

## TERMS AND CONDITIONS – PROFESSIONAL SERVICES

By signing an Order, the Customer agree to that the following Terms and Conditions shall govern all Orders regarding Services. If you are entering into and Agreement on behalf of a company or other legal entity, you represent that you have the authority bind such entity to these terms and conditions, in which case the terms You or Customer shall refer to such entity.

### 1. DEFINITIONS

- 1.1. "Addendum" means any written document executed by both Parties that, without modifying current terms of this Agreement, adds to the terms of this Agreement.
- 1.2. "Agreement" means any Orders and these terms of conditions, including any materials available on the Supplier website incorporated by reference herein.
- 1.3. "Affiliate" means, with respect to any entity, any other entity directly or indirectly controlling or controlled by, or under common control with, such entity. For purposes of this Agreement, "control" (including the terms "controlled by" and "under common control with") shall mean the power, directly or indirectly, to direct or cause the direction of the management or policies of such entity, whether through the ownership of voting securities, by contract or otherwise.
- 1.4. "Applicable data privacy laws" means any national or internationally binding data privacy laws or regulations applicable at any time to any active agreement between a Customer and Supplier. It includes, but is not limited to, European Union General Data Protection Regulation (GDPR).
- 1.5. "Assignment" means an agreed Service, or set of Services, to be delivered in accordance with an Assignment Specification.
- 1.6. "Assignment Specification" means a written statement of a Service to be provided by Supplier and the related pricing, timelines and Deliverables which is agreed to by the parties and is incorporated by reference into this Agreement.
- 1.7. "Confidential Information" means Confidential Information as defined in section 9.1
- 1.8. "Content" means any commercial, or open source, content or data that Supplier may license, sub license or resell to the Customer under a Content Order
- 1.9. "Content Order" means a deed in which a delivery and or licensing of Content from Supplier, or solicited by Supplier, to Customer is detailed.
- 1.10. "Content Services" means Services in which the Supplier provides the Customer with commercial or non-commercial content from third party providers or open sources and that are specified in a separate Content Order.
- 1.11. "Customer" means the party entering into this Agreement with the Licensor by means of a confirmed Order.
- 1.12. "Customer Data" means any data, information and any derivatives thereof, provided or transmitted to Supplier by Customer or its Affiliates or contained in Supplier's repository for Customer or its Affiliates; provided that such term will not include any such data or information to the extent that the it was in the possession of Supplier at the time it was first delivered or transmitted to, or made available to, Supplier by Customer or its Affiliate.
- 1.13. "Deliverables" means tracings, drawings, field notes, specifications, software, templates, data (including data files and other software in whatever form), and other documents, records, and materials, whether

written, electronic, audio, or video, made, conceived, developed or reduced to practice by Supplier in the course of the provisioning of a Service, Software and/or Content.

- 1.14. "Intellectual Property Rights" or "IPR" means any and all intellectual property rights in any country or jurisdiction, that may exist under patent law, copyright law, publicity rights law, moral rights law, trade secret law, trademark law, unfair competition law or other similar protections, whether or not such rights are registered or perfected, including but limited to unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.
- 1.15. "Losses" means any actual liability, claim, cause of action, expense, cost, attorney's fee, or damage, in each case, howsoever caused.
- 1.16. "Order(s)" means collectively orders from Customer to Supplier for Services in the form of Assignment Specifications, Software in the form of Software Orders and Content in the form of Content Orders.
- 1.17. "Party means" either of Customer or Licensor, jointly called "Parties".
- 1.18. "Personal Data" means any information that can be used to identify, locate or contact an individual. Personal Data includes obvious identifiers such as names, addresses and government-issued identifiers, along with less obvious data elements such as IP addresses, financial account numbers and biometric data (including, but not limited to, any such definitions derived from the EU Data Protection Directive 95/46/EC). Personal Data also includes all elements defined as "personal identifiable information" or "PII" under applicable data privacy laws and/or regulations. Personal Data includes any such data in any media or format, including both paper and electronic.
- 1.19. "Personnel" means, in relation to a Party, that Party's officers, employees, agents, consultants and sub-contractors.
- 1.20. "Policies" means the Supplier policies on Employee Code of Conduct, Corporate Social Responsibility, Security, IT and Personal Data.
- 1.21. "Processing" or "Process" means any operation or set of operations which is performed upon Confidential Information or Personal Data, whether or not by automatic means, such as collection, compilation, use, disclosure, duplication, organization, storage, alteration, transmission, combination, redaction, erasure, or destruction.
- 1.22. "Security Breach" means any act or omission that compromises either the security, confidentiality or integrity of Personal Data or the physical, technical, administrative or organizational safeguards put in place by Supplier that relate to the protection of the security, confidentiality or integrity of Personal Data, including, without limitation, (i) any loss of Personal Data maintained, stored or processed by Supplier, its affiliate or subcontractor, (ii) any unauthorized access to, or acquisition of, Personal Data maintained, stored or processed by Supplier, its affiliate or subcontractor, (iii) any third-party notification of a security breach or violation of applicable international, federal, state or local law by Supplier, its affiliate or subcontractor relating to data security, data protection and/or privacy or (iv) any regulatory investigation, enforcement proceeding, action, claim, lawsuit or any pending or threatened enforcement proceeding, action, claim, lawsuit, brought or threatened against Supplier, its affiliate or subcontractor, relating in any way to Personal Data.
- 1.23. "Services" means consulting, advisory, training or alike services provided to Customer under a Specification in an Assignment Specification.
- 1.24. "Software" means any software or program that Supplier may license, sub license or resell to the Customer under a Software Order

