



## Services Terms and Conditions

Between

Sommerford Associates Limited

AND

XXXXXXX (Client)

Dated xx/xx/xx

## Introduction

This time and materials Services Agreement ("Agreement") is between Somerford Associates ("Somerford") and xxxxxxxxxxxxxxxx ("Customer"). This Agreement defines the scope of the services ("Services") that Somerford Associates will provide to the Customer.

## Project Summary

To be completed for each project

## Project Conditions

- Services are performed on a "time and materials" basis. The cost set out in this Agreement is a "not to exceed" amount. Should any items require additional time to complete then an additional Agreement will be agreed by both parties.
- The Customer will provide remote access via WebEx, LogMeIn or another comparable remote access solution to the Somerford Engineer in order to facilitate the delivery of offsite Services and/or troubleshooting as required.
- Every effort has been made to account for whether a particular service will be delivered offsite or onsite. However, in certain circumstances, services previously designated as "onsite" may be performed remotely (offsite) and in such case no credit for the difference in the fees associated with these different "day types" will be provided to the Customer.
- If after six months from the date of the Effective Date there remain unused/undelivered days of services, the Customer will contact Somerford Associates to discuss scheduling services for those days. Unless otherwise agreed in writing, any unused and unscheduled days of services will expire one year from the date of the signing of this SOW, at which point Somerford Associates will be under no obligation to perform any additional services under this SOW. No credit/refund of unused service days will be provided.

## Requirements

Please itemise each requirement, providing a name and description for each individual work item.

Work Item Name	Work Item Description

## Contacts

	Name	Email	Phone
Sommerford Commercial			
Sommerford Technical			
Client Management			
Client Technical			

## Client Responsibilities

The work will be performed under the scope as defined in this Agreement. The Agreement is subject to the following assumptions:

### The client

- will provide access to equipment and personnel (including technical resources) necessary to complete the project. These resources will be provided when they are needed in order to avoid project delays.
- will appoint a single point of contact for the duration of the project. This person will have project management responsibilities, be technically astute and familiar with change request processes as well as have the authority to expedite if necessary.
- must provide Somerford a one (1) week notice for any cancellation or change of scheduled services or they will be charged for the originally scheduled time and any applicable travel change fees.
- will provide Somerford with access to the required servers and software to complete the Agreement requirements.
- will provide the Somerford consultant(s) with either access to the Internet or access to a computer with access to the Internet as required.
- prior to the testing phase, the Customer is responsible for producing the necessary testing scenarios.
- will either provide Somerford with a contact that has the proper administrative access to all applications and servers and will have the ability to reboot servers as necessary within twenty-four (24) hours of request or will provide Somerford with this capability.
- will ensure all systems meet the minimum system requirements.
- will ensure all systems and applications that are part of the SOW must be on supported platforms.

## Amendment to the Scope

During the performance of the engagement, certain issues may arise that effectively prevent the completion of the work outlined in this Agreement within the planned timeframe, such as, but not limited to, hardware or network failures or outages in the Client's environment, problems with the Client's in-house or third-party software, or the unavailability of key Client personnel. If this situation occurs, the designated Somerford Consultant will work with the Client to identify and document the scope change, its impact on the project approach, timing, fees, resources, and the quality of project results. Somerford will document this and any change in scope must be agreed to in writing prior to Somerford reengaging on the project and will require the signature of both Somerford and the Client. Any other problems, disputes or issues arising during this engagement should be communicated as soon as possible after identification to the designated Somerford Consultant for resolution.

## Fees

Somerford professional services rate are as per the G-Cloud 13 price list. All prices are quoted exclusive of VAT

## Payment

Invoices are to be paid within 30 days from the invoice date.

## Duration

Somerford estimate that the Agreement will require the following number of professional services days to complete.

