



NEXT MILLENNIUM TECHNOLOGY LTD

GENERAL TERMS AND CONDITIONS

**APPLICABLE TO ALL SUBSCRIPTIONS AND SERVICES PROVIDED BY NEXT MILLENNIUM TECHNOLOGY LTD UNLESS SUPERCEDED BY AN
INDIVIDUAL CLIENT LICENSE OR SERVICES AGREEMENT**

LAST UPDATED DECEMBER 2019 – REPLACES ALL PREVIOUS VERSIONS

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(appended to client specific agreements based on the Subscription and/or Services provided)

Schedule 1 – Subscription

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AGREED TERMS

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this agreement.

Authorised Users: those employees, agents and independent contractors of the Client who are authorised by the Client to use the Services and the Documentation, as further described in clause (d).

Business Day: any day which is not a Saturday, Sunday or public holiday in the UK.

Change of Control: the direct or indirect acquisition of either the majority of the voting stock, or of all, or substantially all, of the assets, of a party by another entity in a single transaction or a series of transactions.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.5.

Client Data: the data inputted by the Client, Authorised Users, or Next Millennium Technology Ltd on the Client's behalf for the purpose of using the Services or facilitating the Client's use of the Services.

Documentation: the document made available to the Client by Next Millennium Technology Ltd online via www.nemitec.com or such other web address notified by Next Millennium Technology Ltd to the Client from time to time which sets out a description of the Services and the user instructions for the Services.

Effective Date: the date of this agreement.

Initial Subscription Term: the initial term of this agreement as set out in Schedule **Error! Reference source not found.**

Location: A geographically distinct location or premises where the Client carries out their business..

Normal Business Hours: 09h00 to 17h00 local UK time, each Business Day.

Renewal Period: the period described in clause 14.1.

Services: the subscription services provided by Next Millennium Technology Ltd to the Client under this agreement as set out in paragraph **Error! Reference source not found.** of Schedule **Error! Reference source not found.**, for which the intellectual property rights vest with Next Millennium Technology Ltd.

Software: the online software applications provided by Next Millennium Technology Ltd as part of the Services.

Subscription Fees: the subscription fees payable by the Client to Next Millennium Technology Ltd for the User Subscriptions, as set out in paragraph **Error! Reference source not found.** of Schedule **Error! Reference source not found.**

Subscription Term: has the meaning given in clause 14.1.

Support Services Policy: Next Millennium Technology Ltd's policy for providing support in relation to the Services as made available at www.nemitec.com or such other website address as may be notified to the Client from time to time.

User Subscriptions: the user subscriptions purchased by the Client pursuant to clause 9.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) [and that person's legal and personal representatives, successors or permitted assigns].
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.8 A reference to writing or written includes faxes and e-mail.
- 1.9 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

2. USER SUBSCRIPTIONS

- 2.1 Subject to the Client purchasing the User Subscriptions in accordance with clause 3.3 and clause 9.1, the restrictions set out in this clause 2 and the other terms and conditions of this agreement, Next Millennium Technology Ltd hereby grants to the Client a non-exclusive, non-transferable right to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Client's internal business operations.
- 2.2 In relation to the Authorised Users, the Client undertakes that:
 - (a) the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;

- (b) it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;
- (c) each Authorised User shall keep a secure password for his use of the Services and Documentation, that such password shall be changed no less frequently than monthly and that each Authorised User shall keep his password confidential;
- (d) it shall maintain a written, up to date list of current Authorised Users and provide such list to Next Millennium Technology Ltd within 5 Business Days of Next Millennium Technology Ltd's written request at any time or times;
- (e) it shall permit Next Millennium Technology Ltd to audit the Services in order to establish the name and password of each Authorised User. Such audit may be conducted no more than once per quarter, at Next Millennium Technology Ltd's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Client's normal conduct of business;
- (f) if any of the audits referred to in clause 2.2 (e) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Next Millennium Technology Ltd's other rights, the Client shall promptly disable such passwords and Next Millennium Technology Ltd shall not issue any new passwords to any such individual; and
- (g) if any of the audits referred to in clause 2.2 (e) reveal that the Client has underpaid Subscription Fees to Next Millennium Technology Ltd, the Client shall pay to Next Millennium Technology Ltd an amount equal to such underpayment as calculated in accordance with the prices set out in paragraph **Error! Reference source not found.** of Schedule **Error! Reference source not found.** within 10 Business Days of the date of the relevant audit.

2.3 The Client shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or
- (f) causes damage or injury to any person or property;

and Next Millennium Technology Ltd reserves the right, without liability to the Client, to disable the Client's access to any material that breaches the provisions of this clause.

