



D6.1 General Terms & Conditions

**TERMS AND CONDITIONS**

**OF**

**CLOUDLAYER 8 LIMITED**

**THIS IS A LIVE DOCUMENT AND CLOUDLAYER8 LIMITED RETAINS THE RIGHT TO ALTER  
AND/OR AMEND ANY OF ITS TERMS AT ITS ABSOLUTE DISCRETION WITHOUT FIRST  
OBTAINING THE CONSENT OF THE CUSTOMER**



**The Customer's attention is particularly drawn to the provisions of clause 11.**

**1. INTERPRETATION**

1.1 **Definitions.** In these Conditions, the following definitions apply:

**Acceptable Use Policy:** the policy found at <https://cl8.com/legal/P6.1-Acceptable-Use-Policy.pdf>.

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in Cyprus are open for business.

**Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 7.

**Commencement Date:** has the meaning set out in clause 2.6.

**Conditions:** these terms and conditions as amended from time to time by Cloudlayer8.

**Contract:** the contract between Cloudlayer8 and the Customer for the supply of Services as it is further defined in clause 2 of these Conditions.

**Customer:** the natural or legal person who purchases Services from Cloudlayer8, as it is further defined in clause 2.1 of these Conditions.

**Customer's Business:** the general commercial business of the Customer.

**Customer Materials:** data, text, images, graphics, videos, logos and other content and material, hardware or equipment provided by the Customer in connection with this agreement for use by Cloudlayer8 in providing the Services.

**Defect(s):** an error that causes the Services to fail to operate substantially in accordance with the Specifications of the Services.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** a request by the Customer as set out in the Customer's purchase order for the provision of Services by Cloudlayer8 under the present Conditions.



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**Services:** implementation, and other internet related services described in the Order which are provided or to be provided by these Conditions (and any other applicable Special Conditions).

**Specification(s):** the description or specification of the Services as it is provided in writing in the Customer's Order and which is then confirmed by Cloudlayer8 by accepting the Order.

**Special Conditions:** any additional terms and conditions agreed between Cloudlayer8 and the Customer in writing.

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes faxes and e-mails.

## 2. BASIS OF CONTRACT

2.1 Any potential customer before qualifying as being considered a Customer of Cloudlayer8 will need to register with Cloudlayer8, receive a copy of these Conditions and explicitly accept their existence, supremacy over and above any other oral or written negotiations and their legal force and effect. For the avoidance of doubt the Customer, can register with Cloudlayer8 in the following link: <https://central.cl8.com/clientarea.php> and receive a unique identification number together with an electronic copy of these Conditions.

2.2 If the conditions of clause 2.1 above are met and the Customer wishes to proceed with the purchase of Services by Cloudlayer8, the Customer after accepting these Conditions will then be eligible to elect which Services to purchase from Cloudlayer8.

2.3 Once the Customer selects which Services he wishes to purchase from Cloudlayer8, the Customer will receive the Special Conditions applicable to the Services for consideration and acceptance.



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- 2.4 Subject to clause 2.6, the present Conditions and the Special Conditions once accepted by the Customer shall form the Contract and/or the Contract(s) between Cloudlayer8 and the Customer and both the Conditions and the Special Conditions shall prevail over any terms or conditions or other contractual documents submitted by the Customer or implied by law, trade custom, practice or course of dealing.
- 2.5 Cloudlayer8 will provide the Services when an Order is placed by the Customer which shall constitute an offer to purchase the Services.
- 2.6 The Order shall only be deemed to have been accepted when Cloudlayer8 sends written acceptance of the Order to the Customer by a series of emails specifying the following:
- (a) a first email confirming receipt of the Order and acknowledging acceptance of the Conditions and the Special Conditions by the Customer;
  - (b) a second email containing an invoice for the Services provided by Cloudlayer8 ;
  - (c) a third email confirming receipt of the fees; and
  - (d) where applicable a fourth email informing the Customer of the relevant estimated time-frame for the Services to be performed.

For the avoidance of doubt the Contract and/or the Contract(s) between Cloudlayer8 and the Customer shall be deemed to come into existence as soon as Cloudlayer8 confirms receipt of the fees by the Customer (**Commencement Date**).

- 2.7 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Cloudlayer8, which is not set out in the Contract.
- 2.8 Any drawings, descriptive matter or advertising issued by Cloudlayer8, and any descriptions or illustrations contained in Cloudlayer8 's catalogues or brochures or Cloudlayer8 's website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

### 3. SUPPLY OF SERVICES

- 3.1 Cloudlayer8 warrants to the Customer that the Services shall be provided using reasonable care and skill.



