

Proposal for UKOPA

Sales Opportunity ID:	1015815	Customer Ref:	Access to FFREQ
To:	UKOPA Attn. Mr Neil Jackson Risk Assessment Working Group	From:	Mike Acton
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		Date:	28 November 2007

Project Description and Services Offered: UKOPA Version of FFREQ Model

Introduction

The FFREQ model is a well-established mathematical model for the prediction of pipeline failure frequencies due to third party damage originally developed in the 1980's. The model combines a fracture mechanics treatment of the pipeline parameters with historical data on pipeline hit rates and damage distributions observed for the UK gas transmission system. FFREQ is one of a number of models within the PIPESAFE package, developed by Advantica to undertake risk assessments of gas transmission pipelines. FFREQ is owned by Advantica, but used within PIPESAFE by a number of other companies that have jointly funded its development.

Following discussions held between Advantica and the Risk Assessment Working Group of UKOPA, a request was made by UKOPA for Advantica to prepare a proposal to allow UKOPA members to access the FFREQ model, in a form that would allow the model to be used standalone on a PC.

It is recognised that FFREQ has a number of limitations, and that recent technical developments are likely to render the mode obsolete in due course. Nevertheless, comparisons made by UKOPA between the predictions of the model with observed incidents over many years suggests that the model offers reasonable agreement with historical trends, and is currently the best available tool pending completion of further work currently ongoing to develop a replacement.

Advantica emphasises that no warranty can be offered as to the accuracy of the predictions of the model.

Proposed Scope of Work

In order to make FFREQ available to UKOPA members, the following elements are required:

1. Software development

Software development will be required in order to prepare a standalone version of FFREQ that can be used on current PCs, operating under MS Windows. User interface (i.e. input/output screens) will be provided with a limited online "help" facility explaining the meaning of the terms and guidance on the selection of appropriate input values.

Because the historical hit rate and damage distributions were incorporated into FFREQ several years ago, UKOPA has requested that these are updated in the UKOPA version of the model. Advantica will update the model to incorporate hit rate and damage distributions to be supplied in an appropriate format by UKOPA¹. Derivation of appropriate values for hit rates and damage distributions does NOT form part of this proposal.

¹ Note that care needs to be taken in deriving damage distributions from historical data including taking account of incidents involving through-wall damage.

2. Payment of a licence fee by UKOPA and signature of an individual licence agreements

Once the standalone version is prepared, the FFREQ model will be available to UKOPA members only. It is proposed that the model can be downloaded from the secure members' area of the UKOPA website. Following installation of the software, users will need to contact Advantica for a security code to unlock the software for the period covered by the agreement with UKOPA.

Each UKOPA member company will need to sign a licence agreement with Advantica, governing the terms of use of the software. An example of the software licence agreement used by Advantica is attached.

Following discussion with UKOPA, it is understood that UKOPA will pay an annual licence fee on behalf of members, which will entitle up to 2 users from up to 10 member companies to install the software (i.e. up to 20 users in total). Advantica will be pleased to consider requests for additional licences if required by UKOPA.

3. Support and maintenance

The proposed arrangements agreed with UKOPA cover provision of the FFREQ model only. Any further support requested following delivery of the software will be recorded by Advantica and a list of significant problems or queries received will be maintained. Support may include:

- Investigation of installation issues
- Responding to reported software problems ("bugs")
- Provision of supporting documentation
- Advice (or training) to support users in the appropriate application of the model
- Investigation of trends/interpretation of results
- Attendance at meetings if requested by UKOPA

Price:

1. Software Development: £5,000

2. Collective UKOPA Licence for FFREQ: £5000 per annum

(up to a maximum of 2 users per member company and up to 10 member companies)

3. Support and maintenance: Provided on a reimbursable basis in accordance with the current standard day rates specified by Advantica (per 7.4 hour day) to be supplied under separate cover and subject to periodic review.

The above prices exclude the cost of all expenses (travel, subsistence, accommodation) reasonably incurred in the provision of the services. Any such expenses will be re-charged at cost plus 10%.

The price for the undertaking of the services outlined above is quoted in pounds sterling and excludes V.A.T.

