

**MASTER SERVICE AGREEMENT**

BETWEEN

**NOVARUM PARTNERS LIMITED**

**&**

**AFFILIATES**

Novarum Group AG  
Novarum Global Trading GmbH  
Novarum Global Technologie GmbH  
Novarum Risk Management UK Limited  
Novarum Risk Management US LLC

AND

[ \_\_\_\_\_ ]

AGREEMENT dated as of the \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between \_\_\_\_\_, having its principal place of business at \_\_\_\_\_ (hereinafter referred to as “[COUNTERPARTY]”), and NOVARUM PARTNERS LIMITED, a British Virgin Islands Business Company, having its registered offices at Woodbourne Hall, P.O. Box 3162, Road Town, Tortola, British Virgin Islands VG1110, and its Affiliates (hereinafter referred to collectively as “NOVARUM”).

**WITNESSETH**

WHEREAS, for purposes of this Agreement, [COUNTERPARTY] and NOVARUM may be referred to as “party or parties”.

NOW, THEREFORE, the parties hereto agree as follows:

## **ARTICLE 1 PURPOSE**

This Agreement sets forth the terms and conditions under which NOVARUM will provide and [COUNTERPARTY] shall accept and pay for services as specified herein.

## **ARTICLE 2 NATURE AND SCOPE OF SERVICES**

- (i) Novarum will deliver the services (the "Deliverables") specified in the Work Order(s) attached hereto as appendices.
- (ii) All services contracted by [COUNTERPARTY] will be specified in the Work Order(s), the terms and conditions of which will expressly be made part of this Agreement. The Work Order(s) will define the scope of the services to be delivered, the charges, the terms and conditions of payment, and any other elements of agreement deemed relevant by the parties. In the event of any conflict or inconsistency between the terms of this Agreement and the Work Order(s), the terms of this Agreement will prevail unless it is expressly specified otherwise in the applicable Work Order(s). Each party shall retain a signed copy of the Work Order(s).

## **ARTICLE 3 CONFIDENTIAL INFORMATION**

During the course of performing the services hereunder, NOVARUM may obtain from [COUNTERPARTY] certain information, which is of a confidential or proprietary nature. For the purposes of this Agreement, "Confidential Information" shall mean information and data received by NOVARUM from [COUNTERPARTY] which has been marked "Proprietary and Confidential" by [COUNTERPARTY], or in respect of which NOVARUM has received from [COUNTERPARTY] specific written notice of its proprietary and confidential nature. The foregoing will not apply to:

- (i) Information that was substantially known by NOVARUM at the time of such disclosure as demonstrated by its written records;
- (ii) Information that was known to the public at the time of such disclosure or becomes known to the public (other than by an act or omission of NOVARUM) subsequent to such disclosure;

- (iii) Information that is disclosed lawfully to NOVARUM by a third party subsequent to such disclosure;
- (iv) Information that is independently developed by NOVARUM without reference to the Confidential Information; or
- (v) Information that is required by law to be disclosed by NOVARUM, provided that NOVARUM gives [COUNTERPARTY] prior written notice of such required disclosure and provides [COUNTERPARTY] with reasonable assistance (at the [COUNTERPARTY]'s expense) in contesting such disclosure.

NOVARUM shall not disclose, directly or indirectly, in whole or in part, to any third person, firm or corporation, any Confidential Information which it receives from [COUNTERPARTY] without prior written approval from [COUNTERPARTY], and may only use such Confidential Information in connection with services delivered under this Agreement. NOVARUM shall only furnish Confidential Information to its employees on a need-to-know basis. NOVARUM shall not use the Confidential Information for its own benefit, or copy or reproduce the Confidential Information, except as required in connection with services delivered under this Agreement. NOVARUM shall use the same degree of care in safeguarding the Confidential Information as it uses for its own confidential and proprietary information but in no event shall NOVARUM use less than reasonable care.