## Quote

x days of professional services \* £x's

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# SERVICE AGREEMENT

  
between

Mnemonic **AS/AB**

and

[*the Customer*]

Date:

Date:

Mnemonic **AS/AB**

**Customer**

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Name in block letters

\_\_\_\_\_  
Names in block letters:

Title:

Title:



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This service agreement ('**the Agreement**') has been entered into between Mnemonic AS (org. no 982 089 549) with registered address Henrik Ibsens gate 100, NO-0255 Oslo, Norway ('**the Service Provider**'), and [**the Customer**] (org. no [number]), with registered address [address Oslo, Norway] ('**the Customer**').

The Service Provider and the Customer are referred to separately as '**Party**' and jointly as '**the Parties**'.

Capitalised terms have the meaning they are assigned in the paragraph in which they are written in bold font between quotation marks.

## 1 GENERAL

The Agreement regulates the rights and obligations of the Parties in connection with the Service Provider's deliveries of equipment, software and services as described in more detail in this Agreement and its exhibits.

The Service Provider shall make its deliveries in accordance with the qualitative and quantitative requirements set out in the Agreement. The Customer is responsible for specifying its requirements and expectations in a clear and complete manner.

## 2 AGREEMENT DOCUMENTS

By Agreement is meant this agreement document and the following exhibits:

Exhibit 1	The Customer's requirements specification
Exhibit 2	Agreed service descriptions
Exhibit 3	Requirements of the Customer's technical platform
Exhibit 4	Project plan and progress schedule
Exhibit 5	Service level
Exhibit 6	Administrative provisions
Exhibit 7	Consideration and price provisions
Exhibit 8	Changes to the general contractual wording
Exhibit 9	Amendments after the Agreement is entered into
Exhibit 10	Third-Party terms and conditions
Exhibit 11	Data Processor Agreement

In the event of conflict between the Agreement and the exhibits, the provisions of the Agreement shall take precedence, with the following exceptions:

- (i) Exhibit 2 shall take precedence over the Agreement.

- (ii) Exhibit 8 shall take precedence over the provisions of the Agreement
- (iii) Exhibit 9 shall take precedence over the provisions of the Agreement and Exhibit 2.
- (iv) Exhibit 10 shall take precedence over the Agreement and all Exhibits.

In the event of conflict between exhibits, they shall, with the exceptions stated in (i) and (ii) above, take precedence in the order in which they are listed above.

### **3 DESCRIPTION OF THE SERVICES**

The Service Provider shall provide the services specified in the service description set out in Exhibit 2 and other services ordered after the signing of the Agreement (jointly the "**Services**"). The Service Provider shall provide the Services in accordance with the requirements set out in this Agreement, including service level requirements as specified in Exhibit 5.

Unless otherwise agreed, the Service Provider has ownership of equipment related to delivery of the Services.

The Service Provider shall, to the extent necessary provide documentation, software or access to software as part of the Services. If the Services contain standard software, the licence terms for the standard software shall apply to such standard software provided as part of the Services. Operational documentation that the Service Provider has prepared in whole or in part shall not at any time be disclosed to third parties by the Customer.

The Service Provider shall, if the Parties have so agreed in Exhibit 2, implement software, hardware and equipment in the Customer's systems. Such implementation shall take place with as little disruption as possible to the Customer's day-to-day operations and it shall be carried out in accordance with the descriptions included in Exhibit 4.

Services other than the services included as part of the Agreement as specified in Exhibit 2, including the exercise of options or purchase of consultancy services, hardware, equipment and software, can be ordered in accordance with Clause 6.

The Service Provider shall be fully liable for any third party software, equipment, hardware or services included as an integrated component in the Services.

The Service Provider shall promptly correct any defects or errors in the Services.

### **4 INITIAL PHASE AND START-UP**

An initial phase will be carried out before the day on which the Services agreed in Exhibit 2 are put into operation ('**Start-Up Day**') during which the equipment and hardware will be prepared in order to enable the Service Provider to deliver the Services and the Customer to use the Services. The Parties shall carry out the activities described in more detail in Exhibit 4.