2.4 The Client shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
 - (i) and except to the extent expressly permitted under this agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- (b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
- (c) use the Services and/or Documentation to provide services to third parties; or
- (d) subject to clause 19.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2; and

2.5 The Client shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Next Millennium Technology Ltd.

2.6 The rights provided under this clause 2 are granted to the Client only, and shall not be considered granted to any subsidiary or holding company of the Client.

3. ADDITIONAL USER SUBSCRIPTIONS

3.1 Subject to clause 3.2 and clause 3.3, the Client may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in paragraph **Error! Reference source not found.** of **Error! Reference source not found.** and Next Millennium Technology Ltd shall grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of this agreement.

3.2 If the Client wishes to purchase additional User Subscriptions, the Client shall notify Next Millennium Technology Ltd in writing. Next Millennium Technology Ltd shall evaluate such request for additional User Subscriptions and respond to the Client (via Next Millennium Technology Ltd) with approval or disapproval of the request (such approval not to be unreasonably withheld).

3.3 If Next Millennium Technology Ltd approves the Client's request to purchase additional User Subscriptions, the Client shall, within 30 days of the date of Next Millennium Technology Ltd's invoice, pay to Next Millennium Technology Ltd the relevant fees for such additional User Subscriptions as set out in **Error! Reference source not found.** and, if such additional User Subscriptions are purchased by the Client part

way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

4. SERVICES

4.1 Next Millennium Technology Ltd shall, during the Subscription Term, provide the Services and make available the Documentation to the Client on and subject to the terms of this agreement.

4.2 Next Millennium Technology Ltd shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

- (a) planned maintenance carried out during the maintenance window of 01h00 to 05h00 UK time; and
- (b) unscheduled maintenance performed outside Normal Business Hours, provided that Next Millennium Technology Ltd has used reasonable endeavours to give the Client at least 6 Normal Business Hours' notice in advance.

5. CLIENT DATA

5.1 The Client shall own all rights, title and interest in and to all of the Client Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Client Data.

5.2 Next Millennium Technology Ltd shall follow its archiving procedures for Client Data as set out in its Back-Up Policy in **Error! Reference source not found.** In the event of any loss or damage to Client Data, the Client's sole and exclusive remedy shall be for Next Millennium Technology Ltd to use reasonable commercial endeavours to restore the lost or damaged Client Data from the latest back-up of such Client Data maintained by Next Millennium Technology Ltd in accordance with the archiving procedure described in its Back-Up Policy. Next Millennium Technology Ltd shall not be responsible for any loss, destruction, alteration or disclosure of Client Data caused by any third party (except those third parties sub-contracted by Next Millennium Technology Ltd to perform services related to Client Data maintenance and back-up).

5.3 Next Millennium Technology Ltd shall, in providing the Services, comply with its Privacy and Security Policy relating to the privacy and security of the Client Data available at <http://nemitec.com/privacy.html> or such other website address as may be notified to the Client from time to time, as such document may be amended from time to time by Next Millennium Technology Ltd in its sole discretion.

5.4 If Next Millennium Technology Ltd processes any personal data on the Client's behalf when performing its obligations under this agreement, the parties record their intention that the Client shall be the data controller and Next Millennium Technology Ltd shall be a data processor and in any such case:

- (a) the Client acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Client and the Authorised Users are located in order to carry out the Services and Next Millennium Technology Ltd's other obligations under this agreement;

- (b) the Client shall ensure that the Client is entitled to transfer the relevant personal data to Next Millennium Technology Ltd so that Next Millennium Technology Ltd may lawfully use, process and transfer the personal data in accordance with this agreement on the Client's behalf;
- (c) the Client shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
- (d) Next Millennium Technology Ltd shall process the personal data only in accordance with the terms of this agreement and any lawful instructions reasonably given by the Client from time to time; and
- (e) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

6. THIRD PARTY PROVIDERS

The Client acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Next Millennium Technology Ltd makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Client, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Client and the relevant third party, and not Next Millennium Technology Ltd. Next Millennium Technology Ltd recommends that the Client refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Next Millennium Technology Ltd does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

7. NEXT MILLENNIUM TECHNOLOGY LTD'S OBLIGATIONS

7.1 Next Millennium Technology Ltd undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

7.2 The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Next Millennium Technology Ltd's instructions, or modification or alteration of the Services by any party other than Next Millennium Technology Ltd or Next Millennium Technology Ltd's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Next Millennium Technology Ltd will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Client's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1. Notwithstanding the foregoing, Next Millennium Technology Ltd:

- (a) does not warrant that the Client's use of the Services will be uninterrupted or error-free; nor that the Services, Documentation and/or the information obtained by the Client through the Services will meet the Client's requirements; and

- (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

7.3 This agreement shall not prevent Next Millennium Technology Ltd from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this agreement.