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- 3.2 The Customer acknowledges that, given the nature of the Services, Cloudlayer8 cannot guarantee that the Services when delivered via the internet, will be uninterrupted and/or error free and Cloudlayer8 shall not be under any duty or obligation to provide any Services where the Customer is using what in the sole discretion of Cloudlayer8 can be deemed as incompatible communication systems.
- 3.1 Cloudlayer8 gives no warranty or representation that:
- (a) the Services will meet the Customer's requirements; and
  - (b) any results obtained from the use of the Services will be accurate and/or complete;
- 3.2 Cloudlayer8 shall be entitled to restrict or suspend the Services if:
- (a) Cloudlayer8 wishes to carry out routine or emergency maintenance, repair or upgrade to the Services; and
  - (b) The Customer uses the Services for any activity that contravenes the principles contained in the Acceptable Use Policy or if the Customer commits any serious or persistent breach of any of its obligations under clause 5 and clause 11.2 of these Conditions.
- 3.3 For the avoidance of doubt all Services provided by Cloudlayer8 to the Customer will not in any way whatsoever result in the processing of any of the Customer's data nor shall Cloudlayer8 be under a general obligation to actively seek facts or other circumstances indicating any illegal activity by the Customer.

## 4. CLOUDLAYER8'S RIGHTS

- 4.1 Cloudlayer8 shall use all reasonable endeavours to meet any performance dates, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.2 Cloudlayer8 shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Cloudlayer8 shall within five (5) days of the occurrence of such event notify in writing the Customer.

## 5. CLOUDLAYER8'S OBLIGATIONS

- 5.1 Cloudlayer8 shall use reasonable endeavours to correct Defects notified to it by the Customer in a timely manner appropriate to the seriousness of the circumstances in accordance with the following procedure:



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- (a) the Customer shall promptly notify Cloudlayer8 of all Defects. Such notification shall be made available to Cloudlayer8 with either one of the following options:
  - (i) via the ticketing system provided to the Customer on his/her client portal and selecting the seriousness of the Defect, or
  - (ii) via the phone, Cloudlayer8 will record the defect on the behalf of the Customer. All calls shall be recorded.
- (b) Cloudlayer8 shall acknowledge receipt of the notification and shall determine, in consultation with the Customer, the seriousness of the Defect. Cloudlayer8 reserves the right to change the seriousness of the Defect after the technical team performs the initial technical assessment.
- (c) if a notified Defect s impairs the Customer's Business Cloudlayer8 shall:
  - (i) start work on correcting the Defect within four (2) hours of receipt of such notification;
  - (ii) use all reasonable efforts to correct the Defect as soon as possible; and
  - (iii) inform the Customer once the Defect has been rectified;
- (d) if a notified Defect, while not halting or substantially impairing the Customer's Business, causes those operations to become significantly slowed or causes substantial inconvenience, Cloudlayer8 shall commence work on correcting the Defect within two (4) hours of receipt of such notification and shall use all reasonable efforts to correct the Defect as soon as practically possible.

## 6. CUSTOMER'S OBLIGATIONS

### 6.1 The Customer shall:

- (a) ensure that the terms of the Order are complete and accurate;
- (b) ensure that its systems meet any minimum system specifications notified to it from time to time;
- (c) ensure that all communication details (including e-mail address), bank details and Customer Materials which it provides to Cloudlayer8 are at all times true, current, accurate and complete. The Customer shall promptly notify Cloudlayer8 of any change to such details within seven (7) days of the change and further acknowledges that Cloudlayer8 will not be liable for any loss suffered or incurred by the Customer as a result of its failure to notify such changes to Cloudlayer8;

