



**MIRATECH GROUP**

**MIRATECH STANDARD TERMS FOR SERVICE DELIVERY**

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## ABOUT MIRATECH STANDARD TERMS FOR SERVICE DELIVERY

This document represents the standard terms and conditions for service delivery (hereinafter "**Standard Terms**") and as a part of and in conjunction with the terms and conditions of the Master Services Agreement or the other document referring to the Standard Terms (hereinafter "**Master Agreement**") form the integrated agreement between the parties to such Master Agreement (hereinafter "**Parties**"): Miratech as service provider and the Client. Unless otherwise stated in the Master Agreement, the Standard Terms form a part of any respective SOW and PO.

### SECTION 1. DEFINITIONS

Terms, used in this Agreement, shall have the following meanings:

1.1 "Agreement" shall mean the Master Agreement including Standard Terms and any other annexes to it.

1.2 "SOW" shall mean the written agreement between the Parties for service provision that captures and defines the scope of services, deliverables, timelines, Acceptance Criteria and/or other terms.

1.3 "Purchase Order" or "PO" shall mean the document submitted by the Client to Miratech, pursuant to which the Client orders services and/or Deliverables. A Purchase Order shall include: (i) effective date of Order; (ii) incorporation of this Agreement or SOW by reference; (iii) description of the services and/or Deliverables being ordered; (iv) fees; and other information submitted by Client. A Purchase Order may be submitted alone or in conjunction with a Statement of Work. Upon the execution of the Purchase Order by both Parties it shall become the written agreement between the Parties for services provision that captures and defines the scope of Services, deliverables, timelines, Acceptance Criteria and/or other terms agreed upon by the Parties; in such case all provisions of these Standard Terms provided for SOW shall be applicable to PO.

1.4 "Annexes" shall mean all annexes listed in the Master Agreement and any other annexes marked as "Annexes to the Master Agreement", signed by Parties at the time of signing of Agreement or during the process of its implementation.

1.5 "Managed Competence Center" (or "MCC") is Miratech's proprietary framework that enables customers to execute IT improvements and transformations, taking into account company size, geography of operations, IT landscape, culture, business domain, and other significant factors. Supplying the competence needed by customers through the most effective delivery model tailored for each business case is the essence of the MCC framework.

1.6 "Agreement Coordinator" shall mean representative of each Party, responsible for the arrangement of all meetings, visits and consultations of a non-technical nature between the parties during Agreement implementation. The Agreement Coordinator shall also be responsible for receiving and handling all notices under the Agreement, and for all administrative issues relating to the Agreement. The names of the Agreement Coordinators shall be defined in the Master Agreement.

1.7 "Service Coordinator" shall mean representative of each Party, responsible for the service domain/area. The Service Coordinator shall be responsible for all administrative issues relating to the cooperation under a designated area. Service Coordinators shall be responsible for facilitating preparation and performance of SOWs including the assignment of Technical Coordinators, definition of the scope of services, deliverables, timelines, Acceptance Criteria and/or other terms. The Service Coordinator shall also be responsible for handling all notices and Claims under the related SOWs, and for all administrative issues relating to the SOW, such as escalation of problems. The names of the Service Coordinators shall be defined in the Master Agreement or its annexes.

1.8 "Technical Coordinator" shall mean representative of each Party assigned under a SOW, responsible for establishment and maintenance of communications under the SOW including the exchange of technical information and notices, organization of acceptance activities as defined in the SOW, timely

fulfilment of obligations of a Party under the SOW, organization of the submission and receipt of Work Materials, Deliverables and Reports, and perform other duties as defined in this Agreement and the SOW.

1.9 "Language of Agreement" shall have the meaning defined in clause 17.9.

1.10 "Change Item" shall mean a change to the scope, volumes, schedule or other terms agreed in the SOW.

1.11 "Change Request" shall mean a request submitted by a Party containing one or more Change Items.

1.12 "Minor Change" shall have the meaning defined in section 9.11.

1.13 "Major Change" shall have the meaning defined in section 9.11.

1.14 "Change Control Board" or "CCB" shall mean a committee including representatives from the each Party including Agreement and SOW stakeholders or their representatives. Pursuant to the terms of the Agreement and SOW, the Change Control Board shall be in charge of approval of Change Requests and Change Proposals under the SOW.

1.15 "Assignee" shall mean the agreed personnel assigned by Miratech to deliver the Services under the SOW.

1.16 "Assignment" shall mean an agreed allocation of the Assignee with a defined duration of assignment, charges, roles and other relevant conditions.

1.17 "Services" shall mean services requested by the Client and rendered by Miratech pursuant to the terms of the SOW and/or PO.

1.18 "Deliverables" shall mean any, as defined in the SOW, materialized and/or valuable results of the Services rendered for the Client under the SOW. Subject to the Agreement, Deliverables may include program binaries, program codes, time reports, documentation and other materials, produced and provided by Miratech to the Client.

1.19 "Monthly Services Report" shall mean a document provided by Miratech under the SOW/PO and containing a description of monthly Services delivered by Miratech and (if applicable) the Miratech charges pursuant to the agreed prices between the Parties. The Monthly Services Report under an SOW or PO governed by the SLA Model shall include SLA Metrics, Service Level Credits and Earnback calculation and/or other information as agreed by the Parties. The Monthly Services Report shall be in the format defined by Miratech unless otherwise agreed by the Parties.

1.20 "Monthly Timesheet Report" shall mean a document provided by Miratech under the SOW/PO containing the calculations of monthly service volumes delivered by Assignees and (if applicable) the Miratech charges pursuant to the agreed prices between the Parties. The Monthly Timesheet Report shall contain other relevant information agreed by the Parties under the SOW/PO. The Monthly Timesheet Report shall be in the format defined by Miratech unless otherwise agreed by the Parties.

1.21 "Statement of Accomplished Work" shall mean a document provided by Miratech containing the status information regarding Services and/or description of Deliverables. A Statement of Accomplished Work normally shall be provided at Milestones. The Statement of Accomplished Work shall be in the format defined by Miratech unless otherwise agreed by the Parties.

1.22 "Acceptance Date" shall be the date that the Services are accepted.

1.23 "Acceptance Period" shall mean a time period allocated for Services acceptance. The Acceptance period starts upon receipt by the Client of a Statement of Accomplished Work.

1.24 "Acceptance Procedure" shall mean a set of activities agreed by the Parties in order to verify whether the Acceptance Criteria are met.

1.25 "Acceptance Criterion" or "Acceptance Criteria" shall mean an objective measure or set of measures agreed by the Parties in the SOW to verify whether Services, Deliverables or Milestones shall be accepted.

1.26 "Nonconformity" shall mean a failure to satisfy the Acceptance Criteria.

1.27 "Claim" shall mean a demand by a Party for compensation, credit, reimbursement and/or rework by the other Party caused by Nonconformities or a material breach of obligations under the Agreement. A Claim shall contain the information about the Nonconformities or breaches with a reasonable degree of details including the documented evidence, severities of the Nonconformities and anticipated corrective actions from the other Party.

1.28 "Program Binaries" shall mean the machine-readable form of the Program Code.

