


MSA Contract Reference:	MSADSTL180423
Customer Company Name:	The Secretary of State for Defence, acting through the Defence Science and Technology Laboratory
Customer – Operational Contact:	Redacted Under FOIA Section 40, Personal Information
Customer – Invoice Contact:	Dstl Dstl Accounts Payable (Redacted Under FOIA Section 40, Personal Information) PO Box 325, Portsdown Hill Road Fareham PO14 9HL UNITED KINGDOM Redacted Under FOIA Section 40, Personal Information
Horsefly – Operational Contact:	Redacted Under FOIA Section 40, Personal Information
Horsefly – Customer Success Contact:	Redacted Under FOIA Section 40, Personal Information
Subscription Period:	12 months
Term Effective Date:	1st May 2023
Order Details:	UK Core access Redacted Under FOIA Section 43, Commercial Information
	Unlimited UK searches and downloads
Schedule of Annual Subscription Fees:	£27,500.00

Payment Terms:	30 day invoice
Signed By:	Redacted Under FOIA Section 40, Personal Information
Date:	



Stanley Grange Business Village

Knowsley

L34 4AR



## TALENT ANALYTICS TERMS AND CONDITIONS OF USE

### AGREED TERMS

#### 1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions.

"Authorised Users": those employees of the Customer who are authorised by the Customer to use the Software as further described in clause 4.2.3.

"Business Day": a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"Cancellation Period" shall be a period from the Effective Date up to 60 days before the end of the Initial Subscription Term or Renewal Period as appropriate

"Change of Control": the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and controls, controlled and the expression change of control shall be construed accordingly.

"Confidential Information": information that is proprietary or confidential and is clearly labelled as such.

"Contract": the contract between the Supplier and the Customer for the Supply of Services in accordance with these terms and conditions and the Order Form.

"Customer": the person or persons specified as such in the Order Form. "Effective Date": the date on which the Contract comes into effect pursuant to clause 2.2.

"Initial Subscription Term": the initial term of the Contract as set out in the Order Form.

"Normal Business Hours": 8:00 am to 6:00 pm local UK time for each Business Day or such other hours as shall be agreed as confirmed in the Order Form.

"Order Form": the Order Form attached to these terms and conditions relating to the Customer.

"Renewal Period": the period described in clause 16.1

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"Reseller Agreement": any agreement between the Supplier and the Customer for the resale of the Software and the Services by the Customer to third parties.

"Services": the subscription by the Customer to gain access to and use the Software provided by the Supplier through the Customer's account with the Supplier.

"Software": the data and search analytics online software application provided by the Supplier and described as "Talent Analytics".

"Subscription Fees": the subscription fees payable by the Customer to the Supplier as set out in the Order Form.

"Subscription Term": has the meaning given in clause 16.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

"Supplier": means AI Recruitment Technologies Limited (Company number 07651107) whose registered office is at Upper Floor, The Granary, Stanley Grange, Ormskirk Road, Knowsley L34 4AT.

"Unauthorised Access": means access to, or use of, the Services by a third party using the Customer's or its Authorised Users' credentials whether or not deliberately facilitated by the Customer.

"Virus": any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these terms and conditions.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.

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1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.5 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of the Contract and shall include all subordinate legislation made as at the date of the Contract under that statute or statutory provision.

1.6 A reference to writing or written includes e-mail (subject to clauses 18.12 and 18.13).

## 2. BASIS OF CONTRACT

2.1 The Order Form constitutes an offer by the Customer to subscribe for the Services in accordance with these terms and conditions.

2.2 The Order Form shall only be deemed to be accepted when the Supplier confirms acceptance of the Order Form to the Customer and the Contract shall come into existence on the Effective Date.

2.3 These terms and conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## 3. SUPPLY OF SERVICES

3.1 The Supplier shall make the software available to the Customer within 20 Business Days of the Effective Date following completion of its configuration processes to the Customer's account.

3.2 The Supplier shall at its own expense provide the Customer with training on how to use the Software either at the Customer's premises or remotely online (in each case at the Supplier's sole discretion).

## 4. SUBSCRIPTION

4.1 The Supplier hereby grants to the Customer a non-exclusive, non-transferable right to use the Services in accordance with these terms and conditions during the Subscription Term solely for the Customer's business operations (the "Subscription").

