



AARAV™
SOLUTIONS

www.aaravsolutions.com

Terms & Conditions

PLEASE NOTE:

This Agreement incorporates the terms and conditions set out in the G-Cloud Framework Agreement, G-Cloud Call Off Contract and the completed Order Form.

Should there be any conflict between those agreements, the parties agree that the following order of precedence applies:

1. G-Cloud Framework Agreement
2. G-Cloud Call-Off Contract
3. The completed Order Form
4. The Aarav Terms and Conditions Document (these Terms and Conditions)

Definitions in this document

- G-CLOUD TERMS AND CONDITIONS define the contractual terms and conditions under which Aarav Solutions will supply Services to the Customer.
- Affiliate means any person, partnership, joint venture, corporation, subsidiary, or other form of enterprise, domestic or foreign, directly or indirectly controlling, controlled by or under common control with the Customer or Aarav Solutions.
- Agreement - These terms and conditions, together with the Schedules and any Agreed Form documents (including the Project Documents)
- Equipment - any computer hardware and equipment owned by the Customer and/or to be acquired and supplied by the Customer relating to the Services in accordance with the Agreement.
- Fees - The fees payable for Services to be provided under this Agreement, as detailed in an Order Form.
- Location(s) - an address of the Customer at which Software is to be installed, or Services are to be delivered as detailed in an Order Form or other Project Documentation.
- Order Form - the Call-Off Order Form or any other Order Form agreed between the parties that details the Services and the related Fees, signed by the Customer, or any other agreement between the Parties in writing that details Services to be provided and any related Fees.
- Project Document - the latest dated project document issued by Aarav in respect to any aspect of the Services being provided. Ready for Use installed and capable of live production, or actually used by the Customer in its business.
- Services - the services to be provided by Aarav Solutions to the Customer under this Agreement, as more particularly described in an Order Form and associated Project Documentation
- Software - any Third-Party Software specified in an Order Form. Statement of Work (SOW): means a Statement of Work signed by each of the parties detailing the scope of the Services, any Project Plan (describing the work to be completed, the estimated timetable and responsibilities for the provision of Services), implementation plan, acceptance tests and acceptance criteria, specifications, training to be provided, Support Services and related Fees or other matters relating to (and incorporating) the Agreement.

- Support Agreement Aarav Solutions' standard policy for providing support services in relation to the Services as more particularly described in the Order Form ("Support Services"), as amended by Aarav Solutions from time to time.
- Third Party Software third party software supplied to the Customer by Aarav Solutions and specified in an Order Form or SOW. Training in the use of the Software to be provided by Aarav Solutions for the Customer's staff as detailed in any Order Form or other Agreed Form Project Document.

The Order Form and any SOW 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 Schedules.

Scope of Services

1. Scope of Services.

- 1.1. This agreement and the G-Cloud Terms, together with any Statement of Work, Order Form and associated Schedules and any other Project Documents provided by Aarav Solutions ("the Agreement") operate as a framework agreement which
- 1.2. Whilst this Agreement remains in force, the Parties shall agree to the provision of Services as detailed in Clause 3. 1.8 **Additional Services**. Aarav Solutions will carry out any additional services not covered by the G-Cloud Terms, as may be agreed between the Parties from time to time in a separate SOW and any additional Schedules.

2. Performance of Services

Subject to the Customer's compliance with this Agreement, Aarav Solutions shall, subject to and in accordance with this Agreement and any applicable Project Documents:

- 2.1. perform the Services in accordance with the Project Documentation with all reasonable skill and care and in a timely, reliable and professional manner using employees with appropriate skills, qualifications and experience.
- 2.2. Provide the Software under the terms of this Agreement and deliver and install (where applicable) the Software and by its agreed delivery dates (as applicable to that item);
- 2.3. integrate and configure the Software and Equipment, and provide Migration Services where agreed;
- 2.4. Carry out, in conjunction with the Customer, any applicable Acceptance Tests; and,
- 2.5. Use reasonable endeavours to provide the Services Ready for Use by any agreed completion date.