7.4 Next Millennium Technology Ltd warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

8. CLIENT'S OBLIGATIONS

The Client shall:

- (a) provide Next Millennium Technology Ltd with:
 - (i) all necessary co-operation in relation to this agreement; and
 - (ii) all necessary access to such information as may be required by Next Millennium Technology Ltd;

in order to render the Services, including but not limited to Client Data, security access information and configuration services;
- (b) comply with all applicable laws and regulations with respect to its activities under this agreement;
- (c) carry out all other Client responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, Next Millennium Technology Ltd may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (d) ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Next Millennium Technology Ltd, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;
- (f) ensure that its network and systems comply with the relevant specifications provided by Next Millennium Technology Ltd from time to time; and
- (g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Next Millennium Technology Ltd's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

9. CHARGES AND PAYMENT

- 9.1 The Client shall pay the Subscription and/or Services fees in accordance with this clause 9 and **Error! Reference source not found.**
- 9.2 All amounts due to Next Millennium Technology Ltd shall be invoiced to the Client by Next Millennium Technology Ltd and the Client shall pay these sums due to Next Millennium Technology Ltd.
- 9.3 The Client shall pay each invoice within 30 days after the date of such invoice.
- 9.4 If Next Millennium Technology Ltd has not received payment within 30 days after the due date and remunerated Next Millennium Technology Ltd in accordance with the Distribution Agreement, and without prejudice to any other rights and remedies of Next Millennium Technology Ltd:
- (a) Next Millennium Technology Ltd may, without liability to the Client, disable the Client's password, account and access to all or part of the Services and Next Millennium Technology Ltd shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - (b) the Client shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England'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.
- 9.5 All amounts and fees stated or referred to in this agreement:
- (a) shall be payable in pounds sterling;
 - (b) are, subject to clause 13.4 (b), non-cancellable and non-refundable;
 - (c) are exclusive of value added tax, which shall be added to invoices at the appropriate rate.
- 9.6 If, at any time whilst using the Services, the Client exceeds the amount of disk storage space specified in the Documentation, Next Millennium Technology Ltd shall charge the Client, and the Client shall pay, Next Millennium Technology Ltd's then current excess data storage fees.
- 9.7 Next Millennium Technology Ltd shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions purchased pursuant to clause 3.3 and/or the excess storage fees payable pursuant to clause 9.6 at the start of each Renewal Period upon 45 days' prior notice to the Client and **Error! Reference source not found.** shall be deemed to have been amended accordingly.
- 9.8 In addition to the provisions of clause 9.7, all Fees payable under the terms of this agreement will increase annually on the anniversary date in line with the UK Retail Prices Index (RPI) 12 month rate as published by the Office of National Statistics (subject to any fixed term rates specified in **Error! Reference source not found.** of this Agreement).

10. PROPRIETARY RIGHTS

- 10.1 The Client acknowledges and agrees that Next Millennium Technology Ltd and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this agreement does not grant the Client any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.
- 10.2 Next Millennium Technology Ltd confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

11. CONFIDENTIALITY

11.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:

- (a) is or becomes publicly known other than through any act or omission of the receiving party;
- (b) was in the other party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
- (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

11.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.

11.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.

11.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

11.5 The Client acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Next Millennium Technology Ltd's Confidential Information.

11.6 Next Millennium Technology Ltd acknowledges that the Client Data is the Confidential Information of the Client.

11.7 This clause 11 shall survive termination of this agreement, however arising.

12. INDEMNITY

12.1 The Client shall defend, indemnify and hold harmless Next Millennium Technology Ltd against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Client's use of the Services and/or Documentation, provided that:

- (a) the Client is given prompt notice of any such claim;
- (b) Next Millennium Technology Ltd provides reasonable co-operation to the Client in the defence and settlement of such claim, at the Client's expense; and

- (c) the Client is given sole authority to defend or settle the claim.

12.2 Next Millennium Technology Ltd shall, subject to clause 12.5, defend the Client, its officers, directors and employees against any claim that the Services or Documentation infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Client for any amounts awarded against the Client in judgment or settlement of such claims, provided that:

- (a) Next Millennium Technology Ltd is given prompt notice of any such claim;
- (b) the Client provides reasonable co-operation to Next Millennium Technology Ltd in the defence and settlement of such claim, at Next Millennium Technology Ltd's expense; and
- (c) Next Millennium Technology Ltd is given sole authority to defend or settle the claim.

12.3 In the defence or settlement of any claim, Next Millennium Technology Ltd may procure the right for the Client to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 Business Days' notice to the Client without any additional liability or obligation to pay liquidated damages or other additional costs to the Client.

