

GENERAL CONDITIONS

1. INTERPRETATION AND DEFINITIONS

1.1. In the Agreement, the following definitions apply

“Business Day” A day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

“Business Hours” 08:00 – 18:00 hrs on any Business Day;

“Change Control” a request for a change by either the Customer or Curatrix Technologies to amend, remove or add to the relevant Service Agreement;

“Charges” the charges set out in clause 9 or as otherwise specified in the relevant Agreement payable by a Customer for the supply of Equipment and/or Services by [Company];

“Confidential Information” any information, (whether verbal or in writing or on magnetic or any other media) relating to the other party’s marketing or business development, business operations, business affairs, products, processes, technology, Intellectual Property Rights, Inventions, trade secrets, suppliers and customers associations, transactions, financial arrangements or in relation to any activities of either party or any person, firm, customer or company with whom either party has any dealings and which is made available to either party under or in connection with the Agreement which is marked as such or which should by its nature be reasonably understood to be confidential by the other party.

“Contract Year” the period of 12 months commencing on the Commencement Date, and each successive period of 12 months during the continuance in force of the Agreement, or, in respect of the final Contract Year, the period from the end of the penultimate Contract Year to the date of termination of the Agreement, if shorter;

“Customer Obligations” the specific Customer obligations set out in the relevant Service Conditions;

“Customer Data” means any data or software provided by the Customer in connection with the Services belonging to the Customer or the Customer’s clients or otherwise made available to Curatrix Technologies for use in undertaking the Services;

“Customer Equipment” the Customer’s owned IT hardware and software utilised as part of the Services;

“Customer Materials” all materials, equipment and tools, drawings, specifications and data supplied by a Customer to Curatrix Technologies including any such materials, equipment and tools, drawings, specifications and data that relates to the clients of the Customer;

“Customer Premises” any premises occupied by the Customer at which the Customer shall receive the Services;

“Deliverables” all documents, products, materials, and/or facilities developed and/or procured by Curatrix Technologies or its agents, contractors and employees as part of or in relation to the Services in any form, including (without limitation) equipment, computer programs and software, networking and connectivity, data, reports and specifications (including drafts);

“Equipment” any goods or equipment to be provided by Curatrix Technologies to the Customer, or purchased by Curatrix Technologies on behalf of the Customer, (including without limitation any part or parts of it) pursuant to the Agreement;

“Exit Plan” any exit plan set out in the relevant Service Conditions to be followed by both Parties to ensure the smooth transfer of the Services to a third-party supplier specified by the Customer at the expiry or termination of the Agreement;

“Intellectual Property Rights” all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Loan Equipment” means any IT Hardware owned by Curatrix Technologies and loaned to the Customer for the purposes of short term resolution of Customer support services for a pre-agreed fee;

“Personal Data” means as defined in the Data Protection Act 1998;

“Products” means goods sold by Curatrix Technologies to the Customer pursuant to the Agreement;

“Project Milestone” a scheduled event by which the Services or a part of the Services shall be completed as specified in the Agreement;

“Project Team” the team of staff and sub-contractors of Curatrix Technologies employed in providing the Services;

“Purchase Order” a Customer purchase order to purchase Services and/or Equipment;

“Services” the services, (including without limitation the delivery of any Deliverables, or the supply of any Equipment), to be provided by Curatrix Technologies pursuant to an Agreement **“Service Credits”** the predetermined compensation to be credited or paid to the Customer by Curatrix Technologies for failure(s) to meet the contractual Service Levels as set out in the relevant Service Conditions (if any);

“Service Desk” means Curatrix Technologies Service Desk that manages the logging, prioritisation and resolution of all service incidents and requests reported by the Customer and/or by Curatrix

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Technologies and/or as a result of automated monitoring by Curatrix Technologies of the Customer's environment and systems.

"Service Levels" the minimum service levels required by the Customer in relation to the provision of the Services by Curatrix Technologies in relation to timeliness, quality and/or other applicable service measure(s) as set out in the relevant Service Conditions if applicable;

"Set-up Services" the required design, test and/or implementation services required to set up the Services as set out in the relevant Service Specification (if any);

"Software" means any third party software in use by the Customer, and installed on the Customers hardware which is covered under a Service Agreement;

"Supplier Obligations" the specific obligations of Curatrix Technologies set out in the Agreement;

"Special Conditions" any conditions which are in addition to, or vary, the Services Conditions and which form part of the Agreement;

"Term" means the period of this Agreement:

"Third Party Services" any part of the Services which Curatrix Technologies procures from a third party, including any equipment (to include Equipment) which Curatrix Technologies procures from a third party and uses in order to provide the Services including but not limited to software, hardware, data centre facilities and/or connectivity & networking;

"Third Party Services Provider" the provider of any Third Party Services in connection with the Services; **"User"** a specific individual user of a Service.

