

FuturMaster owns and publishes software packages designed to optimise supply chain planning processes.

FuturMaster has provided the Client with information on its SaaS FM Cloud Services as described in Schedule B "Description of the Service". FuturMaster has also provided the Client with additional technical information in accordance with its requests.

This Agreement sets out the legal, financial and technical terms and conditions pursuant to which FuturMaster shall grant to the Client the right to access and use FuturMaster SaaS FM Cloud Services and provide to the Client the associated professional services for the installation of the SaaS FM Cloud Services as described in Schedule C "Installation Services Conditions".

Article 1 - Definitions and interpretation

1.1 Definitions

Capitalised terms appearing in this Agreement shall have the meaning ascribed to them below:

"Affiliate": any company that, as of today's date or subsequent hereto, (i) controls one of the Parties, or (ii) is controlled by one of the Parties, or (iii) is controlled by any company under (i) above. "Control" shall mean to own, either directly or indirectly, more than fifty percent (50%) of the shares of such company or the majority of voting rights therein. Any company that does not meet the conditions set forth in this definition shall not be deemed to be an Affiliate of one of the Parties.

"Agreement": this Agreement, including the Recitals, these general terms and conditions, the Specific Conditions, the Schedules and the Annexes, as varied in accordance with Article 15.

"Associated Services": the professional services described in Schedule A.2, including the integration, installation, and / or consulting services associated with the Service.

"Associated Services Price": the price payable by Client for the Associated Services, calculated in accordance with Article 7.1.

"Associated Services Specific Terms and Conditions": the specific terms and conditions for the provision of the Associated Services, as set out in Schedule A.2.

"Client Data": all information which are collected, registered, used and/or processed by the Client through the Service, and which are provided to the Client or to which FuturMaster may have access.

"Confidential Information": means all information (whether written, oral or in electronic form) concerning the business and affairs of either party that the other Party obtains or receives as a result of the discussions leading up to or the entering into or the performance of this Agreement. For the avoidance of doubt, Confidential Information shall include the contents of this Agreement, any information regarding the existence and negotiation of the Agreement between the Parties as well as any information related to either of the Parties that is not known generally to the public, whether such information pertains to a Software Package and its components, a technique or a trade secret, or relates to technologies, software, formulas, data, algorithms, specifications or prototypes, clients, business plans, promotional activities, marketing, financing or any other commercial activities.

"Configuration": the hardware, systems and software described in Schedule D, which may include operating systems, communications networks, database management systems, the Client's IT system on which the Software Package is to be installed and any Third Party Software, including middleware.

"Documentation": the user and technical documentation provided to the Client in electronic or paper format or on-line, which describes the features of the Service and/or FuturMaster standard use instructions for the Service, including any update to or any part of such documentation.

"Effective Date": the date on which this Agreement is executed.

"Infrastructure": the equipment and materials, operating systems, all communication networks which are not included in the Client Technical Requirements and are necessary for the supply of the Service, as set out in Schedule E.

"Initial Period": the initial term of the Agreement before its first renewal, as defined in Article 12.1.

"Maintenance" or "Support": the support/maintenance services described in Schedule B.

"Materials": the equipment and materials, operating systems, all communication networks which are necessary for the supply of

the Service, as set out in Schedule E "**Client Technical Requirements**".

"Planned Maintenance Period" : the period necessary to FuturMaster for the management and evolution of the Infrastructure. FuturMaster will inform the Client of each Maintenance Period between 2 business days in advance and a minimum of 1 hour before any urgent maintenance operations.

"Scope of Use": the scope of the access and usage rights granted by FuturMaster for the Service, as set out in the Specific Conditions, and limited by the number of authorised users with simultaneous access, in the Territory in which these simultaneous access can be used by the Client and its Affiliates.

"Service" : FuturMaster SaaS FM Cloud Services as described in Schedule B "Description of the Service".

"Service Fees" or "Subscription Fee": the fees that the Client must pay in accordance with Article 7 for the access and use of the Service, as set out in the Specific Conditions.

"Site": the premises or sites of a legal entity at which computers which will use the Service are located.

"Software Package": the standard version of the FuturMaster software package made available to the Client through the Service under its single executable version – object code, as described in Schedule C, together with its Documentation, the Updates and all copies, adaptations and modifications thereof, including each part of each of the components, .

"Specific Conditions" : the specific terms and conditions for the access and use of the Service as set out in Schedule A, including the number of authorized users, the Scope of Use, the amount of the Service Fee and any other specific conditions agreed between the Parties.