#### **ARTICLE 4 PROPRIETARY RIGHTS**

[COUNTERPARTY] acknowledges that NOVARUM in providing services or any Deliverables hereunder, may utilize pre-existing proprietary methodologies, tools, software and know-how developed by or owned by NOVARUM ("NOVARUM MATERIALS"). During the course of this engagement, NOVARUM may modify or improve the NOVARUM MATERIALS. All such modifications or improvements will be owned by NOVARUM. If any NOVARUM MATERIALS are incorporated into a Deliverable, NOVARUM will notify [COUNTERPARTY] and unless, otherwise provided in the applicable Work Order(s), NOVARUM will grant to [COUNTERPARTY] a perpetual, worldwide, royalty-free, irrevocable and non-exclusive license to:

- (i) Use, execute, reproduce, display, perform, distribute, and prepare derivative works of the NOVARUM MATERIALS used in conjunction with the Deliverable; and
- (ii) Authorize or sublicense third parties to do any of the above.

The foregoing shall not in any way diminish NOVARUM's rights to use or commercialize the NOVARUM MATERIALS in connection with any future engagements or services. NOVARUM will not provide [COUNTERPARTY] with any support or maintenance with respect to any NOVARUM MATERIALS unless otherwise agreed under specific Work Order(s).

Subject to the provisions of Article 4 (i) above, NOVARUM agrees that, all Deliverables shall, upon creation, be considered "work made for hire" (as such term is defined in 17 U.S.C. §101) and shall be the sole and exclusive property of [COUNTERPARTY]. NOVARUM agrees that when payment in full for all services rendered hereunder has been made by [COUNTERPARTY], [COUNTERPARTY] shall have all right, title and interest in and to any work product, patents, inventions or copyrightable material resulting from the performance of any of NOVARUM's services under this Agreement. To the extent that any Deliverables may not be considered "work made for hire," NOVARUM hereby agrees to assign and transfer all rights in products resulting from the performance of any of NOVARUM's services under this Agreement to [COUNTERPARTY], its successors and assigns, and further agrees to take any actions and execute any documents as may be necessary to vest such rights.

All right, title and interest in materials furnished to NOVARUM by [COUNTERPARTY], either prior or subsequent to entering into this Agreement, are and shall remain the exclusive property of [COUNTERPARTY] and shall, upon [COUNTERPARTY]'s written request, be promptly returned to [COUNTERPARTY] or destroyed upon the termination of this Agreement. Nothing hereunder shall grant or confer to NOVARUM any rights by license or otherwise in any Confidential Information. All Confidential Information furnished by [COUNTERPARTY] will be done so on an "as is" basis, without any warranties, express or implied.

## **ARTICLE 5    HANDOVER AND ACCEPTANCE**

- (i) Where services are provided on a fixed price basis, the handover and acceptance of materials will be as specified and agreed upon in the Work Order(s).
- (ii) Where services are provided on a time and materials basis, NOVARUM will provide orderly and complete handover of all materials to [COUNTERPARTY], including without limitation, all documentation developed by NOVARUM in the course of such time and materials assignment which will complete NOVARUM's responsibility for handover and acceptance of time and materials-based engagements.

**ARTICLE 6 WARRANTY**

NOVARUM warrants that it will perform the services specified in the Work Orders(s) in a professional and competent manner and exercise its best efforts to furnish competent personnel to fulfill its obligations. [COUNTERPARTY] shall have the right at any time to request the removal of any NOVARUM personnel whom [COUNTERPARTY] deems to be unsatisfactory. On receipt of such a request, NOVARUM shall use its best efforts to provide substitute personnel who have appropriate skills and training. During the first month of the assignment of a NOVARUM resource, [COUNTERPARTY] will have the right to terminate the resource at no cost and seek a replacement if [COUNTERPARTY], for any valid reason, is not satisfied with such resource. At any time (during the applicable assignment), where [COUNTERPARTY] reasonably demonstrates to NOVARUM that the services performed by NOVARUM's resources do not meet professional standards, then, NOVARUM shall, at no cost to [COUNTERPARTY], immediately replace such resources, not charge [COUNTERPARTY] for the new resources for up to two (2) weeks on account of such replacement/transition and immediately take all possible recourse (after consulting with [COUNTERPARTY]) to ensure that the Deliverables are executed to the reasonable satisfaction of [COUNTERPARTY].