<p>Proposal Validity:</p> <p>This Proposal is valid until midnight on 31st March 2008.</p>	<p>Payment Terms:</p> <p>This proposal is based upon the following payment plan:</p> <ul style="list-style-type: none"> • 100% of items 1 and 2 (i.e. £10,000) on delivery of a MS Windows version of FFREQ for use by UKOPA members. • 100% of the total due for support and maintenance on the 1st anniversary of delivery of the model to UKOPA. <p>Full payment is required within 30 days from receipt of an invoice.</p>
<p>Advantica Limited's Standard Conditions of Contract for Consultancy Services shall apply to any resulting contract. A copy of the Standard Conditions of Contract is attached to this Proposal.</p>	
<p>Programme deliverables:</p> <p>Standalone version of FFREQ Model for use by UKOPA members Provision of support and maintenance as required for a 12 month period</p>	
<p>If you are satisfied with the Proposal contained herein please fax the attached acceptance form to the sender.</p>	
<p>THE INFORMATION CONTAINED IN THIS PROPOSAL IS PROVIDED ON A COMMERCIAL BASIS IN CONFIDENCE AND IS THE PROPERTY OF ADVANTICA LIMITED. IT MUST NOT BE DISCLOSED TO ANY THIRD PARTY, IS COPYRIGHT, AND MAY NOT BE REPRODUCED IN WHOLE OR PART BY ANY MEANS WITHOUT THE APPROVAL IN WRITING OF ADVANTICA LIMITED.</p>	

RAWG/2007/025



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FORM OF ACCEPTANCE

Sales Opportunity ID: 1015815

We accept the above referenced Summary Proposal on the Conditions described therein and the Contract between Advantica Limited and UKOPA is hereby entered into.

No amendment or variation to this Contract shall be valid unless expressly stated to amend this Contract and agreed in writing between the parties.

For and on behalf of UKOPA

NamePosition.....

SignatureDate

Client Order No.....

Please return this form by post or fax to the following:

Mike Acton
Advantica Ltd.
Holywell Park
New Ashby Road
Loughborough
Leicestershire
LE11 3GR
UK

Tel: 01509 28 2122
Fax: 01509 28 3118

ADVANTICA LIMITED
Conditions of Contract – Consultancy Services

1. Definitions and Interpretation

- 1.1 ACCEPTANCE shall mean written acceptance of the PROPOSAL by the CLIENT in a form approved by ADVANTICA.
- 1.2 ADVANTICA shall mean Advantica Limited and its successors and permitted assigns.
- 1.3 LIABILITIES shall mean claims, damages, losses, costs and expenses of every kind and nature (including legal expenses, interest and penalties).
- 1.4 CLIENT shall mean the person firm or company engaging ADVANTICA and shall include the CLIENT's legal representatives, successors and permitted assigns.
- 1.5 CONTRACT shall mean the PROPOSAL, these Conditions of Contract (these "Conditions") and the CLIENT's ACCEPTANCE, together with any modification to the foregoing in accordance with the terms thereof.
- 1.6 CONTRACT PRICE shall mean the sum agreed for the SERVICES, as varied in accordance with Clause 7.
- 1.7 INTELLECTUAL PROPERTY shall mean all patents, patent applications, designs, design rights, copyright, database rights, trade marks, service marks, trade names, know-how or any other intellectual property whatsoever and wheresoever in the world existing, whether registered or unregistered.
- 1.8 PARTY shall mean the CLIENT or ADVANTICA, as the case may be.
- 1.9 PROPOSAL shall mean the document(s) comprising ADVANTICA's offer to carry out the SERVICES.
- 1.10 RESULTS shall mean ADVANTICA's conclusions, findings or advice in respect of the SERVICES contained within any written reports, written advice or opinion or other document, to be prepared by ADVANTICA and provided to the CLIENT as detailed in the CONTRACT.
- 1.11 SERVICES shall mean the work or services to be provided as detailed in the PROPOSAL.
- 1.12 All references in the CONTRACT to statutes or any statutory provision shall be deemed to include references to any statute or statutory provision which amends, extends, consolidates or replaces the same. In the CONTRACT the singular shall include the plural and vice versa and words importing any particular gender include the other. All references to "including" shall mean "including without limitation." Any schedules, attachments or exhibits to the CONTRACT shall be deemed part of the CONTRACT.