1.29 "Program Code" shall mean the human-readable form of the code and related system documentation containing all comments and any procedural code such as job control language.

1.30 "Program Documentation" shall mean various user manuals, administrator manuals and other readable materials that relate to particular Program Code and/or the Program Binaries, including the materials resulting from the performance of work under the SOW (e.g. logic manuals, flow charts, principles of cooperation, description, vision, specifications, etc.), program and design components, algorithms and decisions. Unless otherwise agreed in the SOW the documentation shall use the Agreement Language.

1.31 "Work Materials" shall mean any information materials or materials components that may be transferred by the Parties to each other in the process of works performance under the SOW or in its concern. Materials may include program codes, program documentation, proposals, projects, examples, models, descriptions, any other information, images, diagrams, documents, texts etc. Unless otherwise agreed in the SOW the materials shall use Language of Agreement.

1.32 "Technical Information" shall mean any information relating to technologies and products, including without limitation, technical data, commercial secrets, know-how, data, data formats, computer programs, hardware and software materials, concepts, processes, product samples and specifications, strategic and development plans, research, ideas or concepts, products, services, software, inventions, applications, instruments, designs, algorithms, formulas, technology, designs, schematic decisions, drawings, hardware configuration information and other experience, notwithstanding whether these objects do or do not have patents.

1.33 "Business Information" shall mean any and all information relating to financial terms, business-plans, partners, data, business notes, lists of clients, lists of suppliers, project lists, marketing reports, employee lists and business directories, policies and procedures, information about processes, technologies or methods and all other information operations, as well as business or financial plans or strategies, including without any limitation financial reports and designs, product and marketing assessments, financial or other strategic activity, plans or information.

1.34 "Milestone" shall mean the end of a services period under the SOW that marks the completion of a part of the SOW. A Milestone shall have attributes such as deadlines, Deliverables, and Acceptance Criteria.

1.35 "Delivery" shall mean the submission by Miratech of the Deliverables to the Client.

1.36 "Defect" shall mean the identified Nonconformity of a Deliverable relative to the requirements for that Deliverable, as agreed in the SOW.

1.37 "Defect Severity I" shall mean a Defect which (i) completely prevents a Deliverable (e.g. software) from functioning, resulting in system shutdown, complete inability to use most of the functionality, and/or corruption of business critical data.

1.38 "Defect Severity II" shall mean a Defect which prevents a major part of a Deliverable from normal use or execution while other parts of the Deliverable are not affected and can be used.

1.39 "Defect Severity III" shall mean a Defect which prevents a generally minor or secondary part(s) of a Deliverable from normal use or execution while other parts of the Deliverable are not affected; or which prevents a major part of a Deliverable from use under certain use scenarios.

1.40 "Defect Severity IV" shall mean a Defect which is caused by poor and inadequate performance or by defects in third party software or hardware processes interfacing with the Deliverable developed by

Miratech; or caused by the inaccurate, incomplete, ambiguous, and/or unclear requirements for the Deliverable; or any other Defects which have been earlier agreed with the Client as optional for correction within the SOW or the Milestone under the Acceptance Criteria.

1.41 "Incident" shall mean an unexpected event in the form of an unplanned interruption to an IT service, or a reduction in the quality of an IT service.

1.42 "Incident Severity I" or "Critical Incident" shall mean an Incident which stops availability of the full functionality of system or IT service and causing (a) a stop of major business processes or (b) a corruption or loss of critical business data.

1.43 "Incident Severity II" or "Major Incident" shall mean an Incident which stops availability of a significant part of functionality of a system or an IT service and causing (a) inconveniences in major business process(es), or (b) a stop of normal business process(es), or (c) a risk of stoppage of major business processes, or (d) a corruption / loss of major business data.

1.44 "Incident Severity III" or "Normal Incident" shall mean an Incident which stops the availability of a minor part of functionality of a system or an IT service and causing (a) inconveniences in the normal business processes, or (b) a stop of auxiliary business process(es), or (c) a risk of stoppage of normal business processes, or (d) a corruption / loss of auxiliary business data.

1.45 "Metrics" shall mean parameters for measuring the performance, completeness of Deliverables, or quality of the Services.

1.46 "SLA Metrics" shall mean a measure of the performance characteristics of the Service.

1.47 "Requirements" shall mean the criteria or specifications for the provision of Services and Deliverables as agreed in the SOW.

1.48 "Service Level Credits" shall mean a credit amount measured in the Contract Currency that Miratech will apply against the Clients' future payments to Miratech under the SOW. Service Credits are not transferable between the SOWs, do not convert to cash refunds or refunds in any other form, and expire upon the SOW termination.

1.49 "Service Earnback" shall mean an amount measured in the Contract Currency and payable by the Client that Miratech will add to the Clients' future payments to Miratech under a SOW.

1.50 "Support Hours" shall mean the timeframes when the Services shall be available for the Client and the Users.

1.51 "Service Catalogue" shall mean a structured document with information about all of the IT Services. The Service Catalogue includes information about deliverables, prices, contact points, ordering and/or request processes.

1.52 "Service Level Agreement" or "SLA" shall mean a document that describes the performance criteria Miratech commits to meet while delivering service under an SOW.

1.53 "Specification" shall mean a structured list of measurable requirements for the Deliverables or the Services.

1.54 "Enhancements" shall mean changes or additions that are not in the initial list of agreed requirements for Deliverables, which requires amendment including all new releases, that improve functionality, add new functionality, or significantly improve the performance of a Deliverable by a change in system design or coding.

1.55 "Basic Enhancements" shall mean such minor enhancements that do not require significant alteration of the Deliverables and do not require an increase of more than 1 % of the total work to be performed under the SOW.

1.56 "Major Enhancements" shall mean significant enhancements that either require a significant alteration of the Deliverables, or require an increase in excess of 1 % of the total work to be performed under the SOW.

1.57 "Working Time" shall mean a time period not exceeding 8 calendar hours during one Working day between 9.00 AM and 6.00 PM (CET time).

1.58 "Working Day" shall mean any week day between Monday and Friday, excluding public holidays in the location of Service delivery as defined in the respective SOW.

1.59 "Overtime" shall mean services rendered by the Assignee outside of the Working Time.

1.60 "Standby Duty" shall mean the committed availability of the Assignee for the provision of services outside of Working Time.

1.61 "Full Time Equivalent" or "FTE" shall mean the volume of services delivered by an individual or a group of individuals (measured in person days) divided by the period of time when the services have been delivered (measured in Working Days). For example, 1 FTE is equivalent to one individual working full-time – 8 hours during a Working Day.

## **SECTION 2. COMMUNICATIONS AND REPORTING**

2.1 The Parties shall communicate in writing (including e-mail) all service compliance related issues. Minor issues shall be communicated between the Technical Coordinators, and major issues shall be communicated between the Service Coordinators and/or the Agreement Coordinators.

2.2 The Parties acknowledge that Miratech shall receive from the Client timely and complete feedback regarding issues experienced. Miratech may request feedback from the Client on a regular basis (e.g. every month or quarter) and shall undertake all reasonable steps in order to supply timely, precise, and accurate feedback.

