

Avoira MSP IT Agreement

Particulars

Customer	Customer's Name	{{!mergecompany }}		
	Registered Number	{{!mergecoreg}}		
	Address	{{!address }}		
		{{!address1 }}	Postcode	{{!postcode }}
	Phone	{{!phone }}		
	Customer Reference	{{!accountnumber }}		
Customer's Representative	Name	{{!fullname }}		
	Title/Position	{{!title }}		
	Phone	{{!phone1 }}		
	Email	{{!email }}		
Alternate Customer's Representative	Name	{{!fullname }}		
	Title/Position	{{!title }}		
	Phone	{{!phone1 }}		
	Email	{{!email }}		

Supplier	Supplier Name	Avoira Limited ("Avoira")		
	Registered Number	01763970		
	Registered Address	Pennine House, Salford Street, Bury BL9 6YA		
	Representative	{{!fullname }}		
	Phone	{{!phone1 }}		
	Email	{{!email }}		

Appointment Particulars	Initial Term	XX months		
	Monthly Fee	Insert Fee		
	Customer Technology	[insert full details/description of Customer Technology covered by the agreement as at the time it is signed (which may be before the Start Date) e.g. device, serial number etc.]		
	Site	[insert full details of Site address]		
	Start Date	The later of the following: (1) The date of signature of this agreement; (2) Notice given by Avoira to the Customer of the completion of the Set-Up (if applicable) pursuant to clause 2.2 of the Terms of Service; (3) The completion of the Preliminary Audit pursuant to clause 2.3 of the Terms of Service; or (4) [Insert Date]		

This agreement is subject to the Particulars, the Service Schedule and the Terms of Service agreed between the Customer and Avoira. The Customer hereby agrees to be bound by the terms of this agreement and all other documents referred to within.

By executing this agreement the Customer agrees and accepts that it has read and fully understood the Particulars, the Service Schedule and the Terms of Service. The Customer's attention is particularly drawn to the terms of the Limitation of Liability clause at Clause 14 of the Terms of Service.

Accepted for and on behalf of the Customer	Accepted for and on behalf of Avoira
{{!es_:signer1:signatureblock}}	{{!es_:signer2:signatureblock}}

Service Schedule – Part 1

This schedule sets out details of the Services available from Avoira in column 1 and indicates the Services selected by the Customer as at the Start Date with a tick [✓] in column 2.

[Avoira to add details of each of the Services]

[Avoira to complete column 2 and, (where applicable), column 3 each time the agreement is prepared for a Customer.]

<p style="text-align: center;">1 Services available from Avoira</p>	<p style="text-align: center;">2 Services selected by the Customer as at the Start Date indicated by a tick [✓]</p>	<p style="text-align: center;">3 Notes/ Quantity/ Frequency</p>
Remote Support	✓	
Onsite Support		
Guaranteed SLA Support Response		
Discounted Rate for IT Support (if not included)		
Discounted Rate for IT Adds, Removes, Changes, Projects, Consultancy and Security		
IT Helpdesk		
IT Documentation and Policies		
Pro-Active Server and Network Checks/Reports		
Security and IT Risk Assessments		
Dedicated Virtual IT Manager / Account Manager		
IT Business Review Meetings		
Hosted Exchange Email Accounts		

Hosted SharePoint Accounts		
Antivirus for Devices covered		
Backup and DR Device		
Remote Management and Monitoring Solution (RMM)		
Real Time Alerting		
IT Asset Management		
MS Windows Patching of Servers		
MS Windows Patching of PCs/Laptops		
Domain and DNS Management		
Cyber Essentials Stage 1 Accreditation		

Service Schedule – Part 2

1. SUPPORT REQUESTS

- 1.1 Should the Customer discover a Fault, the Customer will promptly file error reports or support requests.
- 1.2 [Avoira shall accept voicemail, e-mail and web form-based incident submittal from the Customer 24 hours a day, seven days a week.]
- 1.3 Avoira shall accept telephone calls for English language telephone support during Normal Business Hours and shall use reasonable endeavours to maintain an average call waiting time of no more than 3 minutes and a maximum call waiting time of 10 minutes.
- 1.4 Avoira shall use reasonable endeavours to process support requests, issue trouble ticket tracking numbers if necessary, determine the source of the Fault and respond to the Customer. Avoira shall use reasonable endeavours to respond to all support requests within the time periods specified below, according to priority.
- 1.5 Avoira shall determine the priority of any Fault in accordance with the following table and shall notify the Customer of its determination.

Priority	Description of Fault	Response time	Target resolution time
Priority 1	The entire Services are completely inaccessible. Priority 1 incidents shall be reported by telephone only.	Within one Normal Business Hours.	Within one Working Day. Continuous effort after initial response and with Customer co-operation.
Priority 2	Operation of the Services is severely degraded, or major components of the Services are not operational and work cannot reasonably continue. Priority 2 incidents shall be reported by telephone only.	Within one Normal Business Hours.	Within two Working Days after initial response. Continuous effort after initial response and with Customer co-operation.
Priority 3	Certain non-essential features of the Service are impaired while most major components	Within 12 Normal Business Hours.	Within seven Working Days after initial response.

	of the Service remain functional.		
Priority 4	Errors that are non-disabling or cosmetic and clearly have little or no impact on the normal operation of the Services.	Within 24 Normal Business Hours.	When reasonably possible.

- 1.6 Any failure to meet the response times shall constitute a Service Default.
- 1.7 Avoira shall use reasonable endeavours to implement a Solution within the target resolution times stated above and shall promptly inform the Customer if it does not expect to be able to meet the target resolution time.
- 1.8 If no progress has been made on a Priority 1 or Priority 2 incident within the target resolution time, the incident shall and shall be escalated to directors of the parties for resolution.
- 1.9 If Avoira fails to provide a Solution within the relevant target resolution time, then such failure shall constitute a Service Defect provided that the relevant Fault;
- (a) did not result from an Excluded Cause or a cause outside of Avoira's control;
- (b) the Fault was promptly notified to Avoira under paragraph 1.1; and
- (c) the Customer provides Avoira with all assistance reasonably requested by Avoira to identify and resolve the Fault in a timely manner, having regard to the target resolution time.

