



## PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (“**AGREEMENT**”) IS A LEGALLY BINDING AGREEMENT BETWEEN YOU (“**CUSTOMER**”) AND NUIX. THIS AGREEMENT SHALL GOVERN THE PERFORMANCE OF THE SERVICES (AS DEFINED BELOW) PROVIDED BY NUIX TO CUSTOMER, AS DETAILED IN A STATEMENT OF WORK. CUSTOMER ACKNOWLEDGES THAT CUSTOMER HAS READ, UNDERSTANDS, AND AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT. NUIX AND CUSTOMER ARE HEREINAFTER REFERRED TO AS, INDIVIDUALLY, A “**PARTY**” AND COLLECTIVELY, THE “**PARTIES**.”

### 1. DEFINITIONS.

- a. "**Confidential Information**" means any information that is treated as confidential by a party, including, without limitation, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing. This Agreement, the terms and conditions of this Agreement, all Statements of Work, the Services, and the Nuix Software are Confidential Information of Nuix.
- b. "**Customer Materials**" any documents, data, software and other materials provided to Nuix by Customer, including such materials that are designated as customer-owned property in a Statement of Work.
- c. "**Deliverables**" means all documents, work product and other materials that are delivered to Customer hereunder or prepared by or on behalf of Nuix in the course of performing the Services, including any items identified as such in a Statement of Work.
- d. "**Disclosing Party**" means a party that discloses Confidential Information under this Agreement.
- e. "**Intellectual Property Rights**" means all (a) patents, patent disclosures and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, (c) copyrights and copyrightable works (including computer programs), mask works, and rights in data and databases, (d) trade secrets, know-how and other confidential information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- f. "**Licensee Materials**" means any documents, data, know-how, methodologies, software and other materials provided to Service Provider by Licensee.
- g. "**Losses**" mean all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- h. "**Pre-Existing Materials**" means all documents, data, know-how, methodologies, software and other materials, including computer programs, reports and specifications, provided by or used by Nuix in connection with performing the Services, in each case developed or acquired by Nuix prior to the commencement or independently of this Agreement.
- i. "**Receiving Party**" means a party that receives or acquires Confidential Information directly or indirectly under this Agreement.
- j. "**Nuix Personnel**" means all employees and sub-contractors, if any, engaged by Nuix to perform the Services.
- k. "**Services**" mean any professional or other services to be provided by Nuix under this Agreement, as described in more detail in the Statement of Work, and Nuix's obligations under this Agreement.
- l. "**Statement of Work**" means a written transactional document signed by an authorized representative of each Party and entered into under this Agreement that describes the Services to be provided by Nuix.

2. **PROVISION OF SERVICES.** During the Term, Nuix shall perform the Services set forth in the Statement of Work. Nuix shall determine the manner and means of performing and providing the Services and shall use commercially reasonable efforts to provide the Services in accordance with any agreed or estimated time schedules set forth on the applicable Statement of Work.

### 3. CHANGE ORDERS.

- a. In the event that Customer or Nuix requests a change in any of the specifications, requirements, Deliverables, or scope of the Services described in any Statement of Work, the party seeking the change shall propose the application changes by written notice. Within forty-eight (48) hours of receipt of the written notice, each party's contract managers shall meet, either in person or via remote (telephone, web, etc.) conference, to discuss and agree upon the proposed changes. Nuix will prepare a change order describing the proposed changes to the Statement of Work and the applicable changes in fees and expenses, if any (each, a “**Change Order**”). Change Orders are not binding unless and until they are executed by both parties in writing. Executed Change Orders shall be deemed part of, and subject to, this Agreement and the applicable Statement of Work. In the event that the parties disagree about the proposed changes, the parties shall promptly escalate the change request to their respective senior management officers for resolution.



