### Terms of Use for the Provision and Use of AI Services

These Terms of Use ("Terms") govern your access to and use of the artificial intelligence services, including i-Coach AI and related tools ("AI Services"), provided by Imparta Ltd and Imparta Inc (together "Imparta"). By accessing or using the AI Services, you agree to be bound by these Terms. If you do not agree to these Terms, do not use the AI Services.

These Terms apply to all clients and users of the AI Services. They supersede any prior versions of the AI Services Terms of Use, including previously signed agreements, unless otherwise agreed in writing by Imparta.

Each party is referred to herein as a “party” and both parties are referred to herein as “the parties”.

Background

1. The parties have entered into an agreement for Imparta to provide various services to the Client (the **“Main Agreement”**).
2. The Client wishes to use Imparta’s AI Services and so the parties have entered into this supplemental agreement whereby Imparta agrees that it will provide the AI Services to the Client as set out in the SOW and in accordance with and subject to the terms and conditions of this Agreement and the parties agree that this Agreement is legally binding upon them.
3. This Agreement sets out the terms and conditions upon which the AI Services will be used by the Client. The Client agrees that it will use the AI Services in accordance with and subject to the terms and conditions of the Main Agreement and this Agreement. By signing this Agreement or by otherwise accessing or using the AI Services the Client acknowledges and agrees that it has read, understood, and agreed to be bound by the terms and conditions of this Agreement.

Definitions

**“AI Services”** all and/or any artificial intelligence services, products and/or tools (and/or any part thereof) provided to the Client by Imparta which shall include without limitation i-coach AI, any agentic artificial intelligence and/or machine learning model or tool, including large language model generative tools and other software tools.

**“Authorised Users”** are any employee, agent or independent contractor of the Client authorised by the Client to access the Online Services and/or AI Services, and in respect of whom the Client has paid Imparta the relevant user access fees.AI Services.

**"Azure Secure Area"** means a logically isolated and access-controlled environment hosted within Imparta’s dedicated Microsoft Azure Virtual Network (“VNet”), configured to meet agreed security, privacy, and compliance requirements. The Azure Secure Area may contain multiple services, applications, or autonomous software agents (collectively, “Processing Components”) that carry out data processing, text to speech, speech to text, storage, analysis, or other computational tasks on behalf of the Customer.

All data processing activities performed under this Agreement will take place entirely within the Azure Secure Area, with no transmission of Customer Data outside this environment except where explicitly authorised in contract or in writing by the Customer or required by applicable law.

For clarity the Azure Secure Area includes any subnets, private endpoints, and integrated Azure resources directly connected to the VNet under Imparta’s administrative control. Processing Components within the Azure Secure Area may utilise different Large Language Models (LLMs), AI agents, or other cloud-based services, provided such services are deployed or connected within the VNet and subject to the same security controls. Changes to the specific configuration or composition of Processing Components within the Azure Secure Area shall not affect the scope or applicability of this definition, provided they remain within the VNet and under the agreed security framework. If Heygen Avatars are deployed (see Clause 11) processing of outputs will take place outside the Azure Secure Area.

**“Chat History”** is the record of previous messages exchanged between an Authorised User and the LLMs, it includes both Inputs and Outputs.

**“Client LLM**” any LLM (other than an Imparta LLM) which the Client requests Imparta to employ within i-Coach AI (including the Client’s own LLM).

**“Client Platform”** the Client’s internal learning management system (LMS), communications platform (for example, Microsoft Teams) customer relationship management (CRM) (for example Salesforce) or other internal platform or system that Imparta has approved in relation to its use of Imparta’s AI Services.

**“Client Data”** is any data that is disclosed by or on behalf of the Client (including that relating to Authorised Users and that disclosed by any Authorised Users and any participants in the Services) to Imparta (or its subcontractors) pursuant to this Agreement.

**“Confidential Information”** is all and/or any information or data (including any personal data) that is proprietary or confidential to the Client or any third parties (whether or not labelled as such).

**“i-Coach AI”** is Imparta’s proprietary computer application, which Imparta offers for Authorised Users to access, use, and interact with, via the i-Coach Learning Platform, in a web browser, or embedded in other client platforms. It uses certain AI agents and tools to simulate and process human conversation to enable Authorised Users develop and gain insights, knowledge and data into their sales, leadership, and customer success skills and to receive coaching and other forms of task support.

