ARO Technology. Only better.

# MASTER SERVICES AGREEMENT

Version 5.0 May 2025

# Contents





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CIRCLE IT SOLUTIONS LTD (T/A ARO) (REG.03757454) PART OF THE ARROW GROUP
REG. ADDRESS – KILBY HOUSE, LIVERPOOL INNOVATION PARK, EDGE LANE, LIVERPOOL, L7 9NJ

# Master Services Agreement

## Dated: 18 June 2025

**For the purposes of this document, we will refer to our trading name ARO which is the brand name for the Arrow Group and in the event that any subsequent legal documentation is entered into between the parties, this will be between Circle IT Solutions Ltd, part of the Arrow Group and trading under the brand name ARO.**

**PARTIES:**

1. XXX whose registered address is XXX (the **Customer**); and
2. **CIRCLE IT SOLUTIONS LIMITED**, part of the Arrow Group and trading under the brand name ARO registered in England and Wales under company number 03757454, whose registered address is at Kilby House, Liverpool Innovation Park, Liverpool, England, L7 9NJ (**ARO**) each a party, together the parties.

# Agreed Terms

## 1. Definitions and Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

| Term | Definition |
|---|---|
| Acceptance Tests: | the acceptance tests as specified or referred to in the SOF or as agreed between the parties in writing, to be undertaken to determine whether the Deliverables meet the agreed acceptance criteria. |
| Additional Services: | those additional services provided by ARO not detailed in the original Service Description and SOF and subject to a Change Control Note agreed between the Parties. |
| Agreement: | this agreement together with its Appendices, Schedules and any Change Control Note agreed between the parties. |
| Applicable Law: | any relevant and applicable laws regulations, or regulatory policies, in relation to the provision of the Services. |
| Approved Suppliers: | suppliers, software vendors, other businesses and individuals contracted by ARO to provide certain aspects of the Services to the Customer. |
| Authorised Contact: | shall have the meaning defined in the SOF. |
| Business Day: | any day, excluding Saturday, Sunday or public or bank holiday in England and Wales. |
| Change: | any change to this Agreement, including any request for a change in the scope or extent of Services pursuant to the Change Control Procedure. |

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| Change Control Note: | the written record of a Change agreed or to be agreed by the parties pursuant to and in accordance with the Change Control Procedure, in the form set out in clause 3.2. |
| Change Control Procedure: | means the procedure referred to in clause 3.2. |
| Change Request Form: | a written request for a Change which is submitted by one party to the other pursuant to the Change Control Procedure. |
| Charges: | the fees payable by the Customer to ARO for the Services including but not limited to the services provided by ARO and its Approved Suppliers, the Equipment, the Software, the ARO software, and any Additional Services. |
| Commencement Date: | the date this Agreement takes effect. |
| Confidential Information: | has the meaning given to it in clause 12.1. |
| Core Service Hours: | 08:00 – 18:00 Monday to Friday, excluding England and Wales Bank Holidays |
| Customer Data: | any information, data, materials, works, software, and content of any kind furnished, made available or inputted by the Customer, Licensed Users, ARO, or its Approved Suppliers on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services, including any information derived from such information. |
| Customer Infrastructure: | the Customer's IT infrastructure, networks, and systems. |
| Data Protection Legislation: | the GDPR and any applicable national implementing legislation, including the Data Protection Act 2018 and all applicable legislation protecting the fundamental rights and freedoms of persons and their right to privacy regarding the processing of personal data, in each case as amended, replaced, or superseded from time to time. |
| Deliverable: | all Documents, products and materials developed by ARO or its agents, subcontractors, consultants and employees in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts). |
| Documents / Documentation: | the documentation made available to the Customer by ARO or its Approved Suppliers from time to time which may where applicable, set out a description and user instructions for the Services. |
| Employees: | means those employees whose contracts of employment transfer to ARO from the Customer as at the date of this Agreement as set out in Schedule 1. |
| Employee Liability Information | means, in respect of each Employee:<br>the identity and age of the Employee;<br>the particulars of employment which an employer is required to provide to the Employee under Section 1 of the Employment Rights Act 1996; |

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| | information concerning any disciplinary action taken against the Employee and any grievances raised by the Employee, where a Code of Practice issued pursuant to Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating primarily or exclusively to the resolution of disputes or any other applicable code or statutory procedure applied, within the previous two years; |
| | information concerning any court or tribunal case, claim, or action, either brought by the Employee against the Customer within the previous two years or where the Customer has reasonable grounds to believe that such an action may be brought against ARO arising out of the Employee's employment with the Customer; and |
| | information concerning any collective agreement which will have effect after the Effective Date in relation to the Employee pursuant to Regulation 5(a) of TUPE. |
| Equipment: | the third-party equipment supplied to the Customer under the terms of this Agreement as detailed in the Services Order Form. |
| Force Majeure Event: | has the meaning given to it in clause 18. |
| GDPR: | the General Data Protection Regulation ((EU) 2016/679). |
| Good Industry Practice: | the standards of a skilled and experienced provider of services similar or identical to the applicable Services, having regard to factors such as the nature and size of the parties, the type of service, SLAs, the term, the pricing structure and any other relevant factors. |
| Implementation Services: | that part of the Services to be supplied in accordance with this Agreement relating to the setup, implementation, configuration installation, and/or integration of a Service, or any part thereof, including, where applicable, migration of Customer Data and Implementation shall be construed accordingly. |
| Information Security Policy: | the Customer's information security policy (as updated from time to time) which shall be provided to ARO on request at any time. |
| Initial Term: | the initial term of this Agreement starting on the Commencement Date and ending on the date twelve (12) months thereafter unless otherwise set out in the Services Order Form. |
| Intellectual Property Rights (IPR): | all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, that may subsist in any part of the world now or in the future, in each case for their full term, together with any future rights and renewals or extensions. |
| IPR Claim: | a claim by a third party arising from the infringement of its IPR. |
| Key Personnel: | the personnel identified as key personnel pursuant to this Agreement. |
| Licensed Users: | those personnel of the Customer who are authorised to use the Services under any Services Order Form and the Deliverables. |



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| New Service Provider: | means a third party appointed by the Customer to replace ARO in the provision of the Services or a part thereof. |
| Potential Returning Employees: | means individuals assigned to the provision of the Services whose details shall be provided by ARO to the Customer in accordance with Schedule 2. |
| Project Manager: | as defined in clause 6.1(c). |
| Relief Events: | the following events:<br>(a) any failure by the Customer to comply with its obligations under this Agreement or the SOF;<br>(b) any error or malfunction in the Customer Infrastructure or any other software, hardware or systems for which ARO is not responsible or any failure by the Customer, its agents or contractors (including any existing service provider) to obtain sufficient support and maintenance, as required, for any software, hardware or systems for which ARO is not responsible;<br>(c) any failure by the Customer or its agents or contractors (including any existing service provider) to provide any information, co-operation or instructions to ARO which is reasonably required by ARO for the proper performance of its obligations under this Agreement;<br>(d) any telecommunications network defect, delay or failure or failure of the Customer's hardware or other systems; and/or<br>(e) any of the causes or events set out in clause 11.9. |
| Renewal Term: | the Initial Term and any subsequent terms described in this Agreement or the SOF. |
| Returning Employees: | means the individuals whom shall be agreed by the Parties before the Service Transfer Date, who were employed by ARO and assigned wholly and/or mainly to the Services immediately before the Service Transfer Date. |
| Service Levels: | any service levels or key performance indicators agreed between the parties, as set out in the SOF. |
| Service Level Agreement (SLA): | the service level agreement (if any) setting out ARO's obligations in respect of the provision of support services as detailed in the SOF. |
| Service Order Form (SOF): | the Order form that details the Services and the related Charges, signed by the Customer, or any other agreement between the parties in writing that details Services to be provided and any related Charges. |
| Service Transfer Date: | means the date (or dates) on which the responsibility for the provision of the Services or a part thereof is transferred from ARO to the Customer and/or to a New Service Provider. |
| Services: | the services provided by (or on behalf of) ARO to the Customer under this Agreement, as more particularly described in the SOF and Appendix A. |



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| Software: | the third-party software applications provided by ARO or any Approved Suppliers as part of the Services. |
| Support: | those support services provided to the Customer in accordance with the SOF and any Change Control Note. |
| System: | the assets detailed in the SOF and any Change Control Note. |
| Term: | the duration of this Agreement, including the Initial Term and any Renewal Term agreed pursuant to clause 15. |
| Third Party Services: | any services, goods, code or software programs written or provided by an Approved Supplier which are used during the provision of the Services. |
| TUPE: | means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (as amended). |

1.2 Clause, schedule, and paragraph headings shall not affect the interpretation of this Agreement.

1.3 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

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

1.5 References to clauses, Appendices and Schedules are to the clauses, Appendices and Schedules of this Agreement; references to paragraphs are to paragraphs of the relevant Appendix or Schedule to this Agreement.