- 1.25. "Software Order" means a deed in which a delivery and or licensing of Software from Supplier, or solicited by Supplier, to Customer is detailed.
- 1.26. "Specification(s)" means the functional, layout, performance, operational, compatibility, and other specifications, characteristics or Deliverables of Services as specified in an Assignment Specification.
- 1.27. "Taxes" includes all compulsory charges imposed pursuant to the authority of a country, or political subdivision thereof to levy taxes or fees on an entity or activity. Taxes include income taxes, employment taxes, franchise taxes, sales and use taxes, value added taxes ("VAT"), VAT applicable to nonresidents, industry and commerce tax, property, ad valorem and excise taxes.
- 1.28. "Third Party" means any natural person or legal entity other than Supplier or Customer.

## 2. TERM OF AGREEMENT

- 2.1. The term of this Agreement shall commence on the date of this Agreement and shall continue in effect until the last date of any Service or other Deliverable agreed upon by means of one or more Orders under this agreement.

## 3. AFFILIATES

- 3.1. The terms and conditions of this Agreement shall extend to all current and future Affiliates of Customer and Supplier.

## 4. ORDERING

- 4.1. Customer may under this Agreement place any number of Orders. For validity, any such Order shall be signed by the Customer and provided to Supplier for counter signature. Supplier is not bound by any such Order until Supplier has countersigned and returned the Order document to Customer.
- 4.2. Should it be that Customer procurement and/or accounts payable in any way require a specific Purchase Order ("PO") number or alike, e.g. for the validity of invoicing, such PO shall be issued alongside the order deed and the PO number noted by the Customer on the deed. If Supplier receives an Order without PO number, Supplier will, if countersigning the deed and commence delivery, invoice according to the terms of payment herein and Customer commit to comply to the terms of payment herein, despite the fact that the invoice in such instance will lack a PO number or other payment reference other than as specified on the Order itself.
- 4.3. Customer may request change of any Assignment at any time. At such change request, the affected Assignment work will be halted, the change request analyzed jointly by the Parties and an updated Assignment Specification agreed upon in writing, prior to any further work on the affected Assignment will continue/commence. Any such change may delay the delivery of such Assignment as a new delivery time window for Supplier may not be immediately available. Furthermore, Supplier is entitled to charge hourly fees according to such Assignment for any time spent on analyzing the requested changes. Also, if Supplier's work performed on the affected Assignment has exceeded 20% of the total estimated work hours in such Assignment Specification, Supplier is entitled to issue an invoice for work done to date, irrespective of delivery fulfillment, at the date of receipt of such change request.

## 5. PERSONNEL

- 5.1. Any employees assigned by Supplier to the performance of a Service for Customer ("Assigned Employees") are solely the employees of Supplier and are not the employees of Customer. Supplier is solely responsible and liable for the actions of any Assigned Employees performing work pursuant to this

Agreement. Supplier's responsibilities shall include, but not be limited to, the supervision, daily direction and control, payment of salary (including the withholding of income taxes and social security), insurance, medical or other plans, pension, worker's compensation, bonuses, vacation, holiday, sick pay or similar paid time off accruals, and severance and redundancy pay, disability and the like of or for those Assigned Employees. Neither Supplier nor its employees are entitled to participate in or receive benefits from any employee benefit plan sponsored by Customer or any of its Affiliates.