- (d) obtain, maintain and pay for all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
- (e) not use the Services for any unlawful purpose or to send SPAM or for the publication, linking to, issue or display of any unlawful material (including any pirate software or any material which is obscene, pornographic, threatening, malicious, harmful, abusive, defamatory or which breaches the rights including the Intellectual Property Rights of any third party or which is or encourages criminal acts or contains any virus worm, trojan horse, or other harmful code) whether under Cyprus law or regulation the laws or regulations of the Customer's country or any other place where the results of such purpose or the material in question can be accessed;
- (f) immediately notify Cloudlayer8 on becoming aware of any unauthorised use of Cloudlayer8 's Services;
- (g) inform Cloudlayer8 in the event of any actual or suspected security breaches in connection with the Services;
- (h) provide in a timely manner such information as Cloudlayer8 may request and ensure that such information is accurate in all material respects;
- (i) comply with any security policy notified to it from time to time by Cloudlayer8 . If the Customer has any reason to believe that any password or user name has become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way or in any other breach of security then the Customer shall inform Cloudlayer8 immediately;
- (j) be entirely liable for all activities conducted and Charges incurred under its passwords and user names whether authorised by it or not and the Customer acknowledges that Cloudlayer8 shall not be liable for any loss of confidentiality or for any damages arising from the Customer's inability to comply with these Conditions;
- (k) comply with Cloudlayer8 's reasonable instructions and requests concerning the Services;
- (l) co-operate with Cloudlayer8 in all matters relating to the Services;
- (m) not provide any technical or other information obtained from Cloudlayer8 relating to the Services to any person which the Customer is aware or reasonably ought to be aware that may directly or indirectly lead to a breach of any law or any regulation;
- (n) independently monitor its bandwidth in relation to the use of Services and report to Cloudlayer8 any use of bandwidth over and above those agreed or stipulated levels as detailed in Cloudlayer8 's Contract;

- (o) provide Cloudlayer8 with such information and materials as Cloudlayer8 may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects; and
  - (p) promptly pay the fees for the Services and applicable Charges when due together with the applicable Value Added Tax (“VAT”) and/or other disbursements relevant to the provision of the Services.
  
- 6.2 The Customer acknowledges that it has the appropriate knowledge on how the internet functions, the systems and other related products provided to it in connection with this agreement and what types of use and content are and are not acceptable some of which are referred in clause 5.1(e). The Customer acknowledges that Cloudlayer8 shall have no obligation to:
  - (a) train the Customer or its officers, employees and agents on its use of the Services;
  - (b) amend and/or alter any material which the Customer wishes to and/or does post on any website or any other system it operates or any communication which it issues or sends in connection with any Services; and
  - (c) validate or edit such material for usability legality, content or correctness.
  
- 6.3 If Cloudlayer8 's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
  - (a) Cloudlayer8 shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Cloudlayer8 's performance of any of its obligations;
  - (b) Cloudlayer8 shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Cloudlayer8 's failure or delay to perform any of its obligations as set out in this clause 6.3; and
  - (c) the Customer shall reimburse Cloudlayer8 on written demand for any costs or losses sustained or incurred by Cloudlayer8 arising directly or indirectly from the Customer Default.

## 7. CHARGES AND PAYMENT

- 7.1 The fees for the Services shall be set out in accordance with Cloudlayer8 s price list as amended from time to time, such price list being available online at <https://cl8.com> (**Website**). The total fees for the Services shall be confirmed by Cloudlayer8 inclusive of VAT for the time being, and shall be payable in Euro.





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- 7.2 Cloudlayer8 shall ensure that all details descriptions and prices which appear on the Website are accurate. If Cloudlayer8 discovers an error in the price of any of the Services which the Customer has ordered, Cloudlayer8 shall inform the Customer as soon as practicable of such error and provide the Customer with the option to reconfirm the Order at the correct price or cancel such Order. If the Customer wishes to cancel the Order and the Customer has already paid for the Services the Customer will receive a full refund.
- 7.3 Cloudlayer8 shall be entitled to vary its price list by giving notice to the Customer at least thirty (30) days before the new price list is to come into effect, such notice to be given by email or by notification on Cloudlayer8 's website. Upon receipt of such notice the Customer shall be entitled to terminate the Contract with effect from the date of the notice such termination to be notified to Cloudlayer8 no later than thirty (30) days from the date of the notice. Failure to give such notice of termination shall be deemed acceptance of Cloudlayer8 's new list.
- 7.4 The Customer shall pay the fees upon placing the Order (in accordance with clause 2.2 of this agreement) by credit, debit card, by bank transfer, PayPal or bank cheque. All fees shall be non-refundable unless otherwise stated herein and shall be paid in full with no set-off or deduction unless otherwise agreed in writing by the parties.
- 7.5 For the avoidance of doubt by submitting your card data, you acknowledge and agree that Cloudlayer8 in collaboration with 2checkout will charge the card you have submitted for the amount of the transaction. Your card data is collected directly by 2checkout without Cloudlayer8 's intervention and Cloudlayer8 does not have access to data such as card number, expiry date and cvv2. Therefore, Cloudlayer8 shall accept no liability for any issue occurring with regard to any of the above data.
- 7.6 If the Customer fails to honour any of its payment obligations then Cloudlayer8 shall have the right to suspend all Services until payment has been made in full and shall have the right at his absolute discretion to refuse to enter into any further contracts with the Customer for the provision of any further Services requested by the Customer.
- 8. INDEMNITY**
- 8.1 The Customer will fully indemnify and keep Cloudlayer8 and its officers employees and agents fully indemnified from and against all actions, demands, costs (on a full indemnity basis), losses, penalties, damages, liabilities and expenses whatsoever incurred by it and arising from any of the following:
- (a) the Customer's breach of this agreement negligence or other default;
  - (b) the operation or breakdown of any systems owned or used by the Customer;