**“i-Coach Learning Platform”** the i-Coach learning platform delivered via [www.i-coach.com](http://www.i-coach.com) (or such other web address notified by Imparta to the Client from time to time).

**“Imparta LLMs”** the third-party LLMs which (unless requested otherwise by the Client pursuant to clause 1.8) Imparta employs within i-Coach AI and within the Azure Secure Area from time to time.

**“Inputs”** any inputs made by an Authorised User or by the Client into i-Coach AI.

**“Intellectual Property Rights”** all and/or any patents, rights to inventions, copyright and related rights, trademarks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**“Memory or Memories”** Memory is a structured, persistent data store that allows the LLMs to remember facts, preferences, or context about a user or ongoing conversation beyond a single session.

**“Online Services”** all and/or any eLearning, videos, simulations, quizzes, surveys, tools, assessments and other learning materials (including any online Workshop and i-Coach AI) (and/or any part thereof) provided by or on behalf of Imparta through the i-Coach Learning Platform, and all associated documents and materials provided by or on behalf of Imparta.

**“Outputs”** any outputs generated by i-Coach AI in response to or in conversation with any Input.

**“SOW”** means the statement of work that is attached to this Agreement in Schedule 1 and which describes the commercial terms relating to this Agreement including but not limited to the scope of work, price and payment terms and timelines for provision of goods and/or services under and In this Agreement, expressions defined in the Main Agreement and used in this Agreement have the meaning set out in the Main Agreement unless these expressions are specifically given a different meaning in this Agreement. If these expressions are specifically given a different meaning in this Agreement then the meaning given in this Agreement shall apply in respect of the provision of the AI Services by Imparta pursuant to this Agreement.

The parties hereby agree that the terms and conditions of the Main Agreement will continue in full force and effect and will apply to this Agreement. If there is any conflict or inconsistency between the terms and conditions of the Main Agreement and the terms and conditions of this Agreement in relation to the provision of AI Services by Imparta to the Client then the terms and conditions of this Agreement will prevail to the extent that there is any such conflict or inconsistency.

The commercial terms in the SOW shall apply to the provision of AI Services by Imparta to the Client pursuant to and in accordance with and subject to the terms and conditions of this Agreement.

1. The Client acknowledges and agrees that:
   1. Imparta offers Authorised Users the ability to access, use and interact with the Online Services, but use of the Online Services is not contingent upon the use of i-Coach AI;
   2. any use by an Authorised User of AI Services is deemed to have been authorised by the Client and will be the responsibility of the Client and is subject to the terms of this Agreement;
   3. i-Coach AI has been trained on, and prioritises content from, Imparta’s own sales, coaching, customer experience and leadership programmes
   4. the agentic and prompt engineering within the AI Services reflects Imparta’s sales, coaching, customer experience and leadership programs. This content is also injected through Retrieval-Augmented Generation (RAG) to inform and guide the conversation with the user;
   5. the AI Services are designed to work with multiple LLMs, including Microsoft’s Azure OpenAI and OpenAI. Imparta shall use the Imparta LLM as the default LLM for i-Coach AI, unless the Client expressly and specifically requests otherwise in writing. As at the Effective Date, the Imparta LLM is Microsoft’s Azure Open AI but Imparta retains the right at any time and without notice to the Client, to engage an alternative Imparta LLM;
   6. while Imparta takes reasonable steps to ensure the performance of and availability of these LLM services, Imparta does not control, and are not responsible for, the operation, content, performance, accuracy, reliability, availability, or output of the underlying LLM. By using the AI Services the Client acknowledges and agrees that such use is at their own risk, and that Imparta Ltd disclaims any and all liability arising from or related to the performance of third-party AI services;
   7. the Client acknowledges and agrees that the provision of the AI Services may involve the use of third-party technologies, including but not limited to large language models (LLMs), text-to-voice systems, and text-to-avatar rendering platforms. Any fees incurred by Imparta in relation to the use of such technologies, including but not limited to usage-based charges or API fees, may be charged to the Client in addition to the fees for the AI Services. Imparta shall itemise these charges in the relevant SOW;
   8. Imparta shall, if requested by the Client in writing and at the Client’s additional cost and expense , enable the AI Services to operate through a Client LLM, provided that the Client acknowledges and agrees that Imparta has no prior knowledge or experience of the inter-operability of the AI Services with any such Client LLM and (without limiting clause 5) makes and gives no warranty, representation or any other assurance of whatever nature as to the suitability, operation or integration of the AI Services with any such Client LLM;
   9. any Inputs and Outputs, Memories and Chat Histories:
      1. will not be made available by Imparta to third parties (other than Authorised Users and the Imparta LLM (or applicable Client LLM or Client Platform) for the processing and storage purposes referred to in clause 3), including other clients;
      2. are not used to improve open AI models automatically; and
      3. do not interact with any services operated by third parties outside of Imparta’s secured cloud environment and the Imparta LLM (or applicable Client LLM), except as described in clause 3.
2. The Client hereby acknowledges and agrees that Imparta shall and is hereby fully and irrevocably authorised by the Client to process and store all Inputs and Outputs, Memories and Chat Histories on or via the AI Services and the Imparta LLMs and other applications in the Azure Secure Area (or applicable Client LLM or Client Platform) at all times and shall be able to retrieve such Inputs and Outputs until the latest of:
   1. the date on which the Authorised User deletes the Input and/or Output (whether individually or in bulk);
   2. the date which is 360 days from the date on which the Input or Output is generated; and
   3. the date on which the Authorised User ceases to have access to the AI Services,

