



These General Conditions shall apply to all Quotes, Orders, the Services, the Services Specification, the Support and Service Level Schedule, the Triplinq Policies, the Services Master Agreement (if concluded), and any other agreements and/or legal relationships between Triplinq and Customer resulting therefrom or in connection therewith. Triplinq expressly rejects the applicability of Customer's general conditions, unless Triplinq has expressly accepted the applicability of Customer's general conditions in writing. Any amendments to the General Conditions are only legally binding between parties, if both Parties have expressly agreed to such amendments in writing. Version date June 1st, 2018 will replace all previous versions.

1. DEFINITIONS

In these **General Conditions**, the Internet Services Master Agreement (if concluded), the Services Specification, the Support and Service Level Schedule, the Order(s) and the Triplinq Policies, the following words and expressions have the following meanings:

Affiliate means, with regard to any entity, any other entity that (directly or indirectly) Controls, is Controlled by, or is under common Control with such entity.

Agreement means the Internet Services Master Agreement (if concluded) and/or each Order, including the Triplinq Policies, the Services Specification, the Support and Service Level Schedule and all other schedules there to, pursuant to which Triplinq shall provide certain (internet) services to Customer, which Services are indicated on the Order Form(s) or the Order Confirmation.

API means the application programming interface (or similar Technology, e.g. self service center), through which Customer can access or communicate with Triplinq and/or Triplinq's servers and through which Customer may place API Orders.

API Order means the Order that comes into existence upon Triplinq's acceptance of a Purchase Order that has been submitted by Customer to Triplinq through the API. The Order Confirmation for the API Order shall set forth the Services and/or Equipment Customer purchased or leased from Triplinq and the relevant details.

Bandwidth means the amount of data that is to be carried from one point to another in a second, expressed in bits per second (bps). **Basic Power** means the limit that has been set for Customer's use of electricity, on the basis of the Services Specification, as specified in the Order Form or Order Confirmation, measured in amperes.

Business Day means Mondays to Fridays, with the exception of official public holidays in The Netherlands.

Business Hours means the period between 09.00 hours and 17.30 hours Central European Time on a Business Day.

Change Order Form means the document, in standard Triplinq layout, used by Triplinq to respond to a change request, as referred to in Clause 5.

Colocated Equipment means Equipment owned by Customer that is from time to time installed by Customer at a Data Center pursuant to the Agreement.

Colocation Service means a non-exclusive right to install and retain the Colocated Equipment in the Housing Space, granted by Triplinq to Customer with effect from the RFS Date for the duration of the Term.

Confidential Information means all information not publicly known used in or otherwise relating to the Agreement, the business or affairs of a Party or an Affiliate of such Party and disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by the Disclosing Party to the Receiving Party whether before or after the Effective Date.

Control means the possession of power, directly or indirectly, to direct or cause the direction of the management and policies of an entity, whether through ownership of voting rights, by contract or otherwise.

Customer means any natural person or legal entity that gives an assignment to Triplinq with respect to the provision of services by Triplinq.

Customer Portal means online services portals for customers; Customers will be able to manage specific services within the portal.

Data Center means a data center out of which or within which Triplinq provides Services.

Data Traffic means the sum of data that is transmitted to and from Customer's infrastructure, measured in Bytes.

Dedicated Equipment means Equipment leased from time to time by Customer from Triplinq pursuant to the Agreement.

Delivery Date means the date on which Triplinq shall deliver the Equipment that is sold by Triplinq to Customer, as specified in the Order Form or Order Confirmation.

Disclosing Party means the Party that discloses Confidential Information to the Receiving Party, as referred to in Clause 24.

Effective Date means (i) the date on which the Agreement becomes effective and the Term commences, as specified in the Internet Services Master Agreement (if concluded); and (ii) the date on which an Order becomes effective and the Term commences, as specified in Order Form or Order Confirmation.

Electricity Supply or power supply means the supply of electricity, which supplies will be charged by Triplinq to Customer, measured in kWh.

Emergency means any situation which poses an immediate risk to: (i) a person or persons; (ii) the Data Center; (iii) the provision of one or more of the Services; (iv) the Equipment; and/or (v) the provision of services by Triplinq to other customers.

End User means any client of Customer or other user of Customer's services, as well as any other person or (legal) entity who obtains access to Services via Customer.

Equipment means any equipment, including but not limited to: computer hardware, telecommunications hardware, Interconnection Points, accessories, attachments, alterations of and spare parts for that equipment.

Facility Agreement means any lease, license and/or other agreement executed by and between Triplinq and a third party, further to which Triplinq is entitled to use a Data Center and to grant Customer a license to use the Housing Space within the Data Center.

Force Majeure means any event outside the reasonable control of a Party affecting its ability to perform any of its obligations (other than payment) under the Agreement, including: acts of God; acts of terrorists; acts of war; outbreak of hostilities; sabotage; civil disorder; riots; acts or demands of any (local) government or government agency; strikes or other labor unrest; fires; floods; earthquakes; storms; lightning, any interruption in the supply of electrical energy to the Data Center; restrictions related to an outbreak of disease (such as avian influenza viruses or the H1N1 flu); epidemics; shortage of materials; unavailability or delay in delivery not resulting from the responsible Party's failure to timely place orders therefore; equipment failures; lack of or delay in transportation; failure of a third party to grant a required right-of-way permit, assessment or other required authorization; acts or omissions of vendors or suppliers; changes in law or government policy; and other unforeseeable circumstances, provided however that Force Majeure shall not include any labor problems or strikes relating to the workforce of Customer or its suppliers or subcontractors.

General Conditions means these terms and conditions, including the preamble preceding clause 1.

HICP means the Harmonized Index of Consumer Prices for member states of the European Union who have adopted the Euro.

Housing Space means the racks, footprints, cages, cabinets, suites and/or other areas, designated as such by Triplinq within the Data Center or in such other places which Triplinq may from time to time designate and specify in the Services Specification or the Order Form/Order Confirmation.

Initial Term means the Term for which the Order is initially entered into, as specified in the Order Form/Order Confirmation.

Intellectual Property Rights means any patent, copyright, trademark, trade name, service mark, moral right, database right, trade secret, knowhow and any and all other intellectual property right whether registered or not or capable of registration and whether subsisting in the country of Triplinq's principal place of business or any other part of the world together with any and all goodwill relating thereto.

Interconnection Point means a port on Triplinq's switch and/or router and/or firewall and/or load balancer located in the Data Center, at which point the responsibility of the data stream transport is transferred from Triplinq to Customer.

(Internet) Services Master Agreement means an agreement so entitled, signed and executed by Triplinq and Customer (if any).

Triplinq in relation to Service(s) and/or Equipment provided to Customer it means Triplinq Hosted Solutions, a private company with limited liability, incorporated under the laws of the Netherlands, with its registered seat at Amsterdam, the Netherlands.

Triplinq Policies means the policies and guidelines applied from time to time by Triplinq in its relationship with Customer.

Maintenance means maintenance, repairs, modifications or upgrades performed by Triplinq from time to time on the Network.

Maintenance Window means the timeframe in which Triplinq schedules the performance of Maintenance. Unless specifically agreed otherwise in writing by the Parties, the Maintenance Window is every day, between the hours of 20:00 until 08:00 CE(S)T, whereby Triplinq will preferably schedule Maintenance during the weekend between the hours of 01:00 until 06:00 CE(S)T.