3. Service and Software Recommendations.

All Third Party Software is supplied from third-party sources. Any advice provided by Aarav Solutions on Software or Service selection is based upon the requirements of the Customer's business as made known by the Customer to Aarav Solutions at the time of the Order Form and shall be consistent with such standard as is applicable to those providing such advice generally including recommendations made from time to time by such equipment manufacturers, or other relevant third party software providers.

4. Supply of Third-Party Software.

The Customer's use of any Third-Party Software is governed by the terms of the agreement with the provider of that Third-Party Software, and its warranties. Use of Third-Party Software is at the Customer's sole risk. Third Party Software is provided "as is" and Aarav Solutions is not responsible in any way for any Third Party Software's performance, features or failures and makes no warranty in respect to the Third Party Software being fit for the Customer's specific purposes. Aarav Solutions shall provide any Third Party Software to the Customer under the standard licence terms provided by the relevant third parties, copies of which shall be provided to the Customer, and the Customer agrees to be bound to the relevant third parties by such licence terms and to ensure that its Affiliates are bound under similar obligations owed to the relevant third parties.

5. Documentation

Aarav Solutions shall provide to the Customer from time to time copies of documentation containing up-to-date information for the proper use and maintenance of any delivered Software. Such documentation may be supplied in electronic form.

6. Support for Third-Party Services

Aarav Solutions shall provide Support Services in relation to the Software and Equipment as detailed in any Order Form.

7. Third Party Warranty

Aarav Solutions makes no representation whatsoever in respect to any third-party Software made available through or provided to the Customer in the provision of the Services and is not responsible for the Customer's use of any third-party Equipment or Software, property damage, or other harm or losses arising from or relating to the Customer's use of any third-party Equipment or Software. Any warranty provided to Aarav Solutions in respect of the Software or Services supplied under the Agreement shall, where possible, be transferred to the Customer, subject to any terms or restrictions imposed by the software vendor.

8. Agreeing on Services and Project Documents

- 8.1. The Customer acknowledges that:
- 8.1.1. Aarav Solutions is reliant on the information being provided to it by the Customer as being complete and accurate, and that the due diligence Aarav Solutions carries out and questions asked of the Customer, as well as the Order Form, SOW and other Project Documents prepared and agreed upon, will all be based upon this information.
 - 8.1.2. Aarav Solutions is reliant on the Customer being able to provide it with, or provide it with access to, all assets (including documentation, content, code, software, intellectual property rights, and any other physical or digital materials) that Aarav Solutions deems necessary in order to fully carry out the due diligence process, and subsequently to perform the Services.
- 8.2. The Customer acknowledges that the Services may not be able to be performed adequately or meet the Customer's requirements where information provided by the Customer to Aarav Solutions is incomplete, incorrect, or misleading.
- 8.3. **Agreeing on Project Documents.** On receipt of any Project Document from Aarav Solutions (at any time), the Customer shall promptly review such documents and may reject them (having provided Aarav Solutions in writing its reasons for any rejection) no later than 7 Business Days after they are first delivered to the Customer. Any documents provided to the Customer in respect to the provision of Services under this Agreement which are not rejected by the Customer within seven Business Days of receipt shall be deemed to have been accepted in full by the Customer.
- 8.4. If the Customer does reject any Project Document, Aarav Solutions shall then revise the document (taking reasonable account of the Customer's comments) and re-submit the document to the Customer for approval within 10 Business Days of the Customer's notice of rejection. The process in this clause shall continue to apply to any subsequent rejections.
- 8.5. The Customer acknowledges that any work which is not specifically detailed in a Project Document is out of scope and subject to additional charges.