but will not otherwise share or make available such Input and/or Output with any third party (except for the Authorised User and other applications within the Azure Secure Area including Imparta LLMs (or applicable Client LLM) or Client Platform in each case for the retrieval, storage and processing purposes referred to in this clause 2) including to other clients. All stored data is encrypted on Microsoft Azure. All data at rest is encrypted using AES 256-bit encryption. Transparent Data Encryption (TDE) is enabled on the Azure SQL database and data in transit is encrypted using TLS 1.2 or higher. In the event that Imparta becomes aware of any unauthorised access to, or disclosure, alteration or destruction of, Client Data within the Azure Secure Area or otherwise processed under this Agreement (“Security Incident”), Imparta shall notify the Client without undue delay and in any event within seventy-two (72) hours of confirmation of such Security Incident. Imparta shall provide the Client with information regarding the nature of the Security Incident, the data affected, and the remedial actions taken or proposed to be taken, and shall cooperate in good faith with the Client to investigate and mitigate the Security Incident

1. The Client hereby expressly acknowledges and agrees that:
   1. Imparta does not claim ownership of Inputs, Memories or Chat Histories or the associated Outputs except for the rights described in Clause 3.5;
   2. by using the AI Services and enabling Authorised Users to submit Inputs, the Client is granting Imparta permission on behalf of Authorised Users to use the Inputs and associated Outputs, Memories and Chat Histories for the purpose of providing AI Services to the Client and to the Authorised Users; and
   3. the accuracy, completeness, and integrity of any data provided by Client (**“Client Data”**) is solely the responsibility of Client. Imparta shall have no liability or responsibility for any errors, inaccuracies, or omissions in Client Data, nor for any consequences resulting from the use of such data in or by the AI Services; and
   4. the AI Services are able to store individual Memories and Chat Histories for the purpose of providing personalised, coaching and support to Authorised Users. Memories and Chat Histories are specific to the Authorised User and are not shared by Imparta with third parties. Memories and Chat Histories can be deleted by the Authorised User as required but copies of those Memories and Chat Histories may be stored or retained by Imparta for audit, training, regulatory and/or backup purposes; and
   5. the use of the AI Services does not in any circumstances grant to the Client or any Authorised User any ownership and/or other rights in any underlying technologies relating to the AI Services, ownership of any rights, title and/or interest (including any Intellectual Property Rights) in or relating to the AI Services and/or ownership of other data that comprised within or supports or is produced by the AI Services. All and/or any rights of whatever nature and howsoever arising (including any Intellectual Property Rights) that are not expressly granted by Imparta to the Client in this Agreement are hereby expressly reserved by Imparta. Imparta shall not be under any obligation of whatever nature or howsoever arising to defend or enforce any Intellectual Property Rights relating to or connected with the AI Services and whether or not Imparta defends or enforces any Intellectual Property Rights relating to or connected with the AI Services shall all be at Imparta’s sole discretion.
   6. Imparta may impose reasonable usage limits on the AI Services, which may apply individually to each Authorised User and/or collectively across the Client’s user base. These limits are intended to ensure fair and equitable usage of the AI Services and to prevent excessive or abusive use. To prevent disproportionate consumption of usage allocations by individual Authorised Users ("super-users"), Imparta may enforce pre-agreed individual caps, irrespective of the overall organisational usage limits. If the Client’s usage exceeds the limits agreed in the applicable SOW, the Client may elect to either pay for additional usage charges reflecting overages, which will be invoiced in accordance with the pricing specified in the relevant SOW, or cease further usage of the AI Services until the start of the next billing period or until additional usage allocation is purchased. If an individual's usage cap is exceeded, then the Client may pay for additional usage charges or cease the user’s access until the next billing period or until additional usage allocation is purchased.
   7. Imparta reserves the right to update usage limits or associated charges from time to time in response to evolving business, technical or third-party cost considerations. The Client will be notified of any such changes in writing with reasonable advance notice and will have the opportunity to accept or decline continued usage under the amended terms.
2. The Client hereby expressly acknowledges and agrees that:
   1. as between Imparta and the Client, the Client is entirely responsible and liable at all times for the content of the Client’s and/or an Authorised User’s Inputs;
   2. an Authorised User or the Client may if they so wish include Confidential Information in an Input (whether proprietary to the Client or otherwise) but on condition that Imparta shall have no responsibility or liability to the Client in respect of such Confidential Information; and
   3. shall use its reasonable endeavours to procure that Authorised Users shall not include any Personal Data in their Inputs;
   4. Imparta and/or its licensors own all right, title and interest (including all Intellectual Property Rights) in and to the AI Services and all parts thereof.
3. Without limiting clause 19, Imparta provides AI Services (including all content, applications, functions, materials and information on or resulting from it) “as is” and without any warranties of any kind, express or implied. Imparta makes no warranty as to the operation of the AI Services or the use, validity, accuracy or reliability of, or the results of the use of the materials available on it. Without limiting the foregoing, the Client hereby expressly acknowledges and agrees that any AI Services (including i-Coach AI) has particular limitations and can sometimes produce erroneous results or outcomes, including:
   1. accuracy: AI algorithms are designed to analyse data and make predictions or recommendations, but they may not always be accurate or error-free. The Client shall, and shall ensure that Authorised Users shall, exercise critical thinking and judgment in the use of and reliance on the AI Services and information generated by it, and not solely rely on any such information without verifying it through other sources;
   2. bias: AI systems may inadvertently reflect biases in the training data. While Imparta has used its reasonable endeavours to mitigate bias, the Client acknowledges and agrees that Outputs may not always be completely impartial; and
   3. unforeseen circumstances: AI Services operate based on historical data and patterns and may therefore struggle to predict outcomes in entirely new or unforeseen situations
   4. translation: LLM translation tools may not be perfect and may contain inaccuracies.

and the Client assumes all liability for the use of the AI Services to achieve its intended results and for any decisions or advice made or given as a result of its use or the use of any material retrieved from it. The outputs generated by the AI Services are intended to support but not replace human judgment.