The scheduled Start-Up Day for the Services is set out in Exhibit 4.

#### **4.1 Partial delivery**

The initial phase may consist of partial deliveries of the Service. If the initial phase consists of partial deliveries, this shall be described in more details in Exhibit 4.

The Customer can utilize partial deliveries as they are implemented. For commissioned partial deliveries, the Customer shall carry out acceptance testing for every commissioned service, and make sure all previous commissioned services are still working as agreed. After the last partial delivery, the Customer shall perform acceptance testing as set out below.

The Start-Up Day shall occur when the Customer has approved the last partial delivery.

## **5 ACCEPTANCE TESTING**

Unless otherwise agreed in Exhibit 4, the acceptance testing plan shall follow the principles as described in this section.

When the Service Provider notifies the Customer that the Service is ready for delivery, the Customer shall, within 15 calendar days of receipt of such notification, carry out acceptance testing (Acceptance Period). The acceptance test shall consist of such tasks as the Service is intended for. The Service Provider may on request from the Customer provide assistance and advice on how to conduct the acceptance test.

The Customer shall, within the end of the Acceptance Period, notify the Service Provider if the Customer refuses to approve the Service in whole or in part. The Service Provider shall without delay remedy the notified defect. Once the defect has been remedied, the Customer shall carry out a new acceptance test as specified in this clause.

Defects that are not caused by the Service Provider or that do not significantly hinder the Customer's use of the Service shall not prevent the Customer from approving the Service.

The Customer shall give the Service Provider written notification that the Service has been approved. The Service shall be deemed to have been approved if (i) the Customer has not notified the Service Provider in writing of defects within the end of Acceptance Period, or (ii), when the Service Provider has proven that all defects have been remedied, or (iii) if the Customer puts the Service into operation.

## **6 ORDERING OF ADDITIONAL SERVICES**

The Customer may after the signature of the Agreement exercise options for other services agreed on the signing of this Agreement or order additional services from the Service Provider, including purchasing consultancy services, hardware, equipment and software. The Customer's order shall be placed in writing and shall, as a minimum, contain information about the desired services, the time and place of delivery and any additional information required in connection with the specific order.

The Service Provider will issue confirmation of receipt of the order and, if applicable, specify a date for expected completion of the order.

The Customer shall pay for additional services as specified in Clause 15.1.

## **7 THE SERVICE PROVIDERS RESPONSIBILITY FOR THIRD-PARTY SAAS DELIVERABLES**

If third-party deliverables are sold as an independent service to the Customer, a copy of the terms for the Customer's access to and use of third-party deliverables shall be attached in Exhibit 10. The terms are a binding agreement between the Customer and the Third Party.

The Service Provider is not liable to the Customer for any errors in third-party deliverables arising after the delivery date. This entails that the Customer may not invoke any non-fulfilment of agreed quality requirements after the delivery date, including service level requirements, if this is due to an error in third-party deliverables. This also applies to the loss or destruction of data.

In the case of errors in third-party deliverables brought to the Service Providers attention, the Service Provider will be obliged to report the error to the Third Party, and keep the Customer informed about the status of the error rectification. If the Service Provider is responsible for the installation of third party deliverable(s) as part of the Agreement, the Service Provider must test that the third party service(s) function after the error rectification, in accordance with any guidelines specified by the Customer in Exhibit 1.

## **8 THE SERVICE PROVIDER'S ACCESS TO INFORMATION, PERSONNEL AND PREMISES**

The Service Provider shall be given such access to all the Customer's systems, equipment and documentation as is necessary for the Service Provider's delivery of the Services. If necessary, the Customer shall ensure that the Service Provider's access has been cleared with all third parties.

The Customer shall comply with all reasonable requests from the Service Provider for access to personnel and information if this is necessary for the Service Provider to be able to meet its obligations under the Agreement.