2. Commencement and Duration

- 2.1 Subject to the provisions of this CONTRACT, including any variations in accordance with Clause 7, the performance of the SERVICES shall commence and terminate in accordance with the PROPOSAL or any programme agreed in writing by the PARTIES. Time for the performance of the SERVICES and preparation of any RESULTS shall not be of the essence.

3. Payment

- 3.1 The CLIENT undertakes to pay ADVANTICA the CONTRACT PRICE (plus any applicable value added tax) as consideration for carrying out the SERVICES in accordance with the payment schedule contained in the PROPOSAL. Payment shall be made within 30 days of receipt by the CLIENT of ADVANTICA's invoice. No disputes arising under the CONTRACT shall interfere with prompt payment of invoices by the CLIENT. In addition, a default in payment shall entitle ADVANTICA, without prejudice to any other rights, to suspend further performance of the SERVICES until payment has been made.
- 3.2 The CLIENT shall, unless otherwise specified in the PROPOSAL, make all payments in pounds Sterling.
- 3.3 The CLIENT shall bear the cost of and timely pay all taxes, duties and other fiscal charges which become due on the CONTRACT PRICE under the CONTRACT and shall indemnify ADVANTICA from and against any LIABILITIES, incurred by ADVANTICA as a result of failure to pay any such sums when they become due.
- 3.4 If the CLIENT fails to pay any amount when due, the unpaid amount shall bear interest calculated on a daily basis from the date due until paid, whether before or after

judgement, at a rate equal to the higher of (a) 4% above Barclays plc UK Bank Base Rate in effect from time to time and (b) any statutory rate to which ADVANTICA is entitled to claim by virtue of the Late Payment of Commercial Debts (Interest) Act 1998 or successor legislation in force in the United Kingdom from time to time.

- 3.5 ADVANTICA reserves the right to require that the CLIENT procure suitable security for payment of the CONTRACT PRICE in a form that is satisfactory to ADVANTICA

4. Client Materials and Equipment

- 4.1 The CLIENT shall provide and deliver any test samples, materials and agreed upon equipment required for the SERVICES to ADVANTICA's premises when reasonably requested by ADVANTICA, and where necessary, shall collect the same at no cost to ADVANTICA. The collection shall be completed within 20 days of notification by ADVANTICA that the SERVICES have been completed or other such time as is agreed.
- 4.2 ADVANTICA cannot accept any liability (except for wilful or deliberate actions) for any damage to or accidental loss of any test samples, materials and equipment, which may occur during the performance of the SERVICES. It is the responsibility of the CLIENT to ensure that it has in place insurance coverage for damage or loss while such items are in the possession of ADVANTICA.
- 4.3 All equipment, materials and test facilities provided or purchased by ADVANTICA for the purpose of undertaking any part of the SERVICES shall remain the property of ADVANTICA.

5. Liabilities and Indemnities

- 5.1 ADVANTICA shall perform the SERVICES using reasonable skill, care and diligence, but shall have no liability to CLIENT, whether in contract, tort (including breach of statutory duty) or otherwise howsoever arising, for the performance of the SERVICES or the content of the RESULTS except to the extent that ADVANTICA has been negligent in the provision of the SERVICES or the preparation of the RESULTS. ADVANTICA gives no warranty, express or implied, as to, fitness for purpose or suitability of the SERVICES or RESULTS, and CLIENT waives any terms, conditions or warranties otherwise incorporated or implied by law to the fullest extent permitted by law. The CLIENT shall indemnify and hold harmless ADVANTICA in respect of all LIABILITIES related to arising from or connected with the use of the RESULTS (or anything derived therefrom) by the CLIENT or any third party receiving the RESULTS from the CLIENT except to the extent that such LIABILITIES arise as a result of the negligent acts or omissions of ADVANTICA.
- 5.2 ADVANTICA shall be responsible for and shall save, indemnify, defend and hold harmless the CLIENT from and against all LIABILITIES in respect of, (a) loss of or damage to property of ADVANTICA or its subcontractors whether owned, hired, leased or otherwise provided by ADVANTICA or its subcontractors arising from or related to the performance of the CONTRACT, and (b) personal injury including death or disease to any person employed by ADVANTICA or its subcontractors arising from or related to the performance of the CONTRACT.
- 5.3 The CLIENT shall be responsible for and shall save, indemnify, defend and hold harmless ADVANTICA from and against all LIABILITIES in respect of, (a) loss of or damage to property of the CLIENT, its customers, contractors, employees, guests or agents whether owned, hired or leased arising from or related to the performance of the CONTRACT, and (b) personal injury including death or disease of any person employed by the CLIENT, its customers, contractors, employees and agents arising from or relating to the performance of the CONTRACT
- 5.4 The exclusions and indemnities in 5.2 and 5.3 shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under the contract or otherwise at law.