9. Delivery Dates for Services.

- 9.1. Aarav Solutions shall use reasonable endeavours to meet the performance dates specified in any Project Document or applicable Schedule, but unless otherwise agreed in writing, any such dates shall be estimates only and time shall not be of the essence (provided always that Aarav Solutions shall use all reasonable endeavours to complete delivery as soon as reasonably possible).
- 9.2. Delivery shall be made during normal Business Hours (excluding bank or public holidays). Aarav Solutions may levy additional charges for any deliveries made outside such hours at the Customer's request.
- 9.3. Unless otherwise detailed in applicable Project Documentation, the Customer shall be responsible (at the Customer's cost) for preparing the delivery location for the delivery of the Software and/or Services and for the provision of all necessary access and facilities reasonably required by Aarav Solutions.
- 9.4. Unless otherwise set out in an Order Form or other Project Documentation, Aarav Solutions is not responsible for unpacking, installing, or checking the Software, which will be the responsibility of the Customer.
- 9.5. **Extensions of time to any delivery dates for the provision of Services.** Aarav Solutions shall be given an extension of the timetable of any one or more of the stages in any Project Document or for any other Services if one of more of the following events occurs: (a) a variation to Services is made at the Customer's request or a request is made for something out of scope; (b) a Force Majeure Event occurs as described in this Agreement; (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.
- 9.6. If Aarav Solutions is entitled to an extension of time under clause 9.5, it shall give written notice to the Customer not later than thirty days after having become aware of the event. Such notice shall specify the event relied on and, in the case of a force majeure event, shall estimate the probable extent of the delay.
- 9.7. The Parties shall use their best endeavours to agree in writing, signed by both Parties, what extension of time and variation to the Agreement is reasonable in the circumstances. Any SOW or any applicable timetable or Fees payable shall be deemed amended accordingly.
- 9.8. If Aarav Solutions' performance of its obligations under this Agreement is hindered, prevented or delayed by any act or omission of the Customer,

the Customer's agents, sub contractors or employees, the Customer will be liable to pay to Aarav Solutions, on demand, all reasonable costs, charges or losses sustained or incurred by it (including loss of opportunity to use Aarav Solutions resources elsewhere), subject to Aarav Solutions confirming such costs, charges and losses to the Customer in writing.

If Aarav Solutions can demonstrate that the delay has resulted in an increase in cost to Aarav Solutions of carrying out its obligations under this Agreement, Aarav Solutions may, at its sole discretion, increase any applicable Fees by an amount not exceeding any such demonstrable cost.

- 9.9. **Acceptance Tests.** Where applicable, the Parties shall agree on acceptance tests for the Services as detailed in an SOW. These criteria and data ("Acceptance Tests") shall be such as are reasonably required to show that the Services in whole or part comply with any specification agreed between the Parties in writing.

10. Changes to the Services.

- 10.1. **Change Requests.** If either party requests a change to the scope or execution of the Services, Aarav Solutions shall, within a reasonable time, provide a written estimate to the Customer of: (a) the likely time required to implement the change; (b) any variations to Aarav Solutions' Fees arising from the change; (c) the likely effect of the change on any project documents; and (d) any other impact of the change on the terms of this Agreement.
- 10.2. Aarav Solutions has no obligation to make any changes to the Services unless and until the parties have agreed in writing on the necessary variations to its Fees, the Project Documents and any other relevant terms of this Agreement to take account of that change.
- 10.3. **Changes to third-party supplier terms.** The Customer acknowledges that any third Party supplier may make changes to their terms and conditions from time to time, provided that where any such changes substantially adversely affect the Customer's receipt of the Services, Aarav Solutions will: (a) give the Customer reasonable notice of not less than 30 days of such Aarav Solutions change prior to it being implemented; (b) promptly provide the Customer details of any third party change as soon as Aarav Solutions has been notified in writing by such third party.
- 10.4. **Compliance with Law or Regulation.** The Customer acknowledges that Aarav Solutions may, from time to time and with or without notice, change the Services in order to comply with any applicable law and

regulation. In such circumstances, Aarav Solutions will use reasonable endeavours to ensure that the Services continue to meet the requirements agreed between the Parties. Aarav Solutions reserves the right to increase any applicable Fees to reflect the cost of any change in applicable law or regulation.