1. Without limiting clause 4, the Client shall and shall procure that Authorised Users shall, at all times use the AI Services respectfully, ethically and in compliance with this Agreement and all applicable laws, and will not at any time use or interact with the AI Services in a way or manner which:
   1. infringes or violates the rights, title or interests (including any Intellectual Property Rights) or other rights (including in Confidential Information) of any person or third party;
   2. breaches or violates any law or regulation;
   3. breaches or violates the security of any computer or network, or crawls, scrapes or spiders any page, data or portion relating to the content of the AI Services, or copies or stores any significant portion of such content or shares, posts or distributes it anywhere else;
   4. is defamatory, harmful, fraudulent, deceptive, threatening, harassing, obscene or otherwise objectionable, or encourages or manipulates or uses the AI Services to produce obscene, offensive, controversial, or inappropriate responses or conversations (including deliberately framing questions or Inputs in a manner intended to elicit such responses);
   5. is not specifically and expressly authorised by Imparta under this Agreement; and/or
   6. results in or gives rise to any liability (of whatever nature and howsoever arising) for Imparta or results in or gives rise to any third party claims (of whatever nature and howsoever arising) against Imparta.
2. The AI Services, in any form, including online assessments, should not be used by the Client and/or any of its Authorised Users in any way that may or does breach any laws including, by way of example only, to make decisions relating to employee careers, such as hiring or releasing employees or decisions relating to career advancement, and Imparta has no liability in the event that the Client chooses to use the AI Services in a way that may or does breach any laws.
3. The Client shall not at any time:
   1. except to the extent expressly permitted under this Agreement, attempt to modify, duplicate, or distribute all or any portion of the AI Services and/or user documentation (as applicable) in any form or media or by any means; or
   2. attempt, or assist a third party to attempt, to reverse compile, disassemble, or reverse engineer all or any part of the AI Services; or
   3. access all or any part of the AI Services in order to build a product or service which competes with the AI Services; or
   4. without Imparta’s written agreement, use the AI Services to provide services to third parties; or
   5. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the AI Services available to any third party except the Authorised Users; or
   6. attempt to obtain or assist third parties in obtaining access to or using the AI Services other than as expressly provided and permitted under the terms and conditions of this Agreement; or use.
   7. the AI Services to create, transmit, or distribute content that is unlawful, harmful, defamatory, infringing, harassing, discriminatory, or that may be used for the purposes of impersonation, deepfake creation, or other deceptive or high-risk activities, or in any way that may cause harm to individuals or infringe the rights of third parties.
4. The Client acknowledges that the AI Services may examine emails or call transcripts for the purpose of inter alia, analysis, coaching, feedback, skills analysis, roleplay simulations, and learning recommendations. These emails and transcripts may include personal data, specifically the names of individuals participating in the call. The Client hereby agrees and acknowledges that this data may be recorded and displayed in the Client Platform’s transcription and will be shared with the Client Platform’s provider. If the Client decides to deploy the AI Services in relation to or in connection with any Client Platform at any time then the Client hereby expressly agrees and acknowledges that it does so entirely at its own risk and that Imparta will have no responsibility or liability at any time (of whatever nature and howsoever arising) for: (i) the Client Platform (including its features, performance, standards, functionality, outputs and results and/or security); and/or (ii) how (if at all) the AI Services might integrate into or operate within or alongside any Client Platform or combine with any Client Platform.
5. Imparta may monitor, track, user behaviours, and the topic and themes of AI conversations and other interactions in relation to the AI Services for the purposes of improving the AI user experience and providing such data to Clients, for audit and development of the AI Services and for regulatory purposes. Imparta may use data collected in skills assessments that have been anonymised (and cannot be reversed or traced back to the Client or User) to develop models and benchmarks to improve assessment services and the quality of benchmarks and insights provided to clients