1.2. The following definitions and rules of interpretation apply in the Agreement:

1.2.1. Clause, schedule and clause headings shall not affect the interpretation of the Agreement.

1.2.2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's permitted assigns. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

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

1.2.4. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.2.5. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.2.6. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.2.7. A reference to writing or written includes by fax and by e-mail.

1.2.8. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.2.9. References to clauses are to the clauses of the document in which the reference appears, unless otherwise stated.

1.2.10. 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. ORDER OF PRIORITY

2.1. If there is a conflict between any of the provisions of these General Conditions and any provisions of any Service Conditions (including any Special Conditions and Service Terms incorporated therein), the conflict will be resolved according to the following order of priority:

2.1.1. First: the Special Conditions set out in the Agreement;

2.1.2. Second: the relevant Service Conditions; and

2.1.3. Third: these General Conditions.

3. SERVICE CONTRACT PROCESS

3.1. These General Conditions govern the overall relationship of the parties in relation to any Services provided by Curatrix Technologies and this clause sets out the procedure for the Customer to request the provision of Services from Curatrix Technologies under separate Service Conditions.

3.2. As soon as reasonably practicable on receipt of a written request from the Customer or of acceptance of a quotation, Curatrix Technologies shall:

3.2.1. either notify the Customer that it is not able to provide the requested Service; or

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- 3.2.2. complete a draft Agreement which shall include the relevant Services Conditions and any Special Conditions for the Service and shall submit the draft Agreement to the Customer for its written approval.
- 3.3.** An Agreement shall not enter into force, be legally binding or have any other effect unless the Agreement has been authorised by representatives of both parties to it.
- 3.4.** For the avoidance of doubt, acceptance of a quotation by the Customer shall be deemed an 'offer' to procure Services and 'acceptance' by Curatrix Technologies shall not take effect until an Agreement has been entered into by both parties.
- 3.5.** On signature, each Agreement shall form a separate contract between its signatories; and shall incorporate the terms and conditions of these General Conditions and relevant Service Condition.

4. TERM OF SERVICE CONTRACT

- 4.1.** Each Agreement shall come into force on the Effective Date and shall continue, unless terminated earlier in accordance with the terms and conditions of these General Conditions, or where applicable in priority the terms set out in the Service Conditions (including any Special Conditions and Service Terms incorporated therein).

5. SUPPLIER OBLIGATIONS

- 5.1.** Curatrix Technologies shall supply the Services in accordance with the Agreement.
- 5.2.** Curatrix Technologies shall provide the Services from the Commencement Date.
- 5.3.** Curatrix Technologies shall use all reasonable endeavours to meet any performance dates specified in the Agreement, always provided that if no performance dates are so specified Curatrix Technologies shall perform the Services within a reasonable time.
- 5.4.** In supplying the Services, Curatrix Technologies shall use reasonable endeavours to:
- 5.4.1. provide the Services (including any Set-Up Services) and to deliver the Deliverables to the Customer in accordance with the Agreement;
- 5.4.2. meet the Project Milestones on the dates and times specified in the relevant Service Specification to the agreed acceptance criteria, but any such dates shall be estimates only

- and time for performance by Curatrix Technologies shall not be of the essence of the Agreement;
- 5.4.3. comply with any Service Levels set out in the relevant Service Conditions;
- 5.4.4. comply with any Exit Plan set out in the relevant Service Conditions ;
- 5.4.5. ensure that personnel in the Project Team are suitably skilled and experienced to perform tasks assigned to them, and are sufficient in number to ensure that Curatrix Technologies obligations are fulfilled;
- 5.4.6. obtain, and maintain all consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require, and which are necessary to enable it to comply with its obligations in the Agreement;
- 5.4.7. observe all health and safety rules and regulations and any other reasonable security requirements and/or other relevant regulations that apply at any of the Customer's Premises and that have been communicated to it, provided that it shall not be liable if, as a result of such compliance, it is in breach of any of its obligations under the Agreement;
- 5.4.8. at the Customer's additional cost comply with the reasonable regulatory requests for information or audit inspection emanating from the Customer's regulatory bodies;
- 5.4.9. at the Customer's additional cost liaise with and provide reasonable assistance in relation to the Services to any nominated third parties as reasonably requested by the Customer;
- 5.4.10. use reasonable endeavours to ensure that the Services are operated in accordance with recognised best industry practice.