11. Project Personnel

- 11.1. **Appointing a Project Lead.** Both Parties shall appoint suitably qualified, competent and trained individuals (and provide details of those individuals to the other Party), who shall have the responsibility and commensurate authority for the overall progress of the Services and to whom all questions regarding this Agreement can be referred.
- 11.2. Both Parties' Project Managers shall cooperate with the other and shall attend meetings agreed at reasonable intervals or where otherwise specified in applicable Project Documentation to advise and assist Aarav Solutions on all matters relating to the Services.
- 11.3. **Ensuring continuity of Project Teams.** Both Parties agree to take all reasonable steps to maintain continuity in relation to their Project Team for any Services and that any Key Individuals (named in any Order Form) shall not be replaced without notice to the other, unless:
 - 11.3.1. The individual to be replaced is prevented by ill health from carrying out his duties in connection with the agreement for a significant period;
 - 11.3.2. The individual resigns from employment with that Party;
 - 11.3.3. The contract of employment of the individual is terminated; or
 - 11.3.4. Either Party makes a reasonable, written request to the other to replace the individual because they have performed unsatisfactorily or have caused a breach of any of the other Party's obligations under this Agreement.
- 11.4. If any such person is replaced, each Party shall consult with the other about the identity of a suitable replacement. The Parties shall meet as soon as practicable to discuss its implications and to negotiate in good faith with a view to agreeing on such changes as are reasonably required to this Agreement or any Project Document.

12. Customer Obligations

- 12.1. **The Customer shall:** complete all its obligations as detailed in any Project Documents and provide Aarav Solutions with timely co-operation in relation to this Agreement; and access to such information as may be required by Aarav Solutions in order to render the Services, including but not limited to, Customer personnel, premises and other facilities, security access information and configuration services and Customer Data and documentation requested for the provision of the Services (and ensure that such information and data is accurate in all material respects) and afford to the authorised personnel of Aarav Solutions during normal working hours, or as otherwise agreed, access to any relevant Location and shall provide adequate free working space and such other facilities at such Location as may be reasonably requested by Aarav Solutions for the delivery, installation, implementation and, if applicable, testing of the Services or to provide the Services. The Customer shall comply with its obligations under applicable health and safety regulations with respect to the provision of such access and facilities to Aarav Solutions. Aarav Solutions will take all practical steps to ensure that its personnel will, whenever on Customer's premises, obey all reasonable security and health and safety standards, procedures and directions notified to it by Customer. In the event of any delays in the Customer's provision of such assistance as agreed by the Parties, Aarav Solutions may adjust any agreed timetable or delivery schedule as reasonably necessary.
- 12.2. The Customer acknowledges that Aarav Solutions' ability to provide the Services is dependent upon the Customer's full and timely co-operation as well as the accuracy and completeness of materials and any information and data the Customer provides. Aarav Solutions is not responsible for any loss suffered by the Customer if the Customer does not provide it with this access, cooperation and information.
- 12.3. The Customer shall:
- 12.3.1. subject to any Training provided by Aarav Solutions as detailed in an Order Form, be solely responsible for ensuring that all users of the Services are trained in the use of the same. Aarav Solutions shall have no responsibility to provide support if support issues are deemed by Aarav Solutions to be the result of misuse or lack of appropriate training by the Customer in the use of Services;
 - 12.3.2. be responsible for the provision of and ongoing payment of any and all fees for the provision of third-party services required for the use of the Services unless otherwise provided for by Aarav Solutions in an Order Form;

- 12.3.3. obtain and shall maintain all necessary licences, consents, and permissions necessary for Aarav Solutions, its contractors and agents to perform their obligations under this Agreement, including, without limitation, the Services;
- 12.3.4. be responsible for procuring any third-party cooperation reasonably required for the receipt of Services and hold current up-to-date maintenance, support or active subscription agreements in place with all aspects of the Customer Infrastructure and systems to allow Aarav Solutions to seek and receive technical assistance when necessary in respect to the Support Services. In the event that there is no such third-party support agreement in place, Aarav Solutions shall have no obligation to provide support and may, at its sole option, provide reasonable assistance to the Customer in resolving any issue or may suspend Services. For the avoidance of doubt, unless otherwise provided in writing in an Order Form, the Customer shall be responsible for the provision of and ongoing payment of any and all fees for the provision of Third Party Services required for the use of the Services;
- 12.3.5. be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Services, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
- 12.3.6. Upgrade any part of the Customer Infrastructure as may be requested by Aarav Solutions, where required to meet the minimum specification detailed in any Project Document (as amended from time to time) to continue to use the Services. In the event that the Customer fails to follow such instructions, neither Aarav Solutions nor its suppliers shall be liable for any degradation or disruption to the Services in the event the Customer does not make the required upgrade.
- 12.3.7. operate best practices and ensure appropriate security precautions are taken in connection with its use of the Services. 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's technology infrastructure, including operating firewalls and virus checks and implementing effective and

appropriate data security in respect to the receipt of Services.