Upon the completion of each Deliverable, NOVARUM warrants to [COUNTERPARTY] that:

- (i) The possession or use of the Deliverable shall not infringe the intellectual property rights of any third party; and
- (ii) NOVARUM has received no notice of the existence of any such rights which may be infringed by possession or use of the intellectual property.

**ARTICLE 7 EXCLUSION OF OTHER WARRANTIES**

Except for the warranty set forth in Article 6 above, NOVARUM makes no other warranties, express or implied, of any type or description, including any warranties of merchantability or fitness for any particular purpose with respect to, intellectual property rights infringement, services to be provided or the results, if any, to be obtained from such services.

**ARTICLE 8 LIMITATION OF LIABILITY**

[COUNTERPARTY] expressly agrees that NOVARUM shall in no event be liable to [COUNTERPARTY] for lost profits or other financial loss of any type or description including any special, indirect or consequential damages which may be caused directly or indirectly by any

deficiency or defect in any of the services provided hereunder, whether or not NOVARUM has been advised of the possibility of such damages, provided that the foregoing shall not exclude any breaches on the part of NOVARUM in context to Articles 3 and 6 of this Agreement.

Notwithstanding the foregoing, in no event shall NOVARUM's total liability hereunder for direct damages, however characterized, exceed the greater of:

- (i) The total prices paid by [COUNTERPARTY] under the respective Work Order(s) wherein such damage or actions may have arisen; or
- (ii) The total fees paid in respect of all Work Orders within the period of twelve (12) months immediately preceding such date when any such damage was reported, provided further that, damages if any payable by NOVARUM, under any applicable Work Order(s) shall always be cumulative and not per incident.

**ARTICLE 9 INDEMNITY**

NOVARUM will at its own expense defend any action brought against [COUNTERPARTY] to the extent that such action is based on a claim that any aspect of a service as delivered by NOVARUM and used within the scope of this Agreement infringes any patents, copyrights, trade secrets or other intellectual property right provided [COUNTERPARTY] promptly notifies NOVARUM in writing of any such claim and, provided further, that NOVARUM shall have the exclusive right to control such defense and all negotiations for its settlement and compromise. In no event shall [COUNTERPARTY] have any authority to settle any such claim, lawsuit or proceeding without NOVARUM's prior written approval.

NOVARUM shall indemnify [COUNTERPARTY] for personal injury including death or damages to tangible personal or real property caused directly by the negligent acts or omissions of NOVARUM personnel. [COUNTERPARTY] shall indemnify NOVARUM for personal injury including death or damages to tangible personal or real property caused directly by the negligent acts or omissions of [COUNTERPARTY] personnel.

**ARTICLE 10 NON-SOLICITATION OF EMPLOYEES**

Each party acknowledges that personnel represent a significant investment in recruitment and training, the loss of which could be detrimental to current and future business. In consideration of the foregoing, each party agrees that for the term of this Agreement and for a period of one (1) year after its termination, neither party will recruit or hire or assist any third party to recruit or hire

any person who is or shall have been an employee of the other party at any time during the term of this Agreement. For the purpose of this Article only, the term "party" shall include NOVARUM and [COUNTERPARTY] together with all other entities controlling, controlled by or under common control of NOVARUM and [COUNTERPARTY] including but not limited to any agents or representatives thereof.