2.3 The Client shall report promptly and within timeframes defined in the SOW with notification of any discovered evidence of actual and/or suspected service Nonconformity or inconsistency with Client expectations or requirements, as agreed with Miratech.

2.4 If the Client becomes aware or suspects that any actions by Miratech staff (including but not limited to material breach of the Agreement, or gross negligence) which may cause a material adverse impact to the Client (including its affiliates, employees, or partners), the Client shall immediately and without delay escalate this information to the Miratech Agreement Coordinator. Any lack of communication by the Client shall constitute a waiver of all Client Claims regarding the Services.

2.5 Regular Reports. If defined in the SOW, Miratech shall provide the Client with regular written (including email) status reports of the incremental progress of service delivery under the SOW.

2.6 Regular Reviews. The Party's Agreement Coordinators and/or Service Coordinators may request to establish regular reviews, and may agree to discuss the scope, duration and frequency of such reviews. Unless otherwise agreed the reviews shall be on a quarterly basis.

2.7 Notice of Delay. Miratech agrees to notify the Client promptly in writing of any factor, occurrence or event coming to its attention that may affect Miratech's ability to meet the requirements of the SOW issued under this Agreement, or that is likely to occasion any material delay in the provision of the Deliverables.

2.8 Pursuant to the terms of this Agreement and the SOWs the Client shall agree to cooperate, support Miratech and supply Miratech with all the necessary information for successful performance under the SOW.

2.9 Each Party shall commit themselves to promptly notify each other of any factor, event or occurrence coming to its attention that may affect the Parties' ability to meet the requirements of the Agreement, continuation of work in compliance with the previously approved SOW, or which might cause any delay in Service delivery. Either Party should promptly provide such notification in case of any loss, or change of role of its key employees, a threat of strike, or major equipment damage.



### **SECTION 3. ACCEPTANCE OF SERVICES**

3.1 Miratech shall provide the Client with the Statement of Accomplished Work with the information regarding services rendered during the reporting period. The duration and terms of reporting periods shall be defined in the SOW. The Statement of Accomplished Work shall consider the nature of the Services delivered under the SOW and contain reasonably sufficient information and materials in order to proceed with the Acceptance Procedure.

3.2 The Parties agree that unless otherwise agreed in the SOW, the Acceptance Period shall be 3 Working Days.

3.3 By accepting the Services, the Client waives its future right to submit a Claim referring to the periods of the accepted Services. The Client is entitled to submit a Claim regarding the accepted Services if such Claim is supplemented with material evidence of an intentional breach of the Agreement by Miratech rendering the Client unable to identify the related Nonconformity.

3.4 The Parties shall agree that the Services are deemed to be accepted if one or more of the following conditions is met:

- (1) The Client has confirmed the acceptance of the Services;
- (2) Within the Acceptance Period the Parties have performed activities under the Acceptance Procedure and obtained evidence that the Acceptance Criteria was met;
- (3) The Client initiated production use of any Deliverable produced as a result of, or provided, under the Service;
- (4) The Client has paid for the concerned Services, unless such a payment has been made on a prepayment basis according to the SOW;
- (5) There is no Claim without an agreed upon resolution plan, and the Client has waived acceptance as a result of no notice within Acceptance Period;
- (6) The Client accepted the Services at the time of their delivery.

3.5 Unresolved Claims may be reason for non-acceptance of the affected part of the Service or the Deliverable. Such unresolved Claims shall not be reason for non-acceptance of the Services or the Deliverables to which the unresolved Claim has no direct relation.

3.6 The Parties shall discuss any Claims in good faith and in a timely manner. A Party shall not delay acceptance of any Claim resolution proposals. The Parties shall make it a priority to discuss and agree on a resolution plan for Claims affecting further performance of the SOW.

### **SECTION 4. SERVICE GOVERNANCE AND SERVICE MODELS**

4.1 The Team Extension Model, Professional Services Model, Scope Model and SLA Model are the models that can be leveraged for the execution of various engagements within Managed Competence Center framework. Miratech will advise the Client as to the best-fit delivery model for an individual engagement / case, based upon its context, industry best practices, and Miratech's previous experience with the operation of the MCC. Respective MCC SOWs may be governed by one of the abovementioned discrete service delivery models, or other models (including combinations and/or tailoring of the defined in Agreement models) as agreed by the Parties in the individual SOW or PO.

4.1.1. The Professional Services Model is defined in Section 5.

4.1.2. The Team Extension Model is defined in Section 6.

4.1.3. The Scope Model is defined in Section 7.

4.1.4. The SLA Model is defined in Section 8.

4.2 The billing in a SOW might be under one of the following billing models: Time and Material ("T&M"), Fixed Price or other (including combinations and/or tailoring) as agreed by the Parties in the individual SOW or PO.



4.2.1 Time and Materials. Payment under this method shall be determined according to the monthly/daily/hourly rates, set forth in the Agreement, taking into consideration the skill levels of Miratech Assignees. The rates may vary for different roles, volumes, durations of project work and/or services provided. If the nature of work to be performed so requires, the Client is entitled to conduct an evaluation of any consultant proposed by Miratech, in order to evaluate their qualification for the assignment, and Miratech agrees that in some cases as specified by the Agreement, the proposed assignees may be subject to the Client's prior approval.

4.2.2 Fixed price. If Miratech quotes a price for particular services or works, and such price is specified without any disclaimers regarding the procedure of its validity (calculation), the amount quoted shall be deemed as the fixed price. Unless otherwise agreed by the Parties, the Client shall pay this amount (fully or partially, as specified in the SOW) upon Miratech provision of the related Services, accepted by the Client, or upon Miratech completion of the related works and the Client acceptance of the related Deliverables.

4.3 Miratech warrants that all Services shall be provided in a workmanlike manner and with professional diligence and skill and rendered with respect to the requirements of any applicable law. Per Miratech request, the Client shall confirm the rendering and acceptance of services in writing whenever Miratech is required by law to present such documentation (e.g. the Statements of Accomplished Work). Unless otherwise agreed between the Parties, all intellectual property rights on Deliverables shall be transferred to the Client at the moment of receipt of payment for such Deliverables by Miratech.

4.4 The Parties acknowledge that it might not be possible or economically feasible to establish precisely and exhaustively measurable service quality criteria prior to start of the Services. Whenever it is applicable, Miratech will comply with Client expectations of service level as far as such expectations are understood by Miratech.

4.5 In case of inconsistencies or contradictions between this Agreement and its SOWs/POs, the terms of this Agreement will prevail. The SOW/ PO shall prevail over this Agreement in the following terms: rates and fees, schedule and payment terms, change administration, reporting, and service acceptance.

## **SECTION 5. PROFESSIONAL SERVICES MODEL**

The clauses in this Section 5 shall be applicable to SOWs and/or POs governed by the Professional Services Model.

5.1 The objective of this model is to provide Assignees of agreed type and level of competence to facilitate the Client needs.

5.2 Under the Professional Services Model the Client requests, and Miratech agrees, to support the Client with the engineering, maintenance, operation, and other IT related activities. Unless otherwise agreed in the SOW Miratech is not entitled to provide any functional instructions to the Assignees. Unless otherwise defined in a SOW or PO, the Assignees are not entitled to issue any commitments on behalf of Miratech.

