



## IMeasureU Limited

### Terms and Conditions of Supply of Goods

#### 1. Definitions

**"Acceptance"** means a written acceptance of the Order, which is issued by IMU.

**"App"** means any of IMU's proprietary mobile application software identified in the Acceptance which is intended to be utilised in conjunction with the Goods, together with any technical manuals or instructions relating to the use of such software.

**"Contract"** means a contract as more particularly described in clause 2.

**"Customer"** means any person receiving or entitled to receive Goods from IMU.

**"Delivery"** means when the Goods have been delivered in accordance with clause 6 and **"Delivered"** shall have a corresponding meaning.

**"Embedded Software"** means any of IMU's proprietary software, Open Source Software and Third Party Software embedded in the Goods.

**"Goods"** means any wearable Inertial measurement unit or equipment to be sold to a Customer by IMU as set out in the Acceptance.

**"IMU"** means **IMeasureU Limited** (Reg No. 4457278 ) of 5-7 Water Street, Grafton 1023, Auckland, New Zealand.

**"Insolvency Event"** in relation to a person, means any of the following: (a) a meeting of creditors of that person being held or an arrangement or composition with or for the benefit of its creditors (including a voluntary arrangement as defined in the Insolvency Act 1986) being proposed by or in relation to that person; (b) a chargeholder, receiver, administrative receiver or other similar person taking possession of or being appointed over or any distress, execution or other process being levied or enforced (and not being discharged within 7 days) on the whole or a material part of the assets of that person; (c) that person ceasing to carry on business or being deemed to be unable to pay its debts within the meaning of section 123 Insolvency Act 1986; (d) that person or its directors or the holder of a qualifying floating charge giving notice of their intention to appoint, or making an application to the court for the appointment of, an administrator; (e) a petition being presented (and not being discharged within 28 days) or a resolution being passed or an order being made for the administration or the winding-up, bankruptcy or dissolution of that person; or (f) the happening in relation to that person of an event analogous to any of the above in any jurisdiction in which it is incorporated or resident or in which it carries on business or has assets.

**"Intellectual Property"** means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case, whether registered or not, including any applications to protect or register such rights, including all renewals and extensions of such rights or applications, whether vested, contingent or future, to which the relevant party is or may be entitled, and in whichever part of the world existing;

**"Open Source Software"** means open-source software as defined by the Open Service Initiative (<https://opensource.org/>) or the Free Software Foundation (<https://www.fsf.org/>);

**"Order"** means a request made by the Customer to IMU for the supply of Goods specifying the number and (if appropriate) model number of the Goods which are the subject of the Order.

**"Price"** means all amounts payable by the Customer in respect of the supply of the Goods under an Acceptance.

**"Quotation"** means a non-binding written price estimate (as revised or varied by IMU from time to time in accordance with these Terms) issued by IMU to the Customer in relation to the supply of Goods.

**"Remedy"** has the meaning set out in clause 11.

**"Software"** means the App and Embedded Software.

**"Software Licence"** means the licence for the Embedded Software referred to in clause 8.2.

**"Terms"** means these terms and conditions of supply.

**"Third Party Licences"** means any licences relating to any Third Party Software or Open Source Software, including the general public licence (if applicable).

**"Third Party Software"** means software the proprietary interest in which is owned by a third party and which is supplied by IMU.

**"Warranty Period"** has the meaning in clause 11.

## **2. Application of terms**

- 2.1 These Terms shall apply to any contract made between IMU and the Customer for the supply of Goods. No variation or addition to these Terms shall be binding upon IMU unless IMU has expressly agreed to such variation in writing.
- 2.2 A contract made between IMU and a Customer shall consist of these Terms and the Acceptance. If there is any inconsistency between those documents, then the Acceptance shall take precedence. No terms or conditions proposed by the Customer shall apply unless IMU has expressly agreed to those terms in writing. In particular, no terms and conditions endorsed upon, delivered with or contained in the Order, tender document or materials provided by the Customer shall form part of the contract, unless expressly agreed in writing and signed by a duly authorised person on behalf of each of the Customer and IMU.