- b. Notwithstanding Section 3(a), Nuix may, periodically review and modify the Services: (i) without notice to Customer in order to comply with any applicable safety or statutory requirements, or (ii) subject to Customer's prior written consent, which shall not be unreasonably withheld or delayed, in each case provided that such changes do not materially affect the nature, scope of, or fees or other charges for the Services.
  - c. Nuix may charge for the time it spends assessing and documenting a change request from Customer on a time and materials basis in accordance with Section 6.
  - d. If (i) Customer requires a change in the scope of the Services and such change must be effected immediately (*i.e.*, Customer cannot wait for the Change Order request process described above) and (ii) Customer's exigent circumstances are approved by Nuix (in its sole and absolute discretion), then Customer may send an email to [legal@nuix.com](mailto:legal@nuix.com) describing the requested changes to the scope of Services. Nuix will then provide a fee for this service (on the same email thread), which will be deemed accepted by Customer upon receipt. Customer will indemnify and hold Nuix harmless from and against all Losses arising from any and all actions taken in connection with the email change order.
- 4. LICENSEE ASSISTANCE.** In the event the Services are provided on Customer's premises, Customer shall provide safe and adequate space, power, network connections, materials, access to its hardware, software and other equipment and information, and assistance from qualified personnel familiar with Customer's hardware, software, other equipment and information, and data processing requirements, as reasonably requested by Nuix. Customer acknowledges and agrees that Nuix's ability to successfully provide the Services in a timely manner is contingent upon its receipt from Customer of the materials, information, and assistance requested. Nuix shall have no liability for deficiencies in the Services resulting from the acts or omissions of Customer, its agents or employees.
- 5. SUBCONTRACTORS.** Nuix may, upon prior notice to Customer, subcontract all or any part of the Services to be performed hereunder to any third party, provided that Nuix remains primarily responsible to Customer for the performance of any such subcontracted Services.
- 6. FEES AND PAYMENT.**
- a. In consideration of the provision of the Services by Nuix and the rights granted to Customer under this Agreement, Customer shall pay the fees set forth in the applicable Statement of Work.
  - b. Where the Services are provided on a time and materials basis: (i) the fees payable for the Services shall be calculated in accordance with Nuix's hourly fee rates (charged at a daily minimum of eight (8) hours) for the Nuix Personnel set forth in the applicable Statement of Work; and (ii) Nuix shall issue invoices to Customer monthly in arrears for its fees for time for the immediately preceding month, calculated as provided in this Section together with a detailed breakdown of any expenses for such month incurred in accordance with Section 6(e).
  - c. Where Services are provided for a fixed price, the total fees for the Services shall be the amount set out in the applicable Statement of Work. The total price shall be paid to Nuix in advance of commencement of any Services. Nuix shall further issue invoices to Customer for any expenses incurred in accordance with Section 6(e). Such fees shall not be refundable.
  - d. Where fixed cost items (*e.g.*, hardware rental, software licenses, etc.) are included in the Services, the total price of those items shall be paid to Nuix in advance of commencement of any Services and shall not be refundable.
  - e. Customer agrees to reimburse Nuix for all reasonable travel and out-of-pocket expenses incurred by Nuix in connection with the performance of the Services.
  - f. Customer shall pay all properly invoiced amounts due to Nuix within 30 days after Customer's receipt of such invoice. Unless otherwise stated in the applicable Statement of Work, all payments hereunder shall be in the currency specified in the applicable Statement of Work and made by wire transfer.
  - g. In the event payments are not received by Nuix within 30 days after becoming due, Nuix may:
    - i. charge interest on any such unpaid amounts at a rate of 5% per month or, if lower, the maximum amount permitted under applicable law, from the date such payment was due until the date paid; and
    - ii. suspend performance for all Services until payment has been made in full.
  - h. If an invoiced amount is disputed in good faith by Customer then, until resolution of the dispute, Customer may suspend disputed payments and toll the running of time for default by: (a) paying the undisputed amount, if any; and (b) sending a written statement of exceptions to Nuix.
  - i. All amounts payable under this Agreement are exclusive of sales, use, value-added, withholding, and other taxes and duties. Customer will pay all taxes and duties assessed in connection with this Agreement by any authority, except for taxes payable on Nuix's net income. If any such tax or duty has to be withheld or deducted from any payment under this Agreement, Customer shall gross-up the payment under this Agreement by such amount as shall ensure that after such withholding or deduction Nuix shall have received an amount equal to the payment otherwise required.