5.3 In order to request new service volumes under the Professional Services Model the Client shall issue a PO for the new resources to be allocated by Miratech. Each PO shall contain the types and numbers of Assignees, types of competences, earliest and latest acceptable start dates, monthly budgets, and other relevant details. Miratech shall review such POs and either accept or reject, stating the reason. Such PO shall refer to a SOW, or this Agreement, indicating that the PO is governed by the Professional Services Model. Such requests for new service volumes under the Professional Services Model, and compliant with the terms of Table 1. "Terms of Assignments for Professional Services Model" are not qualified as Change Requests, and will be processed in the normal course of business by the Parties' Technical Coordinators and/or Service Coordinators within the scope of the SOW or the Agreement.

5.4 Miratech shall arrange for the availability of the Assignees pursuant to a SOW, or Client issued and accepted POs.

5.5 The Milestones shall be scheduled on a monthly basis. At each Milestone Miratech shall submit a Statement of Accomplished Work including or referring to a Monthly Timesheet Report. Unless otherwise agreed in a SOW the Monthly Timesheet Report(s) shall be the only Deliverable. Unless otherwise agreed in the SOW the Acceptance Procedure shall be as defined in this Clause 5.5. The Parties agree that the Monthly Timesheet Report meets the Acceptance Criteria unless, within the Acceptance Period, the Client responds with errors found in the Monthly Timesheet Report causing a total impact on the calculated charges in the Monthly Timesheet Report in excess of 5% of the total charges calculated in the Monthly Timesheet Report. The Client shall inform Miratech of the errors detected in the Monthly Timesheet Report without delay and with a reasonable level of detail on the errors. Miratech shall charge the Client based on Monthly Timesheet Reports which meet the Acceptance Criteria and/or have passed the Acceptance Procedure; the errors identified in the Monthly Timesheet Report shall be accounted for in the invoice issued at the soonest Milestone after error identification. No reply to Monthly Timesheet Report(s) within a due time shall mean acceptance of Monthly Timesheet Report by the Client.

5.6 Under the Professional Services Model the Client shall accept the Service at the time of the Service delivery by Miratech.

5.7 A Time and Material billing model shall be applied for the Services rendered under the Professional Services Model.

5.8 Miratech shall apply a double rate for the Overtime. All Overtime is subject to prior mutual written (including email) approval by the Parties' Technical Coordinators.

5.9 Miratech shall apply a 1/3 rate for Standby Duty. All Standby Duties are subject to prior mutual written (including email) approval by the Parties' Technical Coordinators. All actual services rendered by the Assignee on Standby Duty shall be qualified as Overtime and charged in addition to the charges for Standby Duty. The Assignee shall be reachable via mobile phone, or other agreed communication channel.

5.10 All Nonconformities are to be communicated upon detection, but not later than 3 business days following the time of the non-compliant activity.

5.11 All assignment Change Requests are to be communicated in writing (email or fax) between the Technical Coordinators. Upon receiving the assignment Change Request, each Party shall reply to the other within 5 work days. The reply shall contain a confirmation of status and the deadlines for change implementation.

5.12 The Assignment may be altered as provided in Table 1. "Terms of Assignments for Professional Services Model". Those requests for changes complying with the terms of Table 1. "Terms of Assignments for Professional Services Model" are not qualified as a Change Requests.

5.13 Assignee search and selection. Upon identification of an appropriate candidate for the Assignment, Miratech may submit a potential Assignee candidate's profile for Client review and acceptance. The Client may request an interview with the Assignee. Miratech shall do its best to reserve the assignee for period of up to one week (from submission of the candidate's profile) in a waiting/pre-booking state until the Client decision is available. If Client acceptance is not available within one week after the Assignee candidate's profile is submitted by Miratech, Miratech may release the candidate or consider the candidate for other bookings. If the Client rejects an assignee candidate offered by Miratech, the Client agrees to provide clearly structured reasoning, with details, regarding which specific assignment requirements the proposed assignee does not conform.

5.14 Back-up activities. If the Assignees complete all work assignments requested by the Client and no new work assignment arrives from the Client, the Miratech Technical Coordinator is entitled to notify the Client; if the Client does not respond with a new work assignment, the Miratech Technical Coordinator (at their sole discretion) is entitled to switch assignees to back-up activities, which might include (but not be limited to) back-up Client project work (if available and if applicable), related technology training, other professional skills development or maintenance activities, or other back-up activities. Miratech shall report all back-up activities that were approved by the Miratech Technical Coordinator for the Assignees.

The back-up activity is to be paid by the Client. If involuntary back-up activities for an Assignee become an average of more than 40% of the approved Assignment volume during a 1 month period, Miratech reserves the right to reduce the volume of service under that specific Assignment.

5.15 The Professional Services Model assumes continuous service delivery by the Assignees comprised of eight (8) aggregate hours per day and that service delivery will not be interrupted or suspended during the course of service delivery, except for vacation days, sick days, training days, time-off, and holidays. Unless exceptions are pre-agreed to in writing by Miratech, periods of interruption or suspension caused by the lack of work, assignment, or direction by the Client will be charged according to the rates, set forth in the Agreement.

5.16 The following table specifies the terms for Assignments administration:

Table 1. "Terms of Assignments for Professional Services Model"

Assignment type	Long term assignment	Medium Term Assignment	Short Term Assignment
Minimal assignment period	12 months	3 months	1 day
Anticipated notice timeframe before assignment starts	3-6 months	1-3 months	0.5-3 months
Assignment postpone / cancellation notice	3 months	1 months	1 month
Automatic extension of Assignment	Automatically extends for a new minimal assignment period unless any Party has requested otherwise 3 months prior to assignment expiration	Automatically extends for a new minimal assignment period unless any Party has requested otherwise 1 months prior to assignment expiration	No automatic extension

5.17 Under the short term and medium term Assignments Miratech shall not charge the Client for Assignee periods of vacation or illness. Under long term Assignments Miratech shall charge the Client for time-off of the Assignee caused by vacation or illness, such charges shall not exceed 30 working days per Assignee per year.

5.18 If the Client cancels the Assignment prior to the designated termination period, the Client shall pay Miratech the equivalent of service fees Miratech would received if the Assignment remained valid for the entire period it was initially agreed.

## **SECTION 6. TEAM EXTENSION MODEL**

The clauses in this Section 6 shall be applicable to SOWs and/or POs governed by the Team Extension Model.

6.1 The objective of this model is to provide Assignees of agreed type and level of competence to facilitate the Client needs.

6.2 Under the Team Extension Model the Client requests, and Miratech agrees, to support the Client with the engineering, maintenance, operation, and other IT related activities. Unless otherwise agreed in the SOW Miratech is not entitled to provide any functional instructions to the Assignees. Unless otherwise defined in a SOW or PO, the Assignees are not entitled to issue any commitments on behalf of Miratech.