The Customer shall make its premises and suitable office workspace available to the Service Provider's personnel in accordance with the terms of this Agreement. The Customer shall ensure that designated members of the Service Provider's staff are given such logical and physical access to all relevant systems and IT premises as is reasonably required in order for the Service Provider to be able to provide the agreed Services.

## **9 REQUIREMENTS OF THE CUSTOMER'S EQUIPMENT AND ENVIRONMENT**

The Customer shall ensure that the Customer's relevant equipment is in good condition and that it is in accordance with the manufacturer's specifications when the Agreement is entered into.

The Customer shall ensure that its environment is compatible with all hardware, equipment and software provided as part of the Services, including with suitable power, rack and network connections as set out in Exhibit 3. The Service Provider shall provide advice and support as needed. This shall be in place before installation begins, following the agreed implementation plan as described in Exhibit 4.

The Customer shall notify the Service Provider of all matters that have a bearing on the above-mentioned environment and that concern health, safety and environmental legislation.

More detailed requirements concerning the Customer's equipment and environment are set out in Exhibit 3.

## 10 REPORTING AND STATUS MEETINGS

The Service Provider shall submit such reports and hold such status meetings as agreed between the Parties and specified in Exhibit 2 and Exhibit 6. The standard reports and status meetings are delivered as part of the Service.

## 11 INFORMATION

Both Parties shall, without undue delay, inform each other of matters that have a bearing on the contractual relationship or the concrete deliveries. The information shall be communicated to the Parties to the Agreement and/or to defined contact persons.

Each Party is responsible for that the information given to the other Party under this Agreement is correct and in accordance with the applicable law.

## 12 SUBCONTRACTORS AND THIRD PARTIES

The Service Provider can not use subcontractors to carry out Services that are to be performed for the Customer without the Customer's previous written consent.

Each of the Parties is responsible for its own suppliers, subcontractors, others involved in the performance of the Agreement and customers and their representatives as for work of its own.

The Service Provider undertakes to cooperate with third parties to the extent that the Customer deems this is necessary for the purposes of performing the duties stipulated in this Agreement. **The scope of such assistance shall be specified in Exhibit 6.** Any consideration for such assistance shall be specified in Exhibit 7.

The Service Provider shall in such cases adopt an independent position, and act in consultation with the Customer.

However, the Service Provider shall be released from such duties if it demonstrates that it is probable that such cooperation would be of material disadvantage to its relationship with existing subcontractors or other business contacts.

## 13 INTELLECTUAL PROPERTY RIGHTS

### 13.1 General

'**Intellectual Property Rights**' means for the purpose of this Agreement copyright, trademarks, distinguishing marks, trade names, inventions, patents, software source code and object code, databases, documentation, drawings, sketches, specifications and other similar material and rights, and know-how and goodwill related thereto, as well as other rights related to the Services.

The Agreement entails no transfer of Intellectual Property Rights between the Parties. All Intellectual Property Rights and any rights created in connection with the performance of the Services, including new versions, further developments, modifications and maintenance shall remain the property of the Service Provider.

The Service Provider or other third parties will not have any rights to what the Customer produces or creates by using the Service.

### **13.2 Rights to data**

The Customer holds all rights to the data that are handed over for processing by the Service Provider under this Agreement, as well as to the results of such processing. The Service Provider can use such data only for the proper performance of the agreed Services.

After the termination of the Agreement, the Service Provider has no right to be in possession of data that the Customer has handed over to the Service Provider in connection with the performance of the Services, unless otherwise agreed upon from time to time.

### **13.3 General knowledge, know-how and collected information**

The Service Provider is entitled in all contexts to use its general knowledge and know-how acquired by the Service Provider through the proper performance of this Agreement.

This also applies to any Service Provider's own ideas, concepts, expertise or data processing techniques in connection with the development, production and marketing of products and services, even if they are deemed to be confidential information.

During delivery of the Services to the Customer and corresponding services to other customers, the Service Provider will acquire non-sensitive information of general interest to the Service Provider's customers, including information about relevant attackers, attack patterns and other security threats. The Service Provider may share such information for the purpose of improving the Service Provider's general service quality in relation to the Customer and the Service Provider's other customers, however the Services Provider cannot inform its other customers of the origin of such information.