6. The Client hereby acknowledges that Imparta utilises a third-party service, Heygen, a USA-based company, to provide avatars and related functionalities as part of the AI Services to or for the Client. If the Client chooses to deploy this optional service which is provided by Heygen then the Client hereby gives consent to Imparta to (i) process the Client’s and Authorised Users’ information and personal data that is provided by the Client and Authorised Users to Imparta; and/or (ii) generated from personal data provided by the Client and Authorised Users, including but not limited to allowing and authorising Heygen to disclose and process information and personal data provided by the Client and Authorised Users as Outputs for the AI as a subcontractor and subprocessor including in relation to fulfilling the obligations under this Agreement. Imparta shall not at any time be held liable for any errors, interruptions, or failures in any third-party services, including but not limited to data loss, technical errors, or security breaches caused by Heygen and/or any third parties arising out of the activities of Heyden and/or any third parties. The Client hereby agrees to defend and indemnify and hold Imparta harmless from any claims, damages, or losses arising from the use of any goods and/or services provided by Heygen and/or any third parties.
7. The AI Services incorporate agentic artificial intelligence (“agentic AI”), which may autonomously retrieve, analyse, and combine information from a range of data sources to enhance the coaching experience. These data sources may include:
   1. Internal data provided by or accessible to the Client (e.g., Chat Histories, product and client information, learning records, performance data, user inputs, or integrations with Client Platforms, including but not limited to CRM and LXP systems);
   2. Publicly available online sources, such as websites, articles, and databases;
   3. Third-party platforms, such as LinkedIn or similar professional networks, subject to those platforms’ access permissions and terms of service.
   4. By using the AI Services, the Client acknowledges and agrees to the following:
      1. Autonomous Data Use: the AI Services may access and combine information from both Client-and Authorised User provided information, data and systems and external sources. While this may enhance the relevance and value of the AI services Imparta does not control the accuracy, availability, or reliability of third-party or external content and is not responsible for any omissions, inaccuracies, or errors arising from such sources.
      2. Third-Party Terms: where data is accessed from external platforms, such access is subject to the terms, privacy policies, and data usage restrictions of those third parties. The Client acknowledges and agrees that Imparta does not control those platforms and is not at any time liable for any terms, restrictions, changes, or loss of access related to third-party systems.
8. The Client and Imparta acknowledge and agree that a separate Data Processing Agreement (**“DPA”**) has been or will be entered into between them, which governs the processing of personal data by Imparta on behalf of the Client in accordance with applicable data protection laws, including the UK GDPR, EU GDPR, and relevant U.S. data privacy legislation. The AI Services that are provided may process personal data provided or made accessible by the Client, including through integrations with Client Platforms, solely in accordance with the terms and purposes defined in the existing DPA. In the event of any conflict between the terms and conditions in this Agreement and the DPA with respect to data protection and processing, the terms of the DPA shall take precedence. If, during the Term of this Agreement, there is any change in applicable law, regulation, or regulatory guidance (including without limitation any applicable data protection, privacy, or artificial intelligence regulation) that, in the reasonable opinion of Imparta, requires a change to the AI Services, related processes, or this Agreement, the parties shall work together in good faith to implement such changes as are reasonably necessary to ensure ongoing compliance. Imparta shall be entitled to make such changes to the AI Services or its operating procedures as it reasonably considers necessary to comply with applicable law.
9. All provision of and/or access to AI services will immediately end upon the earlier of the expiry or termination (for whatever reason) of this Agreement and/or the Main Agreement. On expiry or termination of this Agreement or the Main Agreement for any reason, the Client shall immediately cease use of the AI Services and remove them from the Client Platform if relevant and as required by Imparta. The Client shall confirm its compliance with this clause by delivering to Imparta a declaration of compliance signed by a senior manager of the Client on the Client’s behalf if required by Imparta.