2. SERVICE AVAILABILITY

- 2.1 Avoira shall provide at least a 99% uptime service availability level during Normal Working Hours (Uptime Requirement). Any failure to meet the Uptime Requirement for any consecutive 12 month period shall constitute a Service Default.
- 2.2 The Managed Services will be considered as unavailable only:
- (a) during periods of Priority 1 or Priority 2 faults in accordance with paragraph 1.4; and
- (b) during periods of unplanned Maintenance in accordance with paragraph 2.5.
- 2.3 For the avoidance of doubt, the Managed Services will not be considered as "unavailable" during Maintenance Events as described in paragraph 2.4, Customer-caused outages or disruptions, or outages or disruptions attributable in whole or in part to Force Majeure events within the meaning of clause 17.
- 2.4 Maintenance work that may require interruption of the Services (**Maintenance Events**) shall not normally be performed during Normal Business Hours. Avoira may interrupt the Services outside Normal Business Hours for planned Maintenance

Events provided that it has given the Customer at least [three] days' advance written notice.

2.5 Any Maintenance Events that occur during Normal Business Hours, or that occur with less notice than required by paragraph 2.4, and which were not requested by the Customer, shall be considered downtime for the purpose of paragraph 2.1. Avoira shall at all times endeavour to keep any service interruptions to a minimum.

3. BACKUP, ARCHIVING AND RECOVERY SERVICES

3.1 Avoira shall develop the backup schedule, perform scheduled backups, provide routine and emergency data recovery and manage the archiving process. The backup schedule shall include at least weekly full backups and daily incremental backups. In the event of data loss, Avoira shall provide recovery services to try to restore the most recent backup within one Working Day.

3.2 Avoira shall develop a disaster recovery strategy to enable the Customer to access its data remotely (from the latest backup) and continue with its business within a maximum of 7 Working Days of any disastrous loss of data or facilities at the Customer's Site.

Terms of Service

- (A) Avoira is a provider of support services for hardware, software, devices and other IT equipment and infrastructure and offers to provide such services to its Customers under a managed services arrangement.
- (B) The Customer wishes to receive support services for its IT infrastructure from Avoira and Avoira agrees to provide such support on the terms and conditions set out in this agreement.

Agreed terms

1 Interpretation

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions

Avoira's Equipment:	any equipment, including systems, software, tools, cabling or facilities, provided by Avoira or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.
BYOD:	has the meaning given in clause 4.1.
Confidential Information:	all confidential information (however recorded or preserved) disclosed by a party or its employees, officers, representatives, advisers or subcontractors involved in the provision or receipt of the Services in connection with this agreement which information is either labelled as such or should reasonably be considered as confidential because of its nature and the manner of its disclosure.
Customer's Representative:	the Customer's representative for the Services as set out in the Particulars, appointed in accordance with clause 5.1.
Customer Technology:	the Customer's hardware, software, devices and other equipment to be supported under this agreement as set out in the Particulars subject to adjustment in accordance with clause 2.2, clause 2.3 or clause 7 or as otherwise set out in this agreement.
End User:	an employee of the Customer or other person working in the Customer's business notified by the Customer to Avoira as an authorised user of Customer Technology in accordance with Avoira' onboarding process set out in clause 3.3.
Excluded Cause:	the possible causes of Faults set out in clause 13.1.
"Fault"	any failure in the Services as set out in the Service Level Table.

Helpdesk:	has the meaning set out in clause 3.5.
Initial Term:	the initial term set out in the Particulars and starting on the Start Date.
Minimum Requirements:	the minimum requirements for the Customer Technology in order to receive the Services as set out in clause 3.1 as may be amended by Avoira from time to time by written notice to the Customer.
Monthly Fee:	the monthly fee set out in the Particulars as amended in accordance with this agreement or as the Services are added to by mutual agreement between the parties.
Normal Business Hours:	9.00am to 5.00pm on a Working Day.
Particulars:	the particulars of the agreement at the front of these Terms of Service.
Preliminary Audit:	a detailed audit carried out by Avoira to identify the precise details of the Customer Technology and any Set-up required.
RMM:	remote monitoring and management solution.
Service Default:	a breach of Service Levels as set out in the Service Schedule.
Service Schedule:	the service schedule at the front of these Terms of Service.
Services:	the services comprising the Services to be provided by Avoira as set out in the Service Schedule and in clauses 3.2 and 3.3 and otherwise as provided under this agreement.
Set-up:	has the meaning set out in clause 2.2.
Site:	the Customer's site(s) at which the Services are to be provided as set out in the Particulars.
Solution:	the correction of a Fault or a workaround in respect of a Fault (including, but not limited to, a reversal of any changes to the Customer Technology if deemed appropriate by Avoira).
Start Date:	the date on which the Services start as set out in the Particulars.
Terms of Service:	the terms and conditions detailed in the main body of this agreement.
Working Day:	a day other than a Saturday, Sunday or public holiday in England.
1.2	Clause headings shall not affect the interpretation of this agreement. References to clauses are to the of this agreement.