### **13.4 Infringement of the rights of third parties**

The Service Provider guarantees that it has the right, power, authority and the unconditional permission from the owner of all Intellectual Property Rights in and to the Services to enter into this Agreement. The Service Provider guarantees that all Intellectual Property Rights in and to the Services do not and will not infringe any all Intellectual Property Rights of any third party.

In the event of claims being made by third parties against the Customer on the grounds that the Service infringes any third party's rights and this is related to circumstances on the part of the Service Provider, the Service Provider shall pursue the case for its own account, also for the Customer, provided that:

- (i) the Customer immediately notifies the Service Provider when such a claim is received, and
- (ii) the Customer gives the Service Provider full control in the matter.

From the time when the Service Provider takes over the case, the Customer shall to a reasonable extent assist the Service Provider as regards such case, but it will not act on its own behalf during such court proceedings.

The Service Provider shall indemnify the Customer against third party claims awarded in a final judgment or a settlement that is accepted by the Service Provider.

If a third party argues that the use of the Services infringes any third party rights, the Service Provider may choose between ensuring that the necessary rights are retained or obtained, or that corresponding properties are obtained free of charge and without disruption to operations for the Customer. If the Service Provider is of the opinion that neither of the alternatives can reasonably be used, the Customer shall return the part in question and receive a proportional reimbursement of the consideration.

The Customer cannot file any other claims against the Service Provider for infringements of third party rights than set out in this provision.

## **14 PROCESSING OF PERSONAL DATA**

<Remember attaching the mnemonic standard DPA when sending this agreement for review>

The Parties have executed a Data Processor Agreement (Exhibit 11). In cases where the purpose of the service delivered includes processing of personal data (as defined in EU regulation (EU) 2016/679 Chapter I Article 4), the Service Provider will process personal data according to the duties of the processors as defined in the EU regulation (EU) 2016/679 Chapter IV Article 28. See [mnemonic.no/privacy-notice](http://mnemonic.no/privacy-notice) for more information on how the Service Provider complies with the regulation.

The Customer is responsible for evaluating needed actions to fulfil their duties as defined in the EU regulation (EU) 2016/679 Chapter IV Article 24. This could include, but is not limited to, establishing a data processing agreement that ensures commitment from the processor to compliant processing of personal data on behalf of the controller.

## **15 REMUNERATION AND TERMS OF PAYMENT**

### **15.1 Remuneration**

The Customer shall pay such remuneration for the Services as specified in Exhibit 7.

Travel and any subsistence expenses approved in advance by the Customer and proved by the Service Provider in writing will be covered.

### **15.2 Invoicing**

The Services shall be invoiced in advance on a quarterly basis.

Consultancy and similar services that are not invoiced as part of the Services will be invoiced monthly in arrears.

Hardware, equipment and software other than that invoiced as part of the Services will be invoiced on delivery to the Customer or the Service Provider's preparation centre.

Payment shall take place within 30 calendar days after the invoice date. Amounts are stated in **NOK/SEK/EUR/USD** excluding VAT, but including other public charges/taxes.

Further provisions relating to invoicing are specified in Exhibit 7.



### 15.3 Overdue payment and payment default

In the event of overdue payment, the Customer shall pay interest on overdue payments pursuant to the Norwegian Act/Swedish law relating to Interest on Overdue Payments etc.

<EU version – replaces the paragraph above:> In case of late payment, the party in breach of its payment obligations shall pay interest on the overdue amount in accordance with the Late Payment Directive 2011/7/EU ([http://ec.europa.eu/enterprise/policies/single-market-goods/fighting-late-payments/index\\_en.htm#h2-1](http://ec.europa.eu/enterprise/policies/single-market-goods/fighting-late-payments/index_en.htm#h2-1) ).>

If overdue payment, with the addition of late payment interest, has not been paid within thirty (30) calendar days of the due date, the Service Provider may send the Customer a written notice stating that the Agreement will be terminated for breach, unless settlement has taken place within sixty (60) calendar days of receipt of the notice.