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- (c) the Customer's use or misuse of the Services; and
- (d) for any action brought or threatened against Cloudlayer8 by a third party which is caused by or arises from any action or omission of Cloudlayer8 carried out and/or materialised pursuant to the Customer's instructions.

### 9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Cloudlayer8.
- 9.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Customer obtaining a written licence from the relevant licensor on such terms as will entitle the Customer to use such rights.
- 9.3 If an infringement of Intellectual Property Right is being notified to Cloudlayer8, Cloudlayer8 will immediately notify the Customer and the Customer shall be liable to rectify such infringement.

### 10. CONFIDENTIALITY

A party (**receiving party**) shall keep in strict confidence all personal information, technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 10 shall survive termination of the Contract.

### 11. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 11.1 Nothing in these Conditions shall limit or exclude Cloudlayer8 's liability for:
  - (a) fraud or fraudulent misrepresentation;



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- (b) death or personal injury caused by negligence; and
- (c) any matter for which it would be unlawful for the parties to exclude liability.

### 11.2 Cloudlayer8's Liability

- (a) Cloudlayer8 may at its own discretion suspend the provision of the Services of the whole or part of the Services temporarily or permanently and will have no liability to provide the Services on the occurrence of any of the following events:
  - (i) any notified or unscheduled upgrade or maintenance of Cloudlayer8's IT systems;
  - (ii) issue of any competent authority of an order which is binding on Cloudlayer8 and/or which either directly or indirectly affects the Services;
  - (iii) if the Customer fails to pay any fees or any other sums owing to Cloudlayer8 by the Customer when they fall due;
  - (iv) if an event occurs that Cloudlayer8 deems to be appropriate to terminate the agreement;
  - (v) failure by the Customer to adhere to any provisions outlined in Cloudlayer8's Acceptable Use Policy;
  - (vi) fault, negligence or omission by a third party not connected to Cloudlayer8;
  - (vii) total or partial loss of the material and/or data uploaded due to an error by the Customer;
  - (viii) damage to the Customer's equipment, software or telecommunications links;
  - (ix) wrongful use of the Services by the Customer or the Customer's employees, agents, sub-contractors or the Customer's clients or non-compliance with any operating instructions given by Cloudlayer8.
- (b) Cloudlayer8 shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract.

- 11.3 To the fullest extent permitted by law and in accordance with clause 3.2 of this agreement, the Services are provided by Cloudlayer8 to the Customer on "as is" and "as available" basis and no warranties or representations expressed or implied of any kind are given including as to satisfactory quality and fitness for a particular purpose.



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- 11.4 Cloudlayer8 's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising with connection of the performance or contemplated performance of the contract shall be limited to the price paid for that part of the Services to which the liability relates.
- 11.5 The Customer acknowledges that there is a risk that any material or data generated, stored, transmitted, or used via or in connection with the Services may be irretrievably damaged or lost if there is a failure or on suspension or termination of the Services and Cloudlayer8 shall be under no obligation to back-up all such material or data. The Customer shall take any precautionary measures for preserving such material or data in the event of loss or damage, however caused.
- 11.6 The Customer is solely responsible for maintaining local copies of its data. If loss of data occurs for any reason whatsoever the Customer shall be responsible to restore its data from his own backups.
- 11.7 For the avoidance of doubt websites are modified forums containing the personal opinions and other expressions of the people who post entries on a wide range of topics. Neither the content of the websites located on Cloudlayer8 's servers, nor the links to other websites, are screened, approved or endorsed by Cloudlayer8 . Cloudlayer8 is not and will not be deemed to be the publisher of the content of the websites residing on its servers, or of any content that may be available through the links to and from the websites on its servers and its acting solely as an internet web-hosting service provider. Any text or any other materials on such websites comprise the opinions of the specific authors of the material, and are not Cloudlayer8 's opinions, materials and as such Cloudlayer8 shall not have any liability whatsoever in relation to such materials and opinions which the Customer publishes on its own website.
- 11.8 This clause 11 shall survive termination of the Contract.