1.6 The Appendices and Schedules and any SOF form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Appendices and Schedules.

1.7 A reference to writing or written includes e-mail.

**1.8 In the event of a conflict between the terms and conditions of this Master Services Agreement (MSA), its Appendices, Schedules or the Service Order Form, the following order of preference shall apply (in decreasing order) to the extent of such conflict or inconsistency:**

**a) the Services Order Form;**

**b) MSA; and**

**c) Appendices /schedules.**

## 2. Services

2.1 This Agreement together with any Appendices / Schedules and any other documentation agreed between the parties will operate as a framework agreement which defines the contractual terms and conditions under which ARO will supply Services to the Customer.



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2.2 Whilst this Agreement remains in force, the parties shall agree the provision of Services as set out in the SOF that shall be governed by, and be subject to, the terms and conditions of this Agreement. ARO shall not be under any obligation to perform and the Customer shall not be under any obligation to accept any Services unless and until a SOF has been executed.

2.3 This Agreement shall (i) be in substitution for any prior oral or other prior arrangements between ARO and the Customer in connection with the purchase of the relevant Services; and (ii) prevail over any of the Customer's inconsistent terms or conditions contained in, or referenced in, any order confirmation or other acknowledgement, quotation, purchase order(s), delivery note, invoice or similar document or implied by law, trade custom or practice.

2.4 ARO will use its reasonable endeavours to provide the Services within any dates and timescales set out in the SOF but any dates quoted for delivery of Services are estimates only at the time they are given and are subject to any revisions received from the Approved Suppliers. Time shall not be of the essence.

2.5 Any work which is not specifically detailed in the SOF is out of scope and subject to additional charges at ARO's rates set out in the SOF as amended from time to time and payable in accordance with this Agreement.

2.6 ARO may make reasonable changes to this Agreement and the Services from time to time, without prior notice (unless prohibited by applicable law) which is required to conform with any applicable safety, regulatory or other statutory requirement, or any request by an Approved Supplier that ARO is required to flow down to the Customer.

2.7 Where specified as a Service in the SOF, ARO shall use all reasonable efforts to ensure the accurate migration of any data but gives no warranties as to the completeness or accuracy of such migration. The Customer shall be responsible for checking the accuracy and completeness of migrated data and shall, promptly upon becoming aware, give sufficient details to ARO of any inaccuracies or omissions to permit ARO to correct them. ARO shall, thereupon, promptly correct such inaccuracies and/or omissions where it is practical and reasonable to do this.

2.8 Unless otherwise agreed by ARO in writing, the Customer acknowledges that the Services have not been developed to meet its individual requirements and that it is therefore the Customer's responsibility to ensure that the facilities and functions of the Services, as described in SOF and the Documentation (where applicable), meet its requirements.

2.9 Following the signature of this Agreement, the parties will meet to formalise and agree the scope of Services to be provided by ARO and/or its Approved Suppliers to the Customer in respect to the System.

2.10 The relevant Services Order Form shall specify the Deliverables or Services (as the case may be) that are to be subject to Acceptance Testing and provide a framework for the nature of the testing that will be required. On receipt of any Deliverables from ARO:

a) The Customer shall within five (5) Business Days of receipt (**Acceptance Period**), review such documents and may reject them providing ARO in writing its reasons for any rejection.

b) The Customer shall use its best efforts to correctly and efficiently ensure appropriate Acceptance Testing in relation to any Deliverable which is subject to Acceptance Tests and shall notify ARO within the Acceptance Period if any of the Deliverables do not conform to the agreed acceptance criteria. Once the Deliverable has been accepted by the Customer and payment has been settled in accordance with this Agreement, the Deliverable shall become the property of the Customer, in accordance with the terms of this Agreement. For the avoidance of doubt, should any non-conformities be found in earlier stages of the Deliverables but which were not highlighted to ARO during the applicable Acceptance Period, such non-conformities shall not be subject to the remedies as set out in clauses 2.11 below.

c) If:

(i) the Customer does not provide any written comments or otherwise fails to reject the Deliverable in the Acceptance Period;

(ii) commences live running of the whole or part of such Deliverable other than in the course of undertaking Acceptance Testing; or

(iii) if Deliverables or Services are found to conform with the SOF;

then for all purposes under this Agreement, such Document shall be deemed accepted from the date of notification by ARO pursuant to clause 2.10(a).

2.11 If there are any non-conformities within any Deliverable, which have been highlighted by Customer or ARO during the Acceptance Period and whereby the Deliverable has not been accepted by the Customer for this reason and such non-conformity is a directly attributable act or omission on the part of ARO (and not subject to a Change Request Form or attributable to the Customer's acts or omissions including inadequate Acceptance Testing), ARO shall (without prejudice to the Customer's other rights and remedies) carry out all necessary remedial work without additional charge.

2.12 If any non-conformity cannot be remedied by ARO due to an error, defect or fault which ARO is able to demonstrate to the reasonable satisfaction of the Customer to be outside ARO's control and which has disabled ARO's ability to remedy such non-conformity, then ARO reserves the right to terminate work on that specific Deliverable. ARO agrees not to charge Customer, any amounts paid or payable by Customer to Supplier which specifically relate to the non-conforming Deliverable which cannot be remedied.

2.13 The Customer agrees to adhere to the dates scheduled for provision of Services by ARO as stated in the applicable SOF or otherwise agreed between the parties in writing. If the Customer wishes to reschedule or cancel the dates for the provision of the Services, ARO will use reasonable endeavours to re-assign allocated resources to other customers. If such re-assignment is not possible and the Customer has not provided more than fourteen (14) days advance written notice, then unless otherwise stated in the applicable SOF, the Customer shall be liable to pay the following cancellation charges (**Cancellation Charges**) relating to this action, in addition to any specific costs relating to cancelling pre-booked travel arrangements and to unpaid Charges (if any) for any Services work that has been performed:

a) if dates are changed or cancelled at the Customer's request more than fourteen (14) days before the scheduled start date, no Cancellation Charges are payable;

b) if dates are changed or cancelled between seven (7) days and fourteen (14) days before the scheduled start date, Cancellation Charges equivalent to fifty percent (50%) of the Charges for the Services to be provided at that time will be payable;

c) if dates are changed or cancelled less than seven (7) days before the scheduled start date, Cancellation Charges equivalent to one hundred percent (100%) of the Charges for the Services to be provided at that time will be payable.

2.14 ARO shall be given a reasonable extension of any timetable for any delivery dates for the Services defined in the SOF or any other Services if one or more of the following events occurs:

a) a variation to Services is made at the Customer's request or a request for something out of scope

b) a Force Majeure Event occurs; or

c) a delay is caused in whole or in part by an action or omission of the Customer or its employees, agents or any third-party contracted by the Customer.

2.15 If ARO is entitled to an extension of time under clause 2.14, it shall give written notice to the Customer not later than thirty (30) days after having become aware of the event. Such notice shall specify the event relied on and steps it is taking to mitigate the impact and, in the case of a Force Majeure Event, shall estimate the probable extent of the delay.