6.3 In order to request new service volumes under the Team Extension Model the Client shall issue a PO for the new resources to be allocated by Miratech. Each PO shall contain the types and numbers of Assignees, types of competences, earliest and latest acceptable start dates, monthly budgets, and other relevant details. Miratech shall review such POs and either accept or reject, stating the reason. Such PO shall refer to a SOW, or this Agreement, indicating that the PO is governed by the Team Extension Model. Such requests for new service volumes under the Team Extension Model, and compliant with the terms of Table 2. "Terms of Assignments for Team Extension Model" are not qualified as Change Requests, and will be processed in the normal course of business by the Parties' Technical Coordinators and/or Service Coordinators within the scope of the SOW or the Agreement.

6.4 Miratech shall arrange for the availability of the Assignees pursuant to a SOW, or Client issued and accepted POs.

6.5 The Milestones shall be scheduled on a monthly basis. At each Milestone Miratech shall submit a Statement of Accomplished Work including or referring to a Monthly Timesheet Report. Unless otherwise agreed in a SOW the Monthly Timesheet Report(s) shall be the only Deliverable. Unless otherwise agreed in the SOW the Acceptance Procedure shall be as defined in this Clause 6.5. The Parties agree that the Monthly Timesheet Report meets the Acceptance Criteria unless, within the Acceptance Period, the Client responds with errors found in the Monthly Timesheet Report causing a total impact on the calculated charges in the Monthly Timesheet Report in excess of 5% of the total charges calculated in the Monthly Timesheet Report. The Client shall inform Miratech of the errors detected in the Monthly Timesheet Report without delay and with a reasonable level of detail on the errors. Miratech shall charge the Client based on Monthly Timesheet Reports which meet the Acceptance Criteria and/or have passed the Acceptance Procedure; the errors identified in the Monthly Timesheet Report shall be accounted for in the invoice issued at the soonest Milestone after error identification. No reply to Monthly Timesheet Report(s) within a due time shall mean acceptance of Monthly Timesheet Report by the Client. Monthly Timesheet Reports reasonably disputed by the Client shall not entitle Miratech for invoicing in relation to the disputed part. The approvals are final and cannot be subsequently withdrawn or revised.

6.6 Under the Team Extension Model the Client shall accept the Service at the time of the Service delivery by Miratech.

6.7 A Time and Material billing model shall be applied for the Services rendered under the Team Extension Model.

6.8 Miratech shall apply a double rate for the Overtime. All Overtime is subject to prior mutual written (including email) approval by the Parties' Technical Coordinators.

6.9 Miratech shall apply a 1/3 rate for Standby Duty. All Standby Duties are subject to prior mutual written (including email) approval by the Parties' Technical Coordinators. All actual services rendered by the Assignee on Standby Duty shall be qualified as Overtime and charged in addition to the charges for Standby Duty. The Assignee shall be reachable via mobile phone, or other agreed communication channel.

6.10 All Nonconformities are to be communicated upon detection, but not later than 3 business days following the time of the non-compliant activity.

6.11 All assignment Change Requests are to be communicated in writing (email or fax) between the Technical Coordinators. Upon receiving the assignment Change Request, each Party shall reply to the other within 5 work days. The reply shall contain a confirmation of status and the deadlines for change implementation.

6.12 The Assignment may be altered as provided in Table 2. "Terms of Assignments for Team Extension Model". Those requests for changes complying with the terms of Table 2. "Terms of Assignments for Team Extension Model" are not qualified as a Change Requests.

6.13 Assignee search and selection. Upon identification of an appropriate candidate for the Assignment, Miratech may submit a potential Assignee candidate's profile for Client review and acceptance. The Client

may request an interview with the Assignee. Miratech shall do its best to reserve the assignee for period of up to one week (from submission of the candidate's profile) in a waiting/pre-booking state until the Client decision is available. If Client acceptance is not available within one week after the Assignee candidate's profile is submitted by Miratech, Miratech may release the candidate or consider the candidate for other bookings. If the Client rejects an assignee candidate offered by Miratech, the Client agrees to provide clearly structured reasoning, with details, regarding which specific assignment requirements the proposed assignee does not conform.

6.14 Back-up activities. If the Assignees complete all work assignments requested by the Client and no new work assignment arrives from the Client, the Miratech Technical Coordinator is entitled to notify the Client; if the Client does not respond with a new work assignment, the Miratech Technical Coordinator (at their sole discretion) is entitled to switch assignees to back-up activities, which might include (but not be limited to) back-up Client project work (if available and if applicable), related technology training, other professional skills development or maintenance activities, or other back-up activities. Miratech shall report all back-up activities that were approved by the Miratech Technical Coordinator for the Assignees. The back-up activity is to be paid by the Client. If involuntary back-up activities for an Assignee become an average of more than 40% of the approved Assignment volume during a 1 month period, Miratech reserves the right to reduce the volume of service under that specific Assignment.

6.15 The Team Extension Model assumes continuous service delivery by the Assignees comprised of eight (8) aggregate hours per day and that service delivery will not be interrupted or suspended during the course of service delivery, except for vacation days, sick days, training days, time-off, and holidays. Unless exceptions are pre-agreed to in writing by Miratech, periods of interruption or suspension caused by the lack of work, assignment, or direction by the Client will be charged according to the rates, set forth in the Agreement.

6.16 The following table specifies the terms for Assignments administration:

Table 2. "Terms of Assignments for Team Extension Model"

Assignment type	Long term assignment	Medium Term Assignment
Minimal assignment period	12 months	3 months
Anticipated notice timeframe before assignment starts	3-6 months	1-3 months
Assignment postpone / cancellation notice	3 months	1 months
Automatic extension of Assignment	Automatically extends for a new minimal assignment period unless any Party has requested otherwise 3 months prior to assignment expiration	Automatically extends for a new minimal assignment period unless any Party has requested otherwise 1 months prior to assignment expiration

6.17 Under the long-term assignments, Miratech shall invoice the Client for a paid-time off within the limits defined by the applicable legislation.

6.18 If the Client cancels the Assignment prior to the designated termination period, the Client shall pay Miratech the equivalent of service fees Miratech would received if the Assignment remained valid for the entire period it was initially agreed.

## SECTION 7. SCOPE MODEL



The clauses in this Section 7 shall be applicable to SOWs governed by the Scope Model.

7.1 The Services under a SOW governed by the Scope Model are accepted at the Milestones according to the schedule of the Milestones and the Milestone Acceptance criteria. The acceptance of the last Milestone of the SOW shall indicate acceptance of the SOW. The Parties shall agree that a Deliverable under the accepted Milestone shall have a material value for the Client and such Deliverable can either be used by the Parties in further activities under the SOW, or independently by the Client regardless of the further activity under the SOW.

7.2 The requirements for the Deliverables shall be specified in the SOW.

7.3 If the Client requires an extension to the Acceptance Period, the Client shall submit a Change Request specifying the extra calendar days needed by the Client. Unless otherwise agreed by the Parties in the SOW, the cost of such a Change Request shall be calculated with the following formula: the numbers of extra calendar days added to the Acceptance Period multiplied by the SOW cost and divided by the total calendar days of duration of the SOW. The Client shall not be entitled to extend the Acceptance Period for more than 30 calendar days.

7.4 The SOW shall specify the agreed deadlines for each Milestone, a list of Deliverables, Acceptance Criteria, and the agreed percentage of the total SOW services under acceptance at each Milestone.