## **3. Quotations and Orders**

- 3.1 Any Quotation given by IMU shall be in writing or shall subsequently be confirmed in writing and shall be provided with a copy of these Terms.
- 3.2 When an Order is placed by a Customer in response to a Quotation, that Order shall constitute an offer made by the Customer to IMU and be subject to these Terms. Such

an offer shall be treated as the Customer's acceptance of these Terms. The Order may be accepted or rejected by IMU.

- 3.3 When an enquiry is submitted by a Customer otherwise than in response to a Quotation, for example in the form of a request for responses to a tender, IMU shall provide to the Customer a Quotation and a copy of these Terms. The Customer may then place an Order in response to that Quotation and that Order shall constitute an offer made by the Customer to IMU. Such an Offer shall be treated as the Customer's acceptance of these Terms. The Order may be accepted or rejected by IMU.
- 3.4 In both cases 3.2 and 3.3 above, an Order shall be accepted by IMU only if an Acceptance is issued by IMU in relation to that Order or the relevant Goods are Delivered. In no case shall issuing a Quotation constitute an Acceptance.
- 3.5 An Order shall (in the absence of any contrary stipulation by IMU) be deemed to incorporate the price stated in the most recent Quotation (as subsequently revised or varied).

#### **4. Prices**

- 4.1 All prices stated in Quotations shall be in pounds sterling (£) (unless otherwise indicated in the Quotation) and are exclusive of carriage, insurance and all relevant government duties and taxes (unless otherwise specified in the Quotation). These are the responsibility of the Customer.
- 4.2 The price stated in any Quotation may be varied by IMU at any time prior to issue of an Acceptance or after issue of an Acceptance (provided such variation is in accordance with these Terms).
- 4.3 If, following receipt by IMU of an Order and prior to issue of an Acceptance, IMU becomes unable or unwilling to supply the Goods (or part of them) specified in the Order for the price stated in the relevant Quotation, IMU may issue a revised Quotation. The Customer shall either confirm its Order and acceptance of the Terms on the revised Quotation or withdraw the Order by sending written notice to IMU.
- 4.4 At any time prior to Delivery, IMU may vary the Price to reflect increases in the cost of sourcing, importing or exporting the Goods (or their components) prior to supply to the Customer (whether or not they reflect changes in exchange rates or government duties or taxes) or to take account of any other increases in costs, including without limitation supplies, materials, labour, operation or transport **PROVIDED THAT** in the event of any variation in Price, the Customer may cancel the Order within 14 days of being notified of the change and where the Order is cancelled each party shall be discharged from any further liability to the other in relation to that Contract. In the event of cancellation all money paid by the Customer to IMU in respect of the cancelled Order shall be refunded to the Customer. If the Customer does not cancel the Order within 14 days, the Customer will be deemed to have agreed to the increase and the Price will increase accordingly.
- 4.5 After issue of the Acceptance the Customer may not vary its Order without the written approval of IMU.

#### **5. Payment**

- 5.1 The Customer shall pay the Price in accordance with this clause.

- 5.2 Upon submitting the Order, the Customer shall pay to IMU in cash, by way of electronic bank transfer to IMU's account as set out in the Acceptance or otherwise notified to the Customer (or by such other means as IMU may direct), the Price. Subject to clause 10.1, the Price shall be non-refundable except in the circumstances set out in clause 5.3 below.
- 5.3 The Price shall only be refundable in the following circumstances:
- (a) the Order is cancelled by the Customer prior to an Acceptance by IMU, in which case IMU shall refund all of the Price;
  - (b) the Order is cancelled by the Customer in accordance with clause 4.4, then the provisions of that clause will apply;
  - (c) the performance by IMU of its obligations becomes impossible due to an event outside its reasonable control and clause 15.2 applies.
- 5.4 The Customer may not withhold or set off payment of any part of the Price for any reason.
- 5.5 Without prejudice to any other rights of IMU, IMU may charge the Customer interest on a daily basis at National Westminster Bank's (NatWest) base rate from time to time plus 3% on all outstanding amounts due under these Terms from the due date for payment until actual payment in full, whether before or after judgement.
- 5.6 If IMU reasonably considers that the financial condition of the Customer at any time does not justify continuation of production or delivery on the terms of payment set out in these Terms, then IMU may (without prejudice to any other right or remedy available to it and without incurring any liability to the Customer whatsoever) delay Delivery and require full or partial payment in advance as a condition of Delivery.