ADVANTICA LIMITED
Conditions of Contract – Consultancy Services

- 5.5 Under no circumstances shall either PARTY be liable to the other, in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever arising, for any LIABILITIES related to the CONTRACT based on indirect, consequential or economic damages or losses suffered by the other PARTY including:
- (i) loss of profit (whether or not such profit is of a type that could be described as reasonably foreseeable and recoverable as direct loss under common law rules but for this clause)
 - (ii) loss of revenue or production;
 - (iii) loss of anticipated savings;
 - (iv) loss of business or business interruption;
 - (v) loss of opportunity
 - (vi) loss of goodwill;
 - (vii) loss of reputation; or
 - (viii) any wasted expenditure
- 5.2 Except as provided by clause 5.2 ADVANTICA'S maximum aggregate liability to CLIENT for all LIABILITIES related to the CONTRACT, in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever arising, shall not exceed the CONTRACT PRICE.
- 5.3 The CLIENT acknowledges and agrees by entering into the CONTRACT that the above limitations and exclusions of liability are fair and reasonable in the circumstances. Subject to the PARTIES reaching agreement on terms for an additional payment, (reflecting the increased risk to Advantica) ADVANTICA may agree, to increase the financial level of its liability hereunder.
- 6 Insurance**
- 6.1 Each PARTY shall maintain insurance adequate to cover its liabilities under the CONTRACT and to fulfil any requirements of local government or other appropriate bodies and shall obtain from its underwriters to the extent of any indemnities granted a waiver of all rights of subrogation against the other, endorsed upon all such policies of insurance.
- 7 Variations In Services and Contract Price**
- 7.1 The CLIENT may request ADVANTICA to alter, add, omit or otherwise vary the SERVICES, and ADVANTICA shall respond to any such request in a timely manner and provide the CLIENT with information on any changes in the CONTRACT PRICE, timing of RESULTS or other terms of the CONTRACT related to such request. ADVANTICA shall not be required to vary the SERVICES except on terms satisfactory to ADVANTICA. If the PARTIES agree to any variation in the SERVICES and terms, the PARTIES shall enter into an amendment to the CONTRACT specifying the same.
- 7.2 If the CONTRACT PRICE is fixed, ADVANTICA may review and make a reasonable increase to the CONTRACT PRICE if any assumptions set forth in the PROPOSAL prove incorrect or any information provided by the CLIENT which led to the negotiation of the CONTRACT PRICE was inaccurate or incomplete.
- 8 Access and Safety**
- 8.1 ADVANTICA shall (subject to the CLIENT and its visitors agreeing to a duty of confidentiality in a form reasonably specified by ADVANTICA) afford the CLIENT reasonable access to witness SERVICES carried out at ADVANTICA'S premises together with any other persons nominated by the CLIENT and approved by ADVANTICA.
- 8.2 Such visitors shall comply while at ADVANTICA'S premises with the prevailing safety rules and regulations in operation.
- 9 Confidentiality**
- 9.1 Each PARTY shall keep confidential any proprietary information disclosed by the other PARTY in respect of the SERVICES and shall neither use the same, other than for the purpose of performing the SERVICES, nor disclose the same to any third party, other than the other PARTY'S own personnel to whom disclosure is necessary in the provision of the SERVICES, without the prior written approval of the other PARTY.
- 9.2 The foregoing restrictions on disclosure and use of information shall not apply (or shall cease to apply, as the context so requires) to information which:
- 9.2.1 at the time of disclosure is or which after disclosure becomes part of the public domain other than by a breach of this Clause;
 - 9.2.2 the recipient can show was in its possession prior to disclosure;
 - 9.2.3 is or shall lawfully become available from a source having a right to disclose the same;
 - 9.2.4 the recipient can show to have been developed by or for the recipient at any time independently of the information disclosed to it by the disclosing PARTY; or
 - 9.2.5 the recipient is required to disclose by a judicial, legislative or administrative body. If the recipient receives such a request recipient will provide prompt written notice of such requirement to the other PARTY.
- 10 Publicity**
- 10.1 The CLIENT shall obtain the written approval of ADVANTICA prior to issuing publicity releases or announcements relating to ADVANTICA'S activities under the CONTRACT, such approval shall not be unreasonably withheld or delayed.
- 11 Provision of Results**
- 11.1 The RESULTS shall be supplied to the CLIENT upon completion of the SERVICES or at such other time as stated in the PROPOSAL.
- 11.2 Any other materials submitted to the CLIENT shall remain the property of ADVANTICA and the CLIENT shall not deal, dispose, disclose, destroy or otherwise treat such materials in a manner inconsistent with ADVANTICA'S ownership of the same. On completion of the SERVICES or the earlier termination of the CONTRACT, the PARTIES shall return, upon request, any materials of the other which the receiving PARTY has obtained under the CONTRACT.
- 11.3 Any materials covered by the provisions of the foregoing Clause 11.2 shall be treated as confidential information and shall be subject to the duty of confidentiality specified in Clause 9 above.
- 12 Intellectual Property**
- 12.1 All INTELLECTUAL PROPERTY owned by each PARTY prior to the commencement date of this CONTRACT or developed outside the scope of this CONTRACT shall continue to be the sole property of that PARTY. Save as expressly provided herein, no licence of or interest in INTELLECTUAL PROPERTY owned by ADVANTICA is granted by ADVANTICA to the CLIENT.
- 12.2 All INTELLECTUAL PROPERTY contained in any RESULTS or created in the course of the provision of the SERVICES shall vest and remain solely vested in ADVANTICA, but conditional upon receipt of payment of the CONTRACT PRICE in full, ADVANTICA grants to the CLIENT an irrevocable, world-wide, non-exclusive, non-transferable royalty free licence to use the INTELLECTUAL PROPERTY contained in the RESULTS for the purpose of using the RESULTS within its own business operations for its own internal use.
- 13 Termination**
- 13.1 ADVANTICA shall be entitled to terminate the CONTRACT by written notice forthwith if the CLIENT defaults in making payment of any part of the CONTRACT PRICE when such payment falls due.
- 13.2 Either PARTY shall be entitled to terminate the CONTRACT by written notice forthwith if the other PARTY commits a material breach of its obligations hereunder which, if capable of remedy, has not been remedied within a period of 28 days of receipt of notice from the PARTY not in default specifying the breach and requiring the breach to be remedied.
- 13.3 Either PARTY may terminate the CONTRACT forthwith should the other PARTY:
- 13.3.1 (in the case of an individual or any partner in a partnership) become bankrupt or insolvent or be