- 1.3 Unless the context otherwise requires:
- 1.3.1 words in the singular shall include the plural and in the plural shall include the singular;
- 1.3.2 a reference to one gender shall include a reference to the other genders.
- 1.4 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.8 A reference to writing or written includes email but excludes fax.
- 1.9 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.10 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 2 Commencement and duration**
- 2.1 Subject to Clauses 2.2 and 2.3 the Services shall be provided with effect from the Start Date and shall continue until terminated in accordance with this agreement.
- 2.2 Where Avoir has identified any work or products required to prepare the Customer Technology to be in a state to receive the Services whether to bring up to Minimum Requirements or otherwise (**Set-up**) Avoir will notify the Customer of the costs for the provision of Set-up and upon mutual agreement between the parties Avoir shall carry out such Set-up. Unless otherwise agreed by Avoir such Set-up shall be completed before the Services can start. Avoir will notify the Customer when Set-up is complete to its satisfaction and the Services can start. If no agreement is reached between Avoir and the Customer regarding Set-up or for whatever other reason Set-up is not completed the Services will not be provided and Avoir shall be entitled to notify the Customer that this agreement is terminated.
- 2.3 Where the Preliminary Audit has not been completed prior to signature of this agreement:
- 2.3.1 Avoir will notify the Customer of Avoir's costs for performing the Preliminary Audit;
- 2.3.2 the details of the Customer Technology and corresponding Monthly Fee shall be subject to adjustment according to the findings of the Preliminary Audit as notified by Avoir;
- 2.3.3 if the Customer does not accept the findings of the Preliminary Audit as notified by

Avoira under clause 2.3.2 the Customer may give written notice to Avoir to terminate this agreement such notice to be given within 10 Working Days of the notice from Avoir;

2.3.4 if the Customer elects to terminate this agreement under clause 2.3.3 Avoir reserves the right to charge the fee for the Preliminary Audit which is immediately payable by the Customer.

2.4 This agreement shall continue until terminated by one of the parties giving to the other not less than one months' notice, such notice not to expire before the end of the Initial Term or any subsequent anniversary of the end of the Initial Term unless terminated in accordance with clause 2.2, clause 2.3 or clause 15 or as otherwise expressly provided in this agreement. For the avoidance of doubt, unless terminated as set out in this clause 2.4 this agreement shall automatically renew on each anniversary of the Start Date for a further period of twelve months.

2.5 To enable Avoir to provide the Services the Customer shall permit Avoir to install its RMM on the Customer Technology.

3 Supply of the Services

3.1 The following Minimum Requirements apply to the Customer Technology for the Services:

- 3.1.1 all devices must be in warranty and supported by the relevant manufacturer;
- 3.1.2 all software and applications must:
- (a) be a current version supported by Microsoft or the relevant manufacturer;
- (b) be genuine and licensed;
- (c) have the latest service packs and critical updates installed.

3.2 With effect from the Start Date Avoir shall provide the Services to the Customer:

- 3.2.1 at the Site;
- 3.2.2 in respect of the Customer Technology;
- as may be amended from time to time pursuant to clause 7 or clause 18 subject to the Minimum Requirements and otherwise on the terms and conditions of this agreement.

3.3 Details of the level of Service cover selected by the Customer for the Customer Technology as at the date of this agreement are set out in column 2 of the Service Schedule, subject to any variation from time to time in accordance with the provisions of this agreement.

3.4 The following provisions apply to use of the Services:

3.4.1 To use the Services the Customer (or an individual duly authorised by the Customer to do so to be an End User) must first be registered by Avoir on the RMM by a member of Avoir's staff.

- 3.4.2 If an individual registers for use of the Services on behalf of the Customer, the Customer must ensure that the individual is duly authorised to do so and to bind the Customer. As part of the registration process, the Customer or the Customer's Representative may designate one or more End Users who are authorised to approve the provision of the Services on behalf of the Customer. If so, such End Users will be appointed in accordance with clause 5.1.
- 3.4.3 The Customer warrants that all the information supplied by the Customer (or the individual representing the Customer) during the on-boarding process is and will be true, complete and accurate in all respects. The Customer agrees to notify Avoira immediately of any changes to its on-boarding information. If Avoira reasonably believes that the Customer has provided incorrect information or that the Customer has intentionally or negligently failed to notify Avoira of any changes to this information, Avoira reserves the right to terminate access to the Services immediately and without notice.
- 3.5 In the event that Avoira provides a helpdesk as a central point of contact between Avoira and the Customer on a day-to-day basis and the primary method for reporting incidents and problems and to make routine requests for Services (**Helpdesk**) Avoira will provide access to its Helpdesk for logging incidents, problems and service requests relating to the Customer Technology in accordance with such details and procedures as may be notified to the Customer by Avoira from time to time.
- 3.6 Without prejudice to the provisions of clause 5.4 the Customer will:
- 3.6.1 maintain and provide to Avoira an End User contact list including names, telephone numbers and email addresses for use by Avoira for End User identification and checking, problem determination, assistance and escalation and ensure such personnel are available as required;
- 3.6.2 ensure that the Customer Representative or End Users (where applicable) provide the following information to Avoira when contacting Avoira:
- (a) name and contact telephone number;
- (b) End User account credentials including password where required to perform the Services;
- (c) description of the incident, problem or service request, and authorisation where required; and
- (d) discuss with Avoira personnel to help accurately prioritise incidents; and
- 3.6.3 ensure that End Users shall cooperate with Avoira to enable the Services to be provided.
- 3.7 Onsite visits are only available where selected by the Customer and the relevant Service item is indicated in the Service Schedule as may be amended from time to time pursuant to clause 7 or clause 18. In all other cases onsite visits will be separately chargeable at Avoira's then current applicable rates which are available upon request. Any such onsite visit will deal only with the incident for which the visit was scheduled and will not include any other work whilst onsite unless this is agreed by Avoira.
- 3.8 Avoira shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Site and that have been communicated to it under clause 0 provided that it shall not be liable under this agreement if, as a result of such observation, it is in breach of any of its obligations under this agreement.
- 3.9 If the Customer wishes to make any change to Customer Technology, the level of Service cover in the Service Schedule or to any of the details in the Particulars, or to request any other change to this agreement such request shall if appropriate be treated as a change request and dealt with in accordance with clause 7.
- 3.10 Where the Customer requests products or services which are available from Avoira but not appropriate for inclusion in this agreement Avoira will provide a quotation subject to Avoira's Standard Terms and Conditions for the Supply of Goods and/or Services which can be found at www.avoira.com/legal (but subject to agreement by Avoira and without any obligation on Avoira in respect of such request).
- 3.11 Certain matters are expressly excluded from the scope of this agreement. The following examples of such expressly excluded matters are provided for illustration only and are not to be taken as an exhaustive list. For the avoidance of doubt anything not expressly covered by the Services is outside the scope of this agreement:
- 3.11.1 The addition or maintenance and support of all hardware, software, applications, devices and any other equipment or item not listed in, or at a level of Service not identified in, the Service Schedule other than if added in accordance with clause 7;
- 3.11.2 Changes to the functionality of any items of Customer Technology or movement of any items of Customer Technology due to relocation whether within the Site or elsewhere save if Adds, Moves and Changes is selected by the Customer as part of the Services as indicated in the Service Schedule or added in accordance with clause 7 then limited to the extent described in the Service Schedule;
- 3.11.3 Cost of hardware, software, other equipment and replacement parts and any delivery and other charges incurred;
- 3.11.4 The installation or set up of new or upgraded hardware, software, devices, the