- 5.2. Customer may, at any time, request that any Assigned Employee with whom Customer is not satisfied be immediately removed from a particular Assignment delivery. Customer shall in any such event detail in writing the reasons for such a request and ensure that such notice is duly received by Supplier CEO. Supplier CEO will act immediately upon such request and, while analyzing the request, temporarily remove the Assigned Employee from the affected delivery. Customer recognizes that such request may delay any agreed time plan as replacement personnel may not be immediately available. Furthermore, if the analysis of the request shows that the removed Assigned Employee has not breached any provisions of this Agreement, nor underperformed in the specified delivery, Customer will be liable for any additional costs incurred by the Supplier or any delay such request may have caused in the delivery of the affected Assignment Specification.
- 5.3. Supplier and all Supplier Personnel are bound to adhere to all Supplier Policies.

## 6. SUBCONTRACTORS

- 6.1. Supplier may use subcontractors to perform Services without written permission from Customer. Supplier is responsible for Services performed by Subcontractors and for compliance by Subcontractors with all requirements of this Agreement to the same extent as when Services are performed by Suppliers own employees. In particular, Supplier require Subcontractors that process Confidential Information and/or Personal Data to agree, in writing, to the same restrictions and conditions on the use and/or disclosure of Confidential Information or Personal Data that apply to Supplier; including but not limited, to the extent that Supplier provides Confidential Information or Personal Data to Subcontractor, to implement reasonable and appropriate safeguards to protect Confidential Information or Personal Data consistent with Supplier Policy on IT and Security.
- 6.2. Subcontractor and all Subcontractor Personnel are bound by agreement to adhere to all Supplier Policies.

## 7. GENERAL UNDERTAKINGS OF THE CUSTOMER

- 7.1. In order for the Supplier properly to perform its duties according to this Agreement, the Customer, when relevant to the Services provided, shall:
  - i. ensure the Supplier access to the facilities, equipment and computer software at the Customer which are necessary for the performance of the undertakings of the Supplier;
  - ii. continuously give the information that is necessary for the performance of the undertakings of the Supplier in accordance with this Agreement;
  - iii. give correct and requisite information regarding the conditions and the prerequisites at the Customer;
  - iv. be responsible for any defect or deficiency in the equipment of the Customer or the computer software of the Customer; and
  - v. carry out its undertakings using co-workers that are qualified and competent for the purpose.

## 8. CONFIDENTIAL INFORMATION

- 8.1. “Confidential Information” means any information of a Party (“Disclosing Party”) that is disclosed in any manner and in any media to the other Party (“Receiving Party”) in connection with or as a result of discussions related to or the performance of this Agreement, and which at the time of disclosure either (a) is marked as being “Confidential”, or (b) is otherwise reasonably identifiable as the confidential or proprietary information of the disclosing Party, or (c) under the circumstances of disclosure should reasonably be considered as confidential or proprietary information of the disclosing Party. Specifically, Confidential Information includes (i) the terms and conditions of this Agreement; (ii) all types of proprietary technical or business information, including but not limited to data, know-how, formulas, algorithms, processes, designs, drawings, schematics, business plans, strategies, operations, financial, specifications, requirements, standards and documentation, reports, pricing, market, marketing or demographic information, software, trade secrets, research, analyses, inventions, ideas and other types of nonpublic information. With respect to Supplier, Confidential Information shall also include the Program. With respect to Customer, Confidential Information shall also include any and all Personal Data of employees of Customer or its Affiliates. Confidential Information of the Disclosing Party may also include information belonging to a third party that the Disclosing Party discloses the Receiving Party that would come within the definition of Confidential Information other than for the fact that it belongs to a third party.
- 8.2. The term Confidential Information does not include any information or documentation that was: (a) already in the possession of the Receiving Party without an obligation of confidentiality; (b) obtained by the Receiving Party from a source other than the disclosing entity without an obligation of confidentiality; (c) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through or on behalf of, the Receiving Party); or (d) independently developed by the Receiving Party without use of, or access to, the Disclosing Party’s Confidential Information.
- 8.3. Each Party shall hold Confidential Information in confidence using the same degree of care as it normally exercises to protect its own confidential or proprietary information, but in no event shall it use less than reasonable care.
- 8.4. Each Party may use Confidential Information solely for the purpose of exercising its rights or performing its obligations under this Agreement and may not copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than as stated herein.
- 8.5. Receiving Party may disclose Confidential Information to its employees, subcontractors and agents who have a need to know and who are subject to a confidentiality agreement that contains terms and conditions at least as restrictive as those set forth in this Agreement and would govern such employees, subcontractors, or agents use or possession of the Confidential Information.
- 8.6. Each party shall advise the other party immediately in the event either party learns, or has reason to believe, that any person who has had access to Confidential Information has violated, or intends to violate, the terms of this Agreement and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- 8.7. The Receiving Party shall not be restricted from disclosing Confidential Information as required pursuant to law, regulation or judicial or governmental order, provided that any such disclosure shall be limited to the extent of the legal requirement and the recipient party shall promptly (if permitted by law) notify the Disclosing Party and cooperate with the Disclosing Party, at the Disclosing Party’s expense, so that the Disclosing Party may intervene and object to such disclosure or seek a protective order or other appropriate protection for its Confidential Information.
- 8.8. Upon the written request of the Disclosing Party, the Receiving Party will, at the Receiving Party’s option, either return all copies of the Disclosing Party’s Confidential Information to the Disclosing Party or certify in writing that all copies of such information have been destroyed. Notwithstanding such requirement, either party may retain one archival copy of the Confidential Information. Either party may return the other party’s Confidential Information, or any part thereof, at any time.

