

Terms of Service

Effective as of 1ST February, 2019

PARTIES

(1) **Wielydy Digital Limited** incorporated and registered in England and Wales with company number 11205410 whose registered office is at The Old Apple Store, Stanley Hill, Pirbright, Woking, England, GU24 0DN (**Wielydy Digital**)

(2) [**Hotel name**], incorporated and registered in England and Wales with company number [09514019] whose registered office is at [**Address**] (**Customer**)

BACKGROUND

(A) Wielydy Digital has developed certain software applications and platforms which it makes available to subscribers on either a monthly or annual subscription basis for the purpose of assisting accommodation providers in their customer service to guests.

(B) The Customer wishes to use Wielydy Digital's service in its business operations.

(C) Wielydy Digital has agreed to provide and the Customer has agreed to take and pay for Wielydy Digital's service subject to the terms and conditions of this agreement.

AGREED TERMS

1. INTERPRETATION

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

Affiliates: means, in relation to a party, any entity or person controlling (directly or indirectly), controlled by or under common control with that party.

Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation, as set out in [Clause 2.2\(d\)](#).

Confidential Information: information that is proprietary or Confidential and is either clearly labelled as such or identified as Confidential Information in [Clause 11.6](#) or [Clause 11.7](#).

Customer Data: the data inputted by the Customer, Authorised Users, or Wielydy Digital on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

Data Protection Legislation:

a. unless and until the General Data Protection Regulation ((EU) 2016/679) (GDPR) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK including the Data Protection Act 2018; and then

b. any successor legislation to the GDPR or the Data Protection Act 2018.

Documentation: the document made available to the Customer by Wielydy Digital which sets out a description of the Services and the user instructions for the Services.

Hotel: means each single hotel property owned or managed by the Customer for which the Service shall be applied.

Hotel Subscriptions: the subscriptions purchased by the Customer pursuant to [Clause 9.1](#) to be applied to each Hotel for which the subscription is purchased and which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement.

Initial Subscription Term: the initial term of this agreement as set out in [Schedule 2](#).

Order: each order by the Customer to purchase the Services from Wielydy Digital.

Renewal Period: the period described in [Clause 14.1](#).

Services: the subscription services provided by Wielydy to the Customer under this agreement via www.wielydydigital.com or any other website notified to the Customer by Wielydy Digital from time to time, as more particularly described in the Documentation.

Software: the online software applications provided by Wielydy as part of the Services.

Subscription Fees: the subscription fees payable by the Customer to Wielydy Digital for the Hotel Subscriptions, as set out in [Paragraph 1](#) of [Schedule 1](#).

Subscription Term: has the meaning given in [Clause 14.1](#) (being the Initial Subscription Term together with any subsequent Renewal Periods).

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. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

1.3. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.4. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.5. A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.

1.6. A reference to writing or written includes faxes and e-mail.

2. HOTEL SUBSCRIPTIONS

2.1. Subject to the Customer purchasing the Hotel Subscriptions, Wielydy Digital hereby grants to the Customer a non-exclusive, non-transferable, terminable right, without the right to grant sub-licences, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's business operations.

2.2. In relation to the Authorised Users and Hotel Subscriptions, the Customer undertakes that:

- a. it shall not exceed those the maximum number of Hotel Subscriptions and Authorised Users to access and use the Services and the Documentation which are agreed in an Order ;
- b. it will not allow or suffer any Hotel Subscription to be used in excess of those agreed in an Order unless such Hotel Subscription has been reassigned in its entirety to another Hotel, in which case Customer shall no longer have any right to access or use the Services and/or Documentation for the previous Hotel;
- c. each Authorised User shall keep a secure password for his use of the Services and Documentation;
- d. it shall maintain a written, up to date list of current Authorised Users and provide such list to Wielydy within 5 business days of Wielydy's written request;
- e. it shall permit Wielydy Digital to audit the Services in order to establish compliance with this agreement. Each such audit may be conducted no more than once per quarter, at Wielydy's expense;
- f. if any of the audits referred to above reveal that the Customer has underpaid Subscription Fees to Wielydy, then without prejudice to Wielydy Digital's other rights, the Customer shall pay to Wielydy Digital an amount equal to such underpay

2.3 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or is otherwise illegal or causes damage or injury to any person or property. Wielydy reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

2.4 The Customer shall not 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; attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; 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; use the Services and/or Documentation to provide services to third parties, 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, do, or omit to do, anything which would breach any third party codes, rules, regulations or terms and conditions which are applicable to the Customer by way of using the Services and Documentation.