"Third Party Software": software published and/or licensed by third parties which may be integrated into the Service.

"Territory": the geographic zone defined in the Specific Conditions in which the Client shall be given the right to access and use the Service or in France, unless otherwise specified.

"Update": any new version, correction or temporary patch for the Service provided by FuturMaster, if such is available, to its clients. The Updates shall not include products, components and/or modules that are sold separately by FuturMaster for a specific complementary use.

"Users": the individuals, employed by the Client and which are authorized by the Client to use the Service.

1.2 Interpretation

Article, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

References to Articles and Schedules are to the Articles and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Article or Schedule.

A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.

Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

Article 2 – Access and Use of the Service

2.1 Scope of the right to access and use the Service

FuturMaster hereby grants the Client a right to access and use the Service and the associated Documentation provided by FuturMaster under the Agreement, for the term defined in the Specific Conditions. This right of access and use the Service is granted to the Client on a non-exclusive, non-transferable, and non-assignable basis, for the sole use by Client for its own internal IT operations and to process its own data in the Configuration, on the Sites within the Territory subject to the authorized Scope of Use.

The Client may use the Software Package in the Territory for itself or on behalf of an Affiliate. The Client's Affiliates may use the Software Package subject to the following conditions:

- the Client must ensure that each such Affiliate expressly agrees to all of the provisions set forth in this Agreement and, more specifically, all of the obligations for which it is responsible as a user of the Service;
- the Client shall remain solely liable to FuturMaster for the payment of the Service Fees; and
- the Client shall remain exclusively liable to FuturMaster for the compliance of its Affiliates with the terms and conditions set out in this Agreement.

2.2 Delivery of the Service and Documentation

FuturMaster shall provide the Service and its Documentation in accordance with the conditions set out in Schedule A.

For the avoidance of doubt, the right to use the Software Package through the Service shall include the Updates and any new or improved versions of the Software Package provided by FuturMaster in connection with the Support services.

Where documents provided in connection with the Associated Services for the installation of the Service, are required to be delivered to Client in paper format, such as studies or reports, a maximum of two copies of such documents shall be delivered to the Client.

2.3 Client rights

It is a condition of this Agreement that the Client shall comply with the conditions of use relating to the Service set out in this Agreement, including the Specific Terms and Conditions. Client acknowledges and agrees that the right set out in Article 2.1 is granted by FuturMaster subject to the Client's agreement to comply with such terms and conditions.

Client shall not allow the Service and/or Documentation to be used by any third party, including in the event of an outsourcing or hosting. For the avoidance of doubt, any companies in the Client's group who are not Client's Affiliates shall be considered as third parties insofar as such companies have not been duly authorised by FuturMaster.

Article 3 – General obligations concerning collaboration

The Parties hereby agree and acknowledge that FuturMaster has supplied the Client with all the information necessary to understand the characteristics and features of the Service, as described in Schedules B and C and the Associated Services Specific Terms and Conditions. FuturMaster has also provided the Client with additional technical information, specifically with regards to the Client's Materials. The Client acknowledges that it has verified that the Service and the Associated Services Specific Terms and Conditions, are adequate and meet its requirements and that it has verified the compatibility and adaptation of the Service with the hardware and software comprising its IT system and the Configuration.

FuturMaster has recommended the Client to ensure that it has all requisite internal expertise and resources for the purposes of performing its obligations under this Agreement and that its employees, agents and representatives (and its Affiliates, where applicable) will be provided with all necessary training to enable them to use the Service in accordance with this Agreement.

Each of the Parties shall actively cooperate with the other throughout the term of this Agreement with regards to the performance of their obligations under the Agreement. Client acknowledges that FuturMaster's delivery of the Service and of the Associated Services for the Installation of the Service depends on the Client's performance of its contractual obligations in accordance with this Agreement.

In particular, the Client acknowledges and accepts that it shall provide to FuturMaster, at its sole expense and within the timescales requested by FuturMaster, any information, documents and resources that FuturMaster may request for the purpose of carrying out its obligations under the Agreement. In particular, the Client shall:

- provide FuturMaster with office space, telephones, fax machines, computers, secretarial services or other assistance and any other cooperation required by FuturMaster to be provided by its employees; and

- implement adequate safeguards, security and virus control procedures on the IT system that it makes available to FuturMaster.