- 8.9. Without limiting any other provision of this Agreement, the provisions of this Section 18 shall survive any termination or expiration of this Agreement.

## 9. CUSTOMER DATA

- 9.1. Supplier agrees that all Customer Data is and will remain the property of the Customer.
- 9.2. No Customer Data shall be copied, modified, destroyed or deleted by Supplier other than for potential operation or maintenance of Software during the term of this Agreement without prior written notice to and written approval by Customer or as otherwise stated herein.
- 9.3. Customer Data security will be managed according to Supplier Policy on Security, IT and Personal Data.

## 10. PERSONAL DATA

- 10.1. In Processing Personal Data, Supplier commits to adhere to Supplier Policy on Security, IT and Personal Data.

## 11. INTELLECTUAL PROPERTY

- 11.1. Supplier shall be the owner of all methodologies connected to the delivery of Services. The Customer obtains a non-exclusive right to utilize the result of the Services. Supplier shall provide Customer with originals or copies of Deliverables, pursuant to an Assignment Specification. Supplier hereby grants to Customer a royalty free, transferable, non-exclusive, worldwide, unlimited, and irrevocable license to make any use or disposition of, including, the right to reproduce, distribute, prepare derivative works of, publicly display, publicly perform, sublicense, assign, use, make, have made, sell, offer to sell and import, any such Assignment Deliverables.
- 11.2. The Customer, not Supplier, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and Supplier shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to manage or store any Customer Data other than from an IT security perspective, and then only for negligent or wrongful acts or omissions of Supplier.
- 11.3. Customer shall retain title to and all ownership rights in Customer Data but grants Supplier the right to access and use Customer Data for the purpose of complying with its obligations under this Agreement.
- 11.4. Customer retains all right, title and interest in and all Intellectual Property Rights in any materials which Customer provides to Supplier in connection with the performance of this Agreement. Customer represents and warrants that Customer has the right to provide Supplier with such data for use in performing the Services without violating or infringing the rights of others.

## 12. WARRANTIES

- 12.1. Each of Supplier and Customer represent and warrant that:
- i. it is a business duly incorporated, validly existing, and in good standing under the laws of its state of incorporation;
  - ii. it has all requisite corporate power, financial capacity, and authority to execute, deliver, and perform its obligations under this Agreement;
  - iii. this Agreement, when executed and delivered, shall be a valid and binding obligation of it enforceable in accordance with its terms;

- iv. the execution, delivery, and performance of this Agreement has been duly authorized by it and this Agreement constitutes the legal, valid, and binding agreement of it and is enforceable against it in accordance with its terms;
  - v. it shall comply with all applicable federal, state, local, international, or other laws and regulations applicable to the performance by it of its obligations under this Agreement and shall obtain all applicable permits and licenses required of it in connection with its obligations under this Agreement; and,
  - vi. there is no outstanding litigation, arbitrated matter or other dispute to which it is a party which, if decided unfavorably to it, would reasonably be expected to have a potential or actual material adverse effect on its ability to fulfill its obligations under this Agreement.
- 12.2. Supplier warrants that (i) Services will be performed in a professional manner by personnel who have the appropriate expertise, experience, capability and specialized knowledge necessary for Services, and (ii) Services will be performed in accordance with Specifications that have been documented in Assignment Specifications.
- 12.3. Supplier warrants that Services shall be performed in accordance with the time-schedule(s) stated in applicable Assignment Specifications or, if no such time-schedule(s) is stated, within a reasonable time.
- 12.4. Supplier warrants that Services performed by Supplier hereunder shall be its own work, and shall not infringe upon any copyright, patent, trade secret, or other proprietary right, or misappropriate any trade secret of any third party, and that it has neither assigned nor otherwise entered into an agreement by which it purports to assign or transfer any right, title, or interest to any technology or intellectual property right that would conflict with its obligations under this Agreement.