Termination for breach may not take place if the Customer settles the overdue payment, with the addition of late payment interest, prior to the expiry of the deadline.

### 15.4 Price adjustment

The Service Provider may adjust the prices in the Agreement annually as of 1 January in accordance with Statistics Norway's consumer price index (KPI), with the initial reference index value being the index value for the month in which the Agreement was signed. Such price adjustment will be stated on invoices.

Further provisions relating to price adjustment are specified in Exhibit 7.

### 15.5 Hardware custom clearance outside Norway

Unless otherwise specified or agreed in Exhibit 7, the Customer is responsible for payment directly to the relevant authorities for any custom clearances and taxes required for the importation of any hardware shipped by the Service Provider.

The Customer's person responsible for receiving the hardware is stated in Exhibit 6.

## 16 BREACH OF THE AGREEMENT

### 16.1 General

If one of the Parties wishes to invoke a breach of the Agreement due to circumstances for which the other Party is responsible, the Party that wishes to invoke a breach of the Agreement must notify the other Party in writing within a reasonable period of time after the Party invoking the breach became or should have become aware of the breach. However, the maximum time limit for invoking the breach shall be 90 days from the date of delivery for software and 12 months from the date of delivery for hardware, equipment and services.

The Party in breach of the Agreement shall do all that can reasonably be expected to remedy the situation without undue delay. Such remedy shall take place on the account of the Party in breach of the Agreement.

In the event a Party is in materially breach of the Agreement, the other Party may terminate the Agreement by giving 30 days' written notice, reckoned from the date on which written notice that the right to terminate the

Agreement will be exercised is sent to the Party in breach of the Agreement. Default of overdue payment within sixty (60) calendar days shall always be deemed to constitute material breach of the Agreement.

The Party suffering a loss has a right to claim compensation for its documented direct loss resulting from a breach of the Agreement.

The limitation of liability as set forth in Section 16 shall apply.

## 16.2 Remedies available to the Customer

Without limiting the generality of clause 15.1, in the event of a breach of contract by the Service Provider, the Customer shall be entitled to invoke sanctions for breach of contract against the Service Provider <based on Swedish contract law principles, hereunder but not limited> to the following:

- a) **Liquidated damages:** If the scheduled Start-Up Day as follows from Exhibit 4 is delayed, due to circumstances for which the Customer is not responsible, the Customer shall be entitled to claim liquidated damages of 0.15 per cent of the contract price for the implementation, excluding Value Added Tax, for each calendar day of delay, limited to a maximum of one hundred (100) calendar days. If the delay pertains to a partial delivery, the liquidated damages shall amount to 0.15 per cent of the total consideration (exclusive of Value Added Tax) for the contract price for implementation of the partial delivery in question for each calendar day the delay lasts, limited to a maximum of one hundred (100) calendar days. If no price has been quoted for the partial delivery in Exhibit 7, the liquidated damages shall be calculated based on the partial delivery's relative share of the consideration for the total implementation delivery.
- b) **Predefined sanctions:** The Customer shall be entitled to a predefined sanction as set out in Exhibit 5 to the extent that the Service Provider does not meet the SLA requirements
- c) **Retention:** The Customer shall have the right to withhold a proportionate part of the payment until a breach is remedied.

The Customer shall not have the right to terminate the Agreement for breach for as long as the liquidated damages continue to accumulate. However, this time restriction shall not apply in the case of wilful misconduct or gross negligence on the part of the Service Provider or anyone for whom it is responsible.