7.5 Intermediate milestones shall have the following Acceptance Criteria: no Defects Severity I and no Defects Severity II in those portions of Deliverables which are being evaluated at the Milestone. Defects Severity III or Defects Severity IV shall not affect acceptance of the Milestone. Defects Severity II in those portions of the Deliverables which are not subject to evaluation at this Milestone shall not affect the Milestone acceptance.

7.6 The Milestone preceding the final Milestone shall have the following Acceptance Criteria: no Defects Severity I and no Defects Severity II and a number of Severity III defects not to exceed 1 Defect per 5 UFPs of evaluated functionality (where UFP is defined and measured pursuant to ISO/IEC 20926:2003). Defects Severity IV shall not affect acceptance of the Milestone.

7.7 The final Milestone shall have the following Acceptance Criteria: no Defects Severity I and no Defects Severity II and a number of Severity III defects not to exceed 1 Defect per 50 UFPs of evaluated functionality (where UFP is defined and measured pursuant to ISO/IEC 20926:2003). Defects Severity IV shall not affect acceptance of the Milestone.

7.8 For SOWs governed by the Scope Model the Parties shall agree to either a fixed price or not-to-exceed price (agreed limits). The billing model for the SOWs governed by the Scope Model shall be either a fixed price per Milestone, or Time and Material charges based on actual effort spent (and rates per role and within the agreed limits).

## **SECTION 8. SLA MODEL**

The clauses in this Section 8 shall be applicable to SOWs governed by the SLA Model.

8.1 The purpose of the SLA Model is to administer the rendering of support, maintenance, operation and similar IT services. Under the SLA Model the Client requests and Miratech agrees to provide support, maintenance, operation, and other IT related services.

8.2 Unless otherwise agreed in the SOW, the Statement of Accomplished Work shall be submitted by Miratech under the each SOW on a monthly basis. The Statement of Accomplished Work shall be supplemented with the information including SLA Metrics, Service Level Credits and Service Earnback calculation.

8.3 Under the SLA Model the Client shall accept the Service at the time of the Service delivery by Miratech.

8.4 The Milestones shall be on a monthly basis. At each Milestone Miratech shall submit a Statement of Accomplished Work including or referring to the Monthly Services Report. Unless otherwise agreed in a

SOW the Monthly Services Report(s) shall be the only Deliverable. Unless otherwise agreed in the SOW the Acceptance Procedure shall be as defined in this clause 8.4. The Parties agree that the Monthly Services Report meets Acceptance Criteria unless within the Acceptance Period the Client responds with errors found in the Monthly Services Report causing a total impact on the calculated charges in the Monthly Services Report in excess of 5% of total charges calculated in the Monthly Services Report. The Client shall inform Miratech of the errors detected in the Monthly Services Report without delay and with a reasonable level of detail about the errors. Miratech shall charge the Client based on Monthly Services Reports which meet the Acceptance Criteria and/or passed Acceptance Procedure; the errors identified in the Monthly Services Report shall be accounted for in the invoice issued at the soonest Milestone after error identification.

8.5 The SOW shall define parameters such as Incident submission, Incident logging and categorization, Incident prioritization, handling of Critical, Major and Normal Incidents, and Incident closure.

8.6 The Charges in the SOW governed by the SLA Model will be agreed by the Parties based on service volume, service catalogue and quality of service parameters. Unless otherwise agreed Miratech shall charge the Client on a monthly basis.

8.7 Under the SLA Model the SOW shall define the Service Costs, Service Catalogue, SLA, Service levels, SLA parameters, and/or formulas for calculations of the Service Credits and the Service Earnback.

8.8 The service due-diligence, preparation, transition and phase-out may be governed by the Scope or Professional Services, Team Extension models and billed according to the Time and Material or the Fixed Price models. Service operation shall be governed by the SLA Model, or other model agreed by the Parties.

## **SECTION 9. CHANGES ADMINISTRATION**

9.1 The Parties Services Coordinators and Technical Coordinators shall be members of the Change Control Board (CCB) under a SOW. Pursuant to the terms of the SOW other participants may be appointed as members of the CCB.

9.2 The authority of the Change Control Board may vary from SOW to SOW, but decisions reached by the CCB shall be accepted by the Parties as final and binding.

9.3 The CCB either approves the changes, reject the changes, or, in some cases, requests more information prior to decision making, or may postpone a decision pending some other occurrences that would factor into their ultimate determination.

9.4 Either Party may request a meeting of the CCB at any time to address Change Requests to the SOW and/or problem reports that have been outstanding.

9.5 The Parties expressly agree that only Change Requests reasonably necessary to meet agreed objectives under the SOW will be brought to the CCB in order to avoid unreasonable delays to the performance of the SOW.

9.6 If the Agreement proscribes a form for a Change Request the Parties shall adhere to that form, or agree on another template within the scope of an individual SOW.

9.7 The receiving Party of the Change Request will assess and report on the impact of any proposed changes to the SOW, providing a Change Proposal along with the impact of the Change Request on the SOW risks, timelines, costs, Deliverables and other relevant items. The CCB will then evaluate the impact of the Change Request and decide whether to proceed with approving the Change Proposal.

9.8 The members of the CCB will discuss in good faith and in a timely manner the terms and conditions of the Change Proposal. The work will be scheduled for implementation after mutual prior written (including email) approval of a Change Proposal.

9.9 Prioritization of the Change Request (enhancement) and Nonconformity Reports (defects) will be discussed with Miratech, but the Client shall make the final decision.



9.10 The both Parties shall be given access to all the Change Requests and Nonconformity Reports.

9.11 A Change Item or group of Change Items is qualified as a Minor Change (hereinafter "Minor Change") if either of the following conditions is satisfied:

- a) the cumulative impact in each calendar month under an individual SOW does not impact more than USD 1,000.00 (one thousand), or
- b) the cumulative impact in any calendar month under individual SOW does not exceed 5% of the SOW price in the relevant month.

Otherwise (if none of above conditions is met) the Change Item or group of Change Items is qualified as a major change (hereinafter "Major Change").

9.12 Unless otherwise agreed in the SOW, the CCB meeting shall be conducted as follows:

9.12.1 The Change Control Board meeting will be held on an ad hoc basis, when one or both Parties request. Prior to this meeting the status/information of the current Change Request and problem reports must be distributed by the initiating Party.

9.12.2 The Parties Technical Coordinators (or authorized representative when the Parties Technical Coordinators are absent) shall attend the Change Control Board meeting. Additional participants may join on invitation.

9.12.3 The Change Control Board meeting will be held via telephone conference, with occasionally a face-to-face meeting.

9.13 Each Change Request shall be submitted to the Technical Coordinator of the receiving Party in writing (including email) by the Technical Coordinator of the change initiating Party, ones' representative, or other person as appointed in the SOW.

9.14 Upon receiving a Change Request, the receiving Party shall respond within 5 working days. The reply shall contain either acceptance of the change, rejection along with a reasonable argument, a proposal for a Change Control Board meeting, or other reasonable response.