addition or removal of End Users and any other equipment, or services save in accordance with this agreement;

- 3.11.5 Restoration of lost damaged data save if backup is selected by the Customer as part of the Services as indicated in the Service Schedule or added in accordance with clause 7 then limited to the extent described in the Service Schedule;
- 3.11.6 Issues caused by operational, technical or administrative failures of the Customer;
- 3.11.7 Maintenance or support for persons other than the Customer and End Users or at locations not included as the Site other than if added in accordance with clause 7;
- 3.11.8 Printers and related connections and software;
- 3.11.9 Support of BYOD save if BYOD support is agreed by Avoira as part of the Services as indicated in the Service Schedule or added in accordance with clause 7 then limited to the extent described in the Service Schedule and subject to the provisions of clause 4;
- 3.11.10 Consultancy, training or project planning undertaken by Avoira;
- 3.11.11 Internet service provision and issues arising;
- 3.11.12 Structured network cabling.

4 BYOD

- 4.1 For the purposes of this agreement BYOD is where the Customer allows End Users to use their own personal devices for the Customer's business purposes (**BYOD**).
- 4.2 Due to the security risk of BYOD Avoira recommends as a matter of principle that BYOD should not be allowed access to a secure platform as BYOD is one of the most likely targets for cyber-attacks. In circumstances where BYOD is allowed access to Customer Technology BYOD is the most likely source of threats to Customer Technology. Avoira therefore strongly advises the Customer not to allow BYOD.
- 4.3 Where the Customer allows BYOD to access Customer Technology despite Avoira's advice as indicated in clause 4.2 the Customer accepts that such action is at the sole risk of the Customer.
- 4.4 Avoira does not accept any responsibility for BYOD save if expressly included in the Service Schedule or added in accordance with clause 7 or otherwise expressly accepted in writing and then only to the extent expressly set out and subject to the following:
 - 4.4.1 each item of BYOD must:
 - (a) be in warranty and supported by the relevant manufacturer;

- (b) have a fully up-to-date and patched operating system;
- (c) have current anti-virus protection;
- (d) have full disk encryption.
- 4.4.2 all software and applications on BYOD must:
 - (a) be a current version supported by Microsoft or the relevant manufacturer;
 - (b) be genuine and licensed;
 - (c) have the latest service packs and critical updates installed.
- 4.4.3 BYOD devices will only be supported for the Customer's business applications and not for any personal applications or uses of the End User;
- 4.4.4 the Customer shall have an appropriate BYOD policy in place at all times throughout the term of this agreement;
- 4.4.5 without prejudice to its obligations under clause 0, the Customer is solely responsible for its BYOD policy in relation to its End Users and their devices including ensuring it has all necessary consents to enable Avoira to supply the Services and to carry out any relevant requests or agreed instructions on behalf of the Customer;
- 4.4.6 if a BYOD device introduces a virus or other threat to the Customer Technology Avoira shall use its reasonable endeavours to inform the Customer of the threat or suspicious device but is not responsible for and has no obligation in respect of any such device or threat;

and the Customer accepts that if an End User rejects or fails to implement the Services or any part of them this may impact adversely on the Customer Technology. For the avoidance of doubt BYOD shall be subject to clause 6.4 and all other relevant provisions of this agreement as applicable.

5 Customer's Representative and communications

- 5.1 The Customer shall appoint the Customer's Representative who shall have authority to contractually to bind the Customer on all matters relating to the Services. The details of the Customer's Representative as at the date of this agreement and an alternate authorised to act if the Customer Representative is unavailable for whatever reason are as set out in the Particulars. In the event of any change to the identity of the Customer's Representative or the alternate or to any of the details set out in the Particulars the Customer shall promptly notify Avoira in writing.
- 5.2 The Customer's Representative shall be the main point of contact between the Customer and Avoira in respect of the Services. The Customer's Representative appointed in accordance with clause 5.1 shall be responsible for reporting any technical

issues to Avoira on behalf of the Customer and shall be suitably qualified and experienced to perform this role. Avoira shall not be obliged to deal with anyone other than the Customer's Representative or alternate appointed in accordance with clause 5.1 in respect of logging and resolving technical issues in relation to the Services save to the extent suitably authorised End Users may log tickets with the Avoira support desk if agreed by Avoira in writing as set out in the Service Schedule.

- 5.3 Avoira shall not be under any obligation to provide any service or product in excess of the Services which it might be willing to offer unless properly authorised by the Customer or the Customer's Representative.
- 5.4 Technical issues shall be reported and dealt with as set out in the Service Schedule as may be amended from time to time. The Customer expressly authorises End Users to communicate and deal with Avoira as set out in the Service Schedule as may be amended from time to time.