Client warrants that all such information and documents will be correct, concise and unequivocal. FuturMaster shall not be liable for any losses, damage or defects in the Service and/or the Associated Services, to the extent that such losses, damages or defects arise as a result of the provision of incorrect, incomplete or otherwise defective information or documents by the Client.

Article 4 - Intellectual Property

The Agreement shall not include the transfer of any intellectual property rights to the Client. All the elements which are part of the Service, the Software Package, the Third Party Software and any product resulting from the Associated Services provided by FuturMaster shall remain the property of FuturMaster or any licensor of Third Party Software, as the case may be. Consequently, the Client agrees and acknowledges that FuturMaster is the owner of the intellectual property rights in any copy, translation, modification, adaptation or application of the Software Package that may be created by FuturMaster or the Client, including any improvements or developments concerning the Software Package and/or the Service.

If a Client representative, employee or consultant is deemed to be the author/owner of any of the intellectual property rights of the elements mentioned in the paragraph above, the Client shall procure that such person transfers all such intellectual property rights to FuturMaster or to the licensor of Third Party Software. If such rights may not be transferred under applicable law or regulation, the Client shall procure that such person waives its rights therein or if such waiver is not legal, that such person grants an exclusive, irrevocable licence of such rights to FuturMaster or the licensor of Third Party Software, such licence to be free of charge and for an unlimited term on a worldwide basis. Such licence shall cover the use, marketing and modification of the relevant intellectual property rights without having to identify the author/owner or obtain its prior consent. Upon FuturMaster's request, the Client shall execute a written agreement with the author/owner setting out FuturMaster's rights or the rights of any licensor of Third Party Software provided for under this Article.

Client hereby warrants, represents and undertakes that it shall not infringe, directly or indirectly, the intellectual property rights of FuturMaster or of any licensor of Third Party Software. Client shall procure that its Affiliates, representatives, employees and consultants and any third party authorised by FuturMaster to use the Service, the Documentation and/or any product resulting from the Associated Services pursuant to Client's request, shall not infringe, directly or indirectly, the intellectual property rights of FuturMaster or of any licensor of Third Party Software. Client shall not delete or modify the ownership notices on the Documentation and undertakes to reproduce and place such notices on any complete or partial copy of the elements composing the Service.

Article 5 – Warranties and indemnities

5.1 Service conformity

FuturMaster hereby warrants that the Service will function in the manner set forth in the Documentation for a term of ninety (90) days beginning on the Effective Date (the “**Warranty Period**”).

In the event of a defect, error or failure with respect to the Service which prevents the execution of all or part of the features provided for in the Documentation, FuturMaster shall correct the defective Service as soon as possible after receiving notification from the Client. FuturMaster shall proceed with such correction or replacement provided that the Client has: (i) notified FuturMaster of the defect, error or failure during the Warranty Period; (ii) not performed any modifications of the Service through the use of any person other than FuturMaster; and (iii) installed all Updates that were provided to it by FuturMaster. In order for FuturMaster to be able to make the necessary corrections, the Client shall provide it with a description and all information necessary to identify such defect, error or failure.

FuturMaster hereby warrants that:

- the Service is adapted to the Client's needs insofar as it is the Client and Client alone who verifies the adequate nature of the features and specifications provided in the Documentation compared with its own needs and objectives;
- the Service shall work continuously without error. Client acknowledges that the Service may contain defects and that some defects are not rectifiable and that it is not always necessary to rectify such defects. FuturMaster shall endeavour to ensure that the Service does not contain any viruses. However, the Client acknowledges that it is not possible to exclude every possibility of a virus and that FuturMaster cannot provide any warranty in this regard. As a result, the Client shall be solely responsible for putting appropriate anti-virus protection in place to its Material and, if necessary, for taking out an insurance policy to cover the risks related to viruses; and

- any defect can systematically be corrected.

5.2 FuturMaster's intellectual property rights in the Service

FuturMaster shall indemnify the Client against any legal action based on the Client's use of the Service pursuant to the Agreement which violates any third party intellectual property rights provided that:

- Client shall immediately notify FuturMaster of any claims or legal action brought by any third party claiming infringement of its rights by the Service (a "**Third Party**");
- FuturMaster shall be entitled to defend or settle, at its sole discretion, any threatened action, complaint or claim; and
- Client shall provide assistance to FuturMaster and shall allow FuturMaster to take sole control of any negotiations with the Third Party in order to execute a settlement.