## **6. Delivery**

- 6.1 The Customer shall arrange for the collection and transport of the Goods from IMU's premises as set out in the Order (**Collection Location**). All costs associated with collection and transport shall be paid for by the Customer.
- 6.2 IMU shall use reasonable endeavours to make the Goods available for collection by the agreed date. However, time shall not be of the essence and IMU shall not be liable for any loss arising out of any delay or failure in making the Goods available for collection or transport on the agreed date.
- 6.3 Any delay in collection requested by the Customer is subject to the prior consent in writing of IMU. Any additional costs incurred by IMU as a result of such delay shall be paid by the Customer.
- 6.4 Delivery of the Products shall be deemed to take place at the Collection Location when the Customer (or its agent) collects the Goods, unless IMU informs the Customer in writing that Delivery will take place when the Goods are made available for collection, in which case Delivery shall be deemed to have taken place on that date, regardless of whether the Goods have been collected by the Customer.
- 6.5 Risk in the Goods shall pass to the Customer on Delivery.
- 6.6 IMU may, at the request and cost of the Customer arrange for carriage of the Goods from IMU's premises to a delivery address set out in the Order (**Delivery Location**).

IMU shall act as agent for the Customer and the Customer will indemnify IMU against any loss, damage, expense and all costs relating to the carriage of the Goods on behalf of the Customer. Delivery shall be deemed to take place in accordance with clause 6.4 and risk shall pass in accordance with clause 6.5.

- 6.7 Any times and dates quoted for delivery are approximate only, and the date and time of delivery is not of the essence. IMU shall not be liable for any delay in delivery of the Goods that is caused by a force majeure event or the Customer's failure to provide IMU with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

## **7. Title**

- 7.1 Notwithstanding Delivery of any Goods the title in each item shall only pass to the Customer when IMU has received all amounts owed to it from the Customer, whether or not then due and whether or not owing in respect of the particular item.

## **8. Goods and Software**

- 8.1 If the Goods supplied include Embedded Software, that Embedded Software shall be licensed to the Customer in accordance with this clause.

- 8.2 Subject to the payment of all amounts due under these Terms, IMU grants the Customer a non-exclusive, perpetual, terminable licence to use the Embedded Software, in accordance with all user documentation which is provided with the Goods and in accordance with these Terms.

- 8.3 The Customer may not:

- (a) loan, rent, lease or license the Embedded Software or any copy of it;
- (b) reverse engineer or decompile the Embedded Software except to the extent permitted by applicable law notwithstanding a contractual prohibition; or
- (c) sublicense the Embedded Software.

- 8.4 The Customer shall comply with any notice issued by IMU regarding the Customer's use of the Goods which is necessary or appropriate to ensure compliance with the terms of any Third-Party Licences.

- 8.5 The Software Licence automatically terminates if the Customer fails to comply with any provision of these Terms.

- 8.6 The Customer is entirely responsible for its use of the Goods and the Software and for anyone it permits or allows to use the Goods and the Software. The Customer shall be liable to IMU for the actions or omissions of such persons as if they were the actions or omissions of the Customer (including, without limitation, any breach of an end user licence agreement for any App) and, without prejudice to and in addition to any other remedies that IMU may have, the Customer hereby agrees and undertakes to indemnify IMU for any losses, claims, demands, liabilities and expenses of whatever nature (including, without limitation, legal fees reasonably and properly incurred) arising directly or indirectly out of a breach by the Customer of its obligations contained in this clause.

- 8.7 The Goods and Software are not intended to replace the clinical skill of a medical or sports practitioner or his/her independent professional judgement of individual clinical

circumstances to make a diagnosis and/or determine treatment. The Goods and Software should only be used by those who have been appropriately trained in its operation, functions, capabilities and limitations, and in any event should not be relied upon, by itself, as the sole method of making any diagnosis or determining any treatment.

- 8.8 Except as expressly set out in these Terms, no conditions, warranties or other terms apply to the Embedded Software or to anything supplied or provided by IMU under these Terms and all implied conditions, warranties or other terms (including without limitation any implied terms as to satisfactory quality or fitness for purpose) are, to the fullest extent permitted by law, hereby excluded.
- 8.9 Except as provided for in clauses 8.5, 8.6 and 11.5, the use of any App shall be subject to a separate end user licence agreement and no conditions, warranties or other terms in these Terms apply to the App.

