

# storm® Terms and Conditions

## 1. Placing Orders

- 1.1 These terms and conditions apply to the supply of services and/or deliverables as detailed in any executed Order Form and/or Service Specification (the "Services"). All "Orders" placed with Content Guru ("CG") by you (the "Client"), together the "parties", shall constitute an offer to CG and no obligations shall come into being until any Order is accepted by CG in accordance with these terms and conditions.
- 1.2 To the extent any terms contained in (1) the Order Form, (2) the Service Specification, (3) the Service Level Agreement ("SLA"), (4) these terms and conditions, (5) the End-User Licence Agreement ("EULA") or (6) the Data Processing Agreement ("DPA"), together forming the "Agreement", are inconsistent, they shall prevail in that order.
- 1.3 The procedure for ordering, delivery and acceptance of Services shall be as follows unless agreed otherwise in writing between the parties:
  - i. Upon CG's request, the Client shall provide a Statement of Requirements (SOR) providing details of the Services it wishes to procure (CG to provide a template SOR for the Client to complete, if required);
  - ii. CG shall provide a Price Quote (PQ) with a unique reference identifier for the Services, which shall be based on the Client's SOR but may differ for commercial or technical reasons. Any documentation including but not limited to user manuals, bid information or supplementary documentation referenced in the PQ shall form part of the PQ. The PQ (or any Change Notice (CN) referencing a pre-existing PQ) shall form the basis for the Client ordering the Services and not the SOR;
  - iii. The Client will sign the PQ or CN to place an Order, and this shall constitute a Purchase Order (PO). CG may accept or reject the PO in its sole discretion; CG will notify the Client via email as to whether the PO has been accepted or rejected;
  - iv. CG's Order Management department will issue an Order Acceptance to accept the PO. If the PO is accepted, the Order shall come into effect ("Effective Date") and the Initial Term for the Services shall commence ("Activation Date");
  - v. CG will then use reasonable endeavours to provision the Services and make the licences for access to and use of the Services available to the Client within five (5) Working Days (meaning Monday to Friday between the hours of 08:00-18:00 excluding applicable local public holidays);
  - vi. CG (liaising with the Client) shall produce a Service Specification(s), which shall contain the entirety of the Services to be delivered by CG (superseding the SOR and/or PO). No other documentation shall define the Services to be delivered;
  - vii. The Client shall agree and sign the Service Specification(s) in the timeframe agreed within the Service Specification(s) or within ten (10) Working Days should a timeframe not be detailed in the Service

Specification(s), following which the Client will be deemed to have accepted the Service Specification(s);

- viii. CG shall deliver the Services in accordance with the Service Specification(s), such delivery not to be unreasonably withheld or delayed (but shall be excused for any delays which, in whole or part, are not caused by or attributable to CG);
- ix. Upon delivery of the Services, the Client shall perform User Acceptance Testing (UAT) in accordance with the process and timeframe agreed in the Service Specification(s), or within ten (10) Working Days should a timeframe not be detailed in the Service Specification(s);
- x. The Client shall sign-off the UAT in the timeframe agreed within the Service Specification(s) or within ten (10) Working Days should a timeframe not be detailed in the Service Specification(s), following which, providing no material non-conformities with the Service Specification have been notified to CG during this period, the Client shall be deemed to have fully accepted delivery of the Services and the Services shall be considered 'live' by CG ("Service Commencement Date"). Where any material non-conformities are notified to CG, CG will remedy the same within a reasonable period, following which the Client shall re-perform UAT within a further period of ten (10) Working Days of notification that testing may be re-performed (and the terms of this clause shall apply to such further testing).