9.15 The Parties Technical Coordinators are entitled to approve Minor Changes in writing (including email).

9.16 The Parties Service Coordinators are entitled to approve the Major Changes in writing (including email).

## **SECTION 10. INVOICING, PAYMENTS, AND EXPENSES**

10.1 Invoicing.

10.1.1. Unless the SOW defines otherwise, Miratech shall submit invoices on a calendar month basis to the Client for payment in the Contract Currency specified in this Agreement.

10.1.2. Unless otherwise specified in the SOW, invoices shall be addressed to the Client Technical Coordinator.

10.1.3. All invoices shall refer to the SOW under which they are submitted, and, if applicable, reference the corresponding statements of accomplished work.

10.2 Payments.

10.2.1. Unless otherwise specifically agreed by the Parties in the SOW, the Client shall make all payments in the currency identified therein via wire transfer to the specified bank account.

10.2.2. Unless otherwise agreed in the SOW all invoices shall be paid within 30 calendar days after the invoice is received by the Client.

10.2.3. Overdue invoices shall not be deemed invalid, but shall be subject to other invoices including amounts of late payment fees, calculated based on an annual interest rate of 18%. Late payment fee mentioned in this clause shall be as well applied to any other overdue payments hereunder.

10.2.4. The limitation of liability stated in clause 14.2 herein shall not release Client or limit Client's obligation to pay for services rendered by Miratech under this Agreement or any SOW/PO, as well as Client's obligation to pay termination fees and invoices due hereunder.

10.3 Any discovered deviations between invoiced and accepted service volumes (pursuant to the SOW) shall be accounted in future invoices or credit notes.

10.4 Expenses.

10.4.1. Except as expressly established by the Agreement or SOW/PO, each Party shall bear its own expenses including facilities, work space, occupancy, supplies, utilities, payroll and other labor costs, clerical and reproduction services, and other miscellaneous expenses.

10.4.2. Additional expenses to be covered by the Client if confirmed in advance:

- (1) Business trips of Assignees according to Client request; the travel time of the Assignees will be billable to the client. The client will also reimburse Miratech all direct travel costs, plus a material handling fee of 10%.
- (2) Procurement, storage and maintenance of additional dedicated licenses, software, or hardware.
- (3) Other expenses to be reimbursed to Miratech and approved by the Client in advance. Miratech will apply a 10% material handling fee to all other direct costs of this engagement, to include the purchase of hardware, software, travel and lodging, and any other direct project costs to include the services of any third party providers.

10.5 All prices and costs mentioned in this Agreement do not include any Value Added Taxes (VAT). If any VAT is applicable it shall be paid by the Client, or by Miratech (if the case) at the Client's expense.

10.6 The Parties agree that the rates offered by Miratech may be subject to periodic review. Unless otherwise agreed by the Parties, Miratech shall be entitled to execute an indexation of rates based on annual inflation rate of 5%.

10.7 If Miratech is required by law to deduct any sum payable hereunder, the sum shall be increased as may be necessary so that after making all required deductions Miratech shall receive the amount it would have received had no deductions been made.

## **SECTION 11. CONFIDENTIALITY**

11.1 For purposes of the Agreement, Information shall mean all Technical Information and Business Information that is being disclosed by the Disclosing Party (either directly or not) in written form, in mute or in pictures, or by observing patterns, premises, equipment or to which might be provided access for Receiving Party from Disclosing Party, according to this Agreement or which is generated as a result of or in connection with coordination and/or performance of Agreements provisions, if this information is not generally available to the public.

11.2 For purposes of any Agreement, Confidential Information shall be limited to the following Information:

- (a) Information presented in a tangible form and marked conspicuously with a legend identifying its confidential or proprietary nature; or
- (b) Information which with respect to any verbal communication, is designated to as confidential immediately before, during, or within a reasonable time after the verbal communication, and such designation is subsequently confirmed in writing.

11.3 The Parties shall not (allow anyone to) disclose, make public or in any other way make available Information to a third party except as specifically authorized in writing between the Parties or to receiving party affiliates, employees, contractors, auditors, advisors & sources of funding having a need to know such Confidential Information.

11.4 The Parties shall ensure secure transfer of Information (by means agreed by the Parties) and take all the necessary steps in order to keep the Information confidential: with the same degree of care that

Recipient would use in maintaining its own confidential information, but in no event less than reasonable care.

11.5 Return of Materials. All documents and other tangible objects containing or representing Confidential Information which have been disclosed by either Party to the other Party, and all copies (excluding backup copies being automatically saved in Miratech's storage system to avoid information losses) thereof which are in the possession of the other Party, shall be and remain the property of the Disclosing Party and shall be deleted or promptly returned to the Disclosing Party upon the Disclosing Party's written request.

## **SECTION 12. TERMINATION AND SURVIVAL**

12.1 Unless otherwise agreed in this Agreement either Party may terminate the Master Agreement by giving 3 months prior written notice.

12.2 Unless otherwise agreed in the SOW/PO, either Party may terminate the SOW/PO by giving 3 months prior written notice. If the Client initiates termination and the notice is given for the period less than 3 months or if the termination notice is not given, the Client shall pay the equivalent of service fees Miratech would received if the termination notice was sent in accordance with prescribed terms.

12.3 The Client shall pay all Miratech Services accrued up to the SOW/PO termination date.

12.4 Upon the Client's request Miratech shall execute the return of all Client property. The Client shall reimburse Miratech reasonable costs incurred by Miratech and related to handing such Client request.

12.5 In case any payment under the SOW/PO is overdue, Miratech is entitled to postpone the SOWs/POs. In case the Client under a SOW/PO has an overdue invoice for more than 30 calendar days, Miratech is entitled to terminate the SOW/PO.

12.6 Any and all SOWs/POs shall survive the Master Agreement termination. The Parties shall fulfil their obligations under the SOWs/POs until the SOW/PO termination or expiration. The Client agrees to pay Miratech early termination fees as defined in these Standard Terms unless otherwise agreed in respective SOWs.

12.7 Sections, that according to their wording will be in affect after the Agreement termination shall survive the expiration or any termination of the Agreement. Termination of the Agreement by either Party shall not act as a waiver of any breach of the Agreement and shall not act as a release of either party from any liability for breach of such party's obligations under the Agreement.

## **SECTION 13. INFRINGEMENT OF RIGHTS AND REMEDIES**

13.1 A Party (Infringing Party) shall compensate all damages that the other Party (Infringed Party) may bear because of a judgment or in connection with the full or partial recognition based on written Infringing Party consent for such recognition, claims that the use of intellectual property (IP) supplied by the Infringing Party infringes on the intellectual property rights of a the third party according to the Bern Convention on Protection of Works of Art and Literature in all countries having signed the given Convention, and providing that Infringed Party:

- Informs the Infringing Party in written form and in time about receipt of such claims or reclamations; - doesn't accept claims and does not make any attempt to solve a problem without prior written consent of the Infringing Party;
- Provides the Infringing Party (at the Infringing Party expense and on its request) with necessary authorities and full control over negotiations and/or participation in judicial proceedings for the protection of the Infringed Party interests with right of full or partial claims recognition as well as right of amicable agreement conclusion;
- Provides the Infringing Party with all necessary information and reasonably required help, and - operates according to the guidelines of the Infringing Party.

