

TRELENT TERMS AND CONDITIONS

TRELENT (“Trelent”, “we”, “us”, the “Provider” and terms of similar meaning) provide the services described herein (“Services”), subject to these terms and conditions (these “Terms” or “Agreement”). Please read through these Terms carefully before using the Services. By accessing or using the Services, you and the company you represent agree to be bound by these Terms, and all terms, policies and guidelines incorporated by reference in these Terms. If you do not agree with these Terms in their entirety, you may not use the Services. An updated version of these Terms will be available on the Trelent website at www.trelent.net (the “Site”).

The terms “you”, “your”, “User” or “Customer” shall refer to any individual or entity who accepts this Agreement.

ARTICLE 1 DEFINITIONS

1.1 **APPLICABLE LAW** means all applicable requirements, laws, statutes, codes, acts, ordinances, orders, decrees, injunctions, by-laws, rules, regulations, permits, licenses, authorizations, directions and agreements with all applicable government authorities, agencies, bodies or departments, having jurisdiction over this Agreement.

1.2 **BASE SUBSCRIPTION** means a base monthly subscription for the purchase of cloud storage to be included in the Services.

1.3 **CONFIDENTIAL INFORMATION** of a Party means secret or confidential information which is not generally known to the public and may include, but is not limited to: (a) computer software, know-how, technical data, research, products, business or financial information, plans or strategies, business practices, operations, procedures, information respecting the customers, of such Party or of its representatives; (b) information which due to its nature, or the circumstances surrounding its communication, would be reasonably interpreted as constituting confidential information, including the terms and conditions of this Agreement; (c) any other information of any nature, and in any form, received from or belonging to such Party which is marked or identified as confidential; and (d) proprietary or confidential information of a third party or supplied in confidence by a third party, including that of third party suppliers, in the possession of such Party; which is acquired by a Party in its performance or receipt of Services under this Agreement. Confidential Information does not include the following information: (a) information that can be shown is known to the recipient at the time of disclosure; (b) information that is available to the general public at the time of disclosure; (c) information that is disclosed to the recipient by reason by another person or entity having the right to disclose or publicize it; (d) information that is intentionally distributed without restrictions as to confidentiality by the disclosing Party.

1.4 **CUSTOMER DATA** means the software, files, pages, data, works, information and/or material on, displayed, linked or transmitted to, from or through the Provider System by the Customer.

1.5 **FEES** means the fees to be paid by Customer pursuant to this Agreement.

1.6 **INTELLECTUAL PROPERTY RIGHTS** means any intellectual or industrial property rights protected or protectable under the laws of Canada or any foreign country, whether by including any intellectual property rights protected by legislation (such as legislation governing copyrights, industrial designs, integrated circuit topographies, patents or trademarks) or by common law (such as confidential information and trade secrets).

1.7 **ORDER** means the purchase of a Base Subscription and/or service credits and the initial selection of a service plan to access the Services.

1.8 **PARTY** means a Party to this Agreement.

1.9 **PRIVACY POLICY** means the privacy policy currently available at www.trelent.net/privacy as it may be updated by the Trelent from time to time.

1.10 **PROVIDER SYSTEM** means (i) the Site, (ii) the Trelent software platform to manage the User's access to the Services, and (iii) the Provider's private cloud infrastructure and associated software.

ARTICLE 2 DESCRIPTION OF SERVICES AND USER ACCOUNTS

2.1 *Services.* Trelent provides on-demand access to virtual private and dedicated servers and scalable computing resources, which we call "Trelent PCs", as more particularly described on the Site.

2.2 *Customization and Hardware Purchases.* In addition to the Services that Trelent makes available to Customers through the Site, the Provider may make additional services available to the Customer such as the sale of virtual private or dedicated servers, hardware, installation services, training services, backup and disaster recovery, redundancy, maintenance and support ("Customized Orders"). If a request is made for a Customized Order, Trelent will evaluate such request and provide you with an estimate for the Customized Order ("Estimate") at the contact information you provide during the submission of such request. Upon the acceptance of the Estimate, Trelent shall present the Customer with such additional Agreements or addendums to these Terms as necessary, which, upon acceptance, shall be incorporated into these Terms.