6 Customer's obligations

- 6.1 The Customer shall:
 - 6.1.1 co-operate with Avoira in all matters relating to the Services;
 - 6.1.2 provide for Avoira, its employees, agents, subcontractors and consultants, access as required without charge to the Customer Technology, the Customer's premises, the Site, internet, remote access, utilities, data and other facilities as reasonably required by Avoira;
 - 6.1.3 provide such specifications, reports, data and other information promptly as Avoira may reasonably require;
 - 6.1.4 be responsible for preparing and maintaining the Site and all relevant facilities and equipment for the supply of the Services, including identifying and removing any hazards;
 - 6.1.5 provide any consents or agency appointments which may be required by third parties to permit or enable Avoira to provide the Services;
 - 6.1.6 inform Avoira of all health and safety rules and regulations and any other reasonable security requirements that apply in respect of the Customer Technology and at the Site and any other premises of the Customer that Avoira may visit;
 - 6.1.7 promptly notify Avoira of any issues that have, or may reasonably be expected to have, any impact on the provision of the Services;
 - 6.1.8 save as expressly the responsibility of Avoira under this agreement, keep all hardware comprised in the Customer Technology in good working order and maintained in accordance with manufacturer's instructions and warranties

and ensure that all software is current and is updated in accordance with manufacturer's instructions and that the Customer holds all necessary licences for the use of the same and the performance of the Services by Avoira;

- 6.1.9 where any of Avoira's Equipment remains at the Site in the provision of the Services, maintain it in accordance with Avoira's instructions and ensure its safekeeping, and insure it and shall not dispose of or use Avoira's Equipment other than in accordance with Avoira's written instructions or authorisation; and
- 6.1.10 where the Customer requires any Disclosure and Barring Service (DBS) or other check in connection with the provision of the Services the Customer shall be responsible for notifying Avoira of this and for obtaining at its cost any such DBS or other check and provided Avoira cooperates with the Customer as may be reasonably required Avoira shall not be responsible for any resulting delay in the provision of the Services.

6.2 The Customer warrants and represents to Avoira that:

- 6.2.1 the Customer has the right, power and authority to enter into this agreement and to receive the Services;
- 6.2.2 any Customer Technology does not and shall not infringe the Intellectual Property Rights of any third party if used in accordance with this agreement; and
- 6.2.3 it has in place appropriate virus protection and information security measures to protect its own systems and the data in its possession and control.

6.3 If Avoira's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Customer, its End Users, agents, subcontractors, consultants or employees, Avoira shall not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay.

6.4 The Customer shall be liable to pay to Avoira on demand all reasonable costs, charges or losses sustained or incurred by Avoira (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from:

- 6.4.1 the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this agreement; or
- 6.4.2 Avoira agreeing to act and acting in accordance with the Customer's instructions;

subject to Avoira confirming such costs, charges and losses to the Customer in writing.

- 6.5 The Customer shall not, without the prior written consent of Avoira, at any time from the date of this agreement to the expiry of twelve months after the termination of this agreement, solicit or entice away from Avoira or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of Avoira in the provision of the Services.
- 6.6 Any consent given by Avoira in accordance with clause 6.5 shall be subject to the Customer paying to Avoira a sum equivalent to 20% of the then current annual remuneration of Avoira's employee, consultant or subcontractor or, if higher, 20% of the annual remuneration to be paid by the Customer to that employee, consultant or subcontractor.

7 Change control

7.1 If either party requests a change to the scope or execution of the Services including any change to Customer Technology, level of Service cover or End Users Avoira shall provide a written estimate to the Customer of:

- 7.1.1 the likely time required to implement the change;
- 7.1.2 any necessary variations to Avoira's charges arising from the change;
- 7.1.3 any other likely effect of the change on this agreement.

7.2 If the Customer wishes Avoira to proceed with the change, Avoira has no obligation to do so unless and until the parties have agreed the necessary variations to the Services, Avoira's charges and any other relevant terms of this agreement to take account of the change and this agreement has been varied in accordance with clause 18.

7.3 Where Avoira identifies whether via the RMM or otherwise any changes in Customer Technology Avoira shall be entitled to adjust the Monthly Fee accordingly.

7.4 Notwithstanding clause 7.2, Avoira may, from time to time and without notice, change the Services in order to comply with any applicable statutory, security or safety requirements, provided that such changes do not materially affect the nature or scope of, or the charges for, the Services. Avoira may from time to time change the Services provided that such changes do not materially affect the nature or quality of the Services and, where reasonably considered necessary or appropriate and practicable to do so, it will notify the Customer of such change made.

8 Charges

- 8.1 The Customer shall pay the Monthly Fee monthly in advance such payment to be made in accordance with clause 9.1.
- 8.2 The Customer shall reimburse Avoira for all actual, reasonable travel and other costs and expenses including accommodation and subsistence incurred by Avoira in performance of the Services.

8.3 The Monthly Fee and all other amounts stated or referred to in this agreement are exclusive of value added tax which shall be added to Avoira's invoices at the appropriate rate.

8.4 Avoira shall invoice the Customer:

8.4.1 monthly for the Monthly Fee on the 28th day of the month before the due date for payment save that the first such invoice will be in respect of the first and second months following the Start Date and may be issued at any time on or after the Start Date; and

8.4.2 as and when such sums become chargeable for any other supplies of products or services not expressly subject to any separate terms and conditions and any balance of the Monthly Fee due as a result of adjustment made after the date referred to in clause 0.

8.5 The parties agree that Avoira may review and increase the Monthly Fee with effect from the anniversary of the Start Date. Avoira shall give the Customer written notice of any increase in the Monthly Fee two months before the proposed date of that increase. For the avoidance of doubt, any increase in any of Avoira's other fee rates or prices shall not give rise to a right to terminate the agreement under this clause 8.5.