## 12. CUSTOMER'S RIGHT TO CANCEL

- 12.1 Subject to the European Directive 2011/83/EU of the European Parliament and of the Council on Consumer Rights (the "**Directive**") the Customer in his capacity as a "consumer" (if applicable) shall be entitled to cancel the Services in writing within fourteen (14) days from the date of the Commencement Date of the Contract.
- 12.2 If the Customer cancels the Order in accordance with clause 12.1, Cloudlayer8 shall fully reimburse the Customer within thirty (30) days from the cancelation of the Order.



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- 12.3 Subject to clause 12.2 above, the Customer hereby irrevocably consents and agrees that where the performance of Services has been initiated and/or the performance of Services has been completed, no right to cancel the Services and receive reimbursement shall exist.
- 12.4 In case that the Customer does not fall within the ambit of the above Directive, clauses 12.2 and 12.3 shall apply with the exception that the right to cancel the Services shall be exercised within seven (7) days.

### **13. TERMINATION**

- 13.1 A Contract shall, commence on the Commencement Date and shall continue, unless terminated earlier in accordance with clause 13 and/or in accordance with the terms and conditions of these Conditions and/or the Special Conditions.
- 13.2 Cloudlayer8 may immediately terminate a contract by notice in writing to the Customer if the Customer fails to pay to Cloudlayer8 any sum due under this agreement on the due date for repayment. For the avoidance of doubt the Customer shall remain liable for any sums due under the Services.
- 13.3 On termination of a Contract for any reason, the Customer shall immediately pay any outstanding unpaid invoices and interest due to Cloudlayer8. Cloudlayer8 shall submit invoices for any Services that it has supplied, but for which no invoice has been submitted, and the Customer shall pay these invoices immediately on receipt.
- 13.4 Termination or expiry of a Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement, which existed at or before the date of termination or expiry.
- 13.5 On termination of a Contract for any reason, each party shall as soon as reasonably practicable return, destroy or permanently erase any documents, handbooks, CD-ROMs or DVDs or other information or data provided to it by the other party containing, reflecting, incorporation or based on Confidential Information belonging to the other party.
- 13.6 Other than as set out in this agreement, neither party shall have any further obligation to the other under a Contract after its termination.
- 13.7 Without limiting its other rights or remedies, either party may terminate a Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen (14) days of that party being notified in writing to do so;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts;
- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company);
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.7(b) to clause 13.7(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- (l) the other party's financial position deteriorates to such an extent that in Clouddlayer8 's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

- (m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

13.8 Without limiting its other rights or remedies, Cloudlayer8 may suspend provision of the Services under the Contract or any other contract between the Customer and Cloudlayer8 if the Customer becomes subject to any of the events listed in clause 13.7(b) to clause 13.7(m), or Cloudlayer8 reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

#### 14. CONSEQUENCES OF TERMINATION

On termination of a Contract for any reason:

- (a) the Customer shall immediately pay to Cloudlayer8 all of Cloudlayer8 's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Cloudlayer8 shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (c) clauses which expressly or by implication survive termination shall continue in full force and effect.

#### 15. FORCE MAJEURE

15.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of Cloudlayer8 including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Cloudlayer8 or any other party), failure of a utility service or transport 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 suppliers or subcontractors.

15.2 Cloudlayer8 shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

15.3 If the Force Majeure Event prevents Cloudlayer8 from providing any of the Services for more than thirty (30) days, Cloudlayer8 shall, without limiting its other rights or



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remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

### 16. GENERAL

#### 16.1 Assignment and other dealings.

- (a) Cloudlayer8 may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of Cloudlayer8, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under a Contract.

#### 16.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 16.2(a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The communication details of Cloudlayer8, where such notices shall be served, are available on Cloudlayer8's Website.
- (d) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

#### 16.3 Severance.

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted.



Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

- (b) If any provision or part-provision of this Contract 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.

- 16.4 **Waiver.** A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 16.6 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 16.7 **Variation.** As set out in the outset of these Conditions, this is a live document and the Customer consents to the authority of Cloudlayer8 to alter and/or amend this document at his absolute discretion and in any way as Cloudlayer8 thinks fit and proper.
- 16.8 **Governing law.** These Conditions shall be governed by, and construed in accordance with the laws of Cyprus.