### 13. AUDITS

- 13.1. Following a minimum of thirty (30) days prior written notice to Supplier, Customer, and/or their duly authorized representatives may audit Supplier's records and premises during normal business hours to confirm Supplier's compliance with its obligations under this Agreement, provided that Customer has a reasonable basis for conducting such audit, and agrees to follow any security and/or confidentiality procedures or policies required by Supplier. Customer agrees not to undertake such audits more than once per year, unless (i) Customer provides notice to Supplier of a deficiency in security procedures as a result of such audit, which will allow Customer to re-audit in the manner described until such deficiency is corrected, or (ii) Customer has reason to, and articulates such reason to Supplier, suspect that Customer Data or property is not being protected as set forth in this Agreement.
- 13.2. Supplier shall maintain fiscal records and books of account in accordance with generally accepted accounting principles consistently applied. Such records shall include, but not be limited to, timesheets, expense reports and payroll records, and Supplier shall retain such records for a period of three (3) years from the date of final payment under this Agreement. Supplier authorizes independent third parties designated by Customer to audit, during business hours, (i) all such records to the extent necessary to verify charges associated with this Agreement, and (ii) audited company financial records (e.g. Statement of Cash Flows, Income Statement, Balance Sheet); provided that any such third party auditors have signed a written confidentiality agreement with terms as least as restrictive as the confidentiality terms set forth in this Agreement.
- 13.3. Further, Supplier shall cooperate with Customer or with any regulatory authority in connection with the examination of Customer's Data, or other data or information relating to Customer's business, which may reasonably be required or requested by Customer in connection with an audit or required or requested by any regulatory authority with jurisdiction over Customer's business.
- 13.4. Any costs associated with any such audit as described herein, including third party costs, Customer internal costs and Supplier time costs, are to be covered by Customer unless such audit reveals a material discrepancy as contemplated herein.



#### 14. FORCE MAJEURE

- 14.1. "Force Majeure" means an occurrence beyond the reasonable control and without the fault or negligence of the invoking party, which such party is unable to prevent or protect against by the exercise of reasonable diligence. A state of Force Majeure includes, but is not limited to; governmental actions, embargoes, import or export prohibitions, injunction, riot, civil commotion, acts of the public enemy, terrorist attack, war or national emergency or defense requirements, fire, explosion, flood, storm, earthquake, extreme climatic conditions, pests and diseases, epidemic, lock-outs, strikes or other labor disputes, power failure, or equipment failure.
- 14.2. A party will not be in default to the extent it is unable to perform because of Force Majeure. Upon occurrence of such a Force Majeure event, the affected Party shall notify the other party within ten (10) Business Days of the first day of such Force Majeure event, specifying the matters constituting Force Majeure, together with such evidence as it reasonably can give, make every effort to remedy the cause of non-performance and provide a good faith, estimate of the anticipated duration of such state of Force Majeure.
- 14.3. Any warranty period affected by a state of Force Majeure shall likewise be extended for a period equal to the duration of such event.

#### 15. INDEMNIFICATION

- 15.1. Each Party ("Indemnifying Party") shall indemnify, defend, and hold harmless the other party, its affiliates and their respective directors, officers, employees and agents (in the case of Customer and its affiliates and respective directors, officers, employees and agents, each a "Customer Indemnified Party" and in the case of Supplier and its affiliates and respective directors, officers, employees and agents, each a "Supplier Indemnified Party" and, where the term "Indemnified Party" is used without specifying Supplier or Customer, such term may mean either), from and against any claims, actions, losses, liabilities, damages, costs and/or expenses including, without limitation, reasonable attorneys' fees and expenses (collectively, "Claims"), which the Indemnified Party may sustain or incur, directly or indirectly, in connection with or as a result of: (a) the Indemnifying Party's fraud or misrepresentation, (b) any claim of any type against the Indemnified Party by any Personnel of the Indemnifying Party alleging an employment relationship with the Indemnified Party, (c) death, injury or damage to any person or property alleged to have been caused by any negligent or wrongful act or omission of the Indemnifying Party, or (d) any unauthorized use or disclosure of Confidential Information or Personal Data of the Indemnified Party by the Indemnifying Party or any failure in security measures affecting Confidential Information or Personal Data of the Indemnified Party on the part of the Indemnifying Party.
- 15.2. With regard to the indemnification provisions herein, a Party claiming indemnification shall notify the Indemnifying Party in writing of any claim for which it seeks indemnification as soon as practicable and the Indemnifying Party shall have the right to control the defense and settlement of all such claims and related lawsuits or proceedings. The Indemnified Party will cooperate with the Indemnifying Party as reasonably requested, at the expense of the Indemnifying Party, in such defense and settlement. The Indemnifying Party shall not settle any such claim, lawsuit or proceeding without the Indemnified Party's prior approval, which will not be unreasonably withheld, delayed or conditioned, provided that no such consent will be required if the settlement includes a full release of the Indemnified Party. Each Party shall provide the other with reasonable cooperation required for the defense and settlement.