## 2. Charges and Payment

2.1 Unless agreed otherwise in writing by CG and the Client, the Services shall be invoiced as follows:

- i. Setup Charges - one-off (or phased one-off) charges relating to the configuration and launch of Services (including without limitation professional service charges) - from Activation Date;
- ii. Licence Charges – recurring subscription charges for access to the storm platform and usage of the Services - monthly in advance, from Activation Date (subject to any discount period as may be agreed in the Order);
- iii. Support Charges – recurring charges for service management and reporting - monthly in advance, from Activation Date (subject to any discount period as may be agreed in the Order); and
- iv. Transaction Charges – recurring charges for usage of the Services, including but not limited to call minute volumes, message fees, data dips and data storage - monthly in arrears, as incurred.

Invoicing for monthly recurring charges under (ii)-(iv) above shall commence from the earlier of:

- a. Service Commencement Date;
- b. Client use of the Services in a live environment (excluding any trial usage or UAT which may take place in a production environment); or
- c. Expiry of any agreed discount period.

2.2 The price for the Services shall be (a) as specified in the Order Form, or where no price has been quoted, the undiscounted price for the relevant service(s) listed in CG's standard "Price List" (as amended from time to time, available on

request) as at the date the Order is accepted by CG; (b) exclusive of value added or other sales taxes unless otherwise stated in the Order Form; and (c) payable in the stated currency, without deduction, withholding or set-off and in full and cleared funds within thirty (30) days of the date of the invoice ("Due Date"). Time shall be of the essence for the purposes of this clause.

- 2.3 CG reserves the right to apply maximum credit limits that CG will extend to Client's account ("Credit Limits") to the value of Services provided to the Client. Any Credit Limits shall be communicated to the Client following CG conducting a Dun & Bradstreet Credit Report ("D&B Report") which shall be used as the basis for determining any Credit Limits. Order acknowledgement and acceptance will only occur after receipt of the D&B Report. Should the Client exceed any Credit Limits applied, CG reserves the right to suspend all Services until such time as payable amounts have been received, and the balance owing to CG no longer exceeds the Credit Limits. In addition, CG may, at its discretion, enforce transaction-based Credit Limits through the immediate suspension of further transaction services should the value of invoiced and un-invoiced transaction charges exceed agreed Credit Limits.
- 2.4 If Client fails to make any payment when due then, in addition to all other remedies that may be available: (a) default interest shall be charged on a daily basis and payable on demand on any overdue payment both before and after judgment, from the date such payment fell due to the date of actual payment at the rate of 4.0% per annum above the base rate of Barclays Bank from time to time, compounded monthly; and (b) Client shall reimburse CG for all costs incurred by CG in collecting any late payments or interest, including legal fees, court costs and collection agency fees.
- 2.5 If Client, acting in good faith, disputes all or any part of an invoice then it will notify CG in writing of that dispute within seven (7) days of the invoice date, specifying the disputed amount(s) and its reasons for disputing them. Any sums in the invoice that are not notified to CG in writing as being in dispute will be paid by Client in accordance with this Agreement. Client will co-operate with CG to resolve any dispute in a timely manner. If the parties agree that all or part of the disputed amount is properly due, Client will pay that amount in full within seven (7) calendar days of that agreement or the Due Date, whichever is the later.
- 2.6 Client will be required to make payment for all Licence Charges and Transaction Charges by direct debit. Payment for Licence Charges and Transaction Charges will be debited from the nominated Client's bank account to reach CG's bank account on the last Working Day of the month the invoice is dated.
- 2.7 In the event that a Client's use of the Service incurs Transaction Charges for inbound or outbound calls, SMS, or other traffic for which rates have not been specifically agreed between the parties, then CG's standard Price List will apply to such transactions until rates have been agreed between CG and the Client.
- 2.8 In setting up a Service for a Client, CG will block outbound calls to premium rate or international destinations by default, unless specifically provided otherwise in the Service Specification agreed between the parties.
- 2.9 All transaction costs incurred by Client's use of the Services and charged to CG by a network operator, service provider or other third party shall be the responsibility of Client and payable by Client to CG, and shall be included in the

Transaction Charges, irrespective of whether the transaction costs are generated by Client or by any Client customer. This will include any transactions that arise from fraudulent use of a Client's services.