The Client agrees and acknowledges that it shall not respond alone to any claim, complaint or legal action and/or defend itself alone in any judicial action or litigation brought against it by a Third Party or discuss or execute any agreement or settlement with a Third Party and undertakes, if it is named as a defendant, to immediately notify FuturMaster and collaborate with FuturMaster in accordance with this Article.

Upon receiving notification of any claim, complaint or legal action brought by any Third Party, FuturMaster may, subject to the terms and conditions set forth above, at its sole discretion and expense:

- modify the Service so that it no longer infringes while maintaining similar features;
- obtain the right to continue to use the alleged infringing Service on behalf of the Client;
- provide the Client with software with substantially similar features and performance parameters; or
- request that the Client return the infringing Service, the Documentation and anything associated therewith. The Client shall then be entitled to a refund of all Service Fees paid by the Client to FuturMaster for the use of the Service from the Effective Date to the date of return.

In the event of a settlement for which an amount is agreed upon by FuturMaster and the Third Party, FuturMaster shall pay the entirety of the amounts to be paid by the Client to the Third Party.

Notwithstanding the above provisions of this Article, the indemnity set out in the first paragraph of this Article shall not apply where a Service:

- was modified by Client or by a third party after it has been delivered by FuturMaster;
- has been used in conjunction with third party software, equipment or operating systems other than those set forth in the Schedules, to the extent that the infringement pertains to such combined use;
- remains in use by the Client in spite of a settlement agreement having been executed or after a definitive legal judgment has been rendered or if the Client fails to implement the modifications suggested by FuturMaster which would prevent any infringement from occurring; or
- is used by the Client in a way that does not comply with this Agreement, to the extent that any infringement arises out of the failure of the Client to comply with the Agreement.

In the event that any infringement is imputable to the Client and that a judgment has been rendered against FuturMaster with respect thereto, the Client shall indemnify FuturMaster for the entirety of the financial consequences incurred by FuturMaster in relation to such and, more specifically, the Client shall indemnify and hold FuturMaster harmless for any damages, expenses, court costs, associated fees, and legal fees.

Article 6 - Associated Services for the installation of the Service

FuturMaster shall provide the Client the Associated Services for the installation of the Service as described in Schedule C for the Price set out in this Schedule or in the Specific Conditions.

Article 7 – Service Fees, Associated Services Price and Payment

7.1 Service Fees and Associated Services Price

The Client shall pay FuturMaster the Service Fees in exchange for the right to use the Service in accordance with the Specific Conditions.

After the expiry of the Initial Period, the Service Fees shall increase for each Renewal Period in line with the index as provided for in Schedule A.

The amount of the Service Fees may be adjusted by FuturMaster in proportion with any enlargement of the Scope of Use instituted by the Client.

In consideration for the Associated Services, Client shall pay FuturMaster the Associated Services Price defined in Schedule C. Subject to the various provisions expressly agreed upon by the Parties, the Associated Services Price shall be calculated based on FuturMaster's time and expenses incurred in order to provide the Associated Services. FuturMaster's time shall be invoiced based on the fee schedule in effect at the time that the Associated Services were performed. If the amount is a fixed rate or if there is a ceiling applicable to such pursuant to the Associated Services Specific Terms and Conditions or a Schedule hereto, such amount shall be considered only as an estimate.

7.2 Invoicing and payment

All amounts payable under the Agreement exclude VAT and any other applicable taxes, which shall be the Client's sole responsibility.

The Client shall pay all FuturMaster invoices within thirty (30) days from the invoice date and without withholding any amounts.

It is a condition of this Agreement that the Client complies with the invoice payment dates and failure to do so shall be considered a material breach for the purposes of Article 12.

If Client fails to make any payment due to FuturMaster under this Agreement by the due date for payment, then, without prejudice to any other remedies available to FuturMaster under this Agreement, the defaulting party shall pay interest on the overdue amount at the rate set out in the Late Payment of Commercial Debts (Interest) Act 1998.

In the event of non-payment of any Service Fees and/or the Associated Services Price, FuturMaster reserves the right to suspend and/or terminate the Agreement at its discretion without incurring any liability to Client.

Article 8 - Information and audit

FuturMaster may require that the Client prepare and send to FuturMaster a report regarding its Service usage, such report to be requested no more frequently than once per semester. The Client shall send each report to FuturMaster within 15 days of receipt of a written request. Following receipt of a report by FuturMaster, the Client shall provide any clarifications or supplemental information requested by FuturMaster as soon as is reasonably practicable.