2.16 The parties shall use their respective reasonable endeavours to agree in writing, signed by both parties, what extension of time is reasonable in the circumstances and any SOF or other applicable timetable shall be deemed amended accordingly.

2.17 Notwithstanding clause 2.13, if ARO's performance of its obligations under this Agreement is hindered, prevented or delayed by any unreasonable act or omission of the Customer, the Customer's agents, sub-contractors or employees, the Customer will be liable to pay ARO, on demand, all reasonable costs, charges or losses sustained or incurred by it (including consequential losses, and loss of opportunity to use ARO resources elsewhere), subject to ARO confirming such costs, charges and losses to the Customer in writing.

# 3. Change Control Procedure

3.1 Unless otherwise agreed between the parties in writing, to initiate a Change, either party should complete a written Change Request Form detailing the proposed Change to the other party.

3.2 To the extent possible, each Change Request shall contain:

a) the originator and date of the request or recommendation for the Change;

b) the reason for the Change;

c) full details of the Change, including any specifications;

d) the likely time required to implement the Change;

e) any variations to ARO's Charges arising from the Change;

f) a schedule of payments if appropriate;

g) the likely effect of the change on any project documents; and

h) any other impact of the change on the terms of this Agreement.

3.3 Further to submission of a Change Request Form by either party pursuant to clause 3.2, the parties shall use their reasonable efforts to respond to the Change Request in writing within five (5) Business Days, confirming whether it accepts or reasonably rejects their such Change Request Form. If the parties have specified a deadline and the parties, acting reasonably and in good faith, have not agreed the Change or Changes on or before that deadline, the Change Request Form shall then be deemed void and of no further effect (provided that the parties may agree in writing to extend any such deadline for agreement).

3.4 If necessary, the parties shall enter discussions to clarify and, if appropriate, agree its terms (including agreement as to the date upon which the Change or Changes are to take effect (the Change Date)) which, unless agreed otherwise, shall be immediately upon signature by both parties of the final Change Control Note.

3.5 The parties may (acting reasonably) specify a deadline (considering the nature of the proposed Change and the time which would be required to agree such a Change) before which the terms of any Change or Changes will have been agreed between the parties as provided in clause 3.4.

3.6 Where agreement is reached in accordance with the provisions above, the Customer shall, or if agreed between the parties, ARO shall prepare a final Change Control Note for execution by both parties.

3.7 Each party shall bear its own costs and expenses incurred in the assessment and preparation of a Change Request Form.

3.8 The Customer shall not reject its agreement to a Change Request Form recommended by ARO to the extent that the Change is necessary and reasonable:

a) for ARO or the Services to comply with any change in Applicable Law (subject always to the provisions set out in clause 3 of the Agreement); or
b) to remedy a Customer default or breach provided that this sub-clause shall not apply to the extent that the Customer's default or breach is caused by any breach of any provision in this Agreement or any negligent act or omission of ARO (or any of ARO's sub-contractors).

3.9 Changes requested pursuant to this will not take effect until both parties have agreed the terms applicable to the Change and agreed and executed a Change Control Note.

3.10 If a Change is required in an emergency to resolve an incident, any such emergency change shall be agreed between the parties by email and shall detail any changes, and a roll back plan. No Changes will be made without prior approval of the Customer unless ARO feels there is an imminent threat to the integrity of the entire solution, e.g., in the event of a zero-day virus or ransomware attack that may need immediate attention

## 4. Additional Services

4.1 Subject to the payment of the appropriate Charges and the terms of this Agreement, ARO shall provide Additional Services as agreed between the parties from time to time in a Change Control Note, SOF or otherwise in writing. Unless otherwise detailed in the Change Control Note, ARO will send the Customer an invoice for any Additional Services, either as soon as they have been provided or at the end of the month in which they were provided.

## 5. ARO's Obligations

5.1 ARO will perform the Services in accordance with the SOF or such other documentation (where applicable) and in a timely, reliable, and professional manner using employees with appropriate skills, qualifications, and experience.

5.2 The obligation at clause 5.1 shall not apply to the extent of any non-conformance that is caused by use of the Services contrary to ARO's instructions, or modification or alteration, use, repair, or maintenance of the Services by any party other than ARO or its duly authorised contractors, agents, or Approved Suppliers. In such circumstances, ARO will, at its expense, use reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the warranty set out in clause 5.1.

5.3 ARO:

a) does not warrant that the Customer's use of the Services will be uninterrupted or error-free; nor, that the Services will meet the Customer's requirements; and

b) is not responsible (other than as expressly provided for in the Services) for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays, and other problems inherent in the use of such communications facilities; and

c) shall not be liable for any unauthorised modifications, alteration, use, repair or maintenance of the Support Services or the Services by any person other than ARO, its duly authorised contractors, agents, or Approved Suppliers.

5.4 Where ARO is to supply Equipment in accordance with a SOF, the Customer shall provide all cabling and other equipment needed for the installation of the Equipment at the Customer premises, including any equipment needed to connect and interface the Equipment with the Customer Infrastructure.

5.5 Any warranty provided to ARO in respect of Equipment or Software supplied under this Agreement by an Approved Supplier shall be passed on to the Customer to the extent that ARO is permitted to pass it onto the Customer, subject to any terms or restrictions imposed by the manufacturer of the Equipment or the licensor of the Software.

5.6 The SLAs are specific to directly provided Services of the Supplier and do not relate to Third Party Services (of which such Third-Party Services will be governed by their own relevant service levels).

# 6. Customer's Obligations

6.1 The Customer shall:

a) provide ARO with all necessary and timely cooperation in relation to this Agreement; including all necessary access to such information as may be reasonable required by ARO to render the Services, including but not limited to, Customer personnel, premises and other facilities, security access information and Customer Data and documentation requested for the provision of the Services (and ensure that such information and data is materially accurate). In the event of any delays in the Customer's provision of such assistance as agreed by the parties, ARO may adjust any agreed timetable or delivery schedule;

b) provide ARO (and all sub-contractors duly authorised by ARO) with full, safe, and uninterrupted access including remote access to the Customer's premises, systems, facilities and the Software and Equipment as may be required for the purpose of performing the Service. Where Services are to be performed at any of the Customer's premises, the Customer shall provide adequate working space and office facilities (including internet access) for use and be responsible for all ARO equipment at any site and its use in accordance with any instructions and licence provided by ARO (the Customer shall not add to, modify or in any way interfere with any ARO equipment);

c) appoint a customer representative (**Project Manager**) who shall work with the ARO delivery team and have the authority to contractually bind the Customer on matters relating to the Services;

d) not make any changes to the System whatsoever, without ARO's prior written consent (not to be unreasonably withheld). All Changes are subject to the Change Control Procedure;

e) be responsible for procuring any third-party cooperation (which for clarity shall exclude any third parties that ARO uses or has introduced to the Customer) reasonably required for the receipt of Services and shall be responsible (at its own cost) for preparing the relevant Customer premises and ensuring that the Customer Infrastructure complies with the relevant specifications to use the Services provided by ARO in the SOF.