## 7. INTELLECTUAL PROPERTY RIGHTS.

- a. As between Customer and Nuix, all Intellectual Property Rights and all other rights in and to the Deliverables (except for any Confidential Information of Customer or Customer Materials) and the Pre-existing Materials shall be owned by Nuix. Nuix hereby grants Customer a license to use all such rights free of additional charge and on a non-exclusive, worldwide, royalty-free and perpetual basis to the extent necessary to enable the Customer to make reasonable use of the Deliverables and the Services.
- b. Customer and its licensors are, and shall remain, the sole and exclusive owner of all right, title and interest in and to the Customer Materials, including all Intellectual Property Rights therein. Nuix shall have no right or license to use any Customer Materials except solely during the Term of the Agreement to the extent necessary to provide the Services to Customer. All other rights in and to the Customer Materials are expressly reserved by Customer.
- c. Any use of the Nuix software by Customer that may be permitted under this Agreement or Statement of Work shall be pursuant to the Nuix End User License Agreement (<http://www.nuix.com/legal>), as amended by Nuix from time to time.

## 8. CONFIDENTIAL INFORMATION.

If the Parties have previously executed a non-disclosure agreement related to the subject matter hereof, each Party's Confidential Information disclosed under this Agreement shall be protected under the terms and conditions of such non-disclosure agreement. If a non-disclosure agreement has not previously been executed by the parties, the remainder of this Section 8 shall govern each Party's confidentiality obligations. Each Party shall maintain the other Party's Confidential Information with no less than a reasonable degree of care during the Term of this Agreement and for three (3) years thereafter. Each Party shall take all reasonable steps to ensure that such Party's employees and agents maintain the confidentiality of the other Party's Confidential Information.

## 9. WARRANTY AND DISCLAIMER.

- a. **Warranty.** Nuix warrants that (i) it and each of its employees that provide and perform the Services has the necessary knowledge, skills, experience, qualifications, and resources to provide and perform the Services; and (ii) the Services will be performed for and delivered to Customer in a workmanlike manner in accordance with industry standards, laws and governmental regulations applicable to the performance of such services. Nuix's ability to successfully perform hereunder is dependent upon Customer's provision of timely information, access to resources, and participation. If through no fault or delay of Customer, the Services do not conform to the foregoing warranty, and Customer notifies Nuix within ten (10) days of Nuix's delivery of the Services, Nuix's entire liability and Customer's sole remedy will be for Nuix to either, at Nuix's option, (i) re-perform the non-conforming portions of the Services or (ii) refund the fees paid by Customer in the applicable Statement of Work for the non-conforming portions of the Services.
- b. **DISCLAIMER.** THE WARRANTIES STATED IN SECTION 9(a) ABOVE ARE THE EXCLUSIVE OBLIGATIONS OF NUIX, AND THE SOLE REMEDIES OF CUSTOMER, RELATED TO THE SERVICES AND DELIVERABLES TO BE PERFORMED FOR AND DELIVERED TO CUSTOMER PURSUANT TO THIS AGREEMENT AND ANY STATEMENT OF WORK. THERE ARE NO OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE AND NON-INFRINGEMENT. EXCEPT AS PROVIDED HEREIN, THE SERVICES AND DELIVERABLES PROVIDED TO CUSTOMER ARE ON AN "AS IS" AND "AS AVAILABLE" BASIS. NUIX DOES NOT GUARANTEE THAT THE SERVICES OR DELIVERABLES WILL IDENTIFY AND/OR RESOLVE ANY ISSUES REQUESTED BY THE CUSTOMER AND/OR DETAILED IN THE STATEMENT OF WORK.