4.2 The Customer undertakes that:

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4.2.1 it will not allow or suffer its Subscription to be used or accessed by anyone who is not an Authorised User;

4.2.2 each Authorised User shall keep a secure password for his use of the Services, that such password shall be changed no less frequently than every two months and that each Authorised User shall keep his password confidential;

4.2.3 it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within five Business Days of the Supplier's written request at any time or times;

4.2.4 it shall permit the Supplier to audit its use of the Services in order to establish the name and password of each Authorised User. Such audit may be conducted no more than

once per quarter, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business.

4.3 The Customer shall not access, store, distribute, or transmit any Viruses, or any material during the course of its use of the Services that:

4.3.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

4.3.2 facilitates illegal activity;

4.3.3 depicts sexually explicit images;

4.3.4 promotes unlawful violence;

4.3.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

4.3.6 in a manner that is otherwise illegal or causes damage or injury to any person or property;

and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

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4.4 The Customer shall not:

4.4.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:

4.4.1.1 and except to the extent expressly permitted under these terms and conditions, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or

4.4.1.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

4.4.2 access all or any part of the Services in order to build a product or service which competes with the Services; or

4.4.3 subject to clause 18.8 and other than as may be authorised pursuant to any relevant Reseller Agreement, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users, or

4.4.4 attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 2; or

4.4.5 perform searches in excess of the Suppliers fair use policy from time to time. Regular breach of such policy may, in addition to clause 5, give rise to the Supplier limiting the number of searches that the Customer and/or its Authorised User are able to perform.

4.5 The Customer shall use all reasonable endeavours to prevent any Unauthorised Access and in the event of any such Unauthorised Access, promptly notify the Supplier.

4.6 The rights provided under this clause 4 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

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#### UNAUTHORISED ACCESS

If any of the audits referred to in clause 4.2.4 reveal, or the Supplier otherwise 5.1 discovers or has reason to believe, that any password or other access have been accessed by or used by any individual who is not an Authorised User, or that the Customer has not taken sufficient steps to prevent Unauthorised Access then without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual.

If any of the audits referred to in clause 4.2.4 reveal, or the Supplier otherwise 5.2 discovers or has reason to believe, that there has been Unauthorised Access, then without prejudice to the Supplier's other rights the Supplier may at its sole discretion:

5.2.1 Suspend the Customer's access to the Services while it investigates the matter further; and/or

5.2.2 require the Customer to pay to the Supplier an amount equal to the Subscription Fee for a period equal to the Initial Subscription Term for each third party and who has had Unauthorised Access using the Customer's (or its Authorised Users) access credentials, and/or

5.2.3 suspend the Customer's access to the Services until the sum reserved to in clause 5.2.2 has been paid in full, and/or

5.2.4 terminate the Contract immediately.

#### 6. SERVICES

6.1 The Supplier shall, during the Subscription Term, provide the Services and make available the Software to the Customer on and subject to the terms of these terms and conditions.

6.2 The Supplier shall use commercially reasonable endeavours to make the Services available 24

hours a day, seven days a week, except for:

6.2.1 planned maintenance carried out during the maintenance window of 10.00 pm to 2.00 am UK time; and

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6.2.2 unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least four Normal Business Hours' notice in advance.

6.3

The Supplier will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Supplier's standard customer support services during Normal Business Hours subject to its fair use policy. If the Supplier at any time considers that the Customer is likely to be in breach of its fair use policy it shall advise the Customer and request that it reduces such usage appropriately. If usage is not reduced appropriately then any use of the Supplier's standard customer support services in excess of the fair use policy shall be invoiced separately at the Supplier's then current rates.

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**CUSTOMER DATA**

7.1

The Supplier shall, in providing the Services, comply with its Privacy Policy relating to the privacy and security of any Customer data available at <https://horseflyanalytics.com/privacy-policy> or such other website address as may be notified to the Customer from time to time, as such document may be amended from time to time by the Supplier in its sole discretion.

7.2

If the Supplier processes any personal data on the Customer's behalf when performing its obligations under the Contract, the parties record their intention that the Customer shall be the data controller and the Supplier shall be a data processor and in any such case:

7.2.1 the Customer acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Customer and the Authorised Users are located in order to carry out the Services and the Supplier's other obligations under these terms and conditions;

7.2.2 the Customer shall ensure that the Customer is entitled to transfer the relevant personal data to the Supplier so that the Supplier may lawfully use, process and transfer the personal data in accordance with these terms and conditions on the Customer's behalf;

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7.2.3 the Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation; and

7.2.4 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

## 8. THIRD PARTY PROVIDERS

The Customer acknowledges that the Services involve analysing data collected from third parties websites. The Supplier makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of any such third-party websites or data.