f) be entirely responsible for the use of the Services by any user, employee, or any other person to whom the Customer has given access to the Services, and any person who gains access to the Services because of the Customer's failure to use reasonable security. It is the Customer's responsibility to have suitable internal policies in place with its staff, including an acceptable use policy to prevent against misuse of and/or avoidable damage to the Services (e.g., in respect to the sharing of access, credentials and preventing against malware, viruses, and ransomware):

g) be responsible for ensuring that all users of the Services are trained in the use of the same provided always that ARO has satisfied any training requirements that are agreed with the Customer in a SOF;

h) ensure Licensed Users use the Services and Deliverables in accordance with the terms and conditions of this Agreement (and any third-party terms that apply) and be responsible for a Licensed User's breach of this Agreement or such third-party terms. The right to use the Services shall be limited to the Customer and those members of staff engaged by the Customer to perform work for the Customer;

i) inform ARO of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises and follow any instructions provided by ARO or its suppliers relating to the Services including relating to health, safety or quality of any internet or telecommunications service provided to the Customer or any other customer;

j) comply with all third-party agreements, guidelines and requirements, Applicable Laws, and regulations with respect to its activities under this Agreement, including ensuring that nothing is transmitted or downloaded by or on behalf of the Customer or the through the Customer's Infrastructure that is in violation of the same, in breach of any party's Intellectual Property Rights or any acceptable use policy;

k) obtain and shall maintain all necessary licences, consents, and permissions necessary for ARO, its contractors, and agents to access and use the System and/or Customer Infrastructure;

l) hold current up-to-date maintenance, support, or active subscription agreements with any (existing) vendor of software or hardware on the Customer IT environment (as necessary) and assist ARO in maintaining current up-to-date maintenance, support, or active subscription agreements in respect of the System, to allow ARO to seek and receive technical assistance when necessary in respect to the Services;

m) upgrade any part of the Customer Infrastructure as may be reasonably required by ARO to continue to use the Services; and

n) operate best practice and ensure appropriate security precautions are taken in connection with its use of the Services and the security of the Equipment. The Customer is responsible for taking all reasonable steps to mitigate the risks inherent in the provision and receipt of the Services, including data loss and taking all reasonable and usual precautions to safeguard the Customer Infrastructure, including operating firewalls and virus checks and implementing effective and appropriate data security in respect to the receipt of Services.

# 7. Customer Data and Data Protection

7.1 The Customer shall own all rights, title, and interest in and to all the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of the Customer Data.

7.2 ARO shall not be responsible for any loss, destruction, alteration, or disclosure of Customer Data caused by a Customer or third party.

7.3 Both parties will comply with all applicable requirements of the Data Protection Legislation and ARO's Privacy Policy, https://AROit.co.uk/our-policies/privacy-policy. This clause is in addition to, and does not relieve, remove, or replace, either party's obligations under the Data Protection Legislation.

7.4 ARO shall, in relation to any personal data processed in the performance by ARO of its obligations under this Agreement:

a) process that personal data only on the written instructions of the Customer unless ARO is otherwise required to do so by Applicable Laws. Where ARO is required by Applicable Laws to process personal data, ARO shall promptly notify the Customer of this before performing the required processing unless the Applicable Laws prevent ARO from so notifying the Customer;

b) ensure that it has appropriate technical and organisational measures in place, reviewed and approved by the Customer to protect against any unauthorised or unlawful processing of personal data, accidental loss or destruction of personal data, or damage being caused to personal data. These measures shall be appropriate to:

i) the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction, or damage of the personal data; and

ii) the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting (in transit) personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

c) not transfer any personal data outside of the United Kingdom unless required for the provision of the Services, provided that ARO shall ensure that all such transfers are effected in accordance with the applicable Data Protection Legislation. For these purposes, the Customer shall promptly comply with any reasonable request of ARO, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the GDPR applies to the transfer) or adopted by the Information Commissioner from time to time (where the UK data protection legislation applies to the transfer);

d) ensure only personnel required for the purposes of carrying out the Services performed under or pursuant to this Agreement have access to personal data, and that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;

e) if the Customer is unable to access the relevant information, to assist the Customer, and in any event, provide reasonable assistance in responding to any request from a supervising authority or a data subject and in ensuring compliance with its obligations under the applicable Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

f) notify the Customer without undue delay on becoming aware of a personal data breach and provide all reasonable assistance and information as the Customer may require in relation to same;

g) delete, or return in a format determined by the Customer, personal data, and copies thereof, on termination of this Agreement, unless required by any Applicable Laws to continue to store the personal data; and

h) maintain records to demonstrate its compliance with this clause and allow for reasonable audits to be carried out by the Customer during ARO's Normal Business Hours, or the Customer's designated auditor, only so far as is necessary to demonstrate compliance, provided that the Customer:

   i) provides ARO with no less than thirty (30) days' notice of such audit; and

   ii) both parties agree the scope, duration and purpose of such audit. If the Customer or the Customer's designated auditor becomes privy to any Confidential Information of ARO because of this clause, the Customer shall and shall procure that the Customer's designated auditor shall hold such Confidential Information in confidence and, unless required by law, shall not make the Confidential Information available to any third party, or use the Confidential Information for any other purpose.

7.5 ARO will ensure that any third-party processor of personal data under this Agreement will process that personal data only on terms equivalent to those in this Agreement.

7.6 The Customer shall ensure that:

a) the Customer is entitled to transfer the relevant personal data to ARO so that ARO may lawfully use, process, and transfer the personal data in accordance with this Agreement on the Customer's behalf; and

b) the relevant third parties have been informed of, and have given their consent to such use, processing, and transfer as required by all applicable Data Protection Legislation.

# 8. Third Party Services

8.1 ARO shall procure any Third-Party Services required by the Customer for the provision of the Services and as more fully set out in the SOF. The Services will be provided subject to any Approved Supplier's terms or other terms and conditions (**Third Party Terms**) relating thereto. ARO expressly excludes:

a) any warranty to the Customer that the Third-Party Services supplied or licensed under this Agreement will operate substantially in accordance with, and perform, the material functions and features as set out in the marketing, sales or other associated documentations; and

(b) any and all liability in relation to the use of such Third-Party Services.



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8.2 The Customer shall remain liable for any and all payments owed to ARO throughout this Agreement and until the end of the respective licence terms for such Third-Party Services notwithstanding termination of the Agreement or applicable SOF.

8.3 It is a condition of this Agreement that the Customer shall accept the relevant Third-Party Terms issued by the Approved Supplier where the Customer must directly contract with that Approved Supplier as so prescribed by the relevant suppliers of each Third-Party Services identified within this Agreement and/or in the applicable SOF. In the event the Customer does not enter into or accept the terms of such Third-Party Terms (whether directly contracted with ARO or the relevant Approved Supplier), ARO reserves the right to suspend the provision of the Services until such time as the Customer accepts such Third-Party Terms.

8.4 The Customer shall indemnify ARO against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by ARO in connection with any claim made against ARO by an Approved Supplier or other third party for actual or alleged breach of such Third Party Terms by the Customer.

8.5 The Customer acknowledges that it is responsible for ensuring that the Customer's Infrastructure is compatible with the Third-Party Services and ARO gives no warranty in relation thereto unless agreed otherwise in writing between the parties in the SOF.

8.6 The Customer acknowledges that all back-ups shall be the sole responsibility of the Customer unless otherwise expressly agreed to by ARO in writing and set out as a service within the relevant SOF.

8.7 Except as expressly provided in this Agreement, the Customer assumes sole responsibility for results obtained from the use of any Third-Party Services and for conclusions drawn from such use. ARO shall have no liability for any inaccuracies, errors and/or omissions in any information, instructions or other outputs provided in connection with such Third-Party Services or any actions taken by ARO at the Customer's direction.

# 9. Suspension of Services

9.1 Without prejudice to any other pre-existing rights and obligations of either party, ARO may suspend Services without liability if:

a) the Customer is in breach of its payment obligations under this Agreement and the Customer has not remedied the failure within seven (7) days' notice to the Customer;

b) the Customer is in breach of its other obligations under this Agreement and the Customer does not remedy the failure within thirty (30) days of ARO's written notice to the Customer describing the breach;

c) there is an attack on the Services, or the Services are accessed by or manipulated by a third party without ARO's consent;

d) for an emergency or to carry out maintenance or implement improvements, provided always that any non-emergency maintenance and/or improvements are not carried out during Normal Business Hours (unless otherwise expressly agreed in writing with the Customer);

e) ARO is required by Applicable Law to suspend the Services or the Customer's access to the Services;

f) if an Approved Supplier suspends or otherwise ceases their delivery of any part of the Services;

g) if ARO or any Approved Supplier is obliged to comply with any order, or instruction, of a competent governmental regulatory or other legally empowered body;

h) the Customer allows anything to be done that in ARO's reasonable opinion may have affected or will affect or impair the provision of any of Services; or

i) the Customer or any of its officers, employees or agents is arrested or prosecuted for a criminal offence relating to the Services and/or a service provided by a public telecommunications operator.