## **9. Inspection of Goods on Arrival**

- 9.1 The Customer shall inspect the Goods on arrival at the Customer's premises and, within 3 days of arrival, notify IMU in writing, of any damage to the Goods and any discrepancy between the Goods and items listed in the Acceptance, which is or should be apparent from inspection. If there is such damage or discrepancy, IMU shall be given a reasonable opportunity to inspect the Goods concerned.
- 9.2 Subject to clause 10.1, IMU shall not be liable in respect of any damage or discrepancy which arose as a result of or is the consequence of the carriage of the Goods. In the case of types of damage or discrepancy which would be a breach of the warranty in clause 11, provided that the Customer has: (i) notified IMU of that damage or discrepancy within [7] days of arrival of the Goods; and (ii) provided IMU with sufficient details of the damage and discrepancy, then IMU shall either, at its option, repair or replace (without charge) the affected Goods in accordance with clause 11. This shall be IMU's sole responsibility and Customer's sole remedy in the event of damage or discrepancy on arrival at the Customers premises.

## **10. Limitation of Liability**

- 10.1 Nothing in these Terms shall be deemed to exclude or limit, or attempt to exclude or limit, the liability of either party:
- (a) for death or personal injury resulting from the negligence of its employees or officers;
  - (b) for fraud or fraudulent misrepresentations;
  - (c) for breach of any condition or warranty as to title or quiet enjoyment implied by section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982; or
  - (d) any liability which cannot under applicable law be excluded or limited by agreement.
- 10.2 Subject to clause 10.1, in no circumstances shall IMU be liable under or in relation to these Terms or their subject matter (whether such liability arises due to negligence,

breach of contract, misrepresentation or for any other reason) for any (whether direct or indirect):

- (a) loss of profits;
- (b) loss of sales;
- (c) loss of opportunity or contract;
- (d) loss of data;
- (e) loss of savings, discount or rebate (whether actual or anticipated);
- (f) loss of use of:
  - (i) the Goods; or
  - (ii) any software;
- (g) indirect or consequential loss or damage; or
- (h) loss of goodwill or harm to reputation;

whether IMU is advised of the possibility of any such losses being incurred or not and whether any such losses are reasonably foreseeable or otherwise. For the purposes of this clause the term "loss" includes a partial loss or reduction in value as well as a complete or total loss.

10.3 Subject to clauses 10.1 and 10.2, IMU's **total liability** arising from or in connection with these Terms and in relation to anything which IMU may have done or not done in connection with these Terms (and whether the liability arises because of breach of contract, negligence or for any other reason) including in respect of the indemnity at clause 13.2 and any other matter for which specific indemnity is given shall be limited to the Price paid or payable by the Customer.

10.4 IMU will not be liable for breach of any of these Terms (including breach of any warranty) to the extent that the breach concerned arises from or as a consequence of:

- (a) use of any Goods other than in accordance with normal operating procedures as described in the manuals or as otherwise notified to the Customer by IMU;
- (b) any alterations to any Goods made by anyone other than IMU or someone authorised by IMU;
- (c) any abnormal or incorrect operating conditions;
- (d) any other hardware, equipment or software being used with or in relation to any Goods, unless this use has been expressly approved by IMU;
- (e) the carriage of the Goods;
- (f) fair wear and tear, wilful damage, negligence or could be expected to arise in the normal course of use of the Goods; or

- (g) the Customer using the Goods after notifying IMU that they do not comply with the warranties contained in clause 11.