8.6 Any actions or assistance by Avoira which are outside the scope of this agreement shall be subject to Avoira's then current terms and conditions for the provision of such additional services including as to fees and expenses. The current rate of fees for additional work outside the scope of this agreement are as follows, but are subject to change in Avoira's discretion:

Other services	Hourly rate (Avoira standard rate)	Hourly rate (Discounted)
IT Support - Remote	£65	£45
IT Support - Onsite	£65	£45
IT Support - Out of Hours	£75	£65
IT Adds, Removes and Changes	£65	£45
Professional Services – IT Projects, Consultancy, Project Management, Security	£75	£65

9 Payment

9.1 Unless otherwise expressly agreed or specified by Avoira the Customer shall pay invoices issued under

this agreement by direct debit in accordance with clause 0 such payments to be made:

- 9.1.1 in the case of invoices issued pursuant to clause 0 in advance by the 15th day of the month following the date of invoice; and
- 9.1.2 in the case of invoices issued pursuant to clause 0 no later than 30 days from the date of the invoice.

Avoira shall be entitled to draw on the direct debit in respect of such payments up to three Working Days before or after the due date.

9.2 All payments to be made under this agreement shall be paid in full and in cleared funds to the following bank account:

Bank: Natwest
Sort code: 01 10 01
Account number: 72526270
Account name: Avoira Limited

or such other bank account as may be nominated in writing by Avoira from time to time

9.3 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay Avoira on the due date:

- 9.3.1 the Customer shall pay interest on the overdue amount at the rate of 3% per annum above HSBC Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount; and
- 9.3.2 Avoira may suspend performance of all Services until payment has been made in full.

9.4 All sums payable to Avoira under this agreement shall become due immediately on its termination, despite any other provision. This clause 9.4 is without prejudice to any right to claim for interest under the law, or any such right under this agreement.

9.5 All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

10 Confidentiality

10.1 Each party shall keep the other party's Confidential Information confidential and shall not:

- 10.1.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this agreement; or
- 10.1.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause.

10.2 The Customer acknowledges that Avoira's Confidential Information includes any reports, designs, plans, software or other materials created

by Avoira in connection with the Services and the Customer agrees not to make use of any such material for any purpose other than receipt of the Services from Avoira.

10.3 A party may disclose the other party's Confidential Information to those of its employees, officers, representatives or subcontractors (**Personnel**) who need to know such Confidential Information for the purpose of exercising or performing its rights and obligations under this agreement, provided that:

- 10.3.1 it informs each of such Personnel of the confidential nature of the Confidential Information before disclosure; and
- 10.3.2 at all times, it is responsible for compliance by each of such Personnel with the confidentiality obligations set out in this clause.

10.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 10.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

10.5 The provisions of this clause shall not apply to any Confidential Information that:

- 10.5.1 is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Personnel in breach of this clause);
- 10.5.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
- 10.5.3 the parties agree in writing is not confidential or may be disclosed; or
- 10.5.4 is developed by or for the receiving party independently of the information disclosed by the disclosing party.

10.6 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this agreement are granted to the other party, or to be implied from this agreement.

10.7 The provisions of this clause 10 shall continue to apply after termination of this agreement.

11 Data protection

11.1 Each party shall comply with its respective obligations and may exercise its respective rights and remedies under clause 11. For the purposes of this clause 11 the terms 'data controller', 'data processor' and 'personal data' shall have the meanings given to them in UK data protection

legislation including but not limited to UK GDPR and the Data Protection Act 2018.

11.2 In relation to any Customer data that is personal data the Customer shall be the data controller, and the parties acknowledge that Avoira will be acting as data processor in respect of any relevant data processing activities Avoira carries out under this agreement.

11.3 Avoira undertakes to the Customer that:

11.3.1 it shall process the Customer personal data as is reasonably necessary to supply the Services in accordance with this agreement or as is required by any applicable law; and

11.3.2 in respect of Customer personal data which is in the possession or under the control of Avoira, it shall implement the technical and organisational measures to protect this Customer personal data against unauthorised or unlawful processing and accidental loss, damage or disclosure.

11.4 Nothing in this agreement shall relieve Avoira or the Customer or any responsibilities or liabilities under UK data protection legislation.

12 Avoira's property

All materials, equipment and tools, drawings, specifications and data supplied by Avoira to the Customer (including Avoira's Equipment) shall, at all times, be and remain the exclusive property of Avoira, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to Avoira, and shall not be disposed of or used other than in accordance with Avoira's written instructions or authorisation.

13 Avoira's warranties

13.1 Avoira warrants that the Services will be performed with all reasonable skill and care and that they will be provided substantially in accordance with the relevant description of the Services in the Service Schedule and the terms and conditions of this agreement. Where the supply of the Services is dependent on or uses third party suppliers Avoira will use all reasonable care and skill in selecting any such supplier.

13.2 The warranty in clause 13.1 shall not apply to the extent of any non-conformance that is caused by:

13.2.1 use of the Services contrary to Avoira's instructions;

13.2.2 any failure by the Customer to implement any pre-contract or set up works identified by Avoira and notified as a preliminary requirement;

13.2.3 replacement parts fitted, repairs carried out, software installed or other works or services provided by a Customer employee or third party on Customer Technology supported under this agreement save if expressly accepted by Avoira in accordance with clause 7;

13.2.4 remote user access other than directly to maintained servers identified in the Customer Technology;

13.2.5 damage to Customer Technology not caused by Avoira whether hardware, software, devices and any other equipment through accident, negligence, lack of maintenance, failure to follow the manufacturer's instructions or guidance or other misuse;

13.2.6 any continued maintenance for an on-going technical issue if the Customer or any End User declines any recommended solution provided by Avoira to resolve this;

13.2.7 any Customer Technology that is no longer current and in the case of software that is not the latest version or is no longer supported by the manufacturer save if the same is expressly accepted or agreed by Avoira in writing;

13.2.8 implementation of patches, fixes and other solutions supplied or recommended by the relevant manufacturer or third party supplier;

13.2.9 issues caused by operational, technical or administrative failures of the Customer or any failure to observe relevant terms for provision of any related third party product or services;

13.2.10 lost or damaged data save if backup is selected by the Customer as part of the Services as indicated in the Service Schedule or added in accordance with clause 7 then limited to the extent described in the Service Schedule;

13.2.11 internet service provision;

13.2.12 printers and related connections and software;

13.2.13 BYOD save if BYOD support is agreed by Avoira as part of the Services as indicated in the Service Schedule or added in accordance with clause 7 then limited to the extent described in the Service Schedule and subject to the provisions of clause 4;

13.2.14 telecom equipment and services and any other matter not expressly included in this agreement including those referred to in clause 3.10.