## 9. SUPPLIER'S OBLIGATIONS

9.1 The Supplier undertakes that the Services will be performed with reasonable skill and care.

9.2 The undertaking at clause 9.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 9.1. Notwithstanding the foregoing, the Supplier:

9.2.1 does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and

9.2.2 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

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the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

9.3 The Contract shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under these terms and conditions.

9.4 The Supplier warrants that it has and will maintain all necessary licences, consents, and



permissions necessary for the performance of its obligations under the Contract.

## 10. CUSTOMER'S OBLIGATIONS

### 10.1 The Customer shall:

#### 10.1.1 provide the Supplier with:

10.1.1.1 all necessary co-operation in relation to these terms and conditions; and

10.1.1.2 all necessary access to such information as may be required by the Supplier;

in order to provide the Services, including security access information and configuration services;

10.1.2 comply with all applicable laws and regulations with respect to its activities under these terms and conditions;

10.1.3 carry out all other Customer responsibilities set out in these terms and conditions in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;

10.1.4 ensure that the Authorised Users use the Services in accordance with the terms and conditions of these terms and conditions and shall be responsible for any Authorised User's breach of these terms and conditions;

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10.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under these terms and conditions, including without limitation the Services;

10.1.6 comply with all local laws and regulations relating to the Services and advise the Supplier promptly if the Services breach or are in contravention of any of the same;

10.1.7 ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and

10.1.8 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's data centres, 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.

## 11. CHARGES AND PAYMENT

- 11.1 The Customer shall pay the Subscription Fees to the Supplier for the User Subscriptions in accordance with this clause 11 and the Order Form.
- 11.2 The Customer shall on the Effective Date provide to the Supplier approved purchase order information acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details.
- 11.3 All amounts and fees stated or referred to in these terms and conditions and the Order Form:
- 11.3.1 shall be payable in pounds sterling or other currency as confirmed in the Order Form;
- 11.3.2 are, subject to clause 15.4.2, non-cancellable and non-refundable;
- 11.3.3 are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.
- 11.4 The Supplier shall be entitled to increase the Subscription Fees at the start of each Renewal Period upon 90 days' prior notice to the Customer and the Subscription Fees set out in the Order Form shall be deemed to have been amended accordingly.<sup>10</sup>

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**12. PROPRIETARY RIGHTS**

- 12.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services and the Software. Except as expressly stated herein, these terms and conditions does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Software.

**13. CONFIDENTIALITY**

- 13.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under these terms and conditions. A party's Confidential Information shall not be deemed to include information that:

13.1.1 is or becomes publicly known other than through any act or omission of the receiving party;

13.1.2 was in the other party's lawful possession before the disclosure;

13.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

13.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence; or

13.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

- 13.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these terms and

conditions.

13.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of these terms and conditions.

13.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

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13.5 No party shall make, or permit any person to make, any public announcement concerning these terms and conditions without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

13.6 The above provisions of this clause 13 shall survive termination of these terms and conditions, however arising.

**14. INDEMNITY**

14.1 The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or the Software.

14.2 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Services or Software infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

14.2.1 the Supplier is given prompt notice of any such claim;

14.2.2 the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and

14.2.3 the Supplier is given sole authority to defend or settle the claim.

14.3 In the defence or settlement of any claim, the Supplier may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate these terms and conditions on two Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

14.4 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

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14.4.1 a modification of the Services or Software by anyone other than the Supplier; or

14.4.2 the Customer's use of the Services or Software in a manner contrary to the instructions given to the Customer by the Supplier; or

14.4.3 the Customer's use of the Services or Software after notice of the alleged or actual infringement from the Supplier or any appropriate authority; or

14.4.4 the Customer's use of the Services or Software in a manner which breaches or contravenes local laws or regulations.

14.5 The foregoing and clause 15.4.2 state the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

## 15. LIMITATION OF LIABILITY

15.1 This clause 15 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:

15.1.1 arising under or in connection with these terms and conditions;

15.1.2 in respect of any use made by the Customer of the Services and Software or any part of them; and

15.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with these terms and conditions.