FuturMaster may also audit, one time during any consecutive 12 month period, during normal business hours and subject to written notice being provided to the Client, the Client's system logs in order to verify that the Client is using the Service within the limits that are set forth in the Scope of Use. The Client shall authorise such an audit no later than 10 days following receipt of FuturMaster's audit notification. If the report or audit performed by FuturMaster reveals that the Client has exceeded the Scope of Use, the Client shall pay FuturMaster, as soon as possible, the Service Fees corresponding to the Client's extended use, in accordance with the fee schedules then in effect.

Article 9 - Mutual obligation of confidentiality

The Parties (i) hereby commit to take all measures necessary in order to ensure the strictest confidentiality of all the Confidential Information and (ii) agree that any Confidential Information received from the other Party shall only be used strictly as necessary for the performance of the Agreement. This obligation shall not be applicable insofar as any Information:

- is generally available to the public or become available to the public by any means other than the violation of this Article;
- is obtained by a Party from a third party not under an obligation of confidentiality with regards to the information; or
- was developed independently by the receiving Party prior to receipt of such information from the disclosing Party.

Each Party may disclose the Confidential Information pursuant to a court order or as required by a public entity or governmental authority. In such circumstances, the receiving Party shall immediately notify the disclosing Party and shall, insofar as such is possible, limit the scope of the disclosure and prevent the information from being disclosed to the public. Any delay or failure to act by the disclosing Party shall be deemed as a waiver of this right or as a waiver of the right to make any future claim for breach of contract in connection to the Agreement.

Each Party must, upon the request of the other Party and/or upon the termination of this Agreement, return all of the Confidential Information pertaining to the other Party to it, including all copies, whether complete or partial, that is in the receiving Party's possession.

Notwithstanding any other provision of this Agreement, FuturMaster is hereby expressly authorised by the Client to publicise details of the commercial relationship established under this Agreement for the purpose of promoting FuturMaster's business to prospective and existing clients and to use Client marks (including Client's trademarks and logos) in this regard.

Article 10 - Liability

FuturMaster's obligations under this Agreement are due care obligations (*obligations de moyen*). FuturMaster shall also perform its obligations in a professional manner in accordance with accepted industry practices and standards.

FuturMaster shall only be held liable for direct and foreseeable losses or damages suffered by the Client as a result of a fault caused by FuturMaster during the performance of this Agreement.

FuturMaster shall not in any circumstances have any liability for any losses or damages which may be suffered by the Client (or any person claiming under or through the Client, including its Affiliates), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories: any indirect or consequential loss as defined by Articles 1231-3 and 1231-4 of the French Civil Code arising under or in connection with this Agreement; OR any financial or economic loss, loss of profit, loss of use, loss of orders, sales or production, loss of goodwill, loss of reputation, anticipated savings, loss or corruption of data and files; the cost of replacement products, software, services or technologies, or any action taken against the Client and/or any of its Affiliates by any third party.

The Client undertakes to take all measures and actions to mitigate its losses and damages. The Client shall be responsible for saving and backing-up all Client data in order prevent the loss or damage thereto and shall verify that back-ups operations take place at regular intervals.

FuturMaster's total aggregate liability to Client and/or its Affiliates, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to the amounts paid by the Client in respect of the relevant services. For clarity, where FuturMaster's liability arises out of the Service, the limit in this paragraph shall be determined by reference to the Service Fees paid by Client. Where FuturMaster's liability arises out of the Associated Services, the limit in this paragraph shall be determined by reference to the fees for the Associated Services paid by Client. Subject always to the following paragraph, the liability of FuturMaster for any fault under or in connection with this Agreement, whether arising from negligence, breach of contract or all other torts shall be as set out in this clause 10. To the extent permitted by law, FuturMaster shall have no liability to the Client under this Agreement other than as expressly set out in this Agreement and this clause sets out the entire financial liability of FuturMaster (including any liability for the acts or omissions of its personnel, agents and sub-contractors), except the financial liability resulting from applicable mandatory (*d'ordre public*) legal provisions.

Subject to the first two paragraphs of this Article 10, FuturMaster's total liability to Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to the amounts paid by the Client in respect of the relevant services.

Nothing in this Agreement shall limit or exclude a Party's liability for (i) death or personal injury arising from its negligence or that of its employees, agents or subcontractors or (ii) fraud, theft or willful misconduct.