6. THIRD PARTY SERVICES

- 6.1.** In relation to any Third Party Services which form part of the Agreement:
- 6.1.1. Curatrix Technologies will use reasonable efforts to monitor and supervise the supply of such Third Party Services, but Curatrix Technologies shall not otherwise be responsible for or liable for any malfunction, failure, non-operation, default or non-availability of such Third Party Services, save as

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- expressly provided in the relevant Service Conditions;
- 6.1.2. If the Third Party Services Provider changes the scope of any Third Party Services after the date of the Agreement or replaces the same with a new version, or ceases to supply the same or Curatrix Technologies decides to replace the same due to poor performance or quality, Curatrix Technologies shall without liability substitute for the Third Party Service an alternative service which shall as far as is reasonably possible provide substantially the same functionality;
- 6.1.3. Curatrix Technologies may change, without liability, any Third Party Services Provider or Third Party Service at any time, even if this involves a temporary suspension in the Services.
- 6.1.4. Customer shall be solely responsible for the evaluation, selection, installation, implementation, compatibility, use and performance of and results obtained from any hardware, systems software, utility software, security software, telecommunication equipment or software, and applications software used, unless (and only to the extent) otherwise expressly agreed in the Agreement.
- 6.1.5. Curatrix Technologies makes no independent representations or warranties with respect to products provided by third parties. Any third party warranties are the exclusive remedies of Customer with respect to such products.

7. EQUIPMENT ORDER

- 7.1. Any quotation for Equipment is valid for a period of 14 days unless otherwise specified and Curatrix Technologies may withdraw it at any time by notice to the Customer.
- 7.2. Curatrix Technologies may deliver the Equipment by separate instalments. High value items will be invoiced on receipt by either Curatrix Technologies or the Customer with each separate instalment (if applicable) invoiced and paid for in accordance with the provisions of the relevant Agreement.
- 7.3. No Order for Equipment which has been acknowledged by Curatrix Technologies pursuant to the Agreement or otherwise, may be cancelled by the Customer, except with the written agreement of Curatrix

Technologies and provided that the Customer indemnifies Curatrix Technologies in full against all direct loss (including without limitation loss of profit), costs (including without limitation the cost of all labour and materials used), damages, charges and expenses incurred by Curatrix Technologies as a result of cancellation.

QUANTITY AND DESCRIPTION

- 7.4. The quantity and description of the Equipment shall be as set out in an Agreement
- 7.5. Any samples, descriptions or specifications for the Equipment issued by Curatrix Technologies are for illustrative purposes only and they do not form part of the Agreement.
- 7.6. Curatrix Technologies shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee for the Equipment given by the manufacturer to Curatrix Technologies.
- 7.7. The Equipment shall remain the property of Curatrix Technologies until all Charges relating thereto and all other sums which are or which become due to Curatrix Technologies from the Customer pursuant to the Agreement have been paid in full.
- 7.8. Notwithstanding clause 7.7, risk in the Equipment or other goods will pass to the Customer from the date of delivery to the Customer.

DELIVERY

- 7.9. Curatrix Technologies shall use its reasonable endeavours to deliver the Equipment on the date or dates specified by the Customer in the Agreement but any such date(s) are approximate only. If no dates are so specified, delivery shall be within a reasonable time of date of the order pursuant to a Agreement.
- 7.10. Time is not of the essence as to the delivery of the Equipment and Curatrix Technologies is not in any circumstances liable for any delay in delivery outside its reasonable control unless specified otherwise in an Agreement.
- 7.11. Delivery shall be made during Business Hours unless specified otherwise in an Agreement
- 7.12. The Customer shall be responsible (at the Customer's cost) for preparing the delivery location for the delivery of the Equipment and for the provision of all necessary access and facilities reasonably required to deliver and installing the Equipment. If Curatrix Technologies is prevented from carrying out delivery or installation on the specified date

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because no such preparation has been carried out, Curatrix Technologies may levy reasonable additional charges to recover its direct loss arising from this event.