Network means the telecommunications network, which is comprised of all infrastructure Equipment (i.e. Equipment that supports the flow and processing of information, including storage, servers and networking components) owned or leased by Triplinq within each active Triplinq POP or Triplinq's Affiliates POP, all Triplinq wiring within each active Triplinq POP or Triplinq's Affiliate's POP, power supplies owned or controlled by Triplinq in each POP, and all telecommunications circuits owned or leased by Triplinq between active Triplinq POPs and active POPs of Triplinq's Affiliates. For the avoidance of doubt: The Network does not include Equipment owned, leased, or controlled by Customer, telecommunications circuits or networks (including, without limitation, local access loops) between a Triplinq POP and a Customer location or between Customer locations, interconnections between Customer's network and the Network, or any networks, network equipment, or telecommunications circuits not owned or controlled by Triplinq.

Order means the agreement that comes into existence: (i) upon the written acceptance by Customer of a Quote; or (ii) in the manner specified in Clauses 4.5, 4.6, 4.7 and 4.9.

Order Confirmation means a communication from Triplinq to Customer, made via email, through the Customer Portal or otherwise, to notify Customer that Customer's Order has been accepted by Triplinq. The Order Confirmation shall set out the Services and/or Equipment Customer purchased or leased from Triplinq and the relevant details.

Order Form means the document, in standard Triplinq layout, in which Triplinq has itemized which Services and/or Equipment will be sold or given into use or lease by Triplinq to Customer, including the prices, RFS Date, etc.

Parties means Triplinq and Customer, each a "Party".

POP means a 'point of presence', i.e. an access point to the Internet.

Purchase Order means the document in which Customer has itemized which Services and/or Equipment it intends to purchase or lease from Triplinq.

Quote means any offer, quote, proposal and/or tender-bid made by Triplinq.

Quote Sheet means the document, in standard Triplinq layout, in which Triplinq specifies a Quote. A Quote Sheet shall be deemed an Order Form upon (written) acceptance of such Quote Sheet by Customer.

Receiving Party means the Party that receives – or is granted access to – Confidential Information by the Disclosing Party, as referred to in Clause 24.

RFS Date means the ready for service date, i.e. the date as of which Triplinq enables Customer to use the Services for the first time,



as specified in the Order Form/Order Confirmation, or in the case of a Colocation Services, the date as of which Customer is entitled to install the Colocated Equipment at the Data Center, as specified in the Order Form/Order Confirmation.

Service Charges means the charges, fees, costs and expenses payable under the Agreement by Customer to Triplinq for the provision of Services and the same arising out of Customer's use of the Services, including recurring and non-recurring charges, set out in the Services Specification and the Order.

Service Credits means a credit, calculated in accordance with the Support and Service Level Schedule, applied to Customer's account, and to be used as credit against future invoices.

Service Disruption an interruption or degradation in the provision of one or more Services by Triplinq to Customer; provided that such interruption or degradation is not the result of an Excluded Event (as defined in the Support and Service Level Schedule). Service Levels means the performance metrics with respect to the Services, as set forth in the Order and the Support and Service Level Schedule.

Services means the services to be provided by Triplinq to Customer, as agreed and specified in an Order Form/Order Confirmation.

Services Specification means the document in which Triplinq has set out and specified the services offered by Triplinq, as well as the manner in which the services should be used, which document may be amended from time to time.

Support and Service Level Schedule means the document in which Triplinq has specified the available Service Levels, which document may be amended from time to time.

Term means the period for which the Agreement and/or an Order has been entered into, starting on the Effective Date.

Test means a trial or test performed on the Network in order to verify and ensure the proper performance thereof.

Triplinq Triplinq Hosted Solutions BV, a Dutch privately held company Registered in Amsterdam (CoC 67661297) with its primary office in NL 1017KJ Amsterdam, Prinsengracht 530H.

Web Order means the Order that comes into existence upon Triplinq's acceptance of a Purchase Order that has been submitted by Customer to Triplinq by completing the online purchase process on Triplinq's website or the Customer Portal. The Order Confirmation for the Web Order shall set out the Services and/or Equipment Customer purchased or leased from Triplinq and the relevant details.

2. DOCUMENT STRUCTURE

2.1 In general, the Agreement will consist of the following documents, whereby in the event of any inconsistency or conflict between or among provisions of the following documents, the contents of the document first listed shall have precedence and shall prevail over the documents listed later, in descending order:

- The (Internet) Services Master Agreement (if entered into);
- The (Change) Order Form (only in relation to the relevant Order Form);
- The Services Specification;
- The Support and Service Level Schedule;
- The General Conditions; and
- The Triplinq Policies.

2.2 If Triplinq has accepted the applicability of Customer's general conditions in writing, and there is a conflict or inconsistency between any of the provisions of these General Conditions and one or more of the provisions of Customer's general conditions, the provisions of these General Conditions shall prevail.

2.3 Triplinq is entitled to amend the General Conditions, the Services Specification, the Support and Service Level Schedule and the Triplinq Policies. Such amendment also applies to existing Orders for Services, unless Triplinq states otherwise. The amendments come into effect thirty (30) days after the announcement or on a later date stated in the announcement. The announcement may be made through the Customer Portal and/or the API. If Customer does not wish to accept an amendment that relates to an existing Order, it can terminate the Agreement in relation to that existing Order with effect from the date on which the amendment comes into force. The written cancellation must have been received by Triplinq within fourteen (14) days after Triplinq's announcement of the amendments. No such termination rights shall exist if: (a) the amendment is solely for the benefit of the Customer; (b) Customer is offered the option to refuse the amendment; (c) the amendments are required by law; or (d) the amendment does not adversely affect Customer's use of the Services.

3. SCOPE OF SERVICES

3.1 The scope and nature of the Services offered by Triplinq are set out in the Services Specification. The scope and nature of the available Service Levels are set out in the Support and Service Level Schedule.

3.2 The Services, as well as the Service Levels, purchased or leased by Customer from Triplinq are itemized in the Order Form/Order Confirmation. The Order Form/Order Confirmation shall also specify any Equipment leased by Customer from Triplinq and any Equipment purchased by Customer from Triplinq.

4. QUOTES AND ORDER PROCEDURE

4.1 All Quotes are free of commitment and subject to contract, even when a period for acceptance is mentioned in the Quote. In case no period for acceptance is mentioned, Quotes cease to apply after thirty (30) days from the date of the relevant Quote.

4.2 Triplinq shall not be bound by variations or amendments or changes to a Quote that occur in the acceptance by Customer of such Quote. Nor shall Triplinq be bound by a partial acceptance of a (composite) Quote.

4.3 In the event that Customer wishes to purchase or lease Services or Equipment from Triplinq, Customer shall either (i) place a

Purchase Order with Triplinq to that effect; or (ii) request Triplinq to provide a Quote.

4.4 Any Purchase Order made by Customer shall be submitted (i) in writing, by facsimile or by email, or (ii) by completing the online purchase process; (iii) by means of or through the Customer Portal; or (iv) through the API.

4.5 Triplinq shall review a Purchase Order within a reasonable time after receipt thereof. If Triplinq is willing and able to provide the requested Service(s) and/or Equipment to Customer, Triplinq shall confirm such to Customer in writing, by email or by facsimile, by sending a signed Order Form to Customer or (in case of a Web Order or API Order) by sending an Order Confirmation.

