successors and Assignees

25.1. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assignees, and references to a Party in this Agreement shall include its successors and permitted assignees.

25.2. In this Agreement references to a Party include references to a person:

25.2.1. who for the time being is entitled (by assignment, novation or otherwise) to that party's rights under this Agreement (or any interest in those rights); or

25.2.2. who, as administrator, liquidator or otherwise, is entitled to exercise those rights,

25.2.3. and in particular, those references include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation involving that party. For this purpose, references to a Party's rights under this Agreement include any similar rights to which another person becomes entitled as a result of a novation of this Agreement.

26. Waiver

No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Agreement. No right, power or remedy in this Agreement conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party.

27. Counterparts

This Agreement may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

28. Sub-Contracting

With the prior written consent of the Customer (such consent not to be unreasonably withheld or delayed) Novacene may perform any or all of its obligations under this Agreement by the use of agents or sub-contractors, provided that Novacene shall remain liable for such performance and shall indemnify the Customer against any loss or damage suffered by the Customer arising from any act or omission of such agents or sub-contractors.

29. Language

This Agreement is made only in the English language. If there is any conflict in the meaning between the English language version of this Agreement and any version or translation of it in any other language, the English language version shall prevail.

30. Costs and Expenses

Each party shall bear its own legal costs and other costs and expenses arising in connection with the drafting, negotiation, execution and registration (if applicable) of this Agreement.

31. Set-Off

Where either party has incurred any liability to the other party, whether under this Agreement or otherwise, and whether such liability is liquidated or unliquidated, each party may set off the amount of such liability against any sum that would otherwise be due to the other party under this Agreement.

32. Third Parties

This Agreement shall not create any rights that shall be enforceable by anyone other than the parties to the Agreement or any person to whom it is lawfully assigned (who may enforce any term of this agreement), and no other third party shall have the right to enforce this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

33. Dispute Resolution

33.1. A dispute shall be deemed to have arisen when one Party serves on the other a notice in writing stating the nature of the dispute.

33.2. Any dispute which may arise between the parties concerning this Agreement shall be determined as follows.

33.3. Within seven days the representatives of the Parties shall meet to attempt to settle the dispute by mutual agreement.

33.4. If the representatives fail to reach a mutual agreement a director or partner of each of the Parties shall meet within the following seven days to attempt to settle the dispute by mutual agreement.

33.5. If the dispute remains unresolved and is of a technical nature relating to the functions or capabilities of the Platform or any similar or related matter then such a dispute shall be referred for final settlement to an expert nominated jointly by the parties or failing such nomination within fourteen days after either Party's request to the other therefore nominated at the request of either party by the President for the time being of the British Computer Society. Such expert shall be deemed to act as an expert and not as an arbitrator. His decision shall (in the absence of clerical or manifest error) be final and binding on the Parties in equal shares unless he determines that the conduct of either Party is such that such Party should bear all of such fees.

33.6. In any other case if the dispute remains unresolved the dispute shall be determined by the High Court of Justice in England and the Parties submit to the exclusive jurisdiction of that Court for such purposes.

34. Governing Law and Jurisdiction

34.1. 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.

34.2. Subject to clause 33, each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.