- 12.3.8. not make any material changes to the Customer Infrastructure whatsoever, without Aarav Solutions' prior written consent.
- 12.3.9. The Customer shall be responsible for ensuring that any relevant Customer Equipment is installed and operational at a Location before any date specified in a Project Document for the provision of Services at such Location, and be responsible for procuring any third-party cooperation reasonably required for the receipt of Services at any time.

13. Expenses

- 13.1. Any fixed price contained in the Order Form excludes: (1) Unless otherwise agreed in an Order Form, the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the Aarav Solutions team in connection with completing the work, and the cost of any materials or services reasonably and properly provided by third-parties required by Aarav Solutions to complete the work. Such expenses, materials and third-party services shall be invoiced by Aarav Solutions at cost; and (2) VAT, which Aarav Solutions shall add to its invoices at the appropriate rate.

Expenses. The Customer shall reimburse Aarav Solutions for any reasonable expenses necessarily incurred by Aarav Solutions in connection with the provision of the Services as detailed in an Order Form.

Increases to Fees. Aarav Solutions may also be entitled to increase Charges to reflect any increase in fees from its suppliers at any time.

14. Warranties

- 14.1. Aarav Solutions does not warrant or represent:
 - 14.1.1. that the Services will be fit for any purpose or use other than that specifically stated by Aarav Solutions in writing; or
 - 14.1.2. that it will be able to rectify all defects, provided that it shall use all reasonable endeavours to rectify such defects in accordance with service levels in the applicable Support Agreement. The Customer acknowledges that non-material defects in the Services shall not constitute a material breach of this Agreement or prevent acceptance of the Services.

14.1.3. Aarav Solutions:

- 14.1.3.1. does not warrant that the Customer's use of the Services will be uninterrupted or error-free; nor other than to the extent specifically detailed in any Project Document, that the Services will meet the Customer's requirements; and
- 14.1.3.2. is not responsible 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,
- 14.1.3.3. shall not be obliged to rectify or be liable in any way for, and any authorised modifications, alteration, use, repair or maintenance of the Services by any other person other than a representative of Aarav Solutions, shall render any warranties, obligations and support obligations in relation to this Agreement, null and void.

14.2. The warranties, representations (and where applicable, warranties) set out in this clause are in lieu of all other express or implied warranties or conditions, including implied warranties or conditions of satisfactory quality and fitness for a particular purpose, in relation to this Agreement.

15. Confidentiality & Publicity

- 15.1. Each party undertakes that it shall not at any time during this agreement, and for a period of five years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 15.2
- 15.2. Each party may disclose the other party's confidential information: (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 15; and (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

- 15.4. Neither party shall publish any details about the relationship between the parties or the services without the other party's prior written consent.

16. Customer Data and Materials.

- 16.1. All materials or content provided by the Customer for incorporation into the Services shall be owned by the Customer (provided that they do not contain any of Aarav Solutions' Intellectual Property Rights) and the Customer shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data. The Customer warrants that all Intellectual Property Rights in such content and data are the Customer's property or that the Customer has a licence to use the same for the purpose of their incorporation and use as part of the Services. The Customer grants Aarav Solutions the non-exclusive right to use such items for the purpose of performing its obligations under this Agreement. The Customer shall own all rights, title and interest in and to all of the Customer data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer data.
- 16.2. Aarav Solutions shall not be responsible or liable for any loss, destruction, alteration or disclosure of Customer Data or Materials caused by any third party.

17. Term and Termination

- 17.1. **Provision of ongoing/renewing Third Party Services.** The provision of ongoing Services shall commence on the date specified in an Order Form and throughout any Initial Term detailed therein, and (unless otherwise stated in a specific Order Form) thereafter, the agreement for the provision of those Services shall be automatically renewed for successive rolling periods of 12 months, or such other term as may be detailed in the Order Form (each a Renewal Term), unless: either party notifies the other party of termination, in writing, in accordance with the terms of termination as detailed in the applicable Order Form. The termination of the Call-Off Contract shall not automatically terminate any Third Party Services agreement, which shall continue in force until the end of its applicable term.
- 17.2. **Termination** Either Party may terminate the Agreement or any Order Form by written notice to the other if the other Party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement.