4.6 Unless Triplinq has made any material alterations to Customer's Purchase Order, in the acceptance of such Purchase Order and drawing up the Order Form, Customer shall be bound by Triplinq's acceptance of the Purchase Order as confirmed and specified in the Order Form/Order Confirmation.

4.7 In the event that Triplinq has made any material alterations to Customer's Purchase Order, in the acceptance of such Purchase Order and drawing up the Order Form, the Order Form shall be subject to Customer's approval and acceptance. If Customer approves the Order Form, (an authorized representative of) Customer shall sign the Order Form for acceptance and provide a copy thereof to Triplinq.

4.8 If a Service and/or Equipment is mistakenly listed at an incorrect price on Triplinq's website and/or the Portal and/or the API, Triplinq reserves the right to refuse the Web/API Order, or in case Triplinq has accepted the Web/API Order by sending an Order Confirmation, Triplinq shall be entitled to terminate the Web/API Order by giving written notice to Customer, taking into account a seven (7) day notice period.

4.9 The Triplinq Portal shall contain activation options for some Services, including Services that are offered on a pay-as-you-go basis, i.e. Services that are charged to Customer based on Customer's actual usage of the Service, measured per day/minute/hour or other appropriate unitized measure. After the activation by Customer, Customer may use such Services without entering into any subsequent Web Order, Order Form or API Order. Customer may deactivate the Service at any time in the Portal, unless the Portal has indicated that the Service has an Initial Term, in which case clause 20 shall apply.

5. CHANGE ORDER PROCEDURE

5.1 During the Term of an Order, Customer may submit a change request. Customer should submit its change request in writing, by facsimile or by email to Triplinq for the attention of the Sales Department. Every change request is subject to acceptance and approval by Triplinq, which may be granted or withheld at Triplinq's sole discretion.

5.2 Any acceptance and approval of a change request shall only be valid if confirmed in writing by an authorized representative of Triplinq. As a general rule, any such confirmation will be made by means of a Change Order Form.

5.3 Triplinq shall be entitled to set conditions to its acceptance and approval of the change request, e.g. adjustment of the Service Charges, payment by Customer of a charge for administrative activities and/or payment by Customer of any other non-recurring charges in relation to effecting the change. Such conditions, adjustment and charges will be specified in the Change Order Form.

6. DELIVERY OF EQUIPMENT AND SERVICES

6.1 Triplinq shall use commercially reasonable efforts to ensure that:

- the Services will be ready for Customer's use on the RFS Date; and
- any Equipment sold by Triplinq to Customer will be delivered on the Delivery Date at the Data Center, as specified in the Order Form/Order Confirmation.

In view of the foregoing, Customer acknowledges that both the RFS Date and the Delivery Date are target dates.

6.2 With effect from delivery to Customer of the Equipment sold by Triplinq to Customer, such Equipment shall be for the risk and benefit of Customer. However, title of ownership to the Equipment will only pass to Customer on the receipt by Triplinq of payment - in full - of the purchase price for such Equipment, as specified in the Order Form/Order Confirmation. For the avoidance of doubt: In the event that Customer leases Dedicated Equipment, such lease will be an operational lease and payment of Service Charges shall not constitute any transfer of ownership of such Dedicated Equipment to Customer.

6.3 Triplinq may - at its sole discretion - unilaterally delay the RFS Date, by giving written notice to Customer, taking into account a notice period of at least five (5) days, provided that Customer shall be entitled to a credit equal to ten percent (10%) of the non-recurring charges, referred to in Clause 10.4b), with respect to the affected Service if Triplinq unilaterally delays the RFS Date by more than thirty (30) days after the initial RFS Date. Triplinq's notice of delay shall state a new RFS Date.

6.4 In case Customer has a complaint with respect to:

- the Service, Customer shall provide written notice to Triplinq, including in reasonable detail the grounds for its complaint, within two (2) days from the RFS Date in the absence whereof Services shall be deemed to be approved of by Customer;
- any Equipment sold by Triplinq to Customer, Customer shall provide written notice to Triplinq, including in reasonable detail the grounds for its complaint, within five (5) days from the Delivery Date in the absence whereof such Equipment shall be deemed to be accepted and approved of by Customer.

6.5 In the event that Customer has provided its written complaint in accordance with Clause 6.4, and such complaint is found to be justified, Tripling shall take such action as necessary, and as expeditiously as reasonably practicable, to correct or cure such defect or failure. Tripling will subsequently notify Customer hereof once the Service or Equipment is functioning properly and the complaint periods specified in Clause 6.4 shall (re)commence on the date of such notice.

7. USE OF SERVICES AND EQUIPMENT

7.1 Customer shall at all times use the Services and/or Equipment in compliance with all relevant laws and the Tripling Policies. Customer shall not permit any third party (including Customer's End Users) to use the Services for any improper or unlawful purpose.

7.2 Customer acknowledges that Tripling exercises no control over - and that Tripling accepts no responsibility for - the content of information and communications, in whatever form, transmitted by Customer over the Network.

7.3 Customer acknowledges that, by offering or providing the Services, Tripling does not publish or otherwise provide Customer's content to any End Users. Customer agrees that Customer shall, at all times, be solely responsible for all text, graphics, sound, video, data and any aspect of Customer's content.

7.4 Customer's use of any information obtained via the Network is at Customer's own risk. Tripling specifically denies any responsibility for the accuracy or quality of information obtained through its Services.

8. PERSONAL DATA / DATA PROTECTION

8.1 Customer acknowledges that Tripling may, by virtue of providing the Services, come into possession of, or have access to, personal data. The Parties intend that the Customer shall be the data controller and that Tripling shall be a data processor in relation to such personal data.

8.2 Customer acknowledges and agrees that Tripling shall, for the performance of Tripling's obligations under the Agreement and the exercise of Tripling's rights under the Agreement, be entitled to process personal data, provided that Tripling complies with the applicable data protection laws.

9. CREDIT APPROVAL AND FINANCIAL SECURITY

9.1 The provision of Services or sale of Equipment by Tripling to Customer is subject to approval by Tripling of Customer's credit. In view hereof, Customer shall prior to the RFS Date or Delivery Date provide credit information to Tripling for approval by Tripling.

9.2 Tripling may, at any time, by notice in writing impose a credit limit on Customer to an amount to be determined by Tripling. Any Services required by Customer in excess of any such credit limit will require Customer to deposit an amount equal to or greater than the amount by which Customer will exceed the credit limit.

9.3 In addition to Clause 9.2, Tripling may require Customer to provide a deposit or a bank guarantee or a parent guarantee, equivalent to up to three (3) months' Service Charges (actual or projected) or other security satisfactory to Tripling.

9.4 Any deposit or bank guarantee or parent guarantee shall be held by Tripling as security for the payment of Service Charges and any other amounts due under the Agreement. Upon termination or expiration of the Agreement, Tripling may apply a deposit or bank guarantee or parent guarantee to any amounts owed by Customer to Tripling. Any remaining credit balance of a deposit shall be refunded to Customer. Any deposit paid by Customer pursuant to this Clause will not carry any interest.

10. TERMS OF PAYMENT

10.1 For Equipment purchased by Customer from Tripling, Customer shall pay to Tripling the purchase price specified in the Order Form/Order Confirmation. For the use of the Services, Customer shall pay to Tripling the Service Charges. Unless specified otherwise, all Service Charges are in Euros and exclusive of VAT.