2.3 *User Account Registration.* To use the Services, you must register for a User account. Users agree to: (a) provide accurate, current and complete information as may be prompted by any registration forms on the Site ("Registration Data"); (b) maintain the security of the their password; (c) maintain and promptly update the Registration Data, and any other information they provide to the Software, and to keep it accurate, current and complete; and (d) accept all risks of unauthorized access to the Registration Data and any other information provided to Provider. The Customer shall be responsible for all activity on their User Account, including the activity performed on the Services by any person acting on behalf of such User.

ARTICLE 3 PRIVACY

3.1 *Privacy.* The Provider will collect, use and disclose personally identifiable information in accordance with the terms of the Privacy Policy. By using the Services, the Customer agrees to the Provider's use, collection and disclosure of personally identifiable information in accordance with the Privacy Policy.

ARTICLE 4 LICENSE AND LICENSE RESTRICTIONS

4.1 *License.* Provider hereby grants to the Customer a non-exclusive, non-transferable license to use the Provider System, solely to permit the Customer to access the Services and use the functionality contained within the Provider System for legitimate purposes during the Term.

4.2 *License Restrictions.* Except as set forth in this Agreement, any Schedule and to the extent contrary by Applicable Law: the Customer may not (a) make or distribute copies of any software contained in the Provider System; (b) alter, copy, merge, adapt, reformat, download, or translate the Provider System, or decompile, reverse engineer, disassemble, or otherwise reduce the software contained in the Provider System through automated or other means to a human-perceivable form, including, without limitation, using the Services in conjunction with, or combining content therefrom with, content obtained through scraping or any other means outside the Services, or any part thereto; (c) sell, rent, share, lease, transfer, distribute, display, host or sublicense the Provider System; (d) modify the Provider System or create derivative works based upon the Provider System; *provided however* that the foregoing will not restrict the Customer's rights to exploit any Customer Data which may be incorporated into, reside in, or form a part of the Provider System; (e) use the Services in a manner that breaches the rights of any third party, any contract (including these Terms or any Third Party Licenses) or legal duty or violate any Applicable Law; (f) copy the Services or any part, feature, function or user interface thereof; (g) access or use the Services in any way for the purposes of competing with the Services or in order to build a competitive product or service; and/or (h) use the Services other than for its intended purposes, including, without limitation, in a manner that, as determined by Trelent in its sole discretion, constitutes excessive or abusive usage.

ARTICLE 5
CUSTOMER OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

5.1 *Acceptable Use of Services.* The Customer may not:

- (a) use, or encourage, promote facilitate or instruct others to use the Services for any illegal, harmful or offensive use or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful or offensive;
- (b) use the Services to violate the security or integrity of any network, computer or communications system, software application, or network or computing device;
- (c) make network connections to any users, hosts, or networks unless the Customer has permission to communicate with them;
- (d) distribute, publish, send or facilitate the sending of unsolicited mass e-mail or other messages, promotions, advertising or solicitations (like 'spam'), including commercial advertising and informational announcements

Trelent reserves the right, but does not assume the obligation, to investigate any violate of this Section or misuse of the Services.

5.2 *Lawful Purposes.* The Customer shall only use the Services for lawful purposes. The Customer represents and warrants that it is and shall at all times be in compliance with all Applicable Law.

5.3 *Bandwidth Speed and Usage Limits.* Bandwidth speed and usage limits ("Limits") will apply to the Services as described on the Site at the time of making an Order or amending an Order through the Provider System, or acceptance of a Customized Order. Additional Fees may be charged for increased Limits. The Provider may amend such Limits or Fees upon providing thirty (30) days' notice to the Customer.

5.4 *Responsibilities, Representations and Warranties of the Customer.*

- (a) The Customer agrees that it shall be responsible for providing and maintaining its own Internet access and all necessary telecommunications equipment, services, software and other materials (collectively, "Customer Equipment") at the Customer's location(s) necessary for accessing the Provider System.
- (b) The Customer agrees that it will remain responsible for administering the security of the Customer Data, including the granting of rights of access to the Customer Data.
- (c) The Customer represents and warrants that it has the right to enter into this Agreement and to allow the Provider to perform the Services.

5.5 *Customer Indemnity Regarding Use of Services and Customer Data.* The Customer shall be solely responsible for all inputs, selection and use of the Services and all Customer Data or other data transmitted, received or created using the Provider System, even if transmitted, received or created by someone else, and the Customer agrees to defend, indemnify and hold the Provider, its directors, officers, employees, agents, contractors and affiliates harmless from any loss, damage or liability which may result therefrom or from any breach by the Customer of this Agreement.