- 2.10 Notwithstanding anything to the contrary in this Agreement or any Order, CG may increase the Charges for the Services annually by five percent (5%) with effect from 01 January each year, except where a change in CG's direct utilities supply costs exceed five percent (5%) in which case CG may increase the Charges for the Services by such actual increased cost on a pass-through basis. Further, CG may adjust Transaction Charges or any Licence Charges with a third party underlying cost to CG from time to time.
- 2.11 CG reserves the right to set-off, deduct or withhold any or all amounts due and receivable by it from amounts payable by CG to Client.

### **3. Client's Obligations**

- 3.1 The Client shall ensure that its use of the Services is at all times in accordance with these terms and conditions and the EULA, and is advertised, promoted, operated and presented in a manner so as not to bring or be likely to bring (based on CG's sole and reasonable opinion) the CG name, brand and Services into disrepute.
- 3.2 The Client will cooperate with CG in all matters relating to the Services, and comply with CG's instructions. The Client will (at no cost to CG) allow CG access to its premises (and use all reasonable efforts to procure access for CG to any third party's premises), systems, personnel and information as required to enable CG to perform its obligations under this Agreement.
- 3.3 The Client shall at all times comply with obligations and regulations imposed by applicable law as they may affect the Services and shall also, upon the request of CG at any time, provide such information and take such steps as may be necessary in order to enable CG to comply with all regulations, directions, conditions and obligations from time to time imposed on CG or otherwise by law in relation to the Services. CG shall have the right at any time to monitor the Services to ensure compliance with the provisions of this Agreement.
- 3.4 The Client shall take such measures as are reasonably necessary to ensure access to the Services, in particular to ensure that local infrastructure (for example, adequate firewalls and connectivity) is in place to consume the Services and meet all reasonably expected demand.
- 3.5 CG, acting reasonably, reserves the right to take any necessary corrective actions in the event the Client's Services experience unusual or unexpectedly high contact volumes (for example, a DDoS (distributed denial-of-service) attack on the Client's Services) that may disrupt the Client's Services or the services CG provides to other customers. CG will notify the Client promptly and use reasonable endeavours to agree an action plan to manage and address the abnormal contact volumes. In the event the parties are unable to agree an action plan, CG (acting reasonably) reserves the right at its discretion to suspend, bar, restrict or terminate the affected Service(s).
- 3.6 The ability to make calls to the Emergency Services numbers 999 or 112 may be adversely affected in cases where a Client uses CG Services to make outbound calls via degraded connectivity. The Emergency Services may not receive accurate information on the location of the callers, or calls may fail due to power or connectivity failures. Subject to the SLA, CG cannot guarantee

connectivity and therefore cannot accept any liability for the failure of such calls and Clients should therefore ensure that all users are aware of these limitations and have alternative means of accessing these services. In circumstances where Client (or its end customer) routes calls to the Emergency Services via a network not provisioned or operated by CG, CG cannot accept any liability for the performance of such connectivity.

- 3.7 Client shall ensure that: all location information (including address information, Caller Line Identification (CLI) and associated site address) is up-to-date and accurate in all respects, and that all necessary equipment is configured to present a CLI that correctly corresponds to the relevant site so that CG is able to provide accurate location information to the Emergency Services. Client shall promptly update CG in the event such location information changes. Client accepts full responsibility for failure to comply with its obligations under this clause and agrees to indemnify CG in full for, and save CG harmless from and against, all costs, expenses, damages, liabilities and losses (whether direct or indirect) of any kind, including (without limitation) any interest, fines, legal and other professional fees and expenses awarded against or incurred by CG as a result of or whatsoever related to the Emergency Services being dispatched to a location other than the location from which the call to 999 or 112 originated as a result of the Client's failure to comply with its obligations under this clause.
- 3.8 Client acknowledges that it is responsible for the activities and communications of all employees, representatives or agents of Client who have access to and/or use of the storm platform ("Client personnel") in relation to the Services, including communications on the storm Platform, and the compliance by all Client Personnel with this Agreement and, in particular, the EULA.
- 3.9 The Client shall indemnify, keep indemnified and hold CG harmless against all liability, costs, losses, damages, expenses, interest, penalties, legal costs and other professional costs and expenses arising out of any breach by or other act, omission or default of the Client under or in relation to this Agreement. In order to be able to fulfil the terms of the indemnities within this Agreement, the Client shall effect and maintain legal liability insurance with a reputable insurer to the value of at least £5,000,000.