10.2 Tripling is entitled to increase any of the Service Charges one (1) time per calendar year, with: (a) five percent (5%); or - if higher - (b) the HICP for the previous year. The increase will apply with effect from the first (1st) of January, unless stipulated otherwise by Tripling in its notification to Customer. In the event that the increase of the Service Charges takes effect within twelve (12) months of the Effective Date, the increase will be pro-rated on the basis of the number of months that have passed since the Effective Date.

10.3 In addition to Clause 10.2, Tripling shall be entitled to pass on changes in any (energy and or license) fees or prices or charges for (hosted) products: (i) used by Tripling in the provision of Services to Customer; (ii) or licensed or resold by Tripling to Customer. Tripling will notify customer in case of an event of change of fees respecting a 15-day's notice minimum. The change will apply with effect from the first (1st) calendar day of the following month.

10.4 Unless specified otherwise in the Order Form/Order Confirmation, Tripling will invoice:

- the purchase price of any Equipment sold by Tripling to Customer, upon the Effective Date of the Order;
- setup charges, Service activation charges and any other nonrecurring initial charges, upon the date of agreement, RFS date or upon the Effective Date; and
- all recurring Service Charges, e.g. with respect to the usage of Bandwidth and/or Data Traffic, as of the RFS Date or the Effective Date (whichever is earlier), and monthly in advance thereafter, with the exception of use of Services above the agreed levels of Service and/or additional services which will be invoiced monthly in arrears.

10.5 In deviation of Clause 10.4a), Tripling may require Customer to make a pre-payment to Tripling in relation to any Equipment purchased by Customer from Tripling.

10.6 Tripling will send invoices to Customer by e-mail, in a portable document format (PDF). At Customer's request, Tripling will - as an extra Service - provide Customer with a print out of the invoice, via regular mail. For such extra Service, Customer shall pay a Service Charge to Tripling, in relation to the additional (administrative) activities performed by Tripling and the costs of the mail service.

10.7 Unless specified otherwise in the Order Form/Order Confirmation, all invoices sent by Tripling to Customer are payable by Customer to Tripling within fourteen (14) days from the invoice date. Setup charges, Service activation charges and any other nonrecurring initial charges will normally be due prior to first use of services unless agreed differently.

10.8 The method of payment is specified in the Order Form/Order Confirmation. In case of Direct Debit or Credit Card, Customer authorizes Tripling to charge Customer's bank account or Credit Card for the Service Charges.

10.9 In case Customer has a complaint with respect to an invoice, Customer shall communicate such complaint in writing to Tripling within the payment term, in the absence whereof invoices are deemed to be approved of by Customer. A complaint with respect to an invoice shall only be taken into consideration in the event that the complaint specifies the relevant invoice(s) and provides proper motivation for the complaint. In such case, the Parties will use commercially reasonable efforts to resolve the dispute amicably within twenty (20) days of Tripling's receipt of Customer's complaint, firstly at the level of each Party's senior management and - failing satisfactory resolution within fifteen (15) days - secondly at the Parties' executive level. In the event Parties fail to resolve the dispute amicably within twenty (20) days of Tripling's receipt of Customer's complaint, each Party shall be entitled to commence dispute resolution in accordance with Clause 28.2.

10.10 Customer shall not be entitled to any set-off or deduction of payment of an invoice. Customer's right to suspend payment of (part of) an invoice is limited to the amount of the invoice that is contested in good faith by Customer, in accordance with Clause 10.9. In the event Customer's complaint is found to be unjustified, Customer will immediately pay the outstanding amount, plus interest in accordance with Clause 10.11.

10.11 If Customer does not pay an invoice within the payment term, in the event that such invoice has not been disputed in accordance with Clause 10.9, or Customer does not pay the undisputed part of the invoice within the payment term, Customer shall be in default by operation of law and Tripling will, without a warning or notice of default being required, be entitled to charge Customer interest on such sum on a daily basis from the due date until the date of payment on the basis of the statutory commercial interest rate plus two percent (2%), without prejudice to Tripling's other rights and remedies.

10.12 In addition to Clause 10.11, in the event that Tripling and Customer have agreed to payment by Customer to Tripling by means of Direct Debit, Tripling will be entitled to charge an administrative fee of five hundred Euros (€ 500.--) to Customer, if: (i) Customer has cancelled the Direct Debit authorization; or (ii) payment to Tripling has been reversed or denied more than once.

11. TAXES

11.1 Customer shall be responsible for and shall pay all sales, use, excise, or similar consumption taxes (including VAT, when applicable) arising out of its purchase or lease of Services and/or Equipment from Tripling; provided, however, that Tripling shall be solely responsible for its own income-, net worth-, and property taxes.

11.2 Notwithstanding the foregoing, Tripling shall not invoice Customer for any taxes for which Customer has provided a valid exemption certificate in a form reasonably acceptable to Tripling.

11.3 The Parties are of the view that the use or provision (as appropriate) of the Colocation Service will not create a relationship of lessor/landlord and tenant between the Parties. Should the Colocation Service or an Order nonetheless qualify as a lease in the view or opinion of the relevant authorities (e.g. the tax administration authority or competent court of law), whereby Tripling is deemed lessor/landlord and Customer is deemed tenant, the Parties agree that:

- VAT will be due on the Service Charges;
- VAT will be added to the invoices at the date of issue of the concerning invoices and will be payable together with the amounts as specified therein;
- the Parties shall ensure that all their activities under the Agreement will correspond with the requirements of the relevant provisions of the applicable law on turnover tax, with respect to the release of the exemption from turnover tax for the letting of immovable properties;
- the Parties will, in as far as necessary, jointly apply for a permission to charge VAT on the Service Charges; and
- if the permission to charge VAT is refused or may become invalid due solely to the fact that Customer does not comply with the requirements the relevant provision of the applicable law on turnover tax, Customer will be obliged to pay an additional amount to Tripling that equals the VAT initially added to the amount(s) due and all costs that may occur as a result of refusal/invalidation of this permission.

12. SUSPENSION OF SERVICES

12.1 Tripling shall be entitled to immediately suspend the provision of any of the Services and/or to suspend Customer's right to access or use the Customer Portal and/or the API

and/or to suspend Customer's right to access to the Equipment, on giving written notice to Customer, in the event that:

- a) Triplinq receives an order or ruling or decision to that effect from a court, any law enforcement authority or any (other) governmental authority;
- b) Customer is in breach of the Acceptable Use Policy (part of the Triplinq Policies), and fails to take (timely) remedial action in accordance with the Abuse Policy (part of the Triplinq Policies) after receipt of a notice from Triplinq, provided always that Triplinq may immediately suspend Services without providing a remedy period if the continued provision of Services may subject Triplinq to liability vis-à-vis third parties, and/or may cause an Emergency;
- c) Customer's consumption of electricity exceeds Basic Power (specified in the Order) and Customer fails to reduce its electricity consumption to a level on or below Basic Power within three (3) days after having received notice thereon;
- d) Customer's consumption of Data Traffic or Bandwidth exceeds the Committed Data Traffic or the Committed Bandwidth (specified in the Order Form/Order Confirmation), as the case may be, and Customer fails to reduce such consumption to a level on or below the Committed Data Traffic or the Committed Bandwidth, as the case may be, within three (3) days after having received notice thereon;
- e) Customer has failed to maintain the licenses, permits, and authorizations required to use the Services and/or the Equipment and fails to remedy such failure within seven (7) days after having received written notice thereon;
- f) Customer does not cooperate with any investigation of Customer's alleged improper or unlawful use of the Services, the Network or other networks accessed through Triplinq, and fails to remedy such breach within seven (7) days after having received written notice thereon;
- g) Customer does not pay an invoice within the payment term and fails to pay such invoice, plus the interest referred to in clause 10.11, within a period of seven (7) days after having received notice thereon;
- h) the Services, software, or Equipment are exported or used in a country, or used by a Customer or an End User, in violation of the restrictions referenced in clause 16.8; and/or
- i) Customer is in breach of any of the other provisions of the Agreement and Customer fails to remedy such breach within fourteen (14) days after having received written notice thereon, provided always that Triplinq may immediately suspend Services without providing a remedy period if the continued provision of Services may subject Triplinq to liability vis-à-vis third parties, and/or may cause an Emergency.