8. CUSTOMER'S OBLIGATIONS

8.1. The Customer shall:

- 8.1.1. co-operate with Curatrix Technologies in all matters relating to the Services and appoint (and, as it thinks fit, replace) the Customer Contract Manager, who shall have the authority contractually to bind the Customer on matters relating to the Services;
- 8.1.2. provide, for Curatrix Technologies, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer Premises and appropriate Customer Equipment, and such office accommodation, data and other facilities as may reasonably be requested by Curatrix Technologies;
- 8.1.3. provide, in a timely manner, such information as Curatrix Technologies may reasonably request and ensure that it is accurate in all material respects;
- 8.1.4. be responsible (at its own cost) for preparing and maintaining the relevant Customer Premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from any of its premises in accordance with all applicable laws, before and during the supply of the Services by Curatrix Technologies at those Customer Premises;
- 8.1.5. inform Curatrix Technologies of all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer Premises;
- 8.1.6. inform Curatrix Technologies of any Customer regulatory requirements that may necessitate specific data protection or data retention Services;
- 8.1.7. ensure that all Customer Equipment is in good working order and suitable for the purposes for which it is used, in relation to the Services, and conforms to all relevant United Kingdom standards or requirements;
- 8.1.8. make available suitable staff and operating time on any associated system(s) to enable tests to be carried out. For this purpose, if necessary, suitable staff must be made available at remote location(s). Where the equipment is located at the premises of a third party and/or remote location, the Customer shall secure the necessary access to the Equipment and or any Loan Equipment at such location(s) as required by Curatrix Technologies.
- 8.1.9. use any Loan Equipment in accordance with its operating manuals and promptly and regularly carry out all operators maintenance routines as and where specified.
- 8.1.10. use in conjunction with any Loan Equipment such operating supplies and media as shall comply with the recommendations of the Loan Equipment manufacturer, Curatrix Technologies or its approved agents.
- 8.1.11. ensure any Loan Equipment is to be used or operated only by staff in the employ of or under the control of the Customer, such equipment to be used within manufacturers recommended guidelines.
- 8.1.12. where possible, permit only Curatrix Technologies or its approved agents to adjust, repair or maintain any Loan Equipment save for the operator maintenance routines at clause 8.1.9 above. If the Customer requires third parties or internal staff to adjust, repair or maintain the Loan Equipment then all and any Curatrix Technologies Services required to adjust, repair or maintain the Loan Equipment will be chargeable, including recurrences of previously resolved occurrences.
- 8.1.13. notify Curatrix Technologies promptly of any faults or defects in the operation of any Loan Equipment.
- 8.1.14. consistently maintain the environmental conditions recommended by the manufacturer of any Loan Equipment, Curatrix Technologies or its approved agents, and
- 8.1.15. notify Curatrix Technologies in writing immediately there is a change of control within the meaning of section 1124 of the Corporation Tax Act 2010.
- 8.1.16. If Curatrix Technologies performance of its obligations under the Agreement is prevented or delayed by any act or omission of the

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Customer, its agents, subcontractors, consultants or employees, Curatrix Technologies 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. Curatrix Technologies reserves the right to recover costs incurred as a result of such prevention of its performance.

9. CHARGES AND PAYMENT CHARGES

- 9.1. In consideration for the provision of the Services, the Customer shall pay Curatrix Technologies the Charges as set out in the relevant Agreement.
- 9.2. The Charges shall be paid in pounds sterling, unless otherwise specified in the Charges Form.

TIME AND MATERIALS

- 9.3. If the Charges are to be charged on a 'time and materials' basis the charges shall be calculated as follows:
- 9.3.1. the charges payable for the Services shall be calculated in accordance with Curatrix Technologies standard daily fee rates in force from time to time, details of which shall be set out in the relevant Agreement;
 - 9.3.2. the standard hourly rate is applicable during Business Hours. Weekdays from 18:00 to 23:59 and 06:00 to 07:59 is charged at time and a half. Weekdays from 00:00 to 05:59 and Weekends/Public holidays is charge at double time.
 - 9.3.3. Curatrix Technologies shall be entitled to charge on a pro-rata basis for part-days unless it has agreed with the Customer otherwise; and
 - 9.3.4. Curatrix Technologies standard daily fee rates are calculated on the basis of Business Hours;
 - 9.3.5. Over time charges require prior approval in writing by the Customer and will be charged at the Curatrix Technologies prevailing rate.
- 9.4. Curatrix Technologies shall ensure that the members of the Project Team complete time sheets recording time spent on the Services for charging on a 'time and materials' basis, and Curatrix Technologies shall use such time sheets to calculate the charges for the Services.