## **11. Limited Warranties**

- 11.1 Subject to clause 10.4 and the remainder of this clause 11, IMU warrants that the Goods shall, during the Warranty Period (unless an alternative period is agreed in writing between the parties) be free from material defects in design, materials and workmanship under normal conditions of use. In these Terms, the **"Warranty Period"** shall be the 12 month period commencing on Delivery.
- 11.2 If the warranty in clause 11.1 is breached, the Customer will notify IMU in writing as soon as is reasonably possible giving sufficient information as to the nature and extent of the breach and (where relevant) the uses to which the Goods have been put prior to the problem arising. The Customer must give IMU a reasonable time to fix the problem and (if necessary) to repair or replace the relevant Goods (together a **"Remedy"**). This will be done without any additional charge to the Customer, except that IMU may require the Customer to return the Goods, at its own expense to IMU's premises (or such other address as nominated by IMU) with a full description of the alleged defect which is causing the breach. If IMU is able to provide a Remedy within a reasonable time, IMU will have no other obligations or liability in relation to the breach in question. If IMU is unable or unwilling to supply a Remedy within a reasonable time, or IMU does not think that it is a sensible way to deal with the problem, then IMU may take back the Goods which are the subject of the breach and refund to the Customer the amounts actually paid by the Customer to IMU in relation to those Goods. **This shall be IMU's sole responsibility and Customer's sole remedy in the event of breach of the warranties in clause 11.1.**
- 11.3 Where Goods are replaced by IMU in accordance with this clause, the replaced Goods (including any parts) shall become the property of IMU again and these Terms (including the warranties in clause 11.1) shall apply to the new Goods (including any parts).
- 11.4 Except as expressly set out in these Terms, no conditions, warranties or other terms apply to any Goods or other goods or services supplied or to be supplied by IMU. Subject to clause 10.1, no implied conditions, warranties or other terms apply (including any implied terms as to quality, fitness for purpose or conformance with description). Customer is responsible for deciding whether or not the Goods are suitable for the Customer's purpose and IMU will not be responsible for this.
- 11.5 In relation to Software, IMU does not represent or warrant that the Software or its operation will be entirely free from errors.
- 11.6 If IMU carries out any repair or replacement to the Goods as specified in clause 11.2 but in circumstances where the relevant defect or malfunction has been caused by an accident, by the improper or abnormal use of the Goods by the Customer, or for one of the reasons that IMU is not responsible under clause 10.4 or otherwise, the Customer shall pay for such repair or replacement (including the cost of any replacement Goods) at IMU's then current rates, within 30 days of IMU issuing an invoice for that work.

## **12. Withholding or Suspension**



- 12.1 Without prejudice to any other provision of these Terms, IMU may withhold or suspend Delivery of the Goods on the occurrence, or (in IMU's reasonable determination) the imminent occurrence, of an Insolvency Event in relation to the Customer.
- 12.2 Such withholding or suspension by IMU in accordance with clause 12.1 is not a breach of these Terms and may continue until IMU has received or is satisfied that it shall receive payment in full for the Goods or that the Insolvency Event no longer exists.

### **13. Intellectual Property Rights**

- 13.1 IMU (and its licensors) reserve and retain full ownership of and interest in all inventions, designs, copyrights, processes and any other Intellectual Property Rights of whatever nature relevant to the Goods. The Intellectual Property Rights in all drawings, specifications and manuals created or issued by or on behalf of IMU belong to IMU (or its licensors) and are considered by IMU to be confidential. The Customer may not reproduce or disclose these drawings, specifications and manuals to anyone without IMU's prior written consent. This obligation of confidentiality shall remain in force in perpetuity.
- 13.2 Subject to clause 13.3 below, IMU shall indemnify Customer against any loss, damage, or expense (including reasonable legal costs) which Customer incurs or becomes liable for as a result of any claim that the possession or use by Customer of any Goods supplied by IMU infringes the Intellectual Property Rights of any third party in the European Economic Area or the United Kingdom, up to a maximum of the sum paid by the Customer to IMU for such Goods. IMU's obligation to indemnify the Customer is conditional upon the Customer:
- (a) at IMU's request and expense, allowing IMU to conduct the defence of the claim (including settlement);
  - (b) making no admission in relation to the claim without the prior consent of IMU;
  - (c) notifying IMU as soon as is reasonably practicable of the claim setting out full details thereof;
  - (d) taking all reasonable steps to minimise the losses that may be incurred by it or by any third party as a result of the claim; and
  - (e) at the expense of IMU, co-operating and assisting to a reasonable extent with IMU's defence of the claim.
- 13.3 The indemnity in clause 13.2 will not apply to the extent that the relevant infringement results from the Customer (or anyone the Customer permits to use the Goods):
- (a) modifying, altering, adapting, disassembling or reverse engineering any relevant Goods without the consent of IMU;
  - (b) failing to use items which update or replace the Goods the use of which would have avoided the infringement;
  - (c) failing to comply with the terms of any end user licence agreement in respect of the Software;
  - (d) using information, specifications, documents, facilities or items supplied by Customer to IMU;

and the Customer shall indemnify IMU against all losses, damages, liability, costs and expenses (including reasonable legal fees) incurred by IMU in connection with any claim arising from such circumstances.