ARTICLE 6
INTELLECTUAL PROPERTY

6.1 *Ownership of the Provider System.* Except for any grant of licenses in this Agreement or as otherwise expressly provided in this Agreement, Trelent and its licensors, as applicable, shall retain all copyright, patent rights,

trade secret rights, trademarks and other proprietary rights or interests (“Intellectual Property Rights”) in the Provider System. Nothing in these Terms, or any Schedules shall be deemed to convey to the Customer or any other party, any ownership right, in or to Provider System or any software contained therein.

6.2 *Ownership of Customer Data.* Trement acknowledges and agrees that, as between the Parties, the Customer is the sole and exclusive owner of the Customer Data, and that no right or interest in the Customer Data, other than pursuant to Section 6.3 of these Terms, and will be collected, handled and used by Trement only in compliance with the terms of this Agreement.

6.3 *License from Customer to Trement.* The Customer hereby grants to Trement a non-exclusive, royalty-free, non-transferable, limited right to use during the Term, Customer Data provided to Trement solely to perform Services pursuant to this Agreement.

6.4 *All Other Rights Reserved, Further Assurances.* Except as expressly set forth herein or in a Schedule, all Intellectual Property Rights are expressly reserved by the parties. The Customer or Trement, as applicable, shall execute and deliver such instruments and take such other steps as may be requested by the Customer or Trement, as applicable, from time to time in order to give effect to the provisions of this Article.

6.5 *Third Party Software.* The Provider System may contain third party software and/or open source software, which may be subject to third party licenses and require notices and/or additional terms and conditions (“Third Party Licenses”). By accepting these Terms, the Customer also accepts the Third-Party Licenses, if any, set forth therein. These Third-Party Licenses are made a part of and incorporated into these Terms. To view the Third-Party Licenses, please contact contact@trement.net.

ARTICLE 7 FEES AND PAYMENTS

7.1 *Fees and Payments.* The Customer will be charged the fees applicable for the selected Services as described on the Site at the time of submitting an Order, amending an Order or accepting the terms of a Customized Order (“Fees”). Customer is responsible for all sales, use, consumption, value added, goods and services and similar taxes which are based upon its acquisition or use of the Services to be provided under this Agreement. Except as otherwise specified herein or in an applicable Schedule, (i) the Fees are based on the Services purchased and not actual usage, (ii) payment obligations are non-cancelable and Fees paid are non-refundable, and (iii) the Base Subscription (pertaining to the quantum of storage) cannot be decreased during the relevant subscription term. Trement may adjust the Fees payable under these Terms by providing the Customer with at least thirty (30) days prior written notice of such adjustment.

ARTICLE 8 SERVICE LEVELS

8.1 *Service Level Agreement.* The Provider offers an uptime guarantee of 99% (“Uptime Guarantee”) of available time per month.

8.2 *Credits.* In the event that the Provider fails to meet this Uptime Guarantee in a particular month (“Downtime”) (as solely determined by the Provider), the Customer may contact the Provider and request a credit of five percent (5%) of the Customer’s monthly subscription fees for that month. The provision of a credit will be subject to the terms of this Article. The credit may be used only for the purchase of further products and services from the Provider, and is exclusive of any applicable taxes.

8.3 *Reporting Downtime.* The Customer must report any Downtime to the Provider through the Provider’s help desk, available 24/7. The Customer must provide the necessary information and co-operation required by the Provider to enable the Provider to determine the cause of the problems. A support ticket may be opened and the Provider will subsequently investigate the reported Downtime. Upon receiving notice of Downtime, the Provider shall use best industry efforts to rectify the Downtime.

8.4 *Exceptions.* The Provider shall not be responsible for any Downtime to the extent that such Downtime results from any of the following: (a) the Services being modified or altered in any way at the Customer's request; (b) any interruptions resulting from defects or failures in or use of any third party services for which the Customer is responsible or any facilities provided or operated by or on behalf of the Customer; (c) incomplete, inaccurate information provided by the Customer to the Provider; (d) any delay or failure in complying with any of the Customer's obligations under this Agreement; (e) time taken during the Planned Service Interruptions (defined below), as provided in this Agreement; (f) regulatory events; or (g) any Force Majeure event under this Agreement.