## **ARTICLE 11 BILLING AND PAYMENT OF INVOICES**

NOVARUM shall provide monthly invoices pursuant to the schedule specified in the Work Order(s). All invoices shall be emailed to [COUNTERPARTY] and shall be due and payable, gross of all applicable withholding taxes, within thirty (30) days from the date thereof. If any invoice is not paid when due, NOVARUM may, at its option, and in addition to any other remedies:

- (i) Suspend performance and withdraw personnel; and/or
- (ii) Charge interest on the unpaid balance at 1% per month computed from the date of invoice until date of payment; and/or
- (iii) Terminate this Agreement.

Before undertaking any of the above steps, NOVARUM will give [COUNTERPARTY] written notice of its failure to pay and fifteen (15) business days to cure the breach.

## **ARTICLE 12 TERM AND TERMINATION**

This Agreement shall commence as of the date first written above and shall remain in effect until terminated as provided herein. This Agreement shall be subject to termination in the event of the occurrence of the following events:

- (i) [COUNTERPARTY] may terminate this Agreement for any or no reason on thirty (30) days written notice to NOVARUM. In such event, [COUNTERPARTY] agrees to pay to NOVARUM for all Deliverables completed and all Deliverables in progress on a pro rata basis up to the effective date of termination.
- (ii) [COUNTERPARTY] shall also have the option to terminate this Agreement for "cause" in which event [COUNTERPARTY] shall provide fifteen (15) days written notice ("Notice Period") to NOVARUM specifying the breach and unless the breach is corrected to [COUNTERPARTY]'s reasonable satisfaction within the

Notice Period, then this Agreement shall terminate at the end of the Notice Period. [COUNTERPARTY] shall pay NOVARUM the amount due for all Deliverables delivered and services performed up to the date of notice of breach.

- (iii) NOVARUM may terminate this Agreement in the event of a breach by [COUNTERPARTY] of any of the terms and conditions hereof on thirty (30) days prior written notice specifying the breach and unless the breach is corrected to NOVARUM's reasonable satisfaction within the notice period, then the Agreement shall terminate effective at the end of the Notice Period. [COUNTERPARTY] shall pay NOVARUM the amount due for all Deliverables and services performed up to the date of notice of breach. With respect to breach for non-payment of invoices, NOVARUM may at its option terminate this Agreement upon the expiration of the cure period specified in Article 11.
- (iv) This Agreement shall also be terminated if either party becomes insolvent or seeks protection under any federal or state bankruptcy or insolvency statutes and such condition is not corrected within thirty (30) days.

Upon termination of this Agreement, each party will return to the other any materials owned by the other and upon payment of all outstanding charges, NOVARUM shall deliver any work in progress as of the date of termination. Any termination of this Agreement shall be without prejudice to any rights or obligations of NOVARUM or [COUNTERPARTY] arising or existing up to the effective date of such termination, or to Articles 3, 4, 6, 7, 8, 9 and 10 which are intended by this Agreement to survive the termination of this Agreement.

### **ARTICLE 13 FORCE MAJEURE**

If either parties' performance of this Agreement or any obligation hereunder is prevented, restricted or interfered with by causes beyond either parties' reasonable control including but not limited to: acts of God; fire; explosion; any law, order or regulation of the United States or other national, state or local government or any civil or military authority; or by national emergencies, wars or strikes, then neither party shall be liable to the other for any loss or damage which may be suffered as a result, provided the party suffering such an event of Force Majeure notifies the other party within ten (10) days of the occurrence of the event of Force Majeure. Each party shall use their best efforts under the circumstances to avoid and remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or cease.

**ARTICLE 14 ARBITRATION**

Any and all disputes, controversy or claims related to or arising in connection with this Agreement shall first be referred to the signatories of this Agreement for an informal resolution. If this informal resolution does not resolve the dispute, then the matter will be referred to and settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect. The site of any such arbitration shall be New York. The award of the arbitration may be enforceable in any court of competent jurisdiction. Each party shall bear its own costs and fees in connection with the arbitration.

**ARTICLE 15 GOVERNING LAW**

Regardless of the place of execution hereof, this Agreement, all amendments hereto, and any and all issues or controversies arising here from or related hereto, shall be governed by and construed exclusively in accordance with the laws and decisions of New York applicable to contracts made, entered into and performed entirely therein.