## 16.3 Circumstances for which the Service Provider is not liable

The Service Provider is not liable for non-fulfilment of its obligations under the Agreement in the event of:

- (i) changes made to the Services by the Customer, or by third parties for which the Customer is responsible, without the Service Provider's approval,
- (ii) failure on the part of the Customer to follow up recommendations from the Service Provider regarding error recovery or upgrades which are necessary for the receipt of the Services,
- (iii) faults in the power supply, cooling, humidity control or other environmental factors on the Customer's premises that affect the Service,
- (iv) damage to parts of the Services not caused by the Service Provider,
- (v) circumstances on the part of the Customer or someone for whom the Customer is responsible, or

- (vi) circumstances that make it impossible for the Service Provider to provide the Services without violating public or private law, including that it becomes illegal to perform or complete the Services, or that the performance of the Services would entail a violation of obligations under contractual law.

The Service Provider may invoice the Customer for time spent in accordance with the Service Provider's prices applicable at all times for work carried out by the Service Provider as a result of situations as mentioned in (i)–(vi) above.

## **17 LIMITATION OF LIABILITY**

The Parties cannot invoke other remedies for breach of contract against each other than those that follow from this Agreement.

The Parties shall not under any circumstances be liable for indirect losses, including, but not limited to business interruption, loss of profit, loss of data, savings that have not materialised, losses of and claims from third parties or other financial consequential losses. The Service Provider is nevertheless liable for loss of Customer's data stored or processed by the Service Provider under this Agreement, hereunder for data loss resulting from the Service Provider's breach of the Data Processing Agreement.

Liquidated damages and Standardised penalties for failure to meet the service level shall be deducted from any other damages.

Each Party's total liability under the Agreement is under all circumstances limited to a maximum of the total annual remuneration under the Agreement (excl. VAT).

The above-mentioned limitations do not apply if the Party has acted with gross negligence or intent.

## **18 RIGHT OF RETENTION**

The Service Provider may stop its delivery of the Service if the Customer:

- (i) has provided incomplete or incorrect customer information,
- (ii) acts in violation of laws, regulations or official orders, or
- (iii) fails to pay overdue payments within sixty (60) calendar days pursuant to clause 14.3

If the deliveries have been stopped as a result of breach of the Agreement on the part of the Customer, the Service Provider will resume delivery of the Services once the circumstances that caused the delivery to be stopped have been rectified, unless the Service Provider has terminated the Agreement. This section 17 does however not entail the Customer's rights to its data as defined in section 12.2.

## **19 CONFIDENTIALITY**

Any information that a Party receives or becomes aware of about the other Party (including, but not limited to, the other Party's customer data) shall be deemed to be confidential information. The Parties are subject to a duty of confidentiality regarding confidential information and shall process, store and protect confidential information from the other Party with particular care.

Information that is public knowledge, that a Party has developed or received independently of the other Party, or that has been received from a third party without this constituting a violation of a confidentiality obligation, is not deemed to constitute confidential information. However, such information that the Parties have stated to be confidential information shall always be deemed to be confidential.

Each Party is entitled to make confidential information available to other entities in its group, provided that these entities only use the confidential information to the same extent that the Party is entitled to do pursuant to this Agreement. The revealing Party is responsible for ensuring that its group entities that receive such confidential information comply with the provisions of this Agreement.

The duty to treat information confidential applies for as long as it is necessary, based on a reasonable assessment; however, not less than five years from when the information was received or became known. As regards the Customer's customer data the duty to treat information as confidential shall apply for an indefinite period.

## **20 PUBLICITY**

The Service Provider shall not, without specific written prior permission from the Customer, make press releases, advertise or make any other forms of advertisement regarding the Agreement or the Parties' business relationship. The Service Provider may request using this Agreement and the Parties' business relationship as a reference case in RFP's or similar. The Customer may reject such request but not without reasonable cause.

## **21 FORCE MAJEURE**

If performance of the Agreement is prevented in whole or in part, or is materially hindered by circumstances outside the Parties' control, the Parties' obligations shall be suspended to the extent that the circumstances are relevant and for as long as the circumstances persist. Such circumstances include, but are not limited to, strikes, lockouts and any circumstance that would be deemed to constitute force majeure under **Norwegian / Swedish** law.