- 17.3. **Consequences of Termination.** On termination, all outstanding unpaid invoices in respect of the Services shall become immediately payable (except where fees are the subject of a bona fide dispute). Aarav Solutions shall submit invoices for any Services that it has supplied, but for which no invoice has been submitted, and the Customer shall pay these invoices immediately on receipt.
- 17.4. **Transition Support.** Following the service of a termination notice for any reason, Aarav Solutions may on agreement between the parties for a maximum period of three months, continue to provide the Services in accordance with this Agreement, (subject to the Customer's full compliance with the Agreement and provided that all undisputed Fees are paid in full) and shall, if requested by the Customer, provide reasonable assistance to the Customer and/or any Replacement Supplier (subject to appropriate confidentiality undertakings being entered into) to the extent reasonably required to facilitate the smooth migration of the Services to the Customer, or a Replacement Supplier.
- 17.5. Aarav Solutions shall use all reasonable endeavours, at the Customer's request, to assign or novate, whether in favour of the Customer or any alternative supplier, any contract for Services between Aarav Solutions and any third party performing any part of the Services.
- 17.6. If termination is by the Customer as a result of Aarav Solutions' material breach, such reasonable co-operation and assistance shall be provided at no cost to the Customer, in all other cases Aarav Solutions may charge a reasonable sum at its then day rates in force (for the appropriate personnel) or for such other resource, to cover the cost of providing such cooperation and assistance (plus any expenses to be recovered at cost).

18. Non-Solicitation

No party shall, without the prior written consent of the other, at any time from the date of the Agreement to the expiry of 12 (Twelve) months after its termination, solicit or entice away from the other or employ or attempt to employ any person who is, or has been, engaged as an employee or subcontractor of the other. Any consent given by the other in accordance with this Agreement in writing shall be subject to the Customer paying to the other a sum equivalent to 40% of the then current annual remuneration of the other's employee or subcontractor or any other amount as mutually agreed at that point in time.

19. General

- 19.1. Neither Party may assign, transfer or otherwise dispose of any of its rights or obligations under the Agreement without the prior written consent of

the other, such consent not to be unreasonably withheld or delayed, except that Aarav Solutions may assign within its group of companies without consent.

Each Party shall remain primarily liable to the other in respect of any act or omission of any subcontractors as if any act or omission were its own.

- 19.2. This Agreement, including the Schedules, supersedes all prior representations, arrangements, understandings and agreements between the Parties (whether written or oral) relating to its subject matter and expresses the entire, complete and exclusive agreement and understanding between the Parties at the date of execution of this Agreement. Each Party warrants to the other that it has not relied on any representation, arrangement, understanding or agreement (whether written or oral) not expressly set out or referred to in this agreement. Neither party may make any claim or seek any remedy under this agreement in respect of misrepresentation (whether negligent or otherwise) or untrue statement made by the other party, except that this clause does not purport to exclude any liability for fraudulent misrepresentation.
- 19.3. **TUPE.** It is the parties' intention and understanding that the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as subsequently amended or re-enacted) ("TUPE") do not apply to this agreement and none of either party's staff shall transfer to the other party upon any circumstances occurring as contemplated by TUPE or otherwise by operation of this agreement. The parties shall take all reasonable steps to avoid circumstances that give rise to a situation where the provisions of TUPE are likely to apply by operation of this agreement. For the avoidance of doubt, each party shall fully indemnify and keep indemnified the other party against all costs and claims the first party may suffer arising from either the intended or unintended transfer of personnel from the application of TUPE to the operation of this agreement.
- 19.4. Any variation of this Agreement must be in writing and signed by an authorised representative of each of the parties. No term or provision hereof will be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party whose waiver or consent is required.
- 19.5. Each provision of this document shall be construed separately, and notwithstanding that the whole or any part of any such provision may be held by any body of competent jurisdiction to be illegal, invalid or

unenforceable, the other provisions of this agreement and the remainder of the provision in question shall continue in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal, and commercial objectives of the invalid or unenforceable provision.

Thank You

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