#### 16. DISCLAIMER OF WARRANTIES

- 16.1. SUPPLIER MAKES NO WARRANTY EXPRESS OR IMPLIED THAT SERVICES CORRESPONDS TO THE CUSTOMERS REQUIREMENTS OTHER THAN AS SET OUT IN THIS AGREEMENT.



## 17. LIMITATION OF LIABILITY

- 17.1. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE OR KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS, IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY.
- 17.2. WITH RESPECT TO EACH ORDER, THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY WILL BE LIMITED TO DIRECT DAMAGES AND THE AGGREGATE DAMAGES SHALL NOT EXCEED THE FEES PAID OR PAYABLE TO SUPPLIER AS SET FORTH IN SUCH ORDER.
- 17.3. SUPPLIER SHALL HAVE NO RESPONSIBILITY TO INDEMNIFY CUSTOMER FROM INFRINGEMENT CLAIMS TO THE EXTENT ARISING FROM (1) MODIFICATION OF DELIVERABLE OR SERVICE BY CUSTOMER OR CUSTOMER'S AGENT, UNLESS SUCH MODIFICATION IS APPROVED BY SUPPLIER; AND (2) USE THE DELIVERABLE OR SERVICE IN A COMBINATION NOT REASONABLY FORESEEABLE BY SUPPLIER.
- 17.4. THE LIMITATION OF LIABILITY PROVIDED IN THIS ARTICLE SHALL NOT APPLY TO DAMAGES WITH RESPECT TO CLAIMS FOR BODILY INJURY (INCLUDING DEATH); PROPERTY DAMAGE; INDEMNIFICATION OBLIGATIONS; CONFIDENTIALITY; ANY CLAIMS RESULTING FROM GROSS NEGLIGENCE OR WILFUL MISCONDUCT OR FRAUD OF A PARTY; OR ANY OTHER FORMS OF LIABILITY WHICH BY LAW CANNOT BE LIMITED OR EXCLUDED.
- 17.5. The terms and conditions set forth in this article "Limitation of Liability" shall survive expiration or termination of this Agreement and any Order.

## 18. INSURANCE

- 18.1. Supplier will, during the term of this Agreement and performance hereunder, maintain an insurance coverage as a minimum applicable to potential liabilities according to this Agreement.

## 19. TERMINATION

- 19.1. Either party may terminate this Agreement immediately and/or cancel outstanding orders in the event either party (i) applies for or consents to the appointment of, or the taking of possession by a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property, (ii) makes a general assignment for the benefit of its creditors, (iii) commences a voluntary proceeding under the Federal Bankruptcy Code or under any other law relating to relief from creditors generally, or (iv) fails to contest in a timely or appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary proceeding under the Bankruptcy Code or under any other law relating to relief from creditors generally, or any application for the appointment of a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property, or its liquidation, reorganization, dissolution, or winding up.
- 19.2. If either Party breaches this Agreement and fails to cure such breach within thirty (30) days of receiving notice of the breach from the non-breaching Party, then the non-breaching Party may, at its option, terminate this Agreement.
- 19.3. Customer may terminate an Assignment at any time and for any reason by written notice to Supplier. In case of such termination, Customer will pay Supplier for Services performed, and approved expenses incurred, under such Assignment until the time of the termination. Should Customer ask Supplier to resume Services under such terminated Assignment, it is understood that additional costs may have to be added and the Supplier makes no warranty that such resuming of the services can be promptly upon Customer ordering.

- 19.4. Upon the expiration or termination of this Agreement, Customer shall pay to Supplier all amounts due and payable hereunder for Licenses and Services properly performed and for expenses preapproved in accordance with this Agreement.
- 19.5. Upon termination of the Agreement for any reason, Supplier agrees, at its option to return or destroy all Confidential Information and Personal Data it has received from Customer or has created or received on behalf of Customer. Supplier shall certify to Customer in writing that it has returned or destroyed all Confidential Information and Personal Data in accordance with industry standards for secure disposal and any applicable law.
- 19.6. In case this Agreement is terminated prematurely, irrespective of the reason thereto, the Supplier shall not be obliged to repay fees relating to a period of time before the termination of this Agreement.