8.5 *Sole Remedy.* In the event that the Customer is dissatisfied with the Service, the Customer's sole remedies are those listed in this Article 8, or termination of this Agreement in accordance with Article 11 below.

ARTICLE 9 MAINTENANCE AND SUPPORT

9.1 *Planned Service Interruptions.* Notwithstanding the Uptime Guarantee contained in Section 8.1 above, while the Services will be provided with redundant hardware, the Provider may, upon reasonable notice, interrupt the Services between midnight and 6:00 AM, Vancouver, British Columbia time, to perform planned maintenance on the Provider's equipment ("Planned Service Interruption").

9.2 *Exigent Circumstances.* The Provider may also interrupt the Services on an exigent basis, as minimally required to repair and/or mitigate the effects of security breaches, virus attacks, denial of service attacks, and other intentional interferences by the effects of security breaches, virus attacks, denial of service attacks and other intentional interferences by third parties. The Provider will exercise reasonable efforts to inform the Customer before interrupting the Services to effect the said repairs. Repairs resulting from exigent circumstances as outlined in this Section shall be considered Planned Service Interruptions for the purposes of this Agreement.

9.3 *Support.* For all Services, the Provider will provide the Customer with basic helpdesk support through an online helpdesk system ("Basic Support"). Basic Support is available twenty-four (24) hours a day, seven (7) days a week ("24/7"). The Provider will use best efforts to respond to any Basic Support requests within twenty-four (24) hours. Additional support and/or support response time options may be available for certain Services as more particularly described on the Site. Additional fees may apply.

ARTICLE 10 CONFIDENTIALITY

10.1 *Non-disclosure.* Each Party agrees to use the Confidential Information of the other Party solely for the purpose of performing its obligations or exercising its rights under this Agreement, and will disclose such Confidential Information only to those of its own representatives who have a need to know the information in connection therewith, and who are under an enforceable legal obligation to keep same confidential and subject to comparable restrictions as apply to the receiving Party under this Agreement, and shall take appropriate action to ensure their compliance with such obligation. Each Party's efforts to maintain the confidentiality of information under this Agreement, including the measures taken, will not be less than those which the Party takes to prevent disclosure of its own proprietary information of like significance and in no event less than a reasonable standard of care. With the exception of any disclosure permitted by the foregoing, each Party agrees not to sell, license, transfer, publish, disclose, display, make available to others, the Confidential Information of the other Party. Each Party may disclose Confidential Information to the extent that the recipient is compelled, pursuant to Canadian law, to disclose it, provided that a Party being compelled to disclose shall provide the other Party with prompt notice (to the extent permitted by law) in order to allow such Party to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and shall co-operate with such Party and its legal counsel to the fullest extent. If such protective orders or other remedies are not obtained, the Party being compelled to disclose will only disclose that portion of the Confidential Information it is legally compelled to disclose, only to such person or persons to which such Party is legally compelled to disclose, and shall provide notice to each such recipient that such Confidential Information is confidential and subject to non-disclosure on terms and conditions substantially similar to and not materially less protective than those in this Agreement, and, if possible, shall obtain each recipient's written agreement to receive and use such Confidential Information subject to such terms and conditions.

10.2 *Indemnity.* Each Party agrees to indemnify and hold the other Party harmless from and against all loss or damage of any kind and nature suffered by the other Party as a result of any breach by it or its representatives of its obligations relating to confidentiality contained in this Article.

ARTICLE 11 TERM AND TERMINATION

11.1 *Term.* The term of the Services shall begin on the date of an initial Order and continue until the Base Subscription and this Agreement are terminated in accordance with the terms of this Agreement (“Term”). A Base Subscription is a monthly subscription and can be terminated at any time. No refunds will be provided for prepaid months. Notwithstanding this Section, access to the Services requires an active Base Subscription and sufficient credits necessary to access the Services.

11.2 *Methods of Termination.* Where termination is available, the Customer may terminate or provide notice of termination by (a) submitting a request through the helpdesk, (b) e-mailing the Provider or (c) otherwise terminate through the Provider System.