13.2 The Infringing Party shall not be liable, if such infringement results from the following:

- The Infringed Party fails to perform the appropriate corrective modifications to the intellectual property (supplied by Infringing Party), does not alter the intellectual property with a new corrected version, provided that such appropriate corrective modifications were requested by the Infringing Party and/or new version were supplied to Infringed Party in order to avoid the infringement;
- The Infringed Party applies modification to intellectual property different from those recommended by the

Infringing Party;

- The Infringed Party uses intellectual property in context or environment that was not previously agreed with the Infringing Party;
- The Infringed Party uses intellectual property, usage of which is not authorized according to any of the Agreement's provisions;
- The Infringed Party breaches the terms of use of intellectual property defined in the Agreement or appropriate instructions.

13.3 If the Infringed Party's owning or using IP supplied by the Infringing Party infringes or, on the Infringing Party opinion, may be considered as infringing intellectual property rights of third parties arising from the Convention mentioned above, in the country where the Infringed Party uses IP supplied by the Infringing Party, the Infringing Party may at his own expenses and at its discretion:

- (a) Provide the Infringed Party with the right to continue using the IP supplied by the Infringing Party excluding responsibility (of the Infringing Party) for this infringement; or
- (b) Modify or replace the IP with a new version in order to avoid the infringement providing that modified or replaced components will not severely affect the quality and/or value of the IP supplied by the Infringing Party.

13.4 All remedies (including damage and losses reimbursement), may be realized all simultaneously and should not be considered as those excluding the use of any other remedies, available for any of the Parties (including injunctive relief), unless otherwise specifically agreed by the Parties.

## **SECTION 14. LIABILITY**

14.1 Neither of the Parties shall be liable for indirect damage (including negligence, intentional breach), loss or damage of data, loss of potential clients, lost profits, business fields or any other damages of the kind. This section shall be applicable irrespective of whether this Party was notified about the possibility of such losses or damages or not.

14.2 The total liability under a SOW/PO (including the sum of damage and loss reimbursement of a Party under the SOW) shall not exceed 10% of the amounts paid by the Client to Miratech during the 12 month period ending with the date of the Claim of other Party. The total liability under an Agreement (including sum of damage and losses reimbursement of a Party under the Agreement) shall not exceed (1) USD1 million or (2) 10% of amounts paid by the Client to Miratech under the Agreement during the 12 month period ending with the date of the Claim of the other Party, whatever amount is lower.

14.3 The Party shall not be liable for violation of warranty provisions, providing that losses incurred thereof were reimbursed in the course of obligation fulfilment arising from other provisions of warranty obligations.

14.4 Neither Party shall be accountable or liable for failures caused by the breach of the Agreement by the other Party.

14.5 In the event of any dispute between the Parties concerning the terms and provisions of this Agreement, the Party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

14.6 Any arbitrator selected pursuant to the Master Agreement must either have experience in software services and/or technology services litigation.

## **SECTION 15. FORCE-MAJEURE**

15.1 Neither Party shall be liable for failure to perform or delay in performing any obligation under the Agreement, if the failure or delay is caused by any circumstance beyond its reasonable control arisen after the conclusion of the Agreement. These circumstances may include: fire, flood, war, technical network defects, low quality of data transmission channels etc.

15.2 Under force-majeure circumstances, the Party that had failed to perform its duties, should immediately inform the other Party about the failure or delay in written form within 5 (five) days from the moment such circumstance occurs. Notice should contain data about the circumstances' nature.

15.3 If any of force-majeure circumstances directly influence the performance of obligations in terms, set forth in the Agreement, this term shall be correspondingly postponed for the time of duration of the circumstances.

15.4 If force-majeure circumstances occur and their consequences last more than two months, any of the Parties shall be entitled to cancel completely or partially this Agreement, except for any obligation to reimburse possible damages incurred by other Party because of the given Agreement being non-performed.

## **SECTION 16. AGREEMENTS WITH EMPLOYEES**

16.1 Miratech or its affiliated company shall obtain and maintain in effect written agreements with each of its employees (consultants) who participate in any of Miratech's work under this Agreement. Such agreements shall contain terms sufficient for Miratech to comply with all provisions of the Agreement and to support all grants and assignments of rights or ownership required under this Agreement.

16.2 Non-hire and non-solicit. Unless otherwise agreed, during the term of this Agreement and 3 years after termination of this Agreement a Party ("breaching Party") shall not solicit for employment, employ or enter into any direct or through third-party contract for services or employment relationship with any individual who is an employee or consultant of the other Party or its affiliate ("injured Party"). Shall a breaching Party become aware of the breach of the term stated above in this clause 16.2 and/or receive a notice from the other Party with information about the breach, the breaching Party shall immediately terminate the relationship with such employee or consultant. Shall a breaching Party fail to immediately terminate a breach, the breaching Party shall pay a remedy to the injured Party equal to an estimated annual gross services fee or, at the discretion of the injured Party, the annual gross salary of the employee or consultant.

## **SECTION 17. MISCELLANEOUS**

### 17.1 Section Headings, Exhibits

The section and subsection headings hereof are used for reference and convenience only and shall not be taken into consideration for the interpretation hereof. The exhibits mentioned herein and/or attached hereto, including all that will be issued later, being signed from time to time according to this Agreement, are its integral parts, as if they were set forth directly in the text of the Agreement.

### 17.2 Required Approvals

Where agreement, approval, acceptance, or consent by either Party is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld.

### 17.3 No Waiver

No delay or omission by either Party hereto to exercise any right or power resulting from any non-performance or improper performance of the other Party of any of the terms of the Agreement shall impair any such right or power or be treated as a waiver thereof, unless such waiver is set forth in the Agreement or otherwise expressly agreed by the Parties.

A waiver by either of the Parties hereto of any of the covenants, terms or agreements to be performed by the other shall not be treated as a waiver of any succeeding breach thereof or of any covenant, condition or agreement herein contained.

17.4 Miratech has the sole right to supervise, manage, subcontract work/Service performance under the Agreement.

17.5 Notices. Under this Agreement if one Party is required to give notice to the other, such notice shall be sent by e-mail and then a copy faxed or mailed by the air mail, postage prepaid with AVISO of delivery and addressed to the primary addresses set forth for each Party in this Agreement (or as subsequently noticed to the other Party).

17.6 Neither Party may, without the prior written consent of the other Party, assign or transfer this Agreement nor any obligation incurred hereunder, except by merger, reorganization, consolidation or sale of all or substantially all of such Party's assets. Any attempt to do so in contravention of this Section shall be void and of no force and effect. Besides each Party (cedent) may execute cession of its rights under this Agreement to the benefit of any third party (cessionary), and this cession shall be considered as effective after cedent informs a debtor of such cession details.

17.7 Miratech is entitled to make public reference to the Client, use its satisfaction feedback, use approved testimonials, and use the name and logo of the Client on the Miratech web-site and in Miratech marketing materials.

17.8 Language of Agreement. All correspondence and communication is to be in English, unless otherwise agreed upon by the Parties in writing.