- 9.5. Curatrix Technologies may increase the Time and Material Rate two times per annum subject to giving the Customer one month's prior notice of any increase.

FIXED PRICE CHARGING

- 9.6. Where the Services are provided for a fixed price, the total price for the Services shall be the amount set out in the relevant Agreement.
- 9.7. Unless stated otherwise in a Service Agreement, the total price shall be paid to Curatrix Technologies in instalments as set out in the Agreement, with the payment of each instalment (where relevant) being conditional on Curatrix Technologies having achieved the appropriate Project Milestone and/or Deliverable as set out in the Agreement.
- 9.8. On achieving a Project Milestone and/or Deliverable, Curatrix Technologies shall invoice the Customer for the charges that are then payable in accordance with the relevant Agreement.
- 9.9. If Curatrix Technologies has agreed to a fixed price in relation to any particular Agreement then Curatrix Technologies reserves the right to amend the fixed price on giving notice to the Customer if:
- 9.9.1. the scope of, or functionality required in the Service changes or increases as a result of the Customer's changes, requirements or instructions, or
 - 9.9.2. there is any material increase in the cost of the Service.

MONTHLY CHARGING

- 9.10. Where the Services are provided on a monthly charging basis, Curatrix Technologies shall invoice the monthly Charges in accordance with the relevant Agreement or Estimate and the Customer shall provide 30 days written notice of Termination before cancellation of services and in accordance with Clause 18 Termination.

INVOICING AND PAYMENTS

- 9.11. Invoicing: Unless otherwise specified in the Agreement or as otherwise set in out in these General Conditions, Curatrix Technologies shall invoice the Charges to the Customer on a monthly basis. For avoidance of doubt Equipment will be invoiced in line with clause 7.2.

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- 9.12. VAT:** All amounts payable by the Customer are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Agreement by Curatrix Technologies to the Customer, the Customer shall, on receipt of a valid VAT invoice from Curatrix Technologies, pay to Curatrix Technologies such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 9.13. Payment:** Except as set out in clause 9.21 relating to invoice disputes, the Customer shall pay each invoice which is properly due and submitted to it by Curatrix Technologies, within 14 days date of invoice by the Customer, to a bank account nominated in writing by Curatrix Technologies. Customer agrees that time is of the essence for all payments. Curatrix Technologies shall be entitled to suspend the relevant Services for non-payment by the Customer providing it has given at least 14 days written notice of such suspension to the Customer beforehand.
- 9.14. Equipment or Third Party Services:** In respect of Equipment purchased by Curatrix Technologies on behalf of the Customer, or Third Party Services provided to the Customer as part of the Services, the Customer shall pay for the same within 14 days of the date of the invoice.
- 9.15. Expenses:** Unless otherwise specified in the Agreement the Customer where agreed in writing beforehand shall reimburse to Curatrix Technologies, in addition to the Charges, the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably and properly incurred by Curatrix Technologies employees, subcontractors and agents in the provision of the Services. Curatrix Technologies shall submit its invoices for expenses to the Customer monthly in arrears.
- 9.16. Interest:** If the Customer fails to make any payment due to Curatrix Technologies under an Agreement by the due date for payment, and the reason for non-payment is not due to the amounts being disputed in good faith by the Customer, then, without limiting Curatrix Technologies remedies under clause 10, Curatrix Technologies may charge the Customer interest accruing after the due date for payment on the overdue amount at the rate of 4% per annum above Lloyds 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.
- 9.17. Records:** Curatrix Technologies shall maintain complete and accurate records of the Services provided under an Agreement charged on a 'time and materials' basis (setting out the time spent and materials used by Curatrix Technologies in providing such Services), sufficient to enable the Customer to verify the accuracy of any invoices submitted pursuant to an Agreement.
- 9.18. Set-off:** All amounts due under an 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). Curatrix Technologies may, without prejudice to any other rights it may have, set-off any liability of the Customer to Curatrix Technologies against any liability of Curatrix Technologies to the Customer.
- 9.19. Delivery, Title and Risk;** Manufacturing requirements may cause Products to be delivered by instalments. Risk passes on delivery, title to Products passes to Customer when full payment is made. Curatrix Technologies shall be entitled at any time before title passes (without liability), but with reasonable notice, to enter the premises of the Customer and re-possess Products or to use or sell the Products.
- 9.20. Acceptance of Products:** Unless Customer shall, promptly after delivery, inspect the Products and notify Curatrix Technologies, in writing, or any defects found, the Products shall be deemed to be accepted on delivery.
- 9.21. Invoice disputes:** In the event that the Customer disputes, in good faith, any charges invoiced by Curatrix Technologies, the Customer shall notify Curatrix Technologies of such dispute within seven days of date of the respective invoice and the parties shall endeavour to resolve such dispute within fourteen (14) days following such notification. Any such dispute shall not affect the Customer's obligation to pay Curatrix Technologies the undisputed part of the invoice. If no notice of a disputed invoice is given with seven days of receipt of the respective invoice the Customer is deemed to have accepted the invoice in full.
- 10. RIGHTS AND REMEDIES**
- 10.1.** The rights and remedies provided under an Agreement are in addition to, and not