12.2 In addition to Clause 12.1, in the event that Customer is in default of its payment obligations according to Clause 12.1g), Triplinq shall -upon three (3) days prior written notice- be entitled to:

- a) limit Customer's consumption of Data Traffic or Bandwidth; and/or
- b) suspend Customer's right to access or use the Customer Portal and/or the API; and/or
- c) suspend the provision of support Services.

12.3 Triplinq shall be entitled to continue the suspension or limitation described in Clause 12.1 and Clause 12.2 until: (i) Customer has remedied the breach and has paid the deactivation charge specified in Clause 12.4; or (ii) the Agreement has been terminated in accordance with Clause 21. 12.4 Following suspension of the provision of the Services and/or access to the Equipment, in accordance with this Clause 12, Triplinq may claim -and Customer shall pay upon demand- a deactivation charge in the amount of one hundred twenty five Euros (€ 125.-), in relation to the (administrative) activities performed in order to suspend and – if applicable – to recommence the provision of the Services and/or Customer's (right to) access to the Equipment.

13. SERVICE DISRUPTION

13.1 Immediately on becoming aware of a Service Disruption, Customer shall notify Triplinq by SMS and/or e-mail and/or by telephone of the Service Disruption and shall provide Triplinq with the appropriate information in accordance with Chapter B of the Support and Service Level Schedule.

13.2 Following notification by Customer in accordance with Clause 13.1, Triplinq shall:

- a) notify Customer of the estimated timescale for restoration of the affected Services, on Triplinq's website and via email;
- b) use its best endeavors to end the Service Disruption and to restore the affected Services; and – as necessary -
- c) provide Customer with information updates on its progress to end the Service Disruption.

13.3 Instead of restoring a Service, Triplinq may elect to substitute such affected Service by a reasonably equivalent Service.

13.4 In the event of a Service Disruption, Customer may be entitled to compensation in the form of a Service Credit as specified in the Support and Service Level Schedule.

14. MAINTENANCE AND TESTING

14.1 Triplinq reserves the right to suspend the Services and may suspend Customer's right to access to the Equipment in order to perform Maintenance.

14.2 Customer acknowledges that Triplinq will from time to time have to perform Maintenance in order to ensure a proper performance of the Network, Data Center and the Services and that such Maintenance may affect the provision of the Services to Customer.

14.3 If Triplinq expects scheduled Maintenance, referred to in Clause 14.2, to affect the provision of the Services and/or access to the Equipment, Triplinq shall:

- a) - to the extent reasonably possible - provide at least three (3) days prior notice to Customer of the intended Maintenance;
- b) - to the extent reasonably practicable - schedule such Maintenance and any related suspension of the Services and/or access to the Equipment within the Maintenance Window, so as to minimize any adverse effect of the Maintenance on Customer's use of the Services and/or access to the Equipment; and
- c) endeavor to keep the duration of any interruption or suspension or degradation in the provision of the Services and/or Customer's access to the Equipment as short as possible.

14.4 If Triplinq does not expect scheduled Maintenance, referred to in Clause 14.2, to affect the provision of the Services and/or access to the Equipment, Triplinq shall be entitled to perform such Maintenance at any time, without taking into account a notice period.

14.5 Customer acknowledges that Triplinq may from time to time have to perform non-scheduled Maintenance, in order to resolve or prevent an Emergency. Triplinq shall be entitled to perform such Maintenance at any time, without taking into account a notice period. Triplinq shall in such case notify Customer of such Emergency and the need to perform Maintenance without undue delay.

14.6 Customer acknowledges that Triplinq will from time to time perform Tests and that Tests may be performed at any time, without taking into account a notice period.

15. HOUSING SPACE / RELOCATION

15.1 Customer acknowledges that Triplinq's ability to grant Customer a license to use the Housing Space, as well as Triplinq's ability to provide (other) Services, are subject to the provisions of – and continuance of – (a) Facility Agreement(s).

15.2 Triplinq reserves the right to relocate the Housing Space, as well as the right to suspend the Services in connection with such relocation.

15.3 Triplinq shall give prior written notice to Customer of the intended relocation, taking into account a notice period of at least thirty (30) days, unless such notice cannot reasonably be expected from Triplinq.

15.4 In the event that Triplinq elects to relocate the Housing Space, Customer shall be required to relocate the Colocated Equipment to the new/alternative Housing Space designated by Triplinq.

15.5 In case the relocation of the Colocated Equipment is performed by Customer, as referred to in Clause 15.4, Triplinq shall provide compensation to Customer for any reasonable costs, to be determined by Triplinq, incurred by Customer as a result of the relocation, excluding the costs of any new interconnections that Customer may require or the procurement, delivery, and/or installation of any duplicate Colocated Equipment required to accomplish the relocation.

15.6 Without prejudice to Clause 15.4, Triplinq may – at its sole discretion – decide to relocate the Colocated Equipment for and on behalf of Customer, provided that Triplinq shall in such case: (i) notify Customer thereof simultaneously with its notification of the intended relocation of the Housing Space; and (ii) to the extent practicable, coordinate the relocation of the Colocated Equipment with Customer.

16. WARRANTIES

16.1 Each Party warrants, represents and undertakes that it:

- a) has obtained and that it will - at least for the duration of the Agreement - maintain all of the necessary licenses, permits, and authorizations to use or provide (as appropriate) the Services and the Equipment;
- b) shall comply with all relevant laws in providing or using (as appropriate) the Services;
- c) shall use or provide (as appropriate) the Services with all due skill, care and diligence, at least in accordance with good industry practice.

16.2 Without limiting the generality of Clause 16.1, Customer warrants, represents and undertakes that (i) it shall pay all due local access- or telecommunications charges applicable to transmitting data beyond the Network and/or through other public and private networks, as necessary and related to Customer's use of the Services; and (ii) it owns or has the right to use and offer the content stored on the Triplinq infrastructure and/or transmitted by Customer over the Network.

16.3 With respect to software licensed or resold or otherwise given into use by Triplinq to Customer, Customer warrants, represents and undertakes that it shall comply with the provisions of any end-user license agreement related to such software.