#### **4. CG's Obligations**

- 4.1 CG will perform the Services using reasonable care, skill and diligence in accordance with best industry practice. CG will hold and maintain all necessary licences and consents, and will comply with all relevant legislation in relation to the Services.
- 4.2 CG will deliver the Services as detailed in the Order Form and will ensure that, upon delivery, the Services conform in all material respects with the Service Specification. Any delivery or service commencement dates stated in any Order are approximate only and Content Guru shall not be liable for any delay in delivery of the Services. Following delivery of the Services, CG will maintain the Services in normal operating conditions in accordance with this Agreement and the SLA.
- 4.3 CG reserves the right to (a) charge prevailing daily or half-daily professional services charges if support is required outside the support times specified in the SLA and (b) charge an additional amount for support where the problem has arisen because Client has changed parameters and Services or software configurations without prior written notification to and the consent of CG.

- 4.4 Upon valid request for support from the Client, CG, or its agent or subcontractor undertakes to use reasonable endeavours to resolve the support request. For the avoidance of doubt, no other support is provided for under this Agreement unless otherwise agreed in writing by the parties.
- 4.5 In the event that hardware is purchased by the Client under any Order, the Client will benefit from a 12-month warranty from date of despatch of the hardware to the Client. Any subsequent hardware fault issues after expiry of the warranty period are the responsibility of the Client.

## **5. Order Duration, Cancellation, Suspension & Termination**

- 5.1 The "Initial Term" of any Order shall be as stated in the Order Form and shall commence from Activation Date. Unless agreed otherwise by the parties, any additional Services purchased under any Order by CN shall be coterminous with the Initial Term.
- 5.2 Following expiry of the Initial Term, the Order shall automatically renew for subsequent periods of twelve (12) months (each a "Renewal Term"), unless either party provides a minimum of ninety (90) days' Notice prior to the expiry date of the Initial Term or Renewal Term of the Order. The Charges for the Renewal Term(s) of any Order shall be adjusted to the undiscounted price for the relevant Service(s) listed in CG's then-current standard Price List.
- 5.3 Where Client wishes to cancel an Order before the Service Commencement Date, Client will give Notice in writing to CG and shall immediately be required to pay: (a) the Setup Charges in the Order Form; and (b) the Licence Charges for the first twelve (12) months of the Initial Term as stated in the Order Form (any applicable discount period having been rescinded).
- 5.4 In the event Client wishes to terminate an Order after the Service Commencement Date, the Client will give Notice in writing to CG and shall immediately be required to pay: (a) the Setup Charges in the Order Form; (b) the Licence Charges and Support Charges for the remainder of the Initial Term or Renewal Term; and (c) Transaction Charges up to and including the termination date of the Services.
- 5.5 Either party may terminate any Order and/or this Agreement forthwith on written Notice to the other party at any time if: (a) the other party commits any material breach of any term of this Agreement and (in the case of a breach capable of being remedied) shall have failed, within thirty (30) calendar days of receipt of a request in writing from the other party so to do, to remedy the breach (such request to contain a warning of such party's intention to terminate); or (b) the other party shall have a receiver or administrative receiver appointed to it or over any part of its undertaking or assets or shall pass a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if the other party shall enter into any voluntary arrangement with its creditors or shall become subject to an administration order.
- 5.6 Notwithstanding anything to the contrary express or implied elsewhere in the Agreement, CG (without prejudice to its other rights) may immediately terminate any Order and this Agreement or any of the Services provided hereunder upon written Notice in the event that: (a) the Client ceases, or threatens to cease, to carry on business; (b) Client fails to pay any undisputed



Charges within sixty (60) days of the invoice Due Date; or (c) CG is directed by Ofcom or other competent authority (whether directly or indirectly) to cease to facilitate or allow the provision of the Services.