9.2 ARO will use reasonable endeavours to give the Customer advance notice of a suspension under this clause 9 unless:

a) ARO determines in its reasonable commercial judgement that an immediate suspension is necessary to protect ARO or its customers from imminent and significant operational or security risk; or

b) an Approved Supplier suspends or otherwise ceases their delivery of any part of the Services.

9.3 If the Customer's systems or Services are compromised, the Customer must address the vulnerability and demonstrate to ARO's satisfaction that it has appropriately addressed and/or fixed such vulnerability prior to ARO resuming the Customer's access to the Services. A reconnection fee may be payable at ARO's discretion.

9.4 In the event of a suspension of Services due to a breach of any third-party agreement or acceptable use policy or if an Approved Supplier suspends or ceases their delivery of any part of the Services, ARO shall have no obligation to recommence the provision of the affected Services.

9.5 If suspension is due to the Customer's default and ARO or its Approved Supplier reinstates the Services following suspension, the Customer shall pay to ARO such charges that ARO, or its Approved Supplier has reasonably incurred in carrying out such suspension or reinstatement. ARO shall as soon as it is reasonably able to do so, re-commence provision of the Services once the circumstances giving rise to the right to suspend provision of the Services (in whole or in part) cease to subsist.

9.6 For the avoidance of doubt, any suspension of Services shall suspend the Customer's obligation to pay any Charges, except for if clauses 9.1 (a) or (b) apply. If this is the case, the Customer shall be obligated to continue to pay any (undisputed) Charges. Notwithstanding the foregoing, if a suspension event occurs pursuant to clause 9.1, the parties shall co-operate (acting reasonably and fairly) to resolve the suspension of Services as soon as possible.

## 10. Charges and Payment

10.1 The Charges in this Agreement:

a) shall be payable in the currency detailed in the Services Order Form;

b) are non-cancellable and non-refundable unless otherwise specified in this Agreement; and

c) are exclusive of applicable value added tax, which shall be added to ARO's invoice(s) at the appropriate rate.

10.2 ARO will issue one (consolidated) invoice a month for the Charges to the Customer in accordance with the provisions of the Services Order Form. Each invoice shall:

a) include each Charge item;

b) include sufficient detail for each line item to enable the Customer to verify the calculation thereof;

c) for Charges determined on a time and materials basis, report details of time taken to perform Services or Additional Services; and

d) include such other information as agreed between the parties in writing.

10.3 The Customer will pay the (undisputed) Charges to ARO in full:

a) on or before the dates set out in the Services Order Form (or as otherwise agreed pursuant to any other SOF that shall be agreed between the parties from time to time); or

b) where no such dates are set out in the Services Order Form, within thirty (30) days of the date of the invoice detailing the Charges due.

10.4 Where Charges have been quoted, this is a best estimate based on the information given to ARO by the Customer and/or which is available at that time and may be based on a number of assumptions set out in the SOF (**Assumptions**). If it materialises that in ARO's reasonable opinion, the information provided and/or Assumptions made are incorrect, inaccurate or have changed and/or that the proposed scope of Services is not feasible, ARO shall be entitled to charge (at its current rates) the Customer for any out of scope Services or other additional Services provided to those detailed in the SOF together with all related costs and expenses incurred by ARO.

10.5 All Charges stated in or in relation to this Agreement are stated exclusive of delivery, packaging, packing, shipping, carriage, insurance, VAT and other charges and duties.

10.6 Should the Customer be required by any law or regulation to make any deduction on account of tax including but not limited to withholding tax or otherwise on any sum payable under the Agreement the Charges payable shall be increased by the amount of such tax to ensure that ARO receives a sum equal to the amount to be paid under the applicable SOF.

10.7 If the Customer does not pay any (undisputed) amounts properly due to ARO under or in connection with this Agreement, ARO may:

a) charge the Customer interest on the overdue amount at the rate of five present (5%) per year above the base rate of the Bank of England from time to time which shall be calculated daily and be compounded quarterly until payment of the overdue sum; and/or

c) withhold performance of the Services or any part thereof unless and until all payment of overdue sums has been made; and/or

d) terminate this Agreement without prejudice to any accrued rights it may have hereunder, all of which shall survive termination of this Agreement.

10.8 Without prejudice to Charges increases resulting from a Change Note issued pursuant to clause 3, ARO may increase the Charges payable under this Agreement:

a) on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Consumer Price Index; or

b) to the extent that an Approved Supplier increases the service cost that is used in the supply of the Services to the Customer, upon reasonable notice and in line with the Approved Supplier's terms; and/or

c) on giving the Customer sixty (60) days' notice, to increase the Charges on an annual basis with effect from each anniversary of the Commencement Date. If the Customer does not agree with this increase, then it may terminate the affected SOFs at the end of the then current term upon thirty (30) days written notice and before such price increase takes effect. If ARO does not receive written notice within thirty (30) days, the Customer is deemed to have agreed to the amendment to the Charges.

10.9 Expenses for all travel incurred will be chargeable to the Customer in accordance with the rates set out in the Services Order Form.

## 11. Proprietary Rights

11.1 The Customer acknowledges and agrees that ARO and/or its licensors own all Intellectual Property Rights in the Services and the Deliverables and otherwise arising out of or connected with this Agreement. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Deliverables. ARO grants to the Customer a non-exclusive, irrevocable, worldwide royalty free and non-transferable licence to use ARO's Intellectual Property Rights solely as is necessary for the provision of the Services and the Deliverables and in accordance with this Agreement or any relevant SOF.

11.2 ARO confirms that it has all the rights in relation to the Services and the Deliverables that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

11.3 Where provided as a Service under the applicable SOF, unless agreed expressly otherwise in writing, ARO shall provide Software proprietary to third parties under the standard licence terms provided by such third parties, copies of which shall be provided to the Customer and the Customer agrees to be bound by such licence terms.

11.4 If ARO develops any software under this Agreement to be used by the Customer, subject to the appropriate Charges being paid for such use (and agreement in writing), ARO shall grant the Customer a personal, non-transferable, non-exclusive licence to use such ARO software solely as necessary for the receipt of the Services and in accordance with this Agreement for the term of this Agreement or any relevant SOF (as applicable) to which the supply of ARO software relates.

11.5 The Customer shall pay and indemnify ARO, from and against all actions, claims, liabilities, demands, proceedings, costs suffered or incurred by ARO, arising by reason of claims that (i) ARO's possession of or use of the Customer's Intellectual Property Rights in connection with the provision of the Services infringes the Intellectual Property Rights of a third party; (ii) the Customer or any of its customers, modify, alter, replace combine with any other data, code, documents or other software, which alters ARO's Intellectual Property Rights and such alterations infringe the Intellectual Property Rights of a third party. This indemnity applies whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.

11.6 ARO shall pay and indemnify the Customer, from and against all actions, claims, liabilities, demands, proceedings, costs suffered or incurred by the Customer, arising from (i) the Customer's possession of or use of ARO's Intellectual Property Rights in connection with the provision of the Services infringes the Intellectual Property Rights of a third party; (ii) ARO, modifies, alters, replaces combines with any other data, code, documents or other software, which alters the Customer's Intellectual Property Rights and such alterations infringe the Intellectual Property Rights of a third party. This indemnity applies whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.

11.7 If either party (**Indemnifying Party**) is required to indemnify the other party (**Indemnified Party**) under this clause 11, the Indemnified Party shall:

a) notify the Indemnifying Party in writing of any IPR Claim against it in respect of which it wishes to rely on the indemnity at clause 11.5 or clause 11.6 (as applicable);

b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPR Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;

c) provide the Indemnifying Party with such reasonable assistance regarding the IPR Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and

d) not, without prior consultation with the Indemnifying Party, make any admission relating to the IPR Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPR Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

11.8 If an IPR Claim is brought or in the reasonable opinion of ARO is likely to be made or brought, ARO may at its own expense ensure that the Customer is still able to use the Services by either:

a) modifying any and all of the provisions of the Services or Deliverables (as applicable) without reducing the performance and functionality for any or all of the provision of the applicable Services or Deliverables, so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply mutatis mutandis to such modified or substituted services and such modified or substituted services shall be acceptable to the Customer, such acceptance not to be unreasonably withheld; or

b) procuring a licence or permission to use the Services on terms which are acceptable to the Customer, such acceptance not to be unreasonably withheld.