12.4 In no event shall Next Millennium Technology Ltd, its employees, agents, Distributor and sub-contractors be liable to the Client to the extent that the alleged infringement is based on:

- (a) a modification of the Services or Documentation by anyone other than Next Millennium Technology Ltd; or
- (b) the Client's use of the Services or Documentation in a manner contrary to the instructions given to the Client by Next Millennium Technology Ltd; or
- (c) the Client's use of the Services or Documentation after notice of the alleged or actual infringement from Next Millennium Technology Ltd or any appropriate authority.

12.5 The foregoing states the Client's sole and exclusive rights and remedies, and Next Millennium Technology Ltd's (including Next Millennium Technology Ltd's employees', agents', Distributor's and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

13. LIMITATION OF LIABILITY

13.1 Subject to the provisions of clause 12, this clause 13 sets out the entire financial liability of Next Millennium Technology Ltd (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:

- (a) any breach of this agreement;
- (b) any use made by the Client of the Services and Documentation or any part of them; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.

13.2 Except as expressly and specifically provided in this agreement:

- (a) the Client assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Client, and for conclusions drawn from such use. Next Millennium Technology Ltd shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Next Millennium Technology Ltd by the Client in connection with the Services, or any actions taken by Next Millennium Technology Ltd at the Client's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and
- (c) the Services and the Documentation are provided to the Client on an "as is" basis.

13.3 Nothing in this agreement excludes the liability of Next Millennium Technology Ltd:

- (a) for death or personal injury caused by Next Millennium Technology Ltd's negligence; or
- (b) for fraud or fraudulent misrepresentation.

13.4 Subject to clause 13.2 and clause 13.3:

- (a) Next Millennium Technology Ltd shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and
- (b) Next Millennium Technology Ltd's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the total Subscription Fees paid for the User Subscriptions during the 12 months immediately preceding the date on which the claim arose.

14. TERM AND TERMINATION

14.1 This agreement shall, unless otherwise terminated as provided in this clause 14, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive periods of 12 months (each a **Renewal Period**), unless:

- (a) either party notifies the other party of termination, in writing, at least 60 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) otherwise terminated in accordance with the provisions of this agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Subscription Term**.

14.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this agreement without liability to the other if:

- (a) the other party commits a material breach of any of the terms of this agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- (b) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other party; or
- (c) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- (d) a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
- (e) the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- (f) the other party ceases, or threatens to cease, to trade; or
- (g) the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

14.3 On termination of this agreement for any reason:

- (a) all licences granted under this agreement shall immediately terminate;
- (b) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- (c) Next Millennium Technology Ltd may destroy or otherwise dispose of any of the Client Data in its possession unless Next Millennium Technology Ltd receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Client of the then most recent back-up of the Client Data. Next Millennium Technology Ltd shall use reasonable commercial endeavours to deliver the back-up to the Client within 30 days of its receipt of such a written request, provided that the Client has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Client shall pay all reasonable expenses incurred by Next Millennium Technology Ltd in returning or disposing of Client Data; and
- (d) the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

15. FORCE MAJEURE

Next Millennium Technology Ltd shall have no liability to the Client under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Next Millennium Technology Ltd or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Next Millennium Technology Ltds or sub-contractors, provided that the Client is notified of such an event and its expected duration.

16. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

17. SEVERANCE

17.1 If any provision or part-provision of this 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 this agreement.

17.2 If any provision or part-provision of this 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.

18. ENTIRE AGREEMENT

18.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

18.2 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 this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

19. ASSIGNMENT

19.1 The Client shall not, without the prior written consent of Next Millennium Technology Ltd, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

19.2 Next Millennium Technology Ltd may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

20. FREEDOM TO CONTRACT

The parties declare that they each have the right, power and authority and have taken all action necessary to execute and deliver and to exercise their rights and perform their obligations under this agreement.

21. NO PARTNERSHIP OR AGENCY

21.1 Nothing in this 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.

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

22. THIRD PARTY RIGHTS

22.1 Except as expressly provided elsewhere in this agreement, a person who is not a party to this agreement shall not have any rights whether statutory or otherwise to enforce any term of this agreement.

23. NOTICES

23.1 Any notice given to a party under or in connection with this contract shall be in writing and shall be:

- (a) 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
- (b) sent by fax to its main fax number; or
- (c) sent by email to the most recent email address notified or used by the other party.

23.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) 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.
- (c) if sent by fax or email, at 9.00 am on the next Business Day after transmission.

23.3 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.

24. GOVERNING LAW AND JURISDICTION

24.1 This agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with the law of England and Wales.

24.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).