11.3 *Termination Without Notice.* Without limiting any other rights or remedies available to either party, at law or in equity, either party has the right to terminate this Agreement immediately and without notice, if: (a) the other party is in breach or default of any of its obligations under this Agreement, including non-payment, and such breach or default continues unrectified for ten (10) days following the provision of written notice of such breach or default; (b) the other party voluntarily enters into proceedings in bankruptcy or insolvency, makes an assignment for the benefit of its creditors, is adjudged to be bankrupt or insolvent, a petition is filed against the other party under a bankruptcy law, corporate reorganization law, or any other law for the relief of debtors or similar law and such petition is not discharged with sixty (60) days after its filing, or a receiver, trustee or similar person is appointed with respect to the other party’s assets; or (c) the other party ceases to carry on its business.

11.4 *Effect of Termination.* Upon any termination of this Agreement in accordance with its terms, the Customer shall no longer have access to the Provider System. Within fifteen (15) calendar days of any termination of this Agreement, the Customer shall pay to the Provider all unpaid Fees accrued to the effective date of termination. Upon receipt in full of all unpaid Fees and other fees and amounts due hereunder in connection with any such termination, the Provider shall (a) provide Customer with an electronic copy of the Customer Data, if requested in writing by Customer within seven (7) calendar days of such termination; and (b) shall use commercial grade reformatting software to delete and wipe the Customer Data from the Provider System numerous times.

ARTICLE 12 DISCLAIMER OF WARRANTIES AND DAMAGES AND LIMITATION OF LIABILITY

12.1 *Disclaimer of all other Warranties.* EXCEPT AS PROVIDED IN THIS AGREEMENT, THE PROVIDER MAKES NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. THE PROVIDER DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS. EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, THE SERVICE IS PROVIDED WITH NO WARRANTIES REGARDING SECURITY, RELIABILITY, PROTECTION FROM ATTACKS, DATA INTEGRITY OR DATA AVAILABILITY. FOR GREATER CERTAINTY, THE UPTIME GUARANTEE IS PROVIDED SOLELY FOR THE PURPOSE OF DESCRIBING WHEN THE CUSTOMER SHALL BE ENTITLED TO THE REMEDIES DESCRIBED IN SECTION 8.2 ABOVE AND SHALL NOT BE INTERPRETED AS A WARRANTY. THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. NO COMMUNICATION BETWEEN THE CUSTOMER AND PROVIDER WILL CREATE A WARRANTY OR IN ANY WAY ALTER OR RESTRICT ANY DISCLAIMER OF WARRANTY OR LIMITATION OF LIABILITY SET FORTH IN THIS ARTICLE 12. AS USED IN THE PREVIOUS SENTENCE, “COMMUNICATIONS” INCLUDE, WITHOUT LIMITATION, MARKETING MATERIALS AND REPRESENTATIONS OF SALESPeOPLE, ADVICE PROVIDED BY THE PROVIDER OR ANY OF ITS REPRESENTATIVES, QUOTES, AND ANY WORK ORDER OR OTHER ORDERING DOCUMENT.

12.2 *No Indirect, Etc. Damages.* Under no circumstances shall the Provider be liable to Customer for any claim for (i) indirect, special or consequential damages, (ii) compensation for loss of profits, anticipated revenue, savings or goodwill, or other economic loss of Customer, (iii) exemplary, aggravated or punitive damages howsoever incurred, (iv) contribution or set-off in respect of any claims against Customer, or (v) any damages whatsoever relating to interruption, delays, errors or omissions.

12.3 *Additional Limitations.* Except to the extent specifically provided in Section 8.2 above, the Provider will have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings (“Claims”) resulting from any of the following or from any Provider efforts to address or mitigate any of the following:

- (a) Security breaches, including without limitation third party access to the Customer Data or to assigned computers, third party access to or misuse of passwords provided and interception of traffic sent or received using the Services;
- (b) Denial of service attacks, viruses, worms, and other intentional interference by third parties;
- (c) Loss of data or loss of access to data;
- (d) Use of the Provider System;
- (e) Actions of third parties, including the customers of the Customer;

12.4 *Limitation of Aggregate Liability.* EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED UNDER THIS AGREEMENT, THE PROVIDER’S LIABILITY TO CUSTOMER FOR ANY CLAIM, DEMAND OR CAUSE OF ACTION WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, OR FOR ANY LOSSES, DAMAGES, COSTS AND EXPENSE (INCLUDING BUT NOT LIMITED TO LEGAL FEES) (COLLECTIVELY, “LOSSES”) ARISING OUT OF OR RESULTING FROM THIS AGREEMENT SHALL NOT EXCEED AN AMOUNT EQUAL TO THE FEES PAID BY THE CUSTOMER TO THE PROVIDER FOR THE TWELVE (12) MONTHS PRIOR TO NOTIFYING THE PROVIDER OF SUCH LOSSES.