11.9 Except to the extent that ARO should reasonably have known or advised the Customer in relation to the foregoing provisions of clause 11.8, ARO shall have no obligation or liability for any IPR Claim to the extent such IPR Claim arises from:

a) any use by or on behalf of the Customer of the combination with any item not supplied or recommended by ARO where such use of the Services or Deliverables directly gives rise to the claim, demand or action; or

b) any modification carried out on behalf of the Customer to any item supplied by ARO under this Agreement if such modification is not authorised by ARO in writing where such modification directly gives rise to a claim, demands or action.

## 12. CONFIDENTIALITY

12.1 In connection with this Agreement, each party (as the **Disclosing Party**) may disclose or make available Confidential Information to the other party (as the **Receiving Party**). Subject to clause 12.2



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**Confidential Information** means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, pricing and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, in each case whether or not marked, designated, or otherwise identified as confidential.

12.2 The Receiving Party may be given access to Confidential Information from the Disclosing Party to perform its obligations under this Agreement. A Disclosing Party's Confidential Information shall not be deemed to include information that:

a) is or becomes publicly known other than through any act or omission of the Receiving Party;

b) was in the Receiving Party's lawful possession before the disclosure;

c) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure;

d) is independently developed by the Receiving Party, which development can be shown by written evidence; and/or

e) is required to be disclosed by Applicable Law, any court of competent jurisdiction or any regulatory or administrative body.

12.3 Each party shall hold the other's Confidential Information in confidence and, unless required by Applicable Law, not make the Disclosing Party's Confidential Information available to any third party or use the Disclosing Party's Confidential Information for any purpose other than the implementation of this Agreement.

12.4 Each Receiving Party shall:

a) ensure that the Disclosing Party's Confidential Information to which it has access is not disclosed or distributed other than by its employees, sub-contractors, or agents (**Representatives**) who:

i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement;

ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this section; and

iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this section;

b) safeguard the Confidential Information from unauthorised use, access, or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care;

c) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' noncompliance with, the terms of this clause 11; and

d) notify the Disclosing Party in writing immediately of any unauthorised disclosure or use of the Disclosing Party's Confidential Information and cooperate with the Disclosing Party to protect the confidentiality and ownership of all Intellectual Property Rights, privacy rights, and other rights therein.

12.5 The Customer acknowledges that details of the Services and Deliverables, and the results of any performance, security, penetration, vulnerability or other logical, analytical, data or information gathering tests carried out on the Services, constitute ARO's Confidential Information provided always that such information does not at any time contain any Customer Data.

12.6 ARO acknowledges that the Customer Data is the Confidential Information of the Customer.

12.7 This clause 12 shall survive termination of this Agreement, however arising.

## 13. INDEMNITY

13.1 The Customer shall defend, indemnify, and hold harmless ARO against claims, actions, liabilities, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's or any Licensed User's use of the Services and/or Deliverables, or in connection with any breach by the Customer of any term of this Agreement.

## 14. LIMITATION OF LIABILITY AND INSURANCE

14.1 Subject to clause 14.4, and notwithstanding any other provision of this Agreement, ARO shall have no liability for failure or delay to perform the Services or its other obligations under this Agreement if it is prevented, hindered or delayed in doing so as a result of any Relief Event.

14.2 This clause 14 sets out the entire financial liability of the parties (including any liability for the acts or omissions of its employees, agents, and sub-contractors) in respect of:

a) any breach of this Agreement;

b) any use made by the Customer of the Services and the Deliverables or any part of them; and

c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

14.3 Except as expressly and specifically provided in this Agreement:

a) ARO shall have no liability for any damage:

i) caused by errors or omissions in any material information provided to ARO by the Customer in connection with the Services, provided always that ARO acts as a prudent supplier in accordance with Good Industry Practice when relying on any material information that is provided by the Customer;

ii) for any negligent acts or omissions taken by ARO at the Customer's written direction;

b) all warranties, representations, conditions, and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by Applicable Law, excluded from this Agreement

14.4 Nothing in this Agreement excludes the liability of either party for:

a) Its payment obligations in respect of the Services;

b) for death or personal injury caused by negligence;

c) for fraud or fraudulent misrepresentation; or



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d) any other liability which cannot be lawfully excluded or limited.

14.5 Subject to clause 14.4, neither party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for:

a) any consequential, incidental, indirect, exemplary, special, enhanced, or punitive damages or losses;

b) loss of profits;

c) loss of business;

d) depletion of goodwill or reputation;

e) loss of, damage to or corruption of data; and/or

f) indirect or consequential loss,

however, arising under this Agreement.

14.6 Any breach of the party's responsibilities under clause 8 shall be limited to two hundred and fifty thousand pounds (£250,000) in the aggregate, which shall count towards the cap set out in clause 14.7.

14.7 Subject to clauses 14.4 and 14.5 the parties' total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance of this Agreement shall be limited to the greater of:

a) £50,000; or

b) one hundred and twenty five percent (125%) of the total Charges paid or payable by the Customer to ARO in the 12-month period preceding the date on which the claim arose.

# 15. TERM AND TERMINATION

15.1 This Agreement shall, unless otherwise terminated as provided in this clause 15, commence on the Commencement Date and shall continue through the Initial Term and (unless otherwise stated in a SOF) thereafter, this Agreement shall be renewed for successive rolling periods of twelve (12) months (each a **Renewal Term**), unless:

a) either party notifies the other party of termination, in writing, at least sixty (60) days before the end of the Initial Term or any Renewal Term, in which case this Agreement shall terminate upon the expiry of the applicable Initial Term or Renewal Term; or

b) otherwise terminated in accordance with the provisions of this Agreement.

15.2 Without affecting any other rights that it may be entitled to, either party may terminate this Agreement without liability to the other if:

a) the other party commits a material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of that party being notified in writing of the breach; or

b) the other party has a receiver or administrative receiver appointed over it or over any part of its business or assets or passes a resolution for winding up (except for the purposes of a genuine scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect or becomes subject to an administration order or enters into any voluntary arrangement with its creditors, or it ceases or threatens to cease or carry on business.

15.3 ARO may terminate this Agreement with immediate effect by notice in writing to the Customer if:

a) ARO or its Approved Supplier are requested by a regulatory authority to terminate the provision of Services or are otherwise, for whatever reason, no longer authorised or permitted to provide all or part of the Services; or

b) ARO considers that the breach, act, omission, or default of the Customer may result in ARO’s or its Approved Supplier’s failure to comply with any Applicable Laws or may place them in breach of any agreement with its suppliers; or

c) use by the Customer or a Licensed User of the Services is, or is likely to cause damage to, interrupt or otherwise prevent ARO or its Approved Suppliers from supplying services to other customers or complying with obligations owed to other customers; or

d) such action is required to comply with any Applicable Laws; or

e) ARO or its Approved Supplier has reasonable grounds to suspect that the Customer or a Licensed User are involved in fraudulent or other unlawful activity.

15.4 Without affecting any other rights that it may be entitled to, ARO may terminate the Agreement for breach if:

a) payment of any invoiced amount (except to the extent such invoice is disputed in good faith) is overdue and following notification to the Customer under clause 10.3 the Customer does not pay the overdue amount within seven (7) Business Days of a written notice from ARO; or

b) payment arrangements have been made by the Customer for payment via a third party and that third party refuses to honour ARO's Charges when due.

15.5 On termination of this Agreement for any reason:

a) all licences and access to the Services granted under this Agreement shall immediately terminate; and

b) each party shall return and make no further use of any Equipment, Software, Deliverables, and other items (and all copies of them) belonging to the other party; and

c) the Customer will pay the outstanding purchase price balance of any equipment the value of which has been amortised over the Term.

