



TUPE

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These TUPE provisions (the '**TUPE Schedule**') form part of the Agreement between the Supplier and the Customer. All capitalised terms shall have the meaning set out in the Agreement, except where stated otherwise in this TUPE Schedule.

1. Entry Transferring Employees

The Customer warrants that on the Commencement Date no employees of the Customer or of its Affiliates or of their respective suppliers will transfer to the Supplier pursuant to the Transfer Regulations or otherwise. Without prejudice to the foregoing and subject to paragraph 3, the Customer shall be liable for and shall indemnify the Supplier in respect of any Entry Employment Liabilities that are incurred by the Supplier to the extent they arise out of:

- (a) any act, fault or omission of the Customer in respect of any Entry Transferring Employee arising before or after the Transfer Date;
- (b) any failure by the Customer to comply with its obligations under regulation 13 (ie. the obligations to inform and consult) of the Transfer Regulations except where such failure arises from the failure of the Supplier to comply with its obligations under Regulation 13(4) of the Transfer Regulations; and
- (c) any dismissals of any of the Entry Transferring Employees or any person who claims to be an Entry Transferring Employee during the period of three (3) months from the Transfer Date.

2. Exit Transferring Employees

The Supplier warrants that on the expiry or termination of this Agreement for any reason, no employees of the Supplier will transfer to the Customer or a Replacement Supplier pursuant to the Transfer Regulations or otherwise. Without prejudice to the foregoing and subject to paragraph 3, the Supplier shall be liable for and shall indemnify the Customer or, where appropriate, a Replacement Supplier, in respect of any Exit Employment Liabilities that are incurred by the Customer to the extent they arise out of:

- (a) any act, fault or omission of the Supplier in respect of any Exit Transferring Employee arising before or after the Transfer Date;
- (b) any failure by the Supplier to comply with its obligations under regulation 13 (i.e. the obligations to inform and consult) of the Transfer Regulations except where such a failure arises from the failure of the Customer or, where appropriate, a Replacement Supplier, to comply with their obligations under Regulation 13(4) of the Transfer Regulations; and
- (c) any dismissals of any of the Exit Transferring Employees or any person who claims to be an Exit Transferring Employee during the period of three (3) months from the Transfer Date.

3. Under paragraphs 1 and 2, the indemnified party shall:

- (a) promptly notify the indemnifying party of any claim from the Entry or Exit Transferring Employees as applicable;
- (b) not make any admissions in respect of such claims;
- (c) permit the indemnifying party to have sole control over any legal/tribunal proceedings and/or settlement in relation to such claim;
- (d) cooperate with the indemnifying party in the defence and/or settlement of such claim; and
- (e) give the indemnifying party the opportunity to offer employment to the Entry or Exit Transferring Employees as applicable.

4. Any Replacement Supplier shall be entitled to enforce the terms of this Schedule in relation to any benefit conferred on it.

5. Definitions

- (a) Entry Employment Liabilities means (a) any Entry Redundancy Costs paid by the Supplier to any Entry Transferring Employees, (b) losses, costs, damages and/or claims that are awarded by an employment tribunal or court to the Entry Transferring Employees, or (c) any sums payable pursuant to a settlement agreement to Entry Transferring Employees that are paid by the Supplier, and/or (d) salary costs paid by the Supplier for the Entry Transferring Employees for the period from the Transfer Date to the earlier of (i) 30 days after the Transfer Date or (ii) dismissal of the Entry Transferring Employees, provided such costs have not been included in (a) and (b) of this definition, and the reasonable out-of-pocket expenses (including any reasonable external legal and other reasonable expenses) incurred by the Supplier arising out of or in connection with the employment or termination of employment of any Entry Transferring Employees.



- (b) Exit Employment Liabilities means (a) any Exit Redundancy Costs paid by the Customer or a Replacement Supplier to any Exit Transferring Employees, (b) losses, costs, damages and/or claims that are awarded by an employment tribunal or court to the Exit Transferring Employees, or (c) any sums payable pursuant to a settlement agreement to Exit Transferring Employees that are paid by the Customer or a Replacement Supplier, and/or (d) salary costs paid by the Customer or a Replacement Supplier for the Exit Transferring Employees for the period from the Transfer Date to the earlier of (i) 30 days after the Transfer Date or (ii) dismissal of the Exit Transferring Employees, provided such costs have not been included in (a) and (b) of this definition, and the reasonable out-of-pocket expenses (including any reasonable external legal and other reasonable expenses) incurred by the Customer or a Replacement Supplier arising out of or in connection with the employment or termination of employment of any Exit Transferring Employees.
- (c) Entry Redundancy Costs means, in respect of the Entry Transferring Employees, payment in respect of or in lieu of statutory or contractual notice entitlement and any statutory redundancy payment and any payment in lieu of accrued holiday entitlement and additional payments which are contractually due on dismissal by reason of redundancy in accordance with the Customer's or its Affiliates' or their respective suppliers' redundancy policy or any occupational pension scheme in place immediately before the Commencement Date.
- (d) Exit Redundancy Costs means, in respect of the Exit Transferring Employees, payment in respect of or in lieu of statutory or contractual notice entitlement and any statutory redundancy payment and any payment in lieu of accrued holiday entitlement and additional payments which are contractually due on dismissal by reason of redundancy in accordance with the Supplier's redundancy policy or any occupational pension scheme in place immediately before the termination or expiry of this Agreement.
- (e) Entry Transferring Employees means those employees or former employees of the Customer or of its Affiliates or of their respective suppliers who are wholly or mainly engaged in the activity which is replaced in whole or in part by the Services and who transfer their employment to the Supplier.
- (f) Exit Transferring Employees means those employees or former employees of the Supplier who are wholly or mainly engaged in the provision of the Services provided under the terms of this Agreement and who transfer their employment to the Customer or, where appropriate, to a Replacement Supplier.
- (g) Transfer Date means (i) in respect of the Entry Transferring Employees, the date when the Supplier first started providing the Services and (ii) in respect of the Exit Transferring Employees, the date when the provision of the Services (in whole or in part) reverts to the Customer or transfer to a Replacement Supplier.
- (h) Transfer Regulations means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time.