16.4 With respect to the Equipment sold by Triplinq to Customer, Triplinq will provide a hardware warranty to Customer that is equivalent or equal to the warranty granted to Triplinq by the manufacturer / supplier of such Equipment. To the extent possible:

- a) Triplinq will transfer to Customer and Customer will accept the warranty that Triplinq has received from the manufacturer / supplier of the Equipment; or
- b) Triplinq will arrange that the manufacturer / supplier of the Equipment grants such warranty directly to Customer. In the events referred to under a) and b) of this clause, Customer will not have any recourse against Triplinq with respect to such Equipment sold by Triplinq to Customer, but instead may seek recourse directly from the manufacturer / supplier of such Equipment.

16.5 With respect to software licensed or sublicensed or otherwise given in to use or provided to Customer by Triplinq,

Tripling will provide a (software) warranty that is equivalent or equal to the warranty granted to Tripling by the manufacturer / supplier of such software. To the extent possible:

a) Tripling will transfer to Customer and Customer will accept the warranty that Tripling has received from the manufacturer / supplier of the software; or
b) Tripling will arrange that the manufacturer / supplier of the software grants such warranty directly to Customer.

In the events referred to under sub a) and b) of this clause, Customer will not have any recourse against Tripling with respect to such software, but instead may seek recourse directly from the manufacturer / supplier of such software.

16.6 Without limiting Clause 16.5, the Customer Portal (including the use thereof, and the related services) is provided 'as is'; and otherwise Tripling hereby disclaims any and all warranties of any kind, whether express or implied, relating to the Customer Portal and the API, the software used therein or as part thereof, and any data accessed there from, including any implied warranties of title, satisfactory quality, fitness for a particular purpose and non-infringement.

16.7 Notwithstanding Clause 16.5 and Clause 16.6, Tripling does not warrant that the Customer Portal, the API, the software used therein or as part thereof, or the related services, or the Customer's use thereof, are or will be error free or will operate without interruption.

16.8 The Services, software and Equipment may be subject to international rules that govern the export of Services, software and Equipment. Customer warrants that it shall comply with all end-user, end-use, or destination restrictions issued by national governments or similar bodies, and restrictions on embargoed nations.

16.9 The warranties expressly set forth in the Agreement constitute the only warranties of Tripling regarding the Services and the Equipment and such warranties are in lieu of all other warranties, express, implied, written, oral or statutory, by operation of law or in fact, including but not limited to warranties of merchantability, availability, uptime, non-infringement or fitness for a particular purpose. Without limiting the generality of the foregoing, Tripling does not warrant that the Services, or the Customer's use thereof, are or will be error free or will operate without interruption.

17. INDEMNIFICATION

17.1 Without limiting any other legal remedy available to Tripling, Customer shall indemnify and hold harmless Tripling against all actions, losses, costs, damages, awards, expenses, fines, fees (including legal fees - including attorney and collection agency fees - incurred and/or awarded against Tripling), proceedings, claims or demands brought or threatened against Tripling by a third party: (i) related to content stored or transmitted through the Services; (ii) arising out of the use by Customer of the Services; (iii) related to any willful or negligent act or omission of Customer.

17.2 In respect of the indemnification under clause 17.1, Customer shall at its sole expense (a) provide Tripling with full authority, information and assistance as is reasonably necessary for the defense, compromise or settlement of the third party claims; and (b) at the request of Tripling, take those steps that are reasonably required to put Tripling in the financial position it would have been in if said third party claim did not occur.

18. LIMITATION OF LIABILITY

18.1 Neither Party shall be liable to the other Party in respect of any breach of an obligation, warranty or guarantee under the Agreement for loss of profits, contracts or goodwill or any type of special, indirect, consequential or economic loss (including loss or damage as a result of an action brought by a third party) and such liability is excluded whether it is foreseeable, known, foreseen or otherwise.

18.2 Tripling shall not be liable for:

- any harm or personal injury to Customer or Customer's employees, clients, representatives or agents, except when such harm or personal injury is the direct result of gross negligence or willful misconduct on the part of Tripling; any transaction, which Customer may enter into with a third party using the Services;
- the contents of any information and/or communications transmitted via the Equipment and/or Services or for any information or content on the Internet;
- the contents of any information and communication, in whatever form, transmitted by Customer over the Network;
- the accuracy or quality of information obtained through the Services;
- damage to or loss of any of Customer's data (bases) or loss of technology, except when such damage or loss is the direct result of gross negligence or willful misconduct on the part of Tripling;
- damage to or loss or destruction of Colocated Equipment, except when such damage or loss is the direct result of gross negligence or willful misconduct on the part of Tripling;
- damage that is the direct or indirect result of the actions of Customer contrary to (one of) its obligations under the Agreement;
- damage that is the direct or indirect result of an inaccuracy of the information provided by or on behalf of Customer;
- damage that is the direct or indirect result of the suspension of Services by Tripling, as referred to in Clause 12 and Clause 14;
- damage that is the direct or indirect result of the Customer Portal and/or API being (temporarily) offline or otherwise unavailable;
- damage that is the direct or indirect result of the Customer's

use of the Customer Portal or the API;

l) damage that is the direct or indirect result of a Denial-of-Service (DoS) attack, or other attack that results in a peak in data traffic, or any damage resulting from successful or unsuccessful hack attempts, regardless whether protected by an SSL certificate or (hardware) firewall provided by or through Tripling;

m) damage in case Tripling has not been notified of such damage in writing within eight (8) days after Customer has come to know of the damaging event, or should reasonably have known of it; or

n) any damage in case and insofar as such damage is covered by any insurance effected by or for the benefit of Customer.

18.3 Notwithstanding any other provision of the Agreement, Tripling shall not be liable to Customer, if changes in any of its facilities, procedures, or Service: (i) render obsolete Colocated Equipment in conjunction with its use of the Service; (ii) require modification, alteration or relocation of such Colocated Equipment; or (iii) otherwise affect the performance of such Colocated Equipment.

18.4 The legal remedies outlined in Clauses 6.3 and 21.4a) constitute all legal remedies available to Customer in relation to a delay of the RFS Date by Tripling. Tripling shall have no other liability to Customer if the Service is not ready for Customer's use on or before the initial or delayed RFS Date; or - if the installation is to be performed by Tripling - the installation is not completed by the initial or delayed RFS Date.

18.5 The legal remedies outlined in Clause 13.4 and Clause 21.4b) constitute all legal remedies available to Customer in relation to a Service Disruption and any failure by Tripling to meet the agreed Service Levels.

18.6 Should Tripling be liable in spite of the provisions set out above in this Agreement or the Services Specification, this liability is limited to the amount that is in the relevant case paid out by the liability insurance of Tripling and shall in no case exceed the amount of Service Charges paid by Customer to Tripling with respect to the twelve (12) month period prior to the event or events giving rise to such liability.

18.7 All Customer's claims for compensation end in any case twelve (12) months after the damaging event has taken place, unless: (i) Customer and Tripling have come to a written arrangement; or (ii) Customer has commenced legal action in accordance with clause 28.2.

18.8 Nothing in the Agreement shall exclude or limit the liability of Customer to: (i) pay the Service Charges; or (ii) repair (or if repair is not practicable, replace) any tangible physical property intentionally or negligently damaged by Customer or its representatives or employees.

18.9 Nothing in this Agreement shall operate to exclude or limit a Party's liability resulting from (i) willful misrepresentation or fraud; or (ii) willful misconduct; or (iii) gross negligence.