ADVANTICA LIMITED
Conditions of Contract – Consultancy Services

- adjudicated bankrupt or insolvent by a court of competent jurisdiction;
- 13.3.2 suffer the appointment of a liquidator, administrative receiver or other receiver or manager appointed over the whole or a substantial part of its assets or undertaking or if it makes a composition with its creditors;
- 13.3.3 issue a notice proposing that it be wound up or passes a resolution for its winding up; or
- 13.3.4 cease to carry on all or substantially all of its business or be unable to pay its debts as they fall due, within the meaning of Section 123 of the Insolvency Act 1986.
- In the case of a CLIENT not carrying on business in the United Kingdom, ADVANTICA shall be entitled to terminate the CONTRACT if any event equivalent to or substantially equivalent in effect to those listed above occurs in respect of the CLIENT or its business under any law or legislation to which the CLIENT is subject by reason of its place of business or domicile.
- 13.4 In the event of termination by ADVANTICA on the grounds specified in Clauses 13.1, 13.2, or 13.3, (a) ADVANTICA shall be entitled without limiting any rights and remedies available to it (all of which are reserved) to retain any payment, deposit or advance of the CONTRACT PRICE made by the CLIENT prior to the date of termination, and (b) to the extent not covered by such payment, deposit or advance, CLIENT shall pay ADVANTICA for SERVICES performed up to the date of termination and any additional reasonable costs arising from such early termination. On receipt of payment the CLIENT shall receive RESULTS completed up to the date of termination.
- 13.5 In the event of termination of the CONTRACT the rights and obligations of the PARTY (S) included in clauses 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 20, 22, 23 and 25 shall remain in full force and effect.
- 14 Assignment**
- 14.1 Neither PARTY shall assign this CONTRACT, in whole or in part, without the prior written consent of the other, but such consent shall not be unreasonably withheld or delayed.
- 14.2 ADVANTICA may sub-contract performance of the SERVICES to a reputable sub-contractor and shall notify the CLIENT, where practicable, prior to any engagement of a sub-contractor.
- 15 Relationship of Parties**
- 15.1 The status of ADVANTICA shall be that of independent consultant and nothing in the CONTRACT shall create the relationship of principal/agent or partnership or joint venture or employer/employee.
- 16 Notices**
- 16.1 All notices shall be given in writing by and be delivered by hand or sent by facsimile (confirmed by recorded delivery post) or recorded delivery post. Notices served on ADVANTICA should be addressed to General Counsel, Advantica Limited, Holywell Park, New Ashby Road, Loughborough, Leicestershire, LE11 3GR England. Facsimile number 00 44 1509 283141. The address of the CLIENT for the purpose of this Clause shall be as detailed in the PROPOSAL.
- 16.2 Any notice sent by facsimile to the recipient's facsimile number, shall be effective at the time of transmission. Any notice sent by post shall be deemed to have been served 4 days after posting.
- 17 Modifications; Remedies Cumulative**
- 17.1 No amendment, waiver or other modification of the CONTRACT shall be effective unless the same is executed in writing by both PARTIES.
- 17.2 Waivers shall apply only to the matter described and shall not apply to any past or future default, breach or modification of the terms of the CONTRACT unless expressly set forth in such waiver.
- 17.3 No course of dealing and no delay in exercising any right, power or remedy shall operate as a waiver of or otherwise prejudice any such right, power or remedy.