12.5 *Indemnity by Customer.* The Customer shall defend, indemnify and hold harmless the Provider (including its officers, employees, agents, contractors, representatives, suppliers, subsidiaries, parents and affiliated companies) from all costs, losses, expenses, damages, judgments, settlements and costs (including without limitation lawyer reasonable fees) resulting from any Claim by any of the Customer’s customers or users, or any third party, arising out of or related to the Customer’s use or the Customer’s customers’ use of, misuse of, or a failure to use the Service, including without limitation:

- (a) Alleged Customer (including the Customer’s employees, contractors or representatives) conduct that would breach this Agreement;
- (b) Any Claim made by any client or customer of the Customer;
- (c) The Customer’s engagement in any activity that is illegal, offensive or immoral or that infringes on the rights of privacy or publicity, or any intellectual or proprietary rights of any third party; or
- (d) Any action taken by the Provider as part of an investigation into a suspected violation of this Agreement or as a result of its conclusion that a violation has occurred.

12.6 *Limitations Reasonable.* Customer agrees that the limitations of liability set out in this Article are fair and reasonable in the commercial circumstances of this Agreement and that the Provider would not have entered into this Agreement but for Customer’s agreement to limit the Provider’s liability in the manner, and to the extent, provided for herein. This Article shall apply even in the event of a breach of condition, a breach of an essential or fundamental term, or an essential or fundamental breach of this Agreement.

ARTICLE 13 GENERAL

13.1 *Force Majeure.* Except as expressly provided otherwise in this Agreement, dates and times by which Customer or the Provider is required to perform under this Agreement or a Schedule (except for any payment obligation) will be postponed automatically to the extent and for the period of time that Customer or the Provider, as the case may be, is prevented by causes outside of its reasonable control from meeting such dates and times by reason of any cause beyond its reasonable control (provided that a lack of financial resources shall not constitute an event beyond the reasonable control of a Party). The following events are deemed to be outside of a Party's reasonable control: acts of God, acts of government, acts of war, civil or military unrest, acts of public enemies, epidemics, pandemics, riots, fire, unavailability of communications or electrical power service provided by third parties, governmental regulations superimposed after the fact and earthquakes, explosions, floods or other disasters provided that such causes could not have been reasonable foreseen and the risk and/or consequences of such causes mitigated on a commercially reasonable basis. The Parties agree that an event shall not be considered to be beyond reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as the provisions of the Schedule would have put in place contingency plans to either materially mitigate or negate the effects of such event. A Party seeking to rely on this Section must (i) notify the other Party immediately and in detail of the anticipated or actual commencement of and the cause of postponement; (ii) notify the other Party promptly of any material changes in the circumstances which resulted in the postponement including when the reason for the postponement is at an end; and (iii) use diligent efforts to avoid or remove such cause of non-performance and to minimize the consequences thereof, including utilizing all resources reasonably required in the circumstances including without limitation obtaining supplies or services from other resources if they are reasonably available. The provisions of this section do not preclude Customer from terminating a Schedule, if the delay is experienced by the Provider and extends for more than thirty (30) days.

13.2 *Assignment.* Customer may not assign or transfer its rights, duties or obligations under this Agreement, in whole or in part, to any person or entity, without the prior written consent of the Provider, which consent shall not be unreasonably withheld, provided that Customer may assign its rights and obligations to the purchaser in connection with a sale of all or substantially all of its assets. Any attempted assignment in contravention of this Article shall be null and void. The Provider may subcontract any Services to be performed hereunder without the consent of Customer in each instance.

13.3 *Notices.* The Provider may provide the Customer with any notice required under this Agreement by: (i) posting a notice on the Site or the Provider System; or (ii) sending a message to the e-mail address associated with the User Account. Notices provided by posting on the Site or the Provider System will be effective upon posting and notices provided by e-mail will be effective when the e-mail is sent. It is the Customer's responsibility to keep its e-mail address current. The Customer shall be deemed to have received any e-mail sent to the e-mail address then associated with the User Account when the Provider sends the e-mail, whether or not the Customer received the e-mail. To provide notice to the Provider, the Customer must contact the Provider as follows: (i) submitting a ticket through helpdesk; or (ii) e-mailing the Provider at contact@trellent.net. Notices provided by e-mail will be effective one (1) business day after they are sent.