13.3 If the Services do not conform with the warranty in clause 13.1, Avoira will, at its expense, use reasonable 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 in clause 13.1.

- 13.4 Notwithstanding the foregoing, Avoira does not warrant that the Customer's use of the Services will be uninterrupted or error-free.
- 13.5 This agreement shall not prevent Avoira from entering into similar agreements with third parties, or from independently developing, using, selling or licensing materials, products or services that are similar to those provided under this agreement.
- 14 Limitation of liability**
- The Customer's attention is particularly drawn to this clause**
- 14.1 Nothing in this agreement limits or excludes Avoira's liability for:
- 14.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- 14.1.2 fraud or fraudulent misrepresentation; or
- 14.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 14.2 Subject to clause 14.1, Avoira shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for:
- 14.2.1 loss of profits;
- 14.2.2 loss of sales or business;
- 14.2.3 loss of agreements or contracts;
- 14.2.4 loss of anticipated savings;
- 14.2.5 loss of or damage to goodwill;
- 14.2.6 loss of use or corruption of software, data or information;
- 14.2.7 any indirect or consequential loss.
- 14.3 Subject to clause 14.1 and clause 14.2 Avoira's total liability to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement in respect of all claims (connected or unconnected) in any consecutive 12 (twelve) month period shall be limited to the greater of the equivalent of the total charges paid by the Customer for the Services in that period.
- 14.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.
- 15 Termination**
- 15.1 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
- 15.1.1 the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than ten Working Days after being notified in writing to make such payment;
- 15.1.2 the other party is persistently late in paying any amount due under this agreement on the due date for payment and for the purposes of this clause 0 'persistently late' means either any three consecutive payments or any three payments in any period of six months are not made by the due date;
- 15.1.3 the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of ten Working Days after being notified in writing to do so;
- 15.1.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- 15.1.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- 15.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party;
- 15.1.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- 15.1.8 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver, or if a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 15.1.9 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or

process is not discharged within ten Working Days;

- 15.1.10 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - 15.1.11 the other party (being an individual) is the subject of a bankruptcy petition or order, dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 15.2 Without affecting any other right or remedy available to it, the Customer may terminate this agreement with immediate effect by giving written notice to Avaira if Avaira commits a Service Default and if such Service Default is capable of remedy, fails to remedy such Service Default within 14 Working Days of written notice requiring remedy of the Service Default.
- 15.3 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

16 Consequences of termination

- 16.1 On termination or expiry of this agreement:
- 16.1.1 the Customer shall immediately pay to Avaira all of Avaira's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted and in respect of any sums to which clause 16.2 applies, Avaira may submit an invoice, which shall be payable immediately on receipt;
 - 16.1.2 the Customer shall promptly return all of Avaira's Equipment. If the Customer fails to do so, then Avaira may enter the Site or other relevant premises and take possession of it. Until it has been returned or repossessed, the Customer shall be solely responsible for its safe keeping;
 - 16.1.3 the licence to hold and use any software installed or supplied by Avaira for the purpose of or in connection with the performance of the Services shall immediately cease and all such software shall be promptly returned to Avaira or if so directed by Avaira in writing shall be irrevocably deleted from the Customer Technology and the Customer shall certify in writing to Avaira that it has complied with the requirements of this clause.
- 16.2 Any actions or assistance by Avaira for the purposes of clauses 0 and 0 shall be subject to Avaira's then current terms and conditions for the provision of such additional services including as to fees and expenses as per clause 8.6.

- 16.3 In the event that Avaira terminates this agreement pursuant to clause 15.1 or the Customer purports to terminate this agreement other than as expressly provided in this agreement, Avaira shall be entitled to invoice for the balance of the Monthly Fee payable from the date of the purported termination up to the end of the Initial Term or the then current twelve month period in accordance with clause 2.4 (as the case may be).
- 16.4 On termination or expiry of this agreement the following clauses shall continue in force: clause 10 (Confidentiality), clause 12 (Avaira's property), clause 14 (Limitation of liability), clause 16.1, clause 27 (Notices), clause 30 (Dispute resolution), clause 31 (Governing law) and clause 32 (Jurisdiction).
- 16.5 On termination or expiry of this agreement the parties agree that no circumstances shall arise or apply where the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (TUPE) may apply.
- 16.6 Without prejudice to clause 16.5 if TUPE applies to transfer the employment of any person employed by Avaira to the Customer or to any another party chosen by the Customer to take over the provision of all or part of the Services (**New Supplier**) then if the Customer or such New Supplier shall serve a notice terminating the employment of such person within six months after the date of such transfer, the Customer shall indemnify Avaira in respect of any statutory or contractual redundancy payment payable in respect of such person, and any compensation or damages which Avaira is obliged to pay to such person for unfair and/or wrongful dismissal or as a reasonable settlement of a claim for such compensation or damages.
- 16.7 The Customer shall indemnify Avaira against all costs, claims, liabilities and expenses (including reasonable legal expenses) incurred by Avaira in connection with or as a result of:
- 16.7.1 any claim or demand by any employee of Avaira who was employed by Avaira wholly and/or mainly in the Services immediately before the date on which responsibility for provision of the Services or part of the Services transfers between Avaira and the Customer and/or a New Supplier (as the case may be) (**Transfer Date**) or a trade union or other body or person representing any such employee of Avaira (whether in contract, tort, under statute, pursuant to European law or otherwise) arising from any act, fault or omission of the Customer on or before the Transfer Date;
 - 16.7.2 any failure by the Customer to comply with its obligations under regulations 13 and 14 of TUPE, or any award of compensation under regulation 15 of TUPE, save where such failure arises from the failure of Avaira and/or New Supplier to comply with its or their duties under regulation 13 of TUPE.