- 17.4 Except as expressly stated otherwise, no right, power or remedy under the CONTRACT now or hereafter existing at law, in equity, or otherwise shall be exclusive, and each such right, power or remedy shall to the extent permitted by law be cumulative and in addition to every other such right, power or remedy.
- 18 Force Majeure**
- 18.1 Neither PARTY shall be liable for any failure or breach under this CONTRACT if such failure or breach has been caused by reason of Force Majeure which shall mean circumstances beyond the reasonable control of that PARTY so affected including illness, death or resignation of personnel, acts of government, acts of God, war, terrorist activity or industrial action. The affected PARTY shall take all reasonable steps necessary to mitigate the effect of Force Majeure. In the event that an event of Force Majeure continues for a continuous period of 60 days or more, either PARTY shall be entitled to terminate the CONTRACT by written notice to the other. Upon such termination, the CLIENT shall make payments to ADVANTICA in accordance with Clause 13.4.
- 19 Entirety of Contract and Acknowledgements**
- 19.1 This CONTRACT comprises the entire agreement in respect of the SERVICES between the PARTIES and supersedes all previous communications, representations or agreements (evidenced in writing or verbal) between the PARTIES with regard to their respective rights and obligations hereunder. The CLIENT acknowledges and agrees that it has not relied on any representations or warranties or assurances that are not recorded in writing in the CONTRACT and as such further acknowledges that no claim for misrepresentation will lie against ADVANTICA (unless such misrepresentation is made fraudulently).
- 20 Governing Law**
- 20.1 The validity, construction and performance of the CONTRACT shall be governed by English law. Any dispute arising under or in connection with the CONTRACT shall (subject to the provisions for dispute resolution set out herein) be subject to the exclusive jurisdiction of the English courts to which the PARTIES to this CONTRACT hereby submit save that ADVANTICA may in its discretion seek to enforce any right or remedy against the CLIENT directly through the courts of any other competent jurisdiction, having competent jurisdiction by reason of the domicile or place of business of the CLIENT.
- 20.2 Any dispute (other than relating to payment of the CONTRACT PRICE) between the PARTIES shall be referred in the first instance to mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure. To initiate a Mediation, a PARTY shall give written notice to the other (a 'Mediation Notice') requesting Mediation, with a copy being forwarded to CEDR requesting CEDR to nominate a Mediator in the event that PARTIES have not previously agreed upon a choice of Mediator. The Mediation shall commence within 28 days of service of the Mediation Notice.
- 21 Precedence of Documents**
- 21.1 With respect to any conflicting provisions, the PROPOSAL shall have precedence over any other document that is part of the CONTRACT and the CONTRACT shall have precedence over any other terms and conditions relating to the SERVICES contained in or referred to in any order or other document emanating from the CLIENT.
- 22 Severance**
- 22.1 Each of the provisions and sub-provisions of the CONTRACT is severable from the others. Any provision or sub-provision, which is held to be illegal, invalid or unenforceable, shall be severed from the others without affecting or impairing the remainder of the affected provision or the remainder of the CONTRACT which shall remain in full force and effect.
- 23 Rights of Third Parties**
- 23.1 The PARTIES to the CONTRACT do not confer any rights on 'third parties' and expressly exclude the operation of the Contracts (Rights of Third Parties) Act 1999. For the purpose of this Clause, lawful assigns of the PARTIES are not "third parties".