15.6 If this Agreement is terminated prior to the end of the Initial Term or any Renewal Term, other than for material breach by ARO under clause 15.3, all Charges payable up to the end of the Initial Term or any Renewal Term and all other fees or sums (including but not limited to interest on late payments) due and payable to ARO under this Agreement shall be immediately fall due and payable to ARO.

15.7 Termination of a SOF shall:

a) not by default, terminate other SOFs nor this Agreement; and

b) be without prejudice to any other rights which any party may have under any other SOFs.

15.8 On termination of the Agreement pursuant to this Clause 15, all existing SOFs shall terminate automatically.

# 16. NON-SOLICITATION

16.1 Neither party shall, without the prior written consent of the other party, at any time from the date of the Agreement to the expiry of six (6) months after its termination, solicit or entice away or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of either party.

16.2 In the event that either party is in breach of clause 16.1 above then the party in breach shall pay to the other by way of liquidated damages an amount equal to fifty percent (50%) of the gross annual salary or budgeted fee income (as at the time of the breach or when such person was last in the service of the relevant party) of the person so employed or engaged. This provision shall be without prejudice to either party’s ability to seek injunctive relief.

16.3 The parties hereby acknowledge and agree that the formula specified in clause 16.2 above is a reasonable estimate of the loss which would be incurred by the loss of the person so employed or engaged.

# 17. MARKETING

17.1 Subject always to the Customer’s prior written consent, which will not be unreasonably withheld, ARO may publish the Customer as a Customer of ARO for marketing purposes and to use the Customer's then current trademark logo and name on the ARO web site. ARO may from time to time collaborate with the Customer to produce and publish Customer comments, endorsements, case studies and other instances of advocacy, for the purposes of marketing, which the Customer has the right to amend and/or approve before publication. ARO will seek the Customer's prior written consent and inform the Customer prior to when the publications occur.

# 18. FORCE MAJEURE

18.1 ARO shall have no liability to the Customer under this Agreement and the Customer shall have no obligation to pay the Fees for the affected Services if ARO is prevented from, or delayed in, performing its obligations under this Agreement, or from carrying on its business, by an event outside of the reasonable control of ARO except to the extent that ARO could reasonably have avoided such circumstances by fulfilling its obligations in accordance with the terms of this Agreement or otherwise exercising the level of diligence that could reasonably have been expected of it (having exercised Good Industry Practice) including, but not limited to, strikes, computer viruses and malware, pandemics, epidemics, lock-outs or other industrial disputes (excluding any industrial disputes involving the workforce of ARO), act of God, war, riot, civil commotion, compliance with any law or regulation, fire, flood or storm (each a **Force Majeure Event**), provided that:

a) the Customer is notified of such an event and its expected duration; and

b) ARO uses all reasonable endeavours to mitigate, overcome or minimise the effects of the Force Majeure Event concerned,

and that if the period of delay or non-performance continues for four (4) weeks or more, the party not affected may terminate this Agreement by giving fourteen (14) days' written notice to the other party.



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# 19. GENERAL

19.1 Subject to clause 2.6, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19.2 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19.3 Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

19.4 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable, or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable, or legal 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.

19.5 This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover. Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (in writing or not) of any person (party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out herein.

19.6 The Customer shall not, without the prior written consent of ARO (such consent not to be unreasonably withheld or delayed), assign, transfer, charge, sub-contract, or deal in any other manner with all or any of its rights or obligations under this Agreement. ARO may assign, transfer, charge, sub-contract, or deal in any other manner with all or any of its rights or obligations under this Agreement.

19.7 Nothing in this Agreement is intended to or shall operate to create a partnership between the parties or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

19.8 This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999 other than Microsoft in respect of enforcing the terms of the Customer Agreement under an applicable SOF, where relevant.

# 20. NOTICES

20.1 Any notice required to be given under this Agreement shall be in writing and be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes as set out in this Agreement. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in Normal Business Hours, at 9am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by e-mail shall be deemed to have been received at 09:00 on the first Business Day after delivery. Where ARO are required under this Agreement to give the Customer any notice in writing, ARO may give this notice by letter or email to the Authorised Contact.

# 21. DISPUTE RESOLUTION

21.1 If a dispute arises out of or in connection with this Agreement or the performance, validity, or enforceability of it (**Dispute**) then the parties shall follow the procedure set out in this clause:

a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Implementation Manager of ARO and the Implementation Manager of the Customer shall attempt in good faith to resolve the Dispute;

b) if the Implementation Managers are for any reason unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, the Dispute shall be referred to a director of each party who shall attempt in good faith to resolve it; and

c) if both parties' directors are together for any reason unable to resolve the Dispute within thirty (30) days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within twenty-eight (28) days of service of the Dispute Notice, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. Unless otherwise agreed between the parties, the mediation will start not later than twenty-eight (28) days after the date of the ADR notice.

21.2 No party may commence any court proceedings under clause 23 in relation to the whole or part of the Dispute until twenty-eight (28) days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.

21.3 If the Dispute is not resolved within fourteen (14) days after service of the ADR notice either party fails to participate or ceases to participate in the mediation before the expiry of that fourteen (14) day period, or the mediation terminates before the expiry of that fourteen (14) day period, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 23.

# 22. ANTI-BRIBERY

22.1 ARO shall:

a) comply with all Applicable Laws, statutes, regulations, relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);

b) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate; and

c) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by ARO in connection with the performance of this Agreement.

# 23. GOVERNING LAW AND JURISDICTION

23.1 This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England & Wales.

23.2 The parties irrevocably agree that the courts of England & Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement, its subject matter or formation (including non-contractual disputes or claims).

# SIGNATURES

This Agreement sets out all the terms and conditions which both parties have agreed to in relation to the Services.

**SIGNED** by or on behalf of the Parties:

| For and on behalf of: | <<Customer Name>> |
|---|---|
| SIGNATURE: | |
| PRINT NAME: | |
| POSITION: | |
| DATE: | |

| For and on behalf of: | Circle IT Solutions Ltd, part of the Arrow Group and trading under the brand name ARO |
|---|---|
| SIGNATURE: | |
| PRINT NAME: | |
| POSITION: | |
| DATE: | |



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CIRCLE IT SOLUTIONS LTD (T/A ARO) (REG.03757454) PART OF THE ARROW GROUP
REG. ADDRESS – KILBY HOUSE, LIVERPOOL INNOVATION PARK, EDGE LANE, LIVERPOOL, L7 9NJ

# APPENDICES

| Appendix | Title |
|---|---|
| Appendix A | Supported Services |

## Appendix A – Supported Services

| | | | |
|---|---|---|---|

## SCHEDULE 1 -TUPE PROVISIONS – ENTRY

1.1 The Customer warrants, represents, and undertakes to ARO that:

a no persons other than the Employees are employed or engaged in the provision of the Services;

b none of the Employees has given or received any notice terminating their employment, or will be entitled to give such notice as a result of any of the provisions of this Agreement;

c full particulars of the terms of employment for all Employees (including all remuneration, incentives, bonuses, expenses, and other payments and benefits of any nature payable;

d no contract of employment with any directors or employees of the Customer exists (or any contract for services with any individual) relating to the Services that cannot be terminated by three months' notice or less without giving rise to the making of a payment in lieu of notice or a claim for damages or compensation (with the exception of a statutory redundancy payment or statutory compensation for unfair dismissal);

e in relation to each of the Employees (and, so far as is relevant to each of its former employees who were previously engaged or employed in the provision of the Services), the Customer has:

i) complied with all obligations imposed upon it by the Articles of the Treaty on the Functioning of the European Union, European Commission Regulations and Directives and all statutes, regulations, and codes of conduct relevant to the relations between it and its employees or between it and any recognised trade union or appropriate representatives;

ii) maintained suitable and adequate records relating to the service of each of its employees;

iii) calculated and paid all holiday pay for periods of holiday taken under Regulation 13 of the Working Time Regulations 1998 (*SI 1998/1833*), in accordance with Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning aspects of the organisation of working time;

iv) complied with all collective agreements and customs practices for the time being dealing with such relations or the conditions of service of its employees; and