15.2 Except as expressly and specifically provided in these terms and conditions:

15.2.1 the Customer assumes sole responsibility for results obtained from the use of the Services and the Software by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information or instructions provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction;

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15.2.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these terms and conditions; and

15.2.3 the Services and the Software are provided to the Customer on an "as is" basis.

15.3 Nothing in these terms and conditions excludes the liability of the Supplier: 15.3.1 for

death or personal injury caused by the Supplier's negligence; or 15.3.2 for fraud or

fraudulent misrepresentation.

15.4 Subject to clause 15.2 and clause 15.3:

15.4.1 the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these terms and conditions; and

15.4.2 the Supplier's total aggregate liability in contract (including in respect of the indemnity at clause 14.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these terms and conditions shall be limited to the total Subscription Fees paid by the Customer during the 12 months immediately preceding the date on which the claim arose.

## 16. TERM AND TERMINATION

16.1 These terms and conditions shall, unless otherwise terminated as provided in this clause 16, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, these terms and conditions shall be automatically renewed for successive periods of time equal to the Initial Subscription Term (each a "Renewal Period"), unless:

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16.1.1 either party notifies the other party of termination, in writing, before the end of the Cancellation Period relating to the Initial Subscription Term or any Renewal Period, in which case these terms and conditions shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or

16.1.2 otherwise terminated in accordance with the provisions of these terms and conditions;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the "Subscription Term".

16.2 Without affecting any other right or remedy available to it, either party may terminate these terms and conditions with immediate effect by giving written notice to the other party if:

16.2.1 the other party fails to pay any amount due under these terms and conditions on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;

16.2.2 the other party commits a material breach of any other term of these terms and conditions which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of five Business Days after being notified in writing to do so;

16.2.3 the other party repeatedly breaches any of the terms of these terms and conditions 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 these terms and conditions;

16.2.4 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 is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 ;

16.2.5 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 other than for the sole purpose of a scheme for a solvent amalgamation of that other

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party with one or more other companies or the solvent reconstruction of that other party;

16.2.6 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 other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

16.2.7 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;

16.2.8 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;

16.2.9 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;

16.2.10 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 14 days;

16.2.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.2.4 to clause 16.2.10 (inclusive);

16.2.12 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

16.2.13 there is a change of control of the Customer (in which circumstances only the Supplier may terminate these terms and conditions in accordance with this clause).

16.3 On termination of these terms and conditions for any reason:

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16.3.1 all licences granted under these terms and conditions shall immediately terminate;

16.3.2 each party shall return and make no further use of any equipment, property, and other items (and all copies of them) belonging to the other party;

16.3.3 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of these terms and conditions which existed at or before the date of termination shall not be affected or prejudiced.

## 17. FORCE MAJEURE

The Supplier shall have no liability to the Customer under these terms and conditions if it is prevented from or delayed in performing its obligations under these terms and conditions, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

## 18. GENERAL

18.1 No variation of these terms and conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18.2 No failure or delay by a party to exercise any right or remedy provided under these terms and conditions 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.

18.3 Except as expressly provided in these terms and conditions, the rights and remedies provided under these terms and conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

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18.4 If any provision (or part of a provision) of these terms and conditions is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

18.5 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

- 18.6 These terms and conditions, and any documents referred to in them, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 18.7 Each of the parties acknowledges and agrees that in entering into these terms and conditions it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these terms and conditions or not) relating to the subject matter of these terms and conditions, other than as expressly set out in these terms and conditions.
- 18.8 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these terms and conditions.
- 18.9 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these terms and conditions.
- 18.10 Nothing in these terms and conditions is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 18.11 These terms and conditions do not confer any rights on any person or party (other than the parties to these terms and conditions and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

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**AI Recruitment Technologies Limited**

Stanley Grange, Ormskirk Rd, Knowsley, Prescot, Merseyside, L34 4AR

- 18.12 Any notice required to be given under these terms and conditions shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post or email to the other party at its address set out in the Order Form, or such other address as may have been notified by that party for such purposes.
- 18.13 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).
- 18.14 The Contract 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.
- 18.15 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 the Contract or its



subject matter or formation (including non-contractual disputes or claims).