16.8 Without prejudice to clause 16.5, clause 16.6 and clause 16.7, the Customer will cooperate, and shall ensure that any New Supplier will cooperate, with Avoira to assist Avoira in establishing the validity of, and in dealing with, any claim made against Avoira, including the provision of employment records and other documentation and information as may be reasonably required for the purpose.

17 Force majeure

17.1 If a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by Force Majeure (**Affected Party**), provided the Affected Party has complied with clause 17.3, it shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

17.2 For the purposes of this agreement **Force Majeure** means any circumstance not within a party's reasonable control including without limitation acts of god, flood, drought, storm, earthquake or other natural disaster; fire, explosion, collapse of buildings, sonic boom or accident; epidemic or pandemic; interruption or failure of utility service; nuclear, chemical or biological contamination; strikes, lockouts or other industrial disputes not involving the workforce of the Affected Party; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war and any law or any action taken by a government or public authority.

17.3 The Affected Party shall as soon as reasonably practicable after the start of the Force Majeure notify the other party in writing of the Force Majeure, its likely duration and the effect of the Force Majeure on its ability to perform any of its obligations under the agreement and shall use all reasonable endeavours to mitigate the effect of the Force Majeure on the performance of its obligations.

17.4 If the Force Majeure prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 20 Working Days the party not affected by the Force Majeure may terminate this agreement by giving 10 Working Days' written notice to the Affected Party. On the expiry of this notice period, this agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this agreement occurring prior to such termination.

18 Variation

Subject to clause 7, no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives) and Avoira will require such variation to be confirmed by addendum to this agreement and electronic verification.

19 Waiver

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.

20 Rights and remedies

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.

21 Severance

If any provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision shall be deemed deleted. Any modification to or deletion of a provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

22 Entire agreement

22.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

22.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

23 Priority

If there is an inconsistency between any of the provisions in the Particulars, the Service Schedule or the Terms of Service, the following order of interpretation shall prevail: (1) the Service Schedule; (2) the Particulars; and (3) the Terms of Service.

24 Assignment and other dealings

24.1 This agreement is personal to the Customer and the Customer shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

24.2 Avoira may at any time assign, transfer, subcontract, charge or deal in any other manner with any or all of its rights and obligations under this agreement.

25 No partnership or agency

25.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute a party the agent of the other party, or authorise a party to make or enter into any commitments for or on behalf of the other party save where Avoira is expressly so authorised under this agreement or otherwise by the Customer.

25.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

26 Third party rights

No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

27 Notices

27.1 A notice given to a party under or in connection with this agreement:

27.1.1 shall be signed by or on behalf of the party giving it or in the case of a notice given by email shall be sent by a director or the Customer's Representative (as the case may be);

27.1.2 shall be sent to the party for the attention of the contact and at the postal or email address listed in the Particulars; and

27.1.3 unless proved otherwise is deemed received as set out in clause 27.2 if prepared and sent in accordance with this clause.

27.2 The addresses and contacts for service of notices are set out in the Particulars.

27.3 Delivery of a notice is deemed to have taken place (provided that all other requirements in this clause have been satisfied):

27.3.1 if delivered by hand, at the time the notice is left at the address;

27.3.2 if sent by pre-paid first class recorded delivery or special delivery, at the start of Normal Business Hours on the second Working Day after posting or at the time recorded by the delivery service;

27.3.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed or if no such signature is obtained at the time certified by the courier; or

27.3.4 if sent by email, one hour after the notice was sent.

27.4 For the purpose of clause 27.2 if deemed receipt would occur outside Normal Business Hours, deemed receipt is deemed to take place at the start of Normal Business Hours on the next Working Day.

27.5 A notice required to be given for the purposes of clause 15 of this agreement will not be validly given if sent by email and must be given by one of the other methods set out in clause 0, clause 0 or clause 0.

27.6 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

28 Counterparts

28.1 This agreement may be executed in counterparts, each of which when executed shall constitute a duplicate original, but the counterparts shall together constitute the one agreement.

28.2 Transmission of the executed signature page of a counterpart of this agreement by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement. If such method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the other with the original of such counterpart as soon as reasonably possible.

28.3 Avoira will require execution under clause 28.1 or 0 to be confirmed by electronic verification.

29 Credit checking and data processing

The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and that personal data will be processed by and on behalf of Avoira in connection with the Services and this agreement.

30 Dispute resolution

30.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (**Dispute**) then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause 30.

30.2 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 parties shall attempt in good faith and using their reasonable endeavours to resolve the Dispute.

30.3 If the parties are for any reason unable to resolve the Dispute within one calendar month of service of the Dispute Notice, they will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must give 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. The mediation will start not later than one calendar month after the date of the ADR notice.

30.4 No party may commence any proceedings under clause 32 in relation to the whole or part of the Dispute until one calendar month after service of the ADR notice or any later date agreed by the parties in writing, provided that the right to issue proceedings is not prejudiced by a delay.

30.5 If the Dispute is not resolved within one calendar month after service of the ADR notice or any longer period agreed by the parties in writing, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of one calendar month, or the mediation terminates before the expiration of the said period of one calendar month or any longer period agreed by the parties in writing, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 32 of this agreement.

31 Governing law

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

32 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.