Contacts and updates. The client acknowledges and agrees that the AI Services shall be governed by the Terms of Use available at Imparta’s website at <https://imparta.com/trust-centre/>. AI is a fast-evolving field, and product updates and new features may require updates in the future. Imparta may modify the Terms of Use from time to time. Material changes will be communicated to the Client via email or through the AI Services at least 30 days prior to the date upon which the relevant material change becomes effective. Continued use by the Client of the AI Service after the date upon which the relevant material change becomes effective constitutes the Client’s full, unconditional and irrevocable consent to and acceptance of the updated terms.

The terms of clause in the Main Agreement shall apply to this Agreement as if set out in full in this Agreement where the context allows and as if references to the Main Agreement in those clauses were to this Agreement.

1. This Agreement and the Main Agreement and all and/or any SOWs relating to this Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings or course of trade or dealing between them, whether written or oral, relating to the subject matter of this Agreement.
2. Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) or any ordinary course of trade or dealing or understanding (whether in writing or not) of any person (whether a party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement. Nothing in this Agreement shall exclude or limit any liability of a party for fraud or any fraudulent misrepresentation.
3. Nothing in this Agreement excludes the liability of Imparta for death or personal injury caused by Imparta’s negligence or fraud or fraudulent misrepresentation or any other liability to the extent to which that liability cannot be excluded or limited under law.
4. Subject to clause 19:
   1. Imparta shall not be liable under any circumstances to the Client, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits (whether direct or indirect), loss of sales or business, loss of agreements or contracts, loss of anticipated savings, wasted costs or expenditure, third party claims (including third party claims against the Client and/or its affiliates and/or Authorised Users), depletion of goodwill and/or similar losses or loss of use or corruption of software, data or information and/ or pure economic loss and/or for any special, indirect or consequential loss, costs, damages, charges or expenses suffered or incurred by the other party, however arising under this SOW; and
   2. Imparta’s total maximum aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with or in relation to this Agreement, including the performance or contemplated performance of this Agreement, shall be limited to the total fees paid or payable by the Client to Imparta in this Agreement during the first 12 (twelve) months of this Agreement.
5. The parties hereby agree that the terms and conditions of this Agreement are fair and reasonable, that they have had the opportunity to negotiate the terms and conditions of this Agreement and obtain independent advice (including legal advice) on these terms and conditions and that they have entered into this Agreement in their own respective commercial interests.
6. Unless otherwise agreed in the Main Agreement this Agreement and all disputes or claims (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
7. Unless otherwise agreed in the Main Agreement each party hereby irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

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