The Parties expressly agree that should any limitation or provision contained in this Clause 10 be held to be invalid under any applicable law, it shall to that extent be deemed omitted, but if any Party thereby becomes liable for loss or damage which would otherwise have been limited, such liability shall be subject to the other limitations and provisions set out herein.

Accordingly, the Client expressly agrees that the exclusion and limitation of liability clauses set out in this Agreement:

- (a) reflect the commercial terms agreed between the Parties;
- (b) shall extend to benefit those members of the group companies of FuturMaster which provide any Services from time to time; and
- (c) are reasonable and are accepted by it after careful consideration.

To the extent permitted by law, all legal proceedings that are brought against FuturMaster by the Client under or in connection with this Agreement shall be commenced within twelve (12) months of the Client (and/or its Affiliates) becoming aware of the matters to which the legal claim in question relates, but nothing in this clause shall have the effect of extending the limitation period during which any legal proceedings may be brought.

Article 11 - Insurance

Each Party hereby warrants and undertakes to maintain those insurance policies that are necessary in light of their respective obligations under the Agreement.

Specifically, FuturMaster warrants that it shall have in place for the term of this Agreement professional liability insurance with a reputable insurance company which shall cover any material or intangible damages arising out of the performance of its services by its employees, representatives and agents.

FuturMaster shall provide the Client, upon its request, with reasonable proof that such insurance cover is in place.

Article 12 - Termination

12.1 Term

This Agreement takes effect on the Effective Date for a term of three (3) years (the **"Initial Period"**). After the Initial Period, this Agreement will be renewed tacitly for consecutive periods of one (1) year (**"Renewal Period"**).

12.2 Termination

Without affecting any other right or remedy available to it, either Party may terminate this Agreement with immediate effect by giving written notice to the other Party if:

- the other Party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of (30) days after being notified in writing to do so;
- the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other Party;
- a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
- an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other Party;
- the holder of a qualifying floating charge over the assets of that other Party has become entitled to appoint or has appointed an administrative receiver;
- a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
- a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other Party's assets and such attachment or process is not discharged within 14 days;
- the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- there is a change of control of the other Party (within the meaning of section 1124 of the Corporation Tax Act 2010).

In each of these cases, upon termination, each Party shall return to the other Party all Confidential Information in its possession belonging to the other and shall take any necessary measures in order to destroy any copy, except for a single archive copy necessary for responding to its legal tax and accounting obligations, such copy being used exclusive for this purpose.

Upon termination of this Agreement, the Licence shall terminate and Client agrees to: (a) stop using the Service and Documentation and affirm in writing this discontinuation to FuturMaster; and (b) erase/destroy/delete any copy of the Service and/or Documentation or return the same to FuturMaster in their entirety.

Any use, even partial, of the Service and/or Documentation after the date of termination of this Agreement will constitute an infringement of FuturMaster's intellectual property rights, likely to cause civil and/or criminal legal action.

The expiration or termination of all or part of the Agreement does not exempt the Client from respecting its prior obligations, particularly paying the Service Fees or the Associated Services Price.

Following the termination of this Agreement, any provision which by its nature is intended to survive termination shall continue to apply.

Article 13 - Force Majeure

Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control as defined under Article 1218 of the French Civil Code. For the purposes of this Agreement, circumstances or causes beyond a Party's reasonable control shall include labour conflicts, fire, flood, riots, public disorder, weather events, injunction or restriction by a government entity, war as well as failure and/or blockage of telecommunications or information or electricity networks.

In such circumstances the affected Party shall, without delay, notify the other Party and the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for more than one (1) month, the Party not affected may terminate this Agreement by giving eight (8) days' written notice to the affected Party.

Article 14 - Non-solicitation of personnel

Each of the Parties agrees to not approach nor solicit any member of the other Party's personnel with whom it has been in contact with, with the intention to employ or have them work for it, whether directly or indirectly, without the prior written authorisation of the other Party, even if the initial enquiry is made by the relevant individual.

This prohibition applies for the duration of this Agreement and for the period of two (2) years following its termination.

In the case of a violation of this prohibition, the breaching Party shall be required to immediately remunerate the other Party, as liquidated damages, a fixed sum equal to 12 months of the last monthly gross salary of the relevant individual plus all the costs associated with recruiting a replacement.

Article 15 - Variation and entire agreement

The Agreement may only be varied in writing, such variation to be duly signed by an authorised representative of each Party.

This Agreement represents the entire agreement and obligations existing between the Parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter, including the Client's general product or service purchase conditions.