19. INSURANCE

19.1 Customer shall obtain and - at least for the duration of the Agreement - maintain the following insurances with a reputable insurance company, which (at minimum) covers:

- third party liability;
- Customer's liability towards Tripling; and
- Customer's liability as an employer towards Customer's employees; in each case

up to an amount per event of - at least - three (3) times Customer's total annual Service Charges, with a minimum of one million Euros (€ 1,000,000.--).

19.2 Without prejudice to Clause 18.2f), the Colocated Equipment shall at all times be at Customer's risk. Therefore, during the continuance of the Agreement, it shall be Customer's responsibility to insure at its own expense, and keep insured the Colocated Equipment, with a reputable insurance company against loss, theft, damage or destruction howsoever arising at an amount not less than the full replacement value of the Colocated Equipment. Under no circumstances shall Tripling be obligated to provide insurance coverage for any of the Colocated Equipment or other Customer property installed within the POP and/or the Data Center.

19.3 Customer shall provide Tripling with documentation evidencing Customer's compliance with the provisions set out above in this Clause 19, within ten (10) days of Tripling's request to that effect. In general Tripling considers a written statement by Customer's insurance company, confirming Customer's compliance, to be sufficient evidence.

20. TERM / RENEWAL

20.1 At the end of the Initial Term of an Order, the Order shall be automatically renewed for successive terms equal to the Initial Term, unless either Party notifies the other in writing that it does not agree to renewal of the Order, taking into account a notice period of at least:

- one (1) hour, provided that such notice is submitted by means of the Customer Portal or the API; or
 - five (5) Business Days, in the event that notice is submitted by other means than the Customer Portal or the API.
- c) two (2) months, in the event of an Initial Term / Renewal term of three (3) months or longer.

21. TERMINATION

21.1 A Party is entitled to terminate the Agreement by giving written notice to the other Party, without an obligation to take into account a notice period, if:

- the other Party has ceased to exist or has been dissolved;
- the other Party has been declared bankrupt, or it has been granted suspension of payments or entered into voluntary liquidation;
- the other Party's business has been discontinued;
- the other Party is in breach of any of the other terms of the

Agreement and –if and to the extent such breach can be remedied- fails to remedy such breach within a period of thirty (30) days after having received notice with respect to the breach; and/or

e) the other Party is unable to perform its obligations due to an event of Force Majeure, provided that the event of Force Majeure has lasted more than sixty (60) days and the Parties are unable to reach a temporary solution for the Force Majeure period in spite of having negotiated in good faith with respect to such temporary solution.

21.2 Triplinq is entitled to terminate the Agreement with immediate effect, by giving written notice to Customer, without an obligation to take into account a notice period, in the event:

a) the provision of the Services and/or access to the Equipment has been suspended in accordance with Clause 12.1 for seven (7) or more consecutive days; and/or

b) in the event the continued provision of the Services under the Agreement cannot reasonably be expected from Triplinq, e.g. if (i) Customer or its End User has – according to Triplinq’s findings- repeatedly breached the Acceptable Use Policy; and/or (ii) the continued provision of the Services may subject Triplinq to a third party claim; and/or

c) Customer does not pay an invoice within the payment term and fails to pay such invoice, plus the interest referred to in Clause 10.11, within a period of fourteen (14) days after having received notice thereof; and/or

d) of a change of ownership or Control of Customer if – in Triplinq’s view – (i) the party that acquires ownership or Control of Customer is of lesser socio-economic standing than the party which owned Customer or had Control of Customer as at the Effective Date; and/or (ii) Customer’s credit position is adversely affected by such change of ownership or Control; and/or

e) a court has ruled or decided, or Triplinq reasonably expects that a court will rule or decide, that the provision of any Service infringes upon the Intellectual Property Rights of a third party; and/or

f) Triplinq has good reasons to fear that Customer will materially breach its obligations under the Agreement, and Customer does not, within three (3) Business Days upon written request, confirm to Triplinq in writing that it will fully perform in conformity with its obligations under the Agreement.

21.3 Triplinq is entitled to terminate the Agreement by giving written notice to Customer, taking into account a notice period of at least thirty (30) days, in the event that:

a) Triplinq has received notification from its lessor or landlord with respect to termination or expiration of the Facility Agreement where the Housing Space - that has been licensed to Customer - is located; and

b) Triplinq will, for any reason, not be able to arrange for an alternative and suitable location for the Housing Space within a period of thirty (30) days after having received notification from its lessor or landlord, such to be determined at Triplinq’s sole discretion.

21.4 Customer shall be entitled to terminate the relevant Order with immediate effect, by giving written notice to Triplinq, without an obligation to take into account a notice period, if:

a) Triplinq unilaterally delays the RFS Date, and such delay lasts for thirty (30) days after having received a notification of Customer’s intention to terminate; and/or

b) Triplinq fails to remedy a Service Disruption that results in the Service provided under the Order being fully unavailable or unusable, within thirty (30) days after having received a notification of Customer’s intention to terminate.

21.5 Customer may only terminate an Order or the Agreement in accordance with the termination rights explicitly granted to such Party in the Agreement which is normally ninety (90) days (three (3) calendar months) prior to each periodically automatic Renewal.

22. CONSEQUENCES OF TERMINATION

22.1 Termination or expiration of the Agreement shall be without prejudice to any rights or remedies available to, or obligations or liabilities accrued to the Parties, as at the date of termination or expiration.

22.2 Upon expiration or termination of the Agreement:

a) Triplinq shall cease to provide all Services;

b) Triplinq shall be entitled to erase and delete any and all data of Customer -and any and all data of Customer’s End Users- from Triplinq’s Equipment, including from the Dedicated Equipment;

c) Triplinq shall be entitled to make the Dedicated Equipment available for use by other Customers;

d) all sums due to Triplinq up to the date of termination shall become due and payable in full immediately;

e) Customer shall, subject to Clause 22.5, remove all of the Colocated Equipment from the Data Center and shall return the Housing Space to Triplinq in the same condition it was in prior to Customer’s use thereof; and

f) Customer shall ensure that all (Internet) domains which have been registered through Triplinq are transferred to another registrar.

22.3 If Customer does not timely remove the Colocated Equipment in accordance with Clause 22.2e): (i) Triplinq may - at

Customer’s expense - remove and store the Colocated Equipment or return such Equipment to Customer, or dispose of such Equipment without liability for any related damages; and (ii) Customer shall be liable to pay to Triplinq a penalty equal to one month Service Charges for the terminated Colocation Services for each month, or part of a month, that Customer has failed to remove the Colocated Equipment.

22.4 If Customer has not transferred the (Internet) domains to

another registrar ultimately within five (5) Business Days of the date of expiration or termination of the Agreement, in accordance with Clause 22.2f), Triplinq shall be entitled to deregister or cancel the registration of such (Internet) domains, without any obligation to provide Customer prior notice thereof.

22.5 Triplinq will have the right to retain any Colocated Equipment until it has received payment in full of all sums due and/or payable by Customer to Triplinq. If Triplinq has not received such sums within a reasonable time frame after termination or expiration of the Agreement, such to be determined by Triplinq, Triplinq shall be entitled to sell any Colocated Equipment, necessary to recoup all sums due and/or payable, at such price as Triplinq is able to obtain in the open market.