## 10. LIMITATION OF LIABILITY

- a. **DISCLAIMER OF LIABILITY.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO ANYONE FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES, OR INDIRECT DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF CUSTOMER DATA, CUSTOMER DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE), ARISING FROM BREACH OF WARRANTY OR BREACH OF CONTRACT, NEGLIGENCE, TORT, STATUTORY DUTY OR ANY OTHER LEGAL CAUSE OF ACTION ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT OR ANY STATEMENT OF WORK.
- b. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR ANY STATEMENT OF WORK, THE MAXIMUM LIABILITY OF NUIX TO ANY PERSON, FIRM OR CORPORATION WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH ANY SERVICES OR DELIVERABLES SHALL BE THE AMOUNT PAID BY CUSTOMER FOR THE SERVICES OF THE APPLICABLE STATEMENT OF WORK. THE ESSENTIAL PURPOSE OF THIS SECTION 10 IS TO LIMIT THE POTENTIAL LIABILITY OF THE PARTIES ARISING FROM THE AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS SET FORTH HEREIN ARE INTEGRAL TO THE AMOUNT OF CONSIDERATION LEVIED IN CONNECTION WITH THE SERVICES AND THAT,



WERE NUIX TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN, SUCH CONSIDERATION WOULD OF NECESSITY BE SET SUBSTANTIALLY HIGHER.

## 11. INDEMNIFICATION

- a. Each Party shall defend and indemnify the other Party, its Affiliates and their officers, directors, employees, agents, successors and permitted assigns from and against all Losses arising out of or resulting from any third party claim, suit, action or proceeding (each, an “**Action**”) arising out of or resulting from: bodily injury, death of any person or damage to real or tangible, personal property (not including loss of data) resulting from the negligent or willful acts or omissions of the other party.
- b. Customer will defend, indemnify, and hold Nuix, its affiliates, and their officers, directors, employees, agents, successors and permitted assigns harmless from and against all Losses arising out of or resulting from any third party claim, suit, action or proceeding arising out of, related to, or resulting from this Agreement, any Statement of Work, or any Services performed by Nuix pursuant to a Statement of Work. Customer acknowledges and understands that certain Services performed by Nuix may constitute illegal activity (*e.g.*, hacking) in certain jurisdictions and Customer expressly assumes the risk of any Losses as a result.
- c. Customer represents and warrants that Nuix has full right, power and authority to consent to have Nuix scan for vulnerabilities of the IP address and/or URL and/or domain names identified to Nuix by Customer for scanning, whether electronically or by any other means. Customer agrees to indemnify, defend, and hold Nuix, its affiliates and their officers, directors, employees, agents, successors and permitted assigns harmless from and against all Losses incurred by Nuix resulting from, or related to, Customer’s breach of this provision. Customer acknowledges and understands that accessing and scanning IP addresses and penetration testing involves inherent risks, including, without limitation, risks related to system or network performance and availability, and data corruption or loss.
- d. Nuix shall defend, indemnify and hold harmless the Customer from and against Losses awarded against a Customer in a final judgment based on a claim that any of the Services or Deliverables created/delivered by Nuix or Customer's receipt or use thereof infringes any Intellectual Property Right of a third party arising under the laws of the United States; provided, however, that Nuix shall have no obligations under this Section with respect to claims to the extent arising out of: (i) any Customer Materials or any instruction, information, designs, specifications or other materials provided by Customer in writing to Nuix; (ii) use of the Deliverables in combination with any materials or equipment not supplied to Customer or specified by Nuix in writing, if the infringement would have been avoided by the use of the Deliverables not so combined; or (iii) any modifications or changes made to the Deliverables by or on behalf of any third party other than Nuix or Nuix Personnel.
- e. The party seeking indemnification hereunder shall promptly notify the indemnifying Party in writing of any Action and cooperate with the indemnifying Party at the indemnifying Party's sole cost and expense. The indemnifying Party shall immediately take control of the defense and investigation of such Action and shall employ counsel of its choice to handle and defend the same, at the indemnifying party's sole cost and expense. The indemnifying Party shall not settle any Action in a manner that adversely affects the rights of the indemnified Party without the indemnified Party's prior written consent, which shall not be unreasonably withheld or delayed. The indemnified Party's failure to perform any obligations under this Section shall not relieve the indemnifying Party of its obligations under this Section except to the extent that the indemnifying Party can demonstrate that it has been materially prejudiced as a result of such failure. The indemnified Party may participate in and observe the proceedings at its own cost and expense.