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- exclusive of, any rights or remedies provided by law.
- 10.2.** Where an Agreement provides for Service Credits to be payable or credited in respect of any failure to meet Service Levels, such sums shall be the Customer's sole and exclusive remedy for the failure in question and Curatrix Technologies shall have no further liability to the Customer unless such failure relates to the fraud, negligence, wilful, wrongdoing and/or other material contractual breach of Curatrix Technologies or its employees or sub-contractors.
- 10.3.** Subject to clause 20, if any Services are not supplied in accordance with, or Curatrix Technologies fails to comply with, any terms of this Agreement, the Customer's sole remedy shall be to require Curatrix Technologies, without charge to the Customer, to carry out such additional work as is necessary to correct Curatrix Technologies failure.
- 11. INTELLECTUAL PROPERTY**
- 11.1.** The Customer acknowledges that unless expressly set out in an Agreement, the Customer shall not have any rights to any Intellectual Property Rights arising as a result of the provision of, or its use of, the Services.
- 11.2.** The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Equipment are and shall remain the sole property of Curatrix Technologies or (as the case may be) third party rights, owner.
- 11.3.** All Intellectual Property Rights in any Customer Material shall remain the sole property of the Customer or the Customer's clients as applicable.
- 12. CONFIDENTIALITY**
- 12.1.** Each party shall keep secret and confidential all Confidential Information of the other and shall not (and shall procure that its employees and/or officers shall not) copy, use or disclose any such information to any third party, other than as may be necessary to comply with its obligations under this agreement.
- 12.2.** The obligation of confidence shall not apply where the Confidential Information:
- 12.2.1. is required to be disclosed by operation of law;
 - 12.2.2. was in the possession of the recipient prior to disclosure by the other party;
 - 12.2.3. is subsequently acquired from a third party without any obligation of confidence;
 - 12.2.4. is or becomes generally available to the public through no act or default of the recipient; or
 - 12.2.5. is disclosed on a confidential basis for the purposes of obtaining professional advice.
- 12.3.** All materials, equipment and tools, drawings, specifications and/or data supplied by Curatrix Technologies to the Customer shall at all times be and remain the exclusive property of Curatrix Technologies, 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 the termination or expiry of this agreement (or earlier if so requested by Curatrix Technologies) when any such property shall be returned to Curatrix Technologies and such property shall not be disposed of or used other than in accordance with Curatrix Technologies written instructions or authorisation.
- 13. NON – SOLICITATION**
- During the period of this Agreement, and for a period of one year following termination of this Agreement, neither party will actively solicit any of the other party's personnel who have been engaged in the delivery of the Service without prior written consent of the other.
- 14. DATA PROTECTION**
- 14.1.** Each party shall comply with the provisions of the Data Protection Act 1998 ("DPA") and shall not do anything which may cause the other party to infringe the DPA.
- 14.2.** Each party warrants that it has made all registrations required of it under any applicable data protection legislation and in respect of any Personal Data processed by a party in connection with this agreement, and each party warrants to the other that it complies, and shall continue to comply, with all applicable provisions of the DPA or other applicable data protection legislation, including data protection principles.
- 14.3.** Each party warrants to the other that it has in place and undertakes to maintain throughout the Term appropriate technical and organisational measures against the accidental, unauthorised or unlawful processing, destruction, loss, damage, or disclosure of any personal data and adequate security programs and

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procedures to ensure that unauthorised persons do not have access to any equipment used to process such data, but each party recognises that in the context of the Internet there can be no absolute guarantee that authorised or unlawful access, processing or similar will not occur.