2.5 The Customer 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 Wielydy.

3 ADDITIONAL HOTEL SUBSCRIPTIONS

3.1 The Customer may, from time to time during any Subscription Term, purchase additional Hotel Subscriptions, in excess of the number set out in an Order by way of signing an additional Order. Wielydy shall grant access to the Services and the Documentation to such additional Authorised Users and Hotel Subscriptions as set out in such Order in accordance with the provisions of this agreement.

3.2 The Customer shall, within 30 days of the date of Wielydy Digital's invoice, pay to Wielydy the relevant fees for such additional Hotel Subscriptions.

If such additional Hotel Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by Wielydy for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

4. SERVICES

4.1 Wielydy Digital shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this agreement.

4.2 Wielydy Digital shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for planned and unscheduled maintenance.

4.3 Wielydy Digital will, as part of the Services provide the Customer with Wielydy's standard customer support services during business hours.

5. CUSTOMER DATA

5.1 The Customer shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.

5.2 In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against Wielydy Digital shall be for Wielydy

Digital to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Wielydy Digital. Wielydy Digital shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party.

5.3 Wielydy Digital shall, in providing the Services, comply with its Privacy Policy relating to the privacy and security of the Customer Data available at www.wielydydigital.com

5.4 Both parties will comply with all applicable requirements of the Data Protection Legislation

5.5 The parties acknowledge that:

- a. if Wielydy Digital processes any personal data on the Customer's behalf when performing its obligations under this agreement, the Customer is the data controller and Wielydy Digital is the data processor for the purposes of the Data Protection Legislation (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).
- b. Schedule 3 sets out the scope, nature and purpose of processing by Wielydy Digital, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation, **Personal Data**) and categories of Data Subject.
- c. the personal data may be transferred or stored outside the EEA or the country where the Customer and the Authorised Users are located in order to carry out the Services and Wielydy Digital's other obligations under this agreement.

5.6 Without prejudice to the generality of [Clause 5.4](#), the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Wielydy Digital for the duration and purposes of this agreement so that Wielydy Digital may lawfully use, process and transfer the Personal Data in accordance with this agreement on the Customer's behalf.

5.7 Without prejudice to the generality of [Clause 5.4](#), Wielydy Digital shall, in relation to any Personal Data processed in connection with the performance by Wielydy Digital of its obligations under this agreement:

- a. **process that Personal Data only on the written instructions of the Customer unless Wielydy Digital is required by the laws of any member of the European Union or by the laws of the European Union applicable to Wielydy Digital to process Personal Data (Applicable Laws). Where Wielydy Digital is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Wielydy Digital shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Wielydy from so notifying the Customer;**
- b. **not transfer any Personal Data outside of the European Economic Area and the United Kingdom unless the following conditions are fulfilled:**
 - i. **the Customer or Wielydy Digital has provided appropriate safeguards in relation to the transfer;**
 - ii. **the data subject has enforceable rights and effective legal remedies;**
 - iii. **Wielydy Digital complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and**
 - iv. **Wielydy Digital complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;**
- c. **assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;**
- d. **notify the Customer without undue delay on becoming aware of a Personal Data breach;**
- e. **at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and**
- f. **maintain complete and accurate records and information to demonstrate its compliance with this [Clause 5](#).**

5.8 Each party shall ensure that it has in place appropriate security, technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).