- 5.7 CG may suspend the Services: (a) if the Client fails to pay the Charges for the Services when due; (b) in order to comply with any law, regulation, request, order, direction, determination or consent of a court or other competent administrative or regulatory authority; (c) if CG has reason to suspect fraud or deception (including fraudulent generation of traffic from any source to any Services) has occurred or is likely to occur in connection with the Services; (d) in order to carry out any emergency maintenance or repair of the Services; (e) in order to carry out planned maintenance, repair, or improvement of the Services (in which circumstances CG will provide a minimum of five (5) Working Days prior notice of the suspension and, where practicable, will agree with the Client when the Services will be suspended and for how long); or (f) if CG has reasonable grounds to believe that the Client has breached or is likely to breach any of its obligations in relation to use of the Services hereunder.
- 5.8 Upon termination of this any Order and/or this Agreement, CG shall, if so requested by Client, provide all assistance reasonably required by Client to facilitate the smooth transition of the Services to Client or any replacement supplier appointed by it. The parties shall scope and agree any exit and transition services which shall be chargeable on a time and materials basis at CG's prevailing professional services rates.
- 5.9 No rights will accrue to a Client in respect of porting of a number used in a service provided by CG unless the Client has had continuous use of the number for the same service for a period of twelve (12) months. CG will be entitled to levy a charge for number porting in all cases.

## 6. Confidentiality

Each party hereto undertakes to the other that it shall keep, and shall procure that its directors, employees and agents shall keep secret and confidential and shall not use or disclose to any other person any information or material of a technical or commercial nature relating in any manner to the business, products or services of the other party which they may receive or obtain in connection with or incidental to performance of this Agreement without the consent of the other party, provided that such obligation does not apply to confidential information which: (a) was already in the lawful possession of the receiving party and at its free disposal before the disclosure by the disclosing party to the receiving party; (b) is lawfully disclosed to the receiving party without any obligations of confidence by a third party; (c) is or becomes generally available to the public through no act or default on the part of the receiving party or its directors, employees or agents; (d) is independently developed without access, knowledge or reference to the confidential information; or (e) is required to be disclosed by a governmental or regulatory body or court of law with compellable and competent jurisdiction.

Client acknowledges and agrees that the copying, disclosure, use or modification of the Services or CG's confidential information in any manner that is inconsistent with the terms of this Agreement shall cause irreparable injury to CG for which CG will not have an adequate remedy at law. Accordingly, CG shall be entitled to equitable relief in court, including, but not limited to, temporary restraining orders, preliminary injunctions and permanent

injunctions, without limiting CG's other remedies available at law or otherwise. This clause shall survive termination of any Order or this Agreement.

## 7. Force Majeure

Except in relation to the Client's payment obligations, neither party shall be held in breach of its obligations hereunder nor liable to the other for any loss or damage which may be suffered by the other party due to any cause, event(s) or circumstances beyond its reasonable control including, without limitation, any act of God, failure, interruption or shortage of power or utilities supplies, flood, drought, lightning or fire, epidemic, pandemic, strike, lock-out, trade dispute or labour disturbance, act or omission of Government, other competent authority, highways authorities, failure of telecommunications or utilities operator, sanctions, embargo, war, terrorist attack, military operations or riot ("Force Majeure Event"). A party affected by any Force Majeure Event shall immediately give the other party written notification of its nature and extent and the parties shall cooperate to mitigate its effects or agree upon reasonable alternative arrangements. Where a Force Majeure Event continues for a period exceeding ninety (90) days, either party may terminate any affected Order or this Agreement immediately on written Notice to the other party without liability to the other party and without prejudice to any rights or obligations which have accrued prior to termination.