15. CHANGE CONTROL

- 15.1.** Any amendment to the Agreement shall be agreed in writing between the parties.
- 15.2.** If the Customer wants to change the scope of the Services, it shall submit details of the requested change to Curatrix Technologies in writing.
- 15.3.** Curatrix Technologies shall, within a reasonable time, provide a written estimate to the Customer setting out:
- 15.3.1. the likely time required to implement the change;
 - 15.3.2. any necessary variations to the Charges as a result of the change;
 - 15.3.3. the likely effect of the change on the Services; and
 - 15.3.4. any other impact of the change on the terms of this Agreement.
- 15.4.** If the Customer does not wish to proceed, there shall be no change to the Services or the Agreement; and
- 15.5.** if the Customer wishes Curatrix Technologies to proceed with the change, Curatrix Technologies shall do so after agreement on the necessary variations to the Charges, the Services and any other relevant terms of the Agreement to take account of the change.
- 15.6.** If the Customer requests a change to the scope of the Services and if Curatrix Technologies agrees to the change, Curatrix Technologies shall carry out the amended Services in consideration for the amended Charges, subject to any necessary change to the Agreement.

16. ANTI-BRIBERY COMPLIANCE

- 16.1.** Both parties shall:
- 16.1.1. comply with all applicable laws, statutes, regulations relating to anti-bribery and anticorruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
 - 16.1.2. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; and

16.1.3. immediately notify the other party in writing if a foreign public official becomes an officer or employee. Both parties warrant that it has no foreign public officials as officers or employees at the date of execution by the parties of the Agreement.

- 16.2.** Breach of this clause 16 by either party shall be deemed a material breach incapable of remedy.

17. LIMITATION OF LIABILITY

- 17.1.** The following provisions set out the entire financial liability of Curatrix Technologies (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 17.1.1. any breach of the term of the Agreement howsoever arising; and
 - 17.1.2. any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising out of or in connection with the Agreement or the Services.
- 17.2.** All warranties, conditions and other terms implied by statute or common law are excluded from the Agreement to the fullest extent permitted by law.
- 17.3.** Nothing in this Agreement shall limit or exclude a party's liability for:
- 17.3.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - 17.3.2. fraud or fraudulent misrepresentation; or
 - 17.3.3. 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.
- 17.4.** For any other liability, the limit of liability arising from a single event (or, where a series of connected events, the first event) shall be the total Charges paid or payable by the Customer under the relevant Service Conditions in that Contract Year.
- 17.5.** Subject to clause 17.3, neither party to this Agreement shall have any liability to the other party, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or for any indirect or consequential loss arising

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under or in connection this Agreement or the delivery of the Services.

18. TERMINATION

18. **18.1.** Without affecting any other right or remedy available to it, either Party may terminate it with immediate effect by giving written notice to the other party if:

18.1.1. the other party fails to pay any amount due under the Agreement on the due date for payment and that amount is not due to an invoice dispute in accordance with clause 9.23 and remains in default more than forty five (45) days after being notified in writing to make such payment;

18.1.2. the other party commits a material breach of any term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;

18.1.3. the other party repeatedly breaches any of the terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Agreement;

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

18.1.5. 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;

18.1.6. 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 (being a company);

18.1.7. 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 (being a company);

18.1.8. the holder of a qualifying floating charge over the assets of that other party (being a company) has

become entitled to appoint or has appointed an administrative receiver;

18.1.9. 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;

18.1.10. 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 fourteen (14) days;

18.1.11. 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 18.1.4 to clause 18.1.10 (inclusive).

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

18.2. Curatrix Technologies may immediately terminate or suspend all or any part of an Agreement if;

18.2.1. Curatrix Technologies reasonably considers that use of the Services by the Customer or any User;

18.2.1.1. is in breach or may be in breach of any relevant statutory or regulatory act, regulation, code or similar;

18.2.1.2. is fraudulent or illegal or might be fraudulent or illegal; or

18.2.2. the termination or suspension is in accordance with an order, instruction or request of government, an emergency service organisation or other competent administrative authority or is as a result of Curatrix Technologies otherwise losing its authorisation to provide the Services.