## 20. FEES AND PAYMENT

- 20.1. The Customer shall pay fees for Services according to the terms set forth in this Agreement. All payments shall be made against invoice. The fees listed in and payable under this Agreement are exclusive of any value added tax, withholding tax or other levies.
- 20.2. The hourly fee for Services is set forth in each Assignment Specification.
- 20.3. Fixed retainer fees are set forth in each Assignment Specification.
- 20.4. Currency for all fees and payments is set forth in each Assignment Specification.
- 20.5. Invoices are payable with a term of 30 days unless otherwise set forth in the applicable Assignment Specification.
- 20.6. Fixed retainer fees are to be invoiced and payable monthly in advance unless otherwise specified in applicable Assignment Specification.
- 20.7. Hourly fees and expenses are to be invoiced monthly in arrears unless otherwise specified in applicable Assignment Specification.
- 20.8. In addition, Customer shall reimburse Supplier for all out-of-pocket expenses related to an Order, provided that such expenses are pre-approved in writing by Customer. In case the Customer has a travelling policy or alike, it is the responsibility of the Customer to ensure that any approved expenses are in compliance with such policy. Supplier alone makes no warranty that such policy will be adhered to. Supplier shall submit an itemized invoice of expenses to be reimbursed.
- 20.9. Alternatively, Customer and Supplier may agree on a fixed out-of-pocket expenses reimbursement for each Assignment Specification. Any such arrangement shall be clearly set forth in such Assignment Specification. Else, reimbursement according to 20.8 apply.
- 20.10. In case of a delay in delivery of a service due to changes in the Customers planning, this shall not affect the payment plan for other services ordered, even if the payment plan is made up as a total payment plan including the delayed service.
- 20.11. In case of the Customer's delay with respect to payment, the Supplier is entitled to apply a default interest of 2 % per month in arrears. Moreover the Supplier is entitled to apply such fees for reminder and demands permitted according to law.
- 20.12. The Customer may not set off any claims on the Supplier against any amount due under this Agreement.

20.13. If Customer disputes a charge on an invoice, it may withhold payment of that charge so long as Customer makes full payment of all undisputed charges. The parties will cooperate to resolve any disputed charge as soon as possible.

## 21. TAXES

- 21.1. Supplier shall be responsible for and pay (or cause to be paid) when due all Taxes for which Supplier or its subcontractors are liable by reason of the provision of Deliverables ordered.
- 21.2. Supplier shall be entitled to invoice Customer for all Taxes applicable to Deliverables that it is entitled or required by applicable law to collect from Customer.
- 21.3. Customer shall pay all Taxes imposed upon Customer by Law by reason of the acquisition of Deliverables.
- 21.4. Customer may withhold Taxes from payments to Supplier as required by Law. Upon payment of the amount withheld to the appropriate government entity or agency such amount withheld shall be deemed payment to Supplier and Customer shall have no further obligation to pay such amount to the Supplier. However, Customer shall, in original signed and by appropriate authority stamped document, within 30 days of such withholding, provide, by courier mail, a withholding tax receipt or other formal evidence of withholding to Supplier. If such evidence is not produced to Supplier in the said time frame, the withheld amount shall immediately be paid in full to Supplier and any financial consequences, such as additional tax costs imposed upon Customer, shall be borne solely by the Customer.

## 22. GOVERNING LAW AND DISPUTE RESOLUTION

- 22.1. This Agreement will be governed and construed in accordance with the laws of Sweden, except for its conflict of law provisions.
- 22.2. All disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the Stockholm Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules.
- 22.3. The arbitration shall take place in Stockholm.
- 22.4. In the event of any disagreement regarding performance under, claimed liability as a result of, or interpretation of, this Agreement and prior to the commencement of any further and formal proceedings, the Parties shall continue performance as set forth in this Agreement and shall attempt in good faith to reach a negotiated resolution by designating a representative of appropriate authority to resolve the dispute.
- 22.5. If through such negotiation a settlement is not achieved within ten (10) business days, a meeting between senior management representatives shall be called for.
- 22.6. If, despite attempts for good faith negotiations and senior management dialog, as outlined above, no resolution can be found, the parties agree to submit all such disputes arising under this Agreement to arbitration as set forth in sections 22.1-22.3 above. The arbitration shall be conducted in the English language.