## 8. Intellectual Property

- 8.1 Client agrees that CG retains all right, title, and interest (including all trademarks, service marks, patents, copyrights, trade secrets and other proprietary and intellectual property rights) in and to the Services and any and all related and underlying technology and documentation, derivative works, modifications, or improvements of any of the foregoing (the "CG Technology"). CG grants to the Client a fully paid-up, royalty free, non-exclusive, non-transferable license to use any CG Technology for the duration of any Order and in accordance with and subject to the restrictions stated in this Agreement.
- 8.2 CG shall indemnify the Client against any claim that the normal use of the Services is a direct infringement of the intellectual property rights of any third party in the United Kingdom provided that the Client: (a) provides prompt notice of the claim to CG; (b) does not prejudice CG's defence of such claim; and (c) gives CG all reasonable assistance and grants CG sole authority to control the defence and any related settlement of any such claim. CG shall have no obligations under this section or any other liability for any claim of infringement or misappropriation resulting or alleged to result from: (a) any modification, alteration or enhancement to the applicable CG Technology by any person or entity other than CG; (b) any use of the applicable CG Technology by Client in any manner for which the Services were not designed or otherwise in a manner inconsistent with the service documentation; (c) the combination, operation or use of the applicable CG Technology or any part thereof in combination with any equipment, software, data, service, or documentation not approved by CG; (d) materials, items, resources, or services provided or performed by Client or any third party service provider (whether or not used in connection with or incorporated into the Services); or (e) Client's continuing the allegedly infringing activity after being notified thereof or after being informed of and provided with modifications that would have avoided the alleged infringement.



- 8.3 In the event an infringement or misappropriation claim arises, or if CG reasonably believes that a claim is likely to be made, CG shall have the right to: (a) modify the applicable portion of the CG Technology to become non-infringing but functionally equivalent; or (b) replace the applicable portion of the CG Technology with material that is non-infringing but functionally equivalent; or (c) obtain for Client the right to use the applicable portion of the CG Technology upon commercially reasonable terms; or (d) remove the infringing aspect of the CG Technology if it can be removed without material degradation of the applicable CG Technology.
- 8.4 The foregoing states the Client's sole and exclusive remedy and CG's entire liability in relation to any intellectual property or misappropriation claims.
- 8.5 The Client hereby grants CG and its respective affiliates and assigns a non-exclusive, non-transferable licence to use the name (or any abbreviation thereof), trademarks or any logo (or adaptation thereof) of the Client in any advertising or promotional materials, including CG's and its respective affiliates websites, or for any other commercial purposes related to the promotion of CG's and its respective affiliates products and services. Following signature of this Agreement, Client agrees to cooperate in the creation and distribution of a joint press release with CG. During the term of this Agreement, Client further agrees to participate as a reference customer by sharing the Client's evaluation of CG's Services with other potential customers or partners of CG, as and when requested by CG.

## **9. Limitation of Liability**

- 9.1 The express terms set out in this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.
- 9.2 Save as provided by clause 9.3 below: (a) CG's total aggregate liability in respect of all causes of action arising out of or in connection with this Agreement (whether for breach of contract, strict liability, tort (including negligence), misrepresentation or otherwise) shall not exceed the annual Licence Charges payable by Client to CG for the Services; and (b) CG shall not be liable for any claim arising out of or in connection with this Agreement to the extent that it relates to loss of profits, goodwill, business opportunity or anticipated savings, loss of data, injury to reputation, wasted management time or indirect, consequential or special loss or damage regardless of the form of action (whether for breach of contract, strict liability, tort (including negligence), misrepresentation or otherwise) and regardless of whether that party knew or had reason to know of the possibility of the loss or damage in question.
- 9.3 Nothing in this Agreement shall limit or exclude either party's liability for; (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; or (c) any other loss or damage the exclusion or limitation of which is prohibited by law.
- 9.4 CG shall not be liable for any delay or failure in the supply or performance of the Services which is not caused by or attributable to CG. Where any part of the Services is obtained by the Client from a third party service provider, CG assumes no liability in relation to the provision of those services.