v) complied with all relevant orders and awards made under any statute affecting their conditions of service;

f the Customer has not been involved in any industrial or trade dispute within the past three years and, to the best of the Customer's knowledge, information, and belief, there exist no circumstances that may result in any industrial dispute involving any of the Employees and none of the provisions of this Agreement, including the identity of ARO, is likely to lead to any industrial dispute;

g here are no agreements or arrangements outstanding to which the Customer is a party in relation to the Employees for profit sharing or for payment to any Employee of bonuses or for incentive payments or other similar matters;

h the Customer has not entered into any recognition agreement with any trade union in relation to the Employees, nor has it done any act which may be construed as recognition;

i the Customer has complied with all recommendations made by the Advisory Conciliation and Arbitration Service in relation to the Employees and has complied with all awards and declarations made by the Central Arbitration Committee in relation to the Employees;

j no amounts due to or in respect of any of the Employees (including PAYE, National Insurance and pension contributions) are in arrears or are unpaid;

k no monies or benefits other than in respect of contractual emoluments are payable to any Employee and, at present, there is not a claim, occurrence, or state of affairs which may hereafter give rise to a claim against the Customer arising out of the employment of, or termination of employment of, any of the Employees for compensation for loss of office or employment or otherwise, and whether under contract, statute, regulations, or otherwise;

l the Customer has provided the Employee Liability Information to ARO in respect of each of the Employees, either in writing or by making it available to ARO in a readily accessible form;

m the Employee Liability Information contains information as at a specified date that is not more than 14 days before the date on which the Employee Liability Information was provided to ARO;

n the Customer has agreed to, and co-operated with, pre-transfer consultation by the transferee in accordance with part IV of the Trade Union and Labour Relations (Consolidation) Act 1992, if required.

1.2 The Customer shall fully indemnify ARO for and against all claims, costs, expenses, or liabilities whatsoever and howsoever arising, incurred or suffered by ARO including all legal expenses and other professional fees (together with any VAT payable thereon) with respect to:

a the Customer’s termination of the employment of any of the Employees;

b anything done or omitted to be done in relation to any of the Employees that is deemed to have been done by ARO by virtue of TUPE; and

c any claim made at any time by any of the Customer’s employees other than the Employees who claim to have become an employee of, or have rights against, ARO by virtue of TUPE (“Claims”);

provided that such costs, claims, expenses, and liabilities are not payable as a result of any act or omission of ARO.

1.3 The Customer shall procure that its employees, agents, and successors in title shall promptly:

a take such action in connection with the Claims as ARO shall reasonably request from time to time;

b provide all such assistance and information reasonably requested by ARO, free of charge, relating to the Claims in order to enable the Claims to be pursued;

c subject to any restrictions imposed by law, provide ARO and its legal and other advisers access to all documents, records, or other information held by the Customer relating to the Claims;

d provide ARO and/or its professional advisers and experts with access to such members of staff from time to time as may be necessary to assist ARO with the preparation of its cases with respect to the Claims;

e permit and require such employees as ARO and/or its professional advisers may reasonably request to meet with ARO and/or its legal advisers during normal working hours to prepare witness statements for trial, attend meetings with Counsel or experts and/or to attend any court hearing or trial in relation to the Claims for so long and as frequently as ARO and/or its legal or other professional advisers may reasonably require;

f provide such other assistance as ARO may reasonably request in order to ensure the due and timely prosecution of the Claims;

g resist any request for documents, information, access to relevant premises, or to employees of the business in connection with the Claims by any third party without first informing ARO and obtaining its agreement to any approval of such a request; and

h preserve and not waive legal professional privilege or any other privilege attaching to any of the documents or other information relating to the Claims in the Customer's possession without first obtaining ARO's consent to such waiver, such consent not to be unreasonably withheld.

1.4 All salaries and other emoluments including holiday pay, taxation, and National Insurance contributions and contributions to retirement benefit schemes relating to the Employees shall be borne by the Customer up to and including the Effective Date and by ARO with effect from the Effective Date.

1.5 ARO shall fully indemnify the Customer for and against all claims, costs, expenses, or liabilities whatsoever and howsoever arising, incurred or suffered by the Customer including all legal expenses and other professional fees (together with any VAT payable thereon) with respect to:

a any failure by ARO to comply with its obligations pursuant to TUPE; and

b anything done or omitted to be done by ARO with respect to any of the Employees whether before or after the Effective Date.

**2. List of Employees**

| Employee Name | Benefit |
|---|---|
| <<Insert name>> | <<Insert details>> |
| <<Add more rows as required>> | |

## SCHEDULE 2 – TUPE – EXIT

### 1. Personnel

1.1 In the event that the Services or a part thereof cease to be provided by ARO (for any reason) and the Services or a part thereof then continue to be provided by the Customer on their own behalf and/or by a New Service Provider, the Parties acknowledge and agree that there may have taken place a relevant transfer of the Returning Employees to the Customer and/or the New Service Provider for the purposes of TUPE. In the event of such a transfer, employment of the Returning Employees shall be transferred to the Customer and/or the New Service Provider in accordance with the provisions of TUPE with effect from the Service Transfer Date.

1.2 Except where it is the reasonable belief of the Parties that no relevant transfer will take place for the purposes of TUPE, the Parties shall co-operate in the compiling of a list of Returning Employees before the Service Transfer Date and shall similarly co-operate in order to facilitate the transfer of those Returning Employees to the Customer and/or the New Service Provider.

1.3 ARO shall, at least 3 months prior to the expiry of this Agreement or, if this Agreement is terminated earlier, within one month of receipt of notice of termination, provide the following information to the Customer (to the extent permitted by law):

a a list of Potential Returning Employees;

b the job titles, ages, continuous service lengths, current salaries, benefits, and notice periods for all Potential Returning Employees;

c the terms and conditions of employment for all Potential Returning Employees, including any information that the Supplier is required to provide by virtue of section 1 of the Employment Rights Act 1996;

d details of any current disciplinary or grievance proceedings which are ongoing in respect of any Potential Returning Employees, and details of any such proceedings that have taken place in the previous two years;

e details of any current claims or claims which ARO reasonably believes will be brought by any Potential Returning Employees or their representatives, and details of any such claims that have been brought in the previous two years;

f details of all benefit schemes or arrangements, whether contractual or otherwise, applicable to the Potential Returning Employees; and

g information on any applicable collective agreements which will have effect in relation to the Potential Returning Employees after the Service Transfer Date pursuant to TUPE.

1.4 At regular intervals stipulated by the Customer, ARO shall provide updates of any changes to the information listed above in paragraph 1.3.

1.5 ARO shall indemnify the Customer (both in respect of the Customer and any New Service Provider) against all costs, expenses, claims, and liabilities (including, but not limited to, reasonable legal costs) incurred by the Customer and/or a New Service Provider arising out of or in connection with:



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a any claim or demand made by any Returning Employee or trade union or other body or party representing any Returning Employee (whether in contract, tort, under statute, pursuant to European law, or otherwise) arising out of any fault, act, or omission on the part of ARO on or prior to the Service Transfer Date;

b any failure on the part of ARO to comply with its obligations under regulations 13 and 14 of TUPE, or any compensation awarded under regulation 15 of TUPE, except where such failure arises out of the failure by the Customer and/or the New Service Provider to comply with their duties under regulation 13 of TUPE;

c any claim made by any party who transfers or alleges that they have transferred to the Customer or to the New Service Provider, but whose name does not appear in the list of Returning Employees.

1.6 Where TUPE applies to the transfer of the employment of any person employed by ARO to the Customer and/or a New Service Provider, then, in the event that the Customer or New Service Provider serves a notice terminating that person's employment within three months after the date of the transfer, ARO shall indemnify the Customer (both in respect of the Customer and any new Service Provider) in respect of any statutory or contractual redundancy payment to which that person is entitled and in respect of any compensation or damages payable by the Customer to that person whether for unfair and/or wrongful dismissal or in reasonable settlement of a claim for such compensation or damages.



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