22.6 In the event that Triplinq terminates the Agreement in accordance with Clause 21.1, 21.2a), 21.2b), 21.2c), 21.2d), or 21.2f), Customer shall – without prejudice to any other rights or remedies that Triplinq may have – within five (5) Business Days after the effective date of termination, pay to Triplinq one hundred percent (100%) of the Service Charges, actual or projected, for the period from the effective date of termination up to and including the last day of the then current Term.

22.7 In the event that Triplinq terminates the Agreement or an affected Service in accordance with Clause 21.2e), Triplinq shall refund to Customer:

a) any non-recurring initial charges or setup charges that have been paid by Customer to Triplinq in respect of the Service so terminated, in the event that the Agreement or affected Service is terminated prior to the RFS Date; and b) a pro rata portion of any recurring Service Charges that have been prepaid by Customer to Triplinq in respect of the Service so terminated, if and to the extent that such prepayment exceeds the Service Charges that will accrue until the date of termination of the affected Service.

22.8 The following Clauses shall survive termination or expiration of the Agreement and continue in full force and effect, in addition to those Clauses the survival of which is necessary for the interpretation or enforcement of this Agreement:

Indemnification (Clause 17), Limitation of Liability (Clause 18), Confidentiality (Clause 24), Notices (Clause 26), Miscellaneous (Clause 27), Governing Law and Jurisdiction (Clause 28).

23. FORCE MAJEURE

23.1 A Party shall not be deemed in breach of any of its obligations, guarantees or warranties under these General Conditions, the Agreement or the Triplinq Policies if, and to the extent that, performance is prevented or delayed by an event of Force Majeure, provided that the Party that is affected by the event of Force Majeure has:

a) promptly notified the other Party thereof in writing, as soon as reasonably possible and no later than five (5) Business Days after the first occurrence of the Force Majeure event; and

b) provided the other Party with all information on the event of Force Majeure and the (expected) cessation or termination of said event.

23.2 The Party that is affected by an event of Force Majeure shall use all reasonable endeavors to avoid or minimize the effects of an event of Force Majeure on its performance of its obligations under the Agreement.

23.3 Upon the occurrence of an event of Force Majeure, the time for performance shall be extended for the period of delay or inability to perform due to such occurrence, but if an Event of Force Majeure continues for a continuous period of more than sixty (60) days the other Party shall be entitled to terminate the Agreement.

24. CONFIDENTIALITY

24.1 A Receiving Party shall: (i) keep all Confidential Information confidential, (ii) not disclose any Confidential Information to any other person without the prior written consent of the Disclosing Party, and (iii) only use and reproduce the Confidential Information for the performance of its obligations under the Agreement.

24.2 The obligations contained in clause 24.1 shall not apply to any Confidential Information which: (i) at the date of the Agreement is, or at any time after the date of the Agreement becomes, public knowledge other than through breach of the Agreement by the Receiving Party; (ii) can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known to the Receiving Party prior to it being disclosed by the Disclosing Party to the Receiving Party; or (iii) is required to be disclosed or used by law.

24.3 The Receiving Party agrees that any and all notes, diagrams, descriptions, memoranda and other writings or electronic information obtained from the Disclosing Party and any copies, notes or excerpts thereof containing Confidential Information shall remain the property of the Disclosing Party and that said documents shall, upon request of the Disclosing Party and at the Disclosing Party’s option, be promptly returned to the Disclosing Party or destroyed upon any termination of consideration of the possible business arrangement.

25. TRANSFER OF RIGHTS AND OBLIGATIONS

25.1 Without prejudice to Clause 25.2 and 25.3, neither Party shall be entitled to assign or transfer, or purport to assign or transfer, any rights or obligations under the Agreement to a third party without the prior written consent of the other Party, which consent may not be unreasonably withheld.

25.2 Triplinq shall be entitled to assign any of its rights or obligations under the Agreement to an Affiliate (or its or their successors, through merger or acquisition of substantially all of their or its assets), upon giving written notice to Customer.

25.3 Tripling shall be entitled to sub-contract any or all of its obligations under the Agreement to a third party, provided that Tripling shall remain liable to Customer for the performance of those obligations.

25.4 Nothing in the Agreement shall exclude or limit Tripling's rights to grant or create a right of pledge or other security right - for the benefit of a bank or other financial institution or other third party - on or over any or all (cash) receivables that Customer owes or comes to owe to Tripling.

26. NOTICES

26.1 Unless specified otherwise herein, any notice, demand, claim or other communication under or in connection with the Agreement shall be in writing and shall be delivered personally or sent by registered mail or by prepaid recorded courier delivery or by e-mail, to the Party due to receive the notice at its address set out below or such other address as any Party may specify by notice in writing to the other:

If to:

Tripling Hosted Solutions
Attn: the Board
Prinsengracht 530
1017KJ Amsterdam, The Netherlands
e-mail: finance [at] tripling.nl

If to Customer to the person and at the address as specified in the agreement;

26.2 In the absence of evidence of earlier receipt, any such notice, demand, claim or other communication shall be deemed to have been received:

- a) if delivered by hand, at the time of delivery;
- b) if posted, on the expiration of three (3) Business Days after the notice has been provided to the courier company; or
- c) if sent by e-mail, the moment the e-mail has been received on or by a mail server or mail exchanger used or operated by the receiving Party.

26.3 For the purpose of Clause 26.2c) any failure to deliver -and any impossibility to receive or access- a notice, demand, claim or other communication shall be for the risk and account of the receiving Party, if -and to the extent that- such failure or impossibility is related to -or the result of- an act or omission of the receiving Party, a failure of the mail server or mail exchanger used or operated by the receiving Party, or a failure or interruption in the services of a third party that manages or hosts of the mail server or mail exchanger used or operated by the receiving Party.

27. MISCELLANEOUS

27.1 No waiver of any of the terms of the Agreement or of any breach of those terms shall be effective unless such waiver is in writing and signed by the waiving Party. No waiver of any breach shall be deemed to be a waiver of any other or subsequent breach.

27.2 Other than Tripling's subcontractors who shall have the benefit of the Agreement, nothing in the Agreement shall confer upon any third party any right, benefit or remedy of any nature under the Agreement.

27.3 Should any or several of the provisions of the Agreement be invalid or null and void, this shall not affect the remaining provisions thereof. In such event, the relevant provision shall be replaced by a valid provision that reflects - to the extent possible - the purpose and the intended effect of the original provision.

27.4 Nothing in the Agreement shall result in the transfer of a Party's Intellectual Property Rights (of whatever nature) to the other Party.

27.5 Neither Party shall be authorized to (i) make press or public announcements relating to this Agreement, without the prior written approval of the other Party, or to (ii) use the other Party's Intellectual Property Rights in any advertising, sales, promotions, or other publicity materials. However, Tripling shall - without Customer's approval - be entitled to inform third parties that Tripling provides Services to Customer, e.g. as a Customer case during sales activities and on Tripling's website.

28. GOVERNING LAW AND JURISDICTION

28.1 These General Conditions, the Agreement and all matters arising there from or connected therewith are governed by the laws of the Netherlands, to the exclusion of the provisions of the UN Convention on Contracts for the International Sale of Goods.

28.2 Subject to Clause 28.3, the competent courts of Amsterdam, the Netherlands shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with the Agreement or other agreements or other legal relationships resulting there from or in connection therewith.

28.3 Nothing herein shall prevent Tripling from pursuing action in any other jurisdiction as may be appropriate for the purpose of seeking urgent and/or interim and/or interlocutory injunctive or other relief against Customer.