## 10. Dispute Resolution

If a dispute arises out of or in connection with this Agreement (Dispute), then the parties shall follow the procedure set out in this clause:

- i. either party shall give to the other written Notice of the Dispute, setting out its nature and full particulars (Dispute Notice);
- ii. on service of the Dispute Notice, representatives of the parties shall attempt in good faith to resolve the Dispute;
- iii. if the representatives of the parties are for any reason unable to resolve the Dispute within fifteen (15) days of service of the Dispute Notice, the Dispute shall be referred to senior representatives of the parties who shall attempt in good faith to resolve it;
- iv. if the senior representatives of the parties are for any reason unable to resolve the Dispute within fifteen (15) days of it being referred to them, the parties will attempt to settle the Dispute by mediation. Any mediation shall be conducted in accordance with The Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure; and
- v. if the Dispute is not resolved within thirty (30) days of being referred for mediation, either party may commence proceedings for the Dispute to be resolved by the Courts.

## 11. Anti-Bribery Compliance

11.1 Each party shall:

- i. comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption;
- ii. have in place and maintain throughout the term of this Agreement policies and procedures to ensure compliance with these requirements, and enforce them where appropriate; and
- iii. promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of this Agreement.

11.2 Each party shall ensure that any person associated with it who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes terms equivalent to those imposed on the parties in this clause. Each party is responsible for the observance and performance of their representatives, and shall be directly liable to the other party for any breach of the requirements.

11.3 Breach of this clause shall be deemed a material breach of the Agreement.

## 12. General

12.1 This Agreement contains the entire agreement between the parties in respect of the subject matter and supersedes, replaces and invalidates any prior written or oral agreements, representations or understandings between them relating to such subject matter. Each party acknowledges and accepts that, in entering into this Agreement, it has not relied upon any representation, undertaking or promise except as set out in this Agreement. Nothing in this Agreement shall attempt to exclude representations made fraudulently which either party can be shown to have relied upon.

- 12.2 No variation of any Order or this Agreement shall be effective unless it is in writing and signed by authorised representatives of the parties. Notwithstanding the foregoing, CG shall have the right by written notice to the Client to modify this Agreement at any time so as to comply with any regulations, determinations or other requirements applicable to or imposed upon CG by any competent authority.
- 12.3 Any "Notices" under this Agreement must be issued in writing. Any such Notice may be delivered personally, by first class prepaid post letter (to the address of the recipient set out in the Order, or such other address as the recipient may designate by written notice) or by email (to legal@contentguru.com only where CG is the recipient). Notices will be deemed to have been issued: if by hand, when delivered; if by first-class post, forty-eight (48) hours after posting; or if by email, at the time of transmission (if this falls outside any Working Day in the place of receipt, on the next Working Day).
- 12.4 This Agreement shall be binding on and endure for the benefit of the successors in title of the parties, and shall not be assigned or sub-contracted by any party without the prior written consent of the other. Notwithstanding the foregoing, CG may assign the benefit or sub-contract its obligations under this Agreement to any company within its corporate group.
- 12.5 Failure by either party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof or of any other right on any later occasion.
- 12.6 If any provision of this Agreement is held by any competent authority to be void or unenforceable in whole or in part, this Agreement shall continue to be valid as to the other provisions of this Agreement and the remainder of the affected provision.
- 12.7 Nothing in this Agreement shall create, or be deemed to create, a partnership or the relationship of principal and agent or employer and employee between the parties.
- 12.8 Nothing in this Agreement shall confer any rights upon any person who is not a party to this Agreement, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 12.9 This Agreement shall be governed by and construed and interpreted in accordance with the laws of England and Wales. The parties hereby submit to the exclusive jurisdiction of the English courts.
- 12.10 The parties' duly authorised representatives may sign any Order Form by using electronic signature. The parties agree that the electronic signatures express the consent for this Agreement to be legally binding and to serve as evidence on the same account as a hand-signed paper document.