5.9 The Customer consents to Wielydy Digital appointing Amazon Web Services and Facebook as third-party processors of Personal Data under this agreement. Wielydy Digital confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between the Customer and Wielydy Digital, Wielydy Digital shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this [Clause 5](#).

5.10 Either party may, at any time on not less than 30 days' notice, revise this [Clause 5](#) by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

6. THIRD PARTY PROVIDERS

The Customer 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. Wielydy Digital makes no representation, warranty 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 Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not Wielydy Digital. Wielydy Digital recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Wielydy Digital 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. WIELDY DIGITAL'S OBLIGATIONS

7.1 Wielydy Digital 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 Wielydy Digital's instructions, or modification or alteration of the Services by any party other than Wielydy Digital or Wielydy Digital's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in [Clause 7.1](#). Notwithstanding the foregoing, Wielydy Digital:

- a. does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer'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 Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

8. CUSTOMER'S OBLIGATIONS

8.1 The Customer shall:

- a. **provide Wielydy Digital with all necessary co-operation in relation to this agreement and all necessary access to such information as may be required by Wielydy Digital in order to provide the Services, including but not limited to Customer 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 Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Wielydy Digital 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 Wielydy Digital, 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 Wielydy Digital from time to time; and**
- g. **be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Wielydy Digital's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.**

9. CHARGES AND PAYMENT

9.1 The Customer shall pay the Subscription Fees to Wielydy Digital for the Hotel Subscriptions in accordance with this [Clause 9](#).

9.2 Once the Wielydy chatbot has been set up and installed on Customer's website or Facebook profile, the Customer shall pay to Wielydy Digital by way of Bank Transfer the sums as set out on the Order for the Subscription Services and if paying monthly, set up a standing order to pay Wielydy Digital on the first day of each month the monthly fee for the Subscription Services.

9.3 If Wielydy Digital has not received payment for any invoice within 30 days after the due date, and without prejudice to any other rights and remedies of Wielydy Digital:

- a. **Wielydy Digital may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and Wielydy Digital shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and**
- b. **interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of Wielydy Digital's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.**

9.4 All amounts and fees stated or referred to in this agreement:

- a. **shall be payable in pounds sterling;**
- b. **are, subject to [Clause 13.3\(b\)](#), non-cancellable and non-refundable;**
- c. **are exclusive of applicable taxes which shall be added to Wielydy Digital's invoice(s) at the appropriate rate.**

9.5 Wielydy Digital shall be entitled to vary the Subscription Fees, the fees payable in respect of the additional Hotel Subscriptions, the support fees at the start of each Renewal Period upon 90 days' prior notice to the Customer.

10. PROPRIETARY RIGHTS

10.1 The Customer acknowledges and agrees that Wielyd Digital 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 Customer any rights to, under or in, any patents, copyright, database right, 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 Wielyd Digital 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; or**
- d. is independently developed by the receiving party, which independent development can be shown by written evidence.**

11.2 Subject to [Clause 11.4](#), each party shall hold the other's Confidential Information in confidence and 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 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this [Clause 11.4](#), it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

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

11.6 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Wielyd Digital's Confidential Information.

11.7 Wielyd Digital acknowledges that the Customer Data is the Confidential Information of the Customer.

11.8 No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

11.9 The above provisions of this [Clause 11](#) shall survive termination of this agreement, however arising.

12. INDEMNITY

12.1 The Customer shall defend, indemnify and hold harmless Wielyd Digital 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 Customer's use of the Services and/or Documentation, provided that the Customer is given prompt notice of any such claim.