## 23. MISCELLANEOUS

- 23.1. Amendments. The terms and conditions of this Agreement, including the provisions of the attachments hereto, may be amended by mutually agreed written agreement amendments only. Each amendment shall be in writing and shall identify the provisions to be changed and the changes to be made. Any

acknowledgment form or other like document of either party containing terms and conditions of sale, purchase or delivery shall not have the effect of modifying the terms and conditions of this Agreement unless explicitly stated.

- 23.2. Assignment. Either Party may assign this Agreement in its entirety to an Affiliate upon written notice to, but without the consent of the other Party. Upon such assignment, and an assumption of liability hereunder by assigning party's assignee, such party shall be discharged of any further liability pursuant to this Agreement. Customer or any Customer Affiliate may assign this Agreement or any license granted hereunder pursuant to a divestiture, merger or reorganization, or due to the sale of substantially all of its stock or assets.
- 23.3. Cumulative Remedies. Except as specifically identified as a party's sole remedy, any rights of cancellation, termination, liquidated damages or other remedies set forth in this Agreement, are cumulative and are not exclusive of any other remedies to which the injured party may be entitled. Neither party shall retain the benefit of inconsistent remedies.
- 23.4. Headings. Headings are inserted for ease of reference only and shall not affect the interpretation of this Agreement or be used to define, limit, or enlarge the scope of this Agreement or any of the obligations herein.
- 23.5. Language. This Agreement may be translated into other languages, but the English language version prevails.
- 23.6. Non-Solicitation. Supplier and Customer agree that during the term of this Agreement and for one (1) year thereafter, neither Party shall, without prior written consent of the other, solicit, seek to employ or offer employment to any employee of the other Party who has worked to a material extent on matters relating to this Agreement. The foregoing shall not apply to employees who respond to general recruiting advertisements.
- 23.7. Notices. Any notices pursuant to this Agreement shall be in writing and shall be sent to a party at the Notices Address as set forth in the Provisioning Specification schedule or at such other addresses as may be specified by a party by like notice. Notice will be deemed to have been duly given upon receipt if sent by an express courier delivery service which provides signed acknowledgments of receipt, sent to either party by personal delivery, or upon receipt if sent by electronic mail and receipt is confirmed by non-automatic reply electronic mail. Either party may change its address by written notice to the other party. Any notice given under or in connection with this Agreement shall be in the English language unless otherwise required by applicable law in which case a certified English translation shall be provided together with the notice.
- 23.8. Relationship of Parties. Nothing in this Agreement is intended or shall be construed to create or establish any agency, partnership or joint venture relationship between the Parties. The Parties expressly disclaim such relationship, agree that they are acting solely as independent contractors hereunder and agree that the Parties have no fiduciary duty to one another or any other special or implied duties that are not expressly stated herein. Neither Party shall be liable for any debts, accounts, obligations, or other liabilities of the other Party, its agents, or employees. The Parties are not authorized to incur debts or obligations of any kind, on the part of or as agent for the other except as may specifically be authorized in writing.
- 23.9. Severability. If any provision of this Agreement is judged by any court, tribunal or administrative body of competent jurisdiction to be invalid or unenforceable, the defective provision shall first be revised, limited or amended, consistent with the general intent of the provision, such that it is valid and enforceable, and the remaining provisions shall be unaffected and shall remain enforceable.
- 23.10. Survival. Expiration or termination of this Agreement or any Assignment Specification for any reason shall not release either party from any liability or obligation set forth in this Agreement or any Assignment Specification which the parties have expressly agreed will survive any such expiration or termination. Furthermore, terms, provisions, representations and warranties contained in this

Agreement that by their sense and context are intended to survive the completion of performance, expiration and termination of this Agreement shall survive the completion of performance, expiration and termination of this Agreement.

- 23.11. **Waiver.** Failure or delay by either Party in enforcing or partially enforcing a provision of this Agreement will not be construed as a waiver of its rights. A waiver by one Party of a breach or default by the other Party will not be deemed a waiver of a subsequent breach or default and will not affect the other terms of this Agreement. Any waiver of this Agreement or of any covenant, condition, or agreement to be performed by a party under this Agreement shall (i) only be valid if the waiver is in writing and signed by an authorized representative of the party against which such waiver is sought to be forced, and (ii) apply only to the specific covenant, condition or agreement to be performed, the specific instance or specific breach thereof and not to any other instance or breach thereof or subsequent instance or breach. Additionally, any provision in this Agreement held to be void, invalid or inoperative shall be modified to the extent necessary to remedy such invalidity but shall in no event affect the remaining provisions' full force and effectiveness.