## 12. TERM AND TERMINATION.

- a. **Term.** This Agreement will commence as of the Effective Date designated in the applicable Statement of Work and will continue in effect unless superseded or otherwise terminated pursuant to this Section 12.
- b. **Termination.** Customer may terminate this Agreement or any Statement of Work by written notice to Nuix if Nuix is in material breach of any obligation under this Agreement or such Statement of Work which default has not been cured within thirty (30) days after receipt of written notice of such material breach. Nuix may terminate this Agreement or any Statement of Work immediately upon written notice in the event (a) Licensee fails to pay any amounts payable hereunder within ten (10) days after receiving written notice from Nuix that payment is past due, (b) Licensee breaches any material term of this Agreement, or (c) Nuix provides Licensee with ten (10) days advance notice. The termination of any Statement of Work shall not cause the automatic termination of any other Statement of Work. The termination of this Agreement pursuant to this Section 13(b) shall automatically terminate all Statements of Work.
- c. **Effect of Termination.** Upon the termination of this Agreement (or Statement of Work), (a) all licenses granted to Customer under this Agreement (or such Statement of Work) will immediately terminate, (b) Customer shall return or destroy all copies of Confidential Information in its possession or control under this Agreement (or such Statement of Work), (c) Customer shall pay all amounts due and payable to Nuix under this Agreement (or such Statement of Work), and (d) Customer shall immediately notify Nuix in writing that it has complied with the foregoing obligations. Sections 1, 7, 8, 9(b), 10, 12(c), 14, 15, 16, and 17 will survive the termination of this Agreement (or an Order Form) for any reason.



13. **Force Majeure.** Neither Party shall be liable to the other for failure to perform its obligations hereunder (except the payment of sums due by one Party to another under this Agreement or applicable Statement of Work) to the extent caused by an event beyond the reasonable control of such Party, including, without limitation, government regulations or orders, outbreak of a state of emergency, acts of God, war, warlike hostilities, civil commotion, riots, epidemics, fire, strikes, lockouts, or any other similar cause or causes, provided that such party promptly notifies the other in writing of such occurrence and makes its best efforts to promptly eliminate the effect thereof. A Party whose performance is affected by a Force Majeure Event shall give notice to the other Party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event. During the Force Majeure Event, the non-affected Party may similarly suspend its performance obligations until such time as the affected Party resumes performance. The non-affected Party may terminate any affected Statement of Work if such failure or delay continues for a period of sixty (60) days or more and, if the non-affected party is Customer, receive a refund of any amounts paid to Nuix in advance for the affected Services.
14. **Non-Impediment.** Provided that Nuix does not use any Customer Property except as permitted herein, nothing in this Agreement shall be construed as precluding or limiting in any way the right of Nuix to provide consulting, development, or other services of any kind to any individual or entity (including without limitation performing services or developing materials which are similar to and/or competitive with the Services and/or Deliverables hereunder).
15. **Dispute Resolution.** If either Party has any dispute or disagreement with the other in relation to any matter relating to this Agreement, that Party will provide a written notice to the other Party setting out all relevant details and background information in relation to the dispute and the other Party's proposal for resolution of the dispute. If the Parties are unable to resolve any dispute or agreement within thirty (30) days of either Party receiving written notice thereof, either Party may initiate arbitration in accordance with the provisions set forth below in Section 19.
16. **Non-Solicitation/Non-Hire.** Customer agrees that, during the Term and for a period a one year after, it will not directly or indirectly solicit, employ, or engage the service of any Nuix Personnel who were involved in providing Services under or relating to this Agreement without prior written permission of Nuix.
17. **Contracting Parties, Governing Law, Place of Arbitration.** The entity with which Customer is contracting under this Agreement (such entity, as applicable, "Nuix"), what law will apply in any dispute arising out of or in connection with this Agreement, and place of any arbitration, depend on where Customer is domiciled:

If Customer is domiciled in:	Customer is contracting with:	Governing Law	Place of Arbitration
United States of America, Canada, or Mexico	Nuix North America Inc.	Commonwealth of Virginia, USA	Fairfax County, Virginia, USA
Any country in Europe (other than the United Kingdom), the Middle East, South America, Africa, or Asia (other than Singapore)	Nuix Ireland Limited	Ireland	Cork, Ireland
United Kingdom	Nuix Technology UK Ltd	England	London, England
Singapore	Nuix Pte. Ltd.	Australia	Sydney, NSW, Australia
Australia and New Zealand	Nuix Pty Ltd	Australia	Sydney, NSW, Australia

Notwithstanding the foregoing, in the event that Customer is a (i) public sector customer (e.g., federal, state, or local government) or (ii) public or private educational institution, in either case located in the United States of America, or is one of such customers' authorized agents worldwide, Customer is contracting with **Nuix USG Inc.** under this Agreement (such entity, in such case, "Nuix").

Each Party agrees to the applicable governing law above without regard to choice or conflicts of law rules. The United Nations Convention on the International Sale of Goods and the Uniform Computer Information Transactions Act shall not apply to this Agreement.

18. **Waiver of Jury Trial.** EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, ATTACHMENTS OR APPENDICES ATTACHED TO THIS AGREEMENT AND THERETO, THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY, OR THE VALIDITY, PROTECTION, INTERPRETATION OR ENFORCEMENT THEREOF.



- 19. Arbitration.** SUBJECT TO **SECTION 20**, EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY DISPUTE, CONTROVERSY OR CLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY (INCLUDING, BUT NOT LIMITED TO, ANY CLAIM OF FRAUD OR MISREPRESENTATION) ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY, OR THE BREACH, TERMINATION, OR VALIDITY THEREOF, (“DISPUTE”), SHALL BE SUBMITTED TO MANDATORY, FINAL AND BINDING ARBITRATION BEFORE THE INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION, IN ACCORDANCE WITH THE INTERNATIONAL ARBITRATION RULES IN EFFECT AT THE TIME OF FILING OF THE DEMAND FOR ARBITRATION.
- (a) There shall be three (3) arbitrators. The Parties each will select one (1) arbitrator within thirty (30) days of the receipt by respondent of a copy of the demand for arbitration. The two (2) arbitrators so appointed shall nominate the third and presiding arbitrator (the “Chair”) within thirty (30) days of the appointment of the second arbitrator (the three arbitrators shall be collectively referred to as the “Tribunal”). If either party fails to appoint an arbitrator, or if the two-party appointed arbitrators fail to appoint the Chair, within the time periods specified herein, such arbitrator shall, at the request of either Party, be appointed by the International Centre for Dispute Resolution.
  - (b) The arbitrators shall be selected from a panel of persons having at least eight (8) years’ experience with knowledge of technology and service agreements and intellectual property rights, and at least one (1) of the arbitrators selected shall be an attorney.
  - (c) The language of the arbitration shall be English. The place of arbitration shall be the location identified in **Section 17** above.
  - (d) The arbitration shall be the sole and exclusive forum for resolution of the Dispute, and the award shall be in writing, state the reasons for the award and be final and binding. Judgment thereon may be entered, registered or filed for enforcement in any court of competent jurisdiction and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
  - (e) By agreeing to arbitration, the Parties do not intend to deprive any court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, the Tribunal shall have full authority to grant provisional remedies and to direct the Parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award damages for the failure of any Party to respect the arbitral tribunal’s orders to that effect. In any such judicial action each of the Parties irrevocably consents to service of process by first-class certified mail, return receipt requested, postage prepaid to the address set forth herein.
  - (f) The prevailing Party, as determined by the Tribunal, shall be entitled to recover its reasonable costs and, attorneys’ fees and costs from the non-prevailing Party. The non-prevailing Party shall be responsible for all fees and costs of the Tribunal. The Tribunal may not award punitive damages.
  - (g) Except as may be required by applicable law, the Parties shall preserve the confidentiality of all aspects of the arbitration, and shall not disclose to