13.4 *Waiver.* No term or provision of this Agreement is deemed waived and no breach excused, unless the waiver or consent is in writing and signed by the Party claiming to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether expressed or implied, does not constitute a consent to, waiver of, or excuse for, any other different or subsequent breach.

13.5 *Governing Law.* This Agreement is governed by and construed in accordance with the applicable laws of the Province of Ontario and the federal laws applicable therein. The parties irrevocably and unconditionally consent, submit and attorn to the non-exclusive jurisdiction of the courts of Ontario and all courts competent to hear appeals from them for the purpose of any action or proceeding brought by either of them in connection with or arising out of this Agreement or a Schedule.

13.6 *Entire Agreement.* This Agreement includes all Policies and constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all previous negotiations, proposals,

commitments, writings and understandings of any nature whatsoever, whether oral or written, unless they are expressly incorporated by additional reference in the Agreement.

13.7 *Modification of Terms.* The Provider reserves the right to change or modify any of the terms and conditions contained in these Terms, or any policy or guideline applicable to the Services, at any time and its sole discretion. If the Provider does so, the Provider will notify the Customer at the e-mail address provided in the Customer's Registration Data. Customers who do not agree with the changes may terminate this Agreement in accordance with the terms of Article 11. Unless otherwise specified, any changes or modifications will be effective immediately upon the provision of notice to the Customer's e-mail address, and such Customer's continued use of the Services after such time will constitute acceptance of such changes and modifications.

13.8 *Amendments.* No modification, amendment, supplement to or waiver of this Agreement or any Schedule hereunder, or any of their provisions shall be binding upon the parties hereto unless made in writing and duly signed by both parties. If any consents of a Party are required pursuant to this Agreement, such consents shall not be unreasonably withheld or unduly delayed.

13.9 *Benefits.* This Agreement is binding upon and enures to the benefit of the parties and their respective successors and permitted assigns, if any, of the parties hereto, except that nothing contained in this provision shall be construed to permit any attempted assignment which would be unauthorized or void pursuant to any other provision of this Agreement.

13.10 *Survival.* Any terms and conditions of this Agreement which by their nature extend beyond the termination of this Agreement shall survive such termination. This includes, without limitation Article 6 (Intellectual Property), Article 10 (Confidentiality), Section 11.4 (Effect of Termination), Article 12 (Disclaimer Of Warranties And Damages And Limitation Of Liability), Section 13.5 (Governing Law) and Section 13.13 (Non-Solicitation of Personnel).

13.11 *Independent Contractors.* Each Party's relationship with the other Party will be that of an independent contractor. Nothing in this Agreement is to be construed as designating either Party as an agent, employee, joint venturer or partner of the other Party. Neither Party shall have the authority to serve as agent for the other Party, to make any statement, representation or commitment of any kind on behalf of the other Party not to take any action which may be binding on the other Party. The Provider shall at all times during the term of this Agreement maintain such supervision, direction and control over its Subcontractors, personnel and agents as is consistent with and necessary to preserve its independent contractor status.

13.12 *Additional Provisions.* The Parties acknowledge that they may from time to time agree to additional rights and obligations that shall apply solely to particular Services, and that the Schedules applicable thereto may contain additional rights and obligations of the Parties.

13.13 *Non-Solicitation of Personnel.* The Customer shall not, without the Provider's prior written consent, solicit for hire any of the Provider's employees or Subcontractors who are directly involved in the provision or receipt of the Services during the time such personnel are involved providing or receiving the Services and for six (6) months thereafter.

13.14 *Counterparts.* This Agreement and any Schedule may be executed in counterparts, each of which is deemed to be an original and all of which together are deemed to be one and the same instrument. The delivery of an electrically delivered copy of an executed counterpart of this Agreement shall be deemed to be valid execution and delivery of this Agreement.

13.15 *Language.* The parties have requested that this Agreement and all documents contemplated thereby or relating thereto be drawn up in the English language. Les parties ont requis que cette Convention ainsi que tous les documents qui y sont envisagés ou qui s'y rapportent soient rédigés en langue anglaise.