Each of the Parties may terminate the Agreement by giving one month's written notice if the force majeure situation makes it particularly burdensome for the Party in question to meet its obligations under the Agreement.

## **22 ASSIGNMENT OF RIGHTS AND OBLIGATIONS**

Neither Party's rights and obligations under the Agreement may be assigned or otherwise transferred to any third Party without the prior written approval of the other Party.

## **23 CHANGES AND AMENDMENTS**

Changes to the Agreement shall be agreed in writing. If one of the Parties wish to make changes or amendment to the Services or to the wording of the Agreement, that Party shall send a written request to the other Party. The receiving Party shall reply within five working days and provide information about the consequences of the changes and further handling of the matter.

Once the Parties have agreed on the change(s) or amendment(s), it/they shall be drawn up as Exhibit 8 or 9 to this Agreement and signed by both Parties.

## 24 DURATION AND TERMINATION

The Agreement enters into force on the date it is signed by both Parties. The Agreement may not be terminated for convenience from date of entering the Agreement and for a period of 3 years from the Start-Up Day ('**the Initial Agreement Period**'). After the Initial Agreement Period, the Agreement continues until terminated by either Party by giving six months' prior written notice. Such notice may be given six months prior to the end of the Initial Agreement Period at the earliest.

*[Alternate text if the Customer does not accept the previous condition. PLEASE DELETE ENTIRE TEXT IF NOT USED]*

The Agreement enters into force on the date on which it is signed by the parties, and the Agreement continues until terminated by either Party by giving six months' prior written notice.

If the Customer terminates the Agreement within 3 years from entered into force, the Customer is responsible for the following payments:

- a) The amount due to the Service Provider in respect of the part of the Service that already been delivered.
- b) The Service Provider's necessary and documented direct costs in relation to the reassignment of personnel.
- c) Other documented direct costs incurred by the Service Provider as the result of the termination, such as repayment of hardware, software, and maintenance. This includes disbursements and costs that have been incurred by the Service Provider prior to its receipt of the notice of termination.
- d) A termination fee equivalent to 4% of the yearly consideration for the Services.

## 25 TERMINATION ASSISTANCE

At the time of termination, the Service Provider shall return to the Customer all data and other documentation, information and material relating to the Service that are the Customer's property.

Any provisions concerning the Customer taking over the Service Provider's equipment, software or agreements with third parties shall be agreed between the Parties on termination of the Agreement.

The Service Provider shall, if and when applicable, contribute actively, positively and in a cooperative spirit to the return and/or transfer of operations to a new service provider indicated by the Customer. Provisions regarding the principles and framework for such assistance will be agreed in more detail between the Parties on termination of the Agreement. Remuneration for such deliveries shall be in accordance the prices stated in Clause 14.1.

Upon termination of the Agreement, the Customer shall return to the Service Provider all operational documentation and other material to which the Service Provider holds the rights.

## 26 CHOICE OF LAW AND DISPUTES

The Parties' rights and obligations under the Agreement are governed by Norwegian law. Endeavours shall be made to resolve any disagreement about the effect, content or performance of the Agreement through negotiations. If the negotiations are unsuccessful, any disputes shall be brought before the ordinary courts. The Parties agree that the legal venue shall be Oslo District Court.

*<Swedish version, delete the above clause: >* Any dispute concerning the content, scope, validity, execution or termination of the Agreement shall be governed by Swedish law. The Parties shall seek to resolve disputes by negotiation. If the dispute is not resolved within 30 days after a Party has initiated negotiations, each of the Parties may submit the dispute to arbitration at the Stockholm Chamber of Commerce (SCC). SCC's simplified dispute settlement rules shall apply to the dispute, unless SCC based on the complexity, extent, amount or other circumstances of the dispute, requires full arbitration. This provision shall not be construed as prohibiting a Party from applying to a court for interim injunctive relief.

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