ADVANTICA LIMITED
Conditions of Contract – Consultancy Services

24 Services at Client's Site

24.1 Where the SERVICES comprise physical works at the CLIENT'S site or premises (or a site under the CLIENT'S control) as well as or independent of consultancy services the following provisions shall apply:

24.1.1 The CLIENT shall be responsible at its own cost for the preparation of the site and for the provision of unobstructed access and continued access throughout to enable the SERVICES to be performed; and

24.1.2 The CLIENT shall procure the availability of all necessary site facilities and other assistance (including those of personnel) to enable the SERVICES to be performed. The CLIENT shall be responsible for costs and expenses incurred by ADVANTICA by reason of any delay in commencement of the SERVICES by reason of default in compliance by the CLIENT with this Clause 24.

25 Cross Border Transactions

In cases where the SERVICES are related to assets in foreign jurisdictions or are to be performed in whole or in part in foreign jurisdictions, the following provisions shall apply:

25.1 it is the responsibility of the CLIENT to obtain any necessary governmental approvals or consents to the performance of the SERVICES or the delivery of the RESULTS in the applicable foreign jurisdictions, including applicable registration requirements, and no liability to perform the SERVICES or deliver the RESULTS shall arise until the CLIENT has demonstrated compliance with this Clause.

25.2 All payments shall be made in full without deduction or withholding of taxes, charges or other duties (including any withholding taxes) that may be imposed by the applicable foreign jurisdictions except where the CLIENT is required by law to make such deduction or withholding, in which event the CLIENT shall:

25.2.1 ensure that the deduction or withholding does not exceed the minimum amount legally required;

25.2.2 forthwith pay to ADVANTICA such additional amount as shall result in the net amount received by ADVANTICA being equal to the amount which would have been received by ADVANTICA had no such deduction or withholding been made;

25.2.3 pay to the applicable taxation or other authorities within the period for payment permitted by law, the full amount of the deduction or withholding (including, but without prejudice to the generality of the foregoing, the full amount of any deduction or withholding from any additional amount paid pursuant to this sub-clause) and indemnify ADVANTICA from and against any LIABILITIES, including interest and penalties, incurred by ADVANTICA as a result of any failure to so perform;

25.2.4 supply to ADVANTICA, within the period for payment permitted by law, either (i) an official receipt of the applicable taxation or other authorities for all amounts deducted or withheld as aforesaid or (ii) if such receipts are not issued by the taxation or other authorities concerned on payment to them of amounts so deducted or withheld, a certificate of deduction or equivalent evidence of the relevant deduction or withholding.

25.3 If payment is to be made in a currency other than sterling ADVANTICA reserves the right prior to commencement of SERVICES to re-calculate the CONTRACT PRICE to reflect any consequential devaluation in the Sterling equivalent of such foreign currency occurring by reason of any fluctuation in exchange rates arising between the date of the PROPOSAL and commencement of the SERVICES.