Article 16 - Assignment and subcontracting

The Client may not assign its rights or obligations arising under the Agreement without prior written agreement from FuturMaster. Any unauthorised assignment of this Agreement shall be considered null and void.

FuturMaster may assign this Agreement to one of its Affiliates or to a third party.

The Client acknowledges and accepts that the Associated Services may be provided by an Affiliate or a FuturMaster partner entity, it being understood that FuturMaster shall remain responsible for performing its obligations according to the conditions set forth herein.

Article 17 - Notification

Any notification or communication which must be or can be sent by one of the Parties to the other Party in reference to this Agreement shall be hand delivered or sent by certified letter or by fax to the address of this Party as specified at the beginning of this Agreement or to any other address which may be provided in writing by a Party.

Article 18 - Waiver

The fact that one of the Parties does not enforce the application of any one of the Agreement dispositions or accepts its non-performance, whether permanently or temporarily, shall not be interpreted as nor constitute a waiver of this Party's rights to enforce application of this this or any other provision of the Agreement.

Article 19 – Severability and third party rights

The voiding or inapplicability one of the provisions of this Agreement shall not render the other provisions void. As such, if one of the provisions of this Agreement is or becomes inapplicable or void, it shall be considered as not having existed and the Parties

agree to use their best endeavours to replace any inapplicable or void provision by a new provision which would allow for the maintenance of the balance of rights and obligations under the Agreement.

Any person who is not a Party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of this Agreement.

Article 20 - Governing law and jurisdiction and dispute resolution

20.1 Governing law and jurisdiction

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with French law.

Subject to the dispute resolution provisions set out in Article 20.2, each Party irrevocably agrees that the Courts of Paris (France) shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

20.2 Dispute resolution

Any dispute arising out of or in connection with this Agreement or the performance, validity or enforceability of this Agreement, shall be submitted to representatives of each of the Parties having the capacity and authority to negotiate and execute settlements. If possible, these representatives shall be of a higher level within each Party's organisation than those persons responsible for the daily management of the Agreement. Each Party agrees that its representatives shall meet promptly and in any event no later than ten (10) days after receiving written notice of the dispute from the other Party.

The provisions of this Article shall not prevent the Parties from commencing proceedings in relation to the dispute at any time, in order to preserve their rights.

List of Schedules

Schedule A : FuturMaster SaaS FM Cloud Service Specific Terms and Conditions

Schedule B: Description of FuturMaster SaaS FM Cloud Service

Schedule C: The Associated Services Specific Terms and Conditions

Schedule D: Client Technical Requirements

Schedule E: Statement of Work relating the Associated Services for the installation of the Service

[Schedule A - FuturMaster SaaS FM Cloud Service Specific Terms and Conditions](#)

Schedule B – Description of FuturMaster SaaS FM Cloud Service

SCOPE OF THE SERVICE

FuturMaster SaaS FM Cloud Service is composed of the following services:

Service	Content
Infrastructure and Operation	Provision of Infrastructure and Hosting for FuturMaster Software Package as described in the section "Infrastructure and Operations".
Update /new version of the Software Package	Update/new version of FuturMaster Software Package as described in the section « Update/new version of FuturMaster Software Package »
Software Package Technical Support	Access to the Technical Support for the Software Package as described in the section « Software Package Technical Support ».
FuturMaster Software Package	Supply of the access to FuturMaster Software Package modules as described in the section « Modules of the Software Package ».

INFRASTRUCTURE AND HOSTING

Data-Centers

The data centers in which the Client Data will be hosted in Hong-Kong

DESCRIPTION	EQUINIX TSUEN WAN
Address	1 Wang Wo Tsai st., Tsuen Wan, News Territories, HK
Available surface for FuturMaster	5 racks in Telstra room
Certifications	ISO 27001 – SSAE 16 - ISAE 3402 SOC 1 Type
Futurmaster connectivity	Telstra - GTT - PCCW Peering at HKIX
Electricity	Tier III Uptime Institute
Security	Supervision 24/7 and access control by swipe cards

DESCRIPTION	MEGA IADVANTAGE
Address	399 Chai Wan Rd, Chai Wan, Hong Kong
Available surface for FuturMaster	2 racks
Certifications	ISO 9001 – ISO 14001 - ISO 20000 - ISO 27001
Futurmaster connectivity	PCCW - GTT PrivatePeering with China Unicom
Electricity	Tier III+ Uptime Institute
Security	Supervision 24/7 and access control by swipe cards

Safety

FuturMaster ensures the material and software protection of the global operating platform, the process and the communications made on the operating platform.