**ARTICLE 16 NOTICES**

All notices, requests, demands, or directions to any party to this agreement by another party hereto shall be in writing and deemed given three (3) business days after sent by registered mail, postage prepaid, telex, telegram or cable addressed as follows or to such other address as may be stated in a notice given in the same manner herein provided:

- (i) NOVARUM: NOVARUM PARTNERS LIMITED  
C/O [INSERT]  
ATTN: [INSERT]
- (ii) [COUNTERPARTY]: [INSERT]  
ATTN: [INSERT]

**ARTICLE 17 ASSIGNMENT**

NOVARUM may not assign its rights, interests or obligations under this Agreement, in whole or in part, to any third party without the prior written consent of [COUNTERPARTY], such consent not to be unreasonably withheld or delayed, provided further that the parties agree it will not be deemed unreasonable to withhold consent in the event NOVARUM seeks any such assignment in favor of any competitor of [COUNTERPARTY].

**ARTICLE 18 SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective administrators, successors, and permitted assigns. Nothing herein, except as specifically provided into this Agreement, is intended to confer upon any person, other than the parties hereto and their respective administrators, successors, and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

**ARTICLE 19 INDEPENDENT CONTRACTORS**

The parties are and shall remain independent contractors and nothing herein shall be deemed to cause this Agreement to create an agency, employment, partnership, or joint venture between the parties. Neither party shall have any authority to bind the other to any matter or undertaking.

**ARTICLE 20 PERSONNEL**

NOVARUM shall be solely responsible for the hiring and firing of any personnel to be furnished hereunder, other personnel matters with respect to such personnel, the payment of wages, benefits and other remuneration due to such personnel, and any and all taxes which may be imposed upon or levied or assessed against such wages or other remuneration or payments made by [COUNTERPARTY] to NOVARUM hereunder. NOVARUM represents, warrants and covenants that it shall deduct and withhold from payment to any of its personnel any amount required or permitted to be deducted and withheld under the provisions of the applicable federal, state, and local laws and shall remit to the applicable governmental authorities such amounts and any amounts otherwise due in connection with payments made by [COUNTERPARTY] to NOVARUM hereunder.

**ARTICLE 21 AMENDMENT**

This Agreement shall not be amended or supplemented, in whole or in part, except by an instrument in writing duly executed by authorized officers of each of the parties hereto.

**ARTICLE 22 LEGAL CONSTRUCTION & SEVERABILITY**

If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be effected, impaired or invalidated unless to continue the Agreement would unjustly prejudice the parties hereto.

**ARTICLE 23 WAIVER**

The remedies herein reserved shall be cumulative, and in addition to any other remedies provided at law or equity. Any failure by a party to enforce or insist upon strict compliance with any provision of this Agreement shall not be deemed to constitute a waiver of rights to demand strict compliance with the terms hereof. No waiver of any term or condition of this Agreement shall be deemed or construed to be a waiver of any subsequent such term or condition in the future.

**ARTICLE 24 COOPERATION: FURTHER ASSURANCES**

Each party agrees to perform its respective obligations hereunder and to do or cause to be performed, all things necessary, proper or advisable under applicable law to permit the performance of this Agreement in the manner contemplated hereby. Each party shall cooperate fully with the other party and its officers, directors, employees, agents and other representatives in connection with the performance of all acts contemplated hereunder.

**ARTICLE 25 ENTIRE AGREEMENT**

This Agreement constitutes the complete, entire and exclusive agreement between the parties with respect to the subject matter hereof and supersedes and cancels all prior or contemporaneous

agreements, understandings, representations or other arrangements, whether oral or written, expressed or implied, with respect to the subject matter of this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written:

FOR AND ON BEHALF OF NOVARUM PARTNERS  
LIMITED & AFFILIATES

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

FOR AND ON BEHALF OF  
[ \_\_\_\_\_ ]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_