12.2 Wielyd Digital shall defend the Customer, 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 Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- a. Wielyd Digital is given prompt notice of any such claim;**
- b. the Customer provides reasonable co-operation to Wielyd Digital in the defence and settlement of such claim, at Wielyd Digital's expense; and**
- c. Wielyd Digital is given sole authority to defend or settle the claim.**

12.3 In the defence or settlement of any claim, Wielyd Digital may procure the right for the Customer 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 Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

12.4 In no event shall Wielyd Digital, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

- a. a modification of the Services or Documentation by anyone other than Wielyd Digital; or**
- b. the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by Wielyd Digital; or**

- c. **the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from Wielydy Digital or any appropriate authority.**

12.5 The foregoing and [Clause 13.3\(b\)](#) state the Customer's sole and exclusive rights and remedies, and Wielydy Digital (including Wielydy Digital's employees', agents' 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 Except as expressly and specifically provided in this agreement:

- a. **the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. Wielydy Digital shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Wielydy Digital by the Customer in connection with the Services, or any actions taken by Wielydy Digital at the Customer'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 Customer on an "as is" basis.**

13.2 Nothing in this agreement excludes the liability of Wielydy Digital:

- a. **for death or personal injury caused by Wielydy Digital's negligence; or**
- b. **for fraud or fraudulent misrepresentation.**

13.3 Subject to [Clause 13.1](#) and [Clause 13.2](#):

- a. **Wielydy Digital 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. **Wielydy Digital's total aggregate liability in contract (including in respect of the indemnity at [Clause 12.2](#)), 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 Hotel 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 affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- a. **the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;**
- b. **the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;**
- c. **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 within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;**
- d. **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 other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;**
- e. **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 other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;**
- f. **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;**
- g. **the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;**
- h. **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;**
- i. **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 the other party's assets and such attachment or process is not discharged within [14] days;

- 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 14.2\(d\)](#) to [Clause 14.2\(j\)](#) (inclusive); or
- k. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

14.3 On termination of this agreement for any reason:

- a. all licences granted under this agreement shall immediately terminate and the Customer shall immediately cease all use of the Services and/or the Documentation;
- 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. Wielyd Digital may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with [Clause 5.7\(c\)](#), unless Wielyd Digital receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Wielyd Digital shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer 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 Customer shall pay all reasonable expenses incurred by Wielyd in returning or disposing of Customer Data; and
- d. any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

15. GENERAL

15.1 Variations: No variation of this terms will be valid unless confirmed in writing by authorised signatories of both of the parties.

15.2 Severability: If any provision of this Agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced and the said illegal or unenforceable provision shall, if possible, be construed in such a way as to be enforceable whilst, at the same time, most closely expressing the intent of the provision as originally drafted.

15.3 Waiver: No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

15.4 Force Majeure: Neither party shall be liable for any failure or delay in the performance of this Agreement which is caused by circumstances beyond the reasonable control of a party, including, without limitation, any labour disputes between a party and its employees.

15.5 Third Party Rights: Unless specified otherwise in this Agreement, a person who is not a party to this Agreement has no right to benefit under or to enforce any term of it.

15.6 Assignment: Except in the case of an assignment by Wielyd Digital to one of its Affiliates, neither party shall assign this Agreement or any benefits or interests arising under it without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

15.7 Notices: Any notice required to be given pursuant to this Agreement shall be in writing and shall be delivered by courier, in person, by mail, by fax or email and will be effective when received at the registered address for the receiving party.

15.8 Anti-Bribery & Corruption: The Parties shall:

- a. not engage in any activity, practice or conduct which would constitute an offence under any anti-bribery and/ or anti-corruption laws, regulations and/ or codes including but not limited to the Bribery Act 2010, and;
- b. have in place adequate procedures designed to prevent any person connected (either directly or indirectly) with this Agreement from engaging in any activity, practice or conduct which would infringe any anti-bribery and anti-corruption laws, regulations and codes including but not limited to the Bribery Act 2010.

15.9 Entire Agreement: This Agreement contains the whole agreement between the parties in respect of the subject matter of the Agreement and supersedes any prior written or oral agreements, representations or understandings between the parties relating to that subject matter and the parties confirm that they have not entered into this Agreement on the basis of any representations that are not expressly incorporated in it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.

15.10 Governing Law and Jurisdiction: This Agreement is governed by and construed according to English law and the Customer irrevocably consents to the exclusive jurisdiction and venue of the courts of England and Wales.