18.2.3. exercise by Curatrix Technologies of its right of suspension in connection with non-payment by the Customer of Curatrix Technologies valid charges under an agreement shall not function as a waiver of any right of termination which Curatrix Technologies may have under this agreement

19. CONSEQUENCES OF TERMINATION

19.1. On termination of the Agreement:

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19.1.1. the parties shall comply with any relevant Exit Plan;

19.1.2. the Customer shall immediately pay to Curatrix Technologies all of Curatrix Technologies outstanding unpaid invoices and interest and, in respect of the Services supplied, or yet to be supplied under the Term of the Agreement, for which no invoice has been submitted, Curatrix Technologies may submit its invoice which will be payable on receipt. For Customer's with Services that are billed on a usage basis the value of outstanding unpaid invoices will be calculated on the average of the last 3 months of full billing;

19.1.3. any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages which existed at or before the date of termination shall not be affected.

19.2. The following clauses shall continue in force: clause 11 (Intellectual Property), clause 12 (Confidentiality), clause 13 (Non-Solicitation), clause 16 (Anti-Bribery), clauses 17 (Limitation of liability), clause 19 (Consequences of termination), clause 20 (Dispute Resolution), clause 30 (Governing law), clause 31 (Jurisdiction).

20. DISPUTE RESOLUTION

20.1. In the event of any disagreement or dispute between the parties arising out of any matter relating to or arising out of the Agreement, the parties shall, in the first instance seek to resolve the matter by discussions between their respective representatives designated specially for this purpose. In the event these representatives are unable to resolve the disagreement or dispute within seven (7) business days, it shall be referred for resolution to a committee comprising a senior management representative from each party.

20.2. If the disagreement or dispute is not resolved pursuant to the above clause within 30 days from the date it first arose, or if either party believes that it is unlikely to be resolved in this matter, any such dispute shall be finally referred to arbitration. Such arbitration shall be conducted under the Rules of Arbitration, by one arbitrator appointed in accordance with the said rules. The place of arbitration will be UK. The language of the arbitration shall be English.

20.3. Notwithstanding the determination by the parties to utilise arbitration as specified above for resolution of disputes arising out of or in connection with the Agreement, nothing herein shall preclude either party from seeking and obtaining from a court of competent jurisdiction appropriate equitable relief, including without limitation, a temporary restraining order or other injunctive relief, to prevent a breach of the Agreement or to otherwise maintain the status quo pending outcome of any arbitration.

21. THIRD PARTY RIGHTS

21.1. A person who is not a party to the Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.

22. FORCE MAJEURE

22.1. Neither party shall be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control as specified in the Service Contract. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for sixty (60) days, the party not affected may terminate the Agreement by giving not less than thirty (30) days' written notice to the affected party.

23. VARIATION AND WAIVER

23.1. No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

23.2. A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

23.3. A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

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23.4. A party that waives a right or remedy provided under the Agreement or by law in relation to one party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

24. SEVERANCE

24.1. If any provision or part-provision of the 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 or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.

24.2. If one party gives notice to the other of the possibility that any provision or part-provision of the Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

25. ASSIGNMENT AND OTHER DEALINGS

25.1. The Customer may not assign, transfer or subcontract any or all of its rights and obligations under the Agreement without Curatrix Technologies prior written consent.

25.2. Curatrix Technologies may assign, transfer or subcontract any or all of its rights and obligations under the Agreement.

26. NO PARTNERSHIP OR AGENCY

26.1. Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

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

27. NOTICES

27.1. Any notice given to a party under or in connection the Agreement shall be in writing and shall be:

27.1.1. delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered

office (if a company) or its principal place of business (in any other case); or

27.1.2. sent by fax to its main fax number; or

27.1.3. sent by email with a delivery receipt.

27.2. Any notice shall be deemed to have been received:

27.2.1. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

27.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

27.2.3. if sent by fax, at 9.00 am on the next Business Day after transmission.

27.2.4. if sent by email on receipt of delivery notification.

27.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall include e-mail.

28. ENTIRE AGREEMENT

28.1. The Agreement constitutes the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

28.2. 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 an Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Agreement.

29. COUNTERPARTS

29.1. The Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement.

29.2. No counterpart shall be effective until each party has executed and delivered at least one counterpart.

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30. GOVERNING LAW

30.1. The 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.

31. JURISDICTION

31.1. 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 Agreement or their subject matters or formation (including non-contractual disputes or claims).