Undertakings

FuturMaster warrants a service level of 99,50% for the availability of the Infrastructure. This service level is measured on the basis of the following formula:

$$(TOM-TIS) \times 100 / TOM$$

TIS corresponds to the "**Monthly Unavailability Period (TIS)**": the total of all monthly period during which the Service is not available for the Client excluding the Planned Maintenance Period.

TOM corresponds to the "**Service Availability Period (TOM)**": the monthly period during which the Service is available for the Client, 24h/24h, 7 days per week, excluding the Planned Maintenance Periods.

On the basis of these service levels, the penalties/LDs that may be due by FuturMaster are defined in the table below:

RATE OF INFRASTRUCTURE AVAILABILITY (IA)	FUTURMASTER PENALTIES
99,49%> IA> 99,40%	1% of the monthly Service Fee
99,39%> IA> 99,30%	5% of the monthly Service Fee
99,29%> IA> 99,20%	10% of the monthly Service Fee
99,19%> IA> 99%	20% of the monthly Service Fee

The penalties/LDs will not exceed annually an amount corresponding to two months of Service Fees.

The penalties/LDs will be applicable further to the receipt of a formal request from the Client sent by registered letter within twenty (20) days following the event giving right to the penalties/LDs.

In addition, FuturMaster warrants the following :

- **Guaranteed Response Time (GTI) :**

Deadline from the reporting of an incident on the supervision tools or from a notification made by the Client to FuturMaster support department and the beginning of the operation of support.

- **Guaranteed Recovery Time (GRT) :**

Time to restore the Service, from the beginning of the intervention (see GTI) until the end of the incident

Select the options requested by the Client:

Standard offer

Priority	<u>Guaranteed Time (Working hours)</u>		<u>Guaranteed Time (Non Working Hours)</u>	
	GTI	GTR	GTI	GTR
1	15 mn	4h	30 mn	4h
2	15 mn	4h	1h	8h
3	30 mn	8h	N/A	N/A

Pro offer

Priority	<u>Guaranteed Time (Working hours)</u>		<u>Guaranteed Time (Non Working Hours)</u>	
	GTI	GTR	GTI	GTR
1	15 mn	3h	30 mn	4h
2	15 mn	3h	1h	8h
3	30 mn	8h	N/A	N/A

Premium

Priority	<u>Guaranteed Time (Working hours)</u>		<u>Guaranteed Time (Non Working Hours)</u>	
	GTI	GTR	GTI	GTR
1	15 mn	2h	30 mn	4h
2	15 mn	3h	1h	8h
3	30 mn	8h	N/A	N/A

The level of priorities are determined depending of the defect concerned:

PRIORITY LEVEL	SEVERITY	DEFINITION
1	Blocking	Bug/Defect resulting in the total unavailability of the Service for all Users
2	Major	Bug/Defect resulting in material negative effects on the business of the Client or in the unavailability of important functionalities and reducing the access response time to the

3	Minor	Bug/Defect resulting in the total unavailability of certain minor functionalities of the Service
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[Schedule C - Associated Services Specific Terms and Conditions](#)

Schedule D: Client Technical Requirements

Prerequisite Clients are required for the proper operation of the service which is customer responsibility. They are composed of 2 types :

Technical Prerequisite :

In order to access to the service, the Client acknowledge to have the following technical configuration when the service will start :

Pentium 4 (2GHz minimum) or Dual Core (1.5GHz minimum)

- 500Mo of RAM minimum for OS
- Windows 32 bits or 64 bits (Windows 7, 8.1 et 10)
- Display min: 1024x768, 65000 colors (16 bits)
1920x1080 is recommended

Working station will have internet connection with a bandwidth of 100 kbps minimum by PC. Internet navigator will be used :

- Mozilla
- Chrome
- Internet Explorer
- Safari en version

User Prerequisite :

The client acknowledge to have the right skills to have access and to use the Service.

Schedule E: Statement of Work relating the Associated Services for the installation of the Service

Execution page

Signed by)
[])
duly authorised for and on behalf of)
FuturMaster)

sign here: _____
[President]

print name: _____

Signed by)
[name of authorised signatory])
duly authorised for and on behalf of)
[FULL COMPANY NAME])

sign here: _____
[title of authorised signatory]

print name: _____