#### **14. Marketing and advertising**

- 14.1 The Customer grants to IMU a non-exclusive irrevocable and perpetual licence to use the Customer's name (or business/trading name) and logo in IMU's marketing and promotional materials (including on its website).

#### **15. Force Majeure**

- 15.1 IMU shall not be liable for any delay or failure in performing any of its obligations under these Terms to the extent that such delay or failure is caused by circumstances outside the reasonable control of IMU (including any delay caused by any act or default of the Customer).
- 15.2 If, as a result of circumstances outside the reasonable control of IMU, IMU is only able to deliver part of the Goods, the Customer shall pay to IMU the proportion of the Price appropriate to the Goods which have been delivered or performed.
- 15.3 If, as a result of circumstances outside the reasonable control of IMU, IMU is unable to deliver the Goods (or any part thereof) or is delayed in or prevented from doing so for a in excess of 60 days, the parties shall renegotiate the Order and Acceptance to achieve, as nearly as possible, the original commercial intent.

#### **16. Termination**

- 16.1 Notwithstanding any other remedies available to it under these Terms, IMU may terminate an Order or any other Contract which it has with a Customer at any time by giving notice in writing to the Customer if:
- (a) the Customer commits a material breach of these Terms and such breach is not remediable;
  - (b) the Customer commits a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;
  - (c) the Customer fails to pay any amount due under the Contract on the due date; or
  - (d) the Customer suffers an Insolvency Event.
- 16.2 Termination or expiration of the Contract shall not affect any accrued rights and liabilities of IMU at any time up to the date of termination.

#### **17. Assignment**

- 17.1 The Customer may not assign, transfer or otherwise deal with its rights and/or obligations under these Terms without the prior written consent of IMU. IMU may assign its rights and/or obligations under these Terms without the consent of the Customer.

#### **18. Severability, Waiver, Entire Agreement and Third Party Rights**

- 18.1 If any provision of these Terms is held for any reason to be ineffective or unenforceable, this shall not affect the validity or enforceability of (i) any other provision of these Terms; or (ii) these Terms as a whole. If any ineffective or unenforceable provision would be valid or enforceable if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 18.2 If a party: (i) delays in enforcing its rights under these Terms (whether in relation to a breach by the other party or otherwise); or (ii) agrees not to enforce its rights, or to delay doing so, then unless the party concerned expressly agrees otherwise, that delay or agreement shall not be treated as waiving the rights of the party concerned. Any waiver of a party's rights in relation to a particular breach of these Terms shall not operate as a waiver of any subsequent breach. No right, power or remedy to which either party is entitled under this agreement is exclusive of any other right, power or remedy available to that party.
- 18.3 These Terms and any documents entered into pursuant to them, constitute the entire agreement in respect of its subject matter. Subject to clause 10.1, each party acknowledges that, in entering into these Terms, it has not relied on any statement or representation made by the other party that has not been set out in these Terms, and agrees that it will not try to rely on any representation made by the other party except to the extent that the representation concerned is contained in these Terms.
- 18.4 No term of these Terms is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to these Terms.

## **19. Equitable Relief**

The Customer recognises that any breach or threatened breach of these Terms may cause IMU irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to IMU, the Customer acknowledges and agrees that IMU is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

## **20. Applicable Laws**

- 20.1 These Terms and any dispute or claim (including non-contractual disputes and claims) arising out of or in connection with them shall be governed by and construed in accordance with the laws of England. The parties submit to exclusive jurisdiction of the courts of England and Wales. Notwithstanding the submission to the exclusive jurisdiction, IMU may bring proceedings in the courts of any other state which may have jurisdiction for reasons other than the parties' choice, for the purpose of seeking:
- (a) an injunction, order or other non-monetary relief (or its equivalent in such other state); and/or
  - (b) any relief or remedy which, if it (or its equivalent) were granted by the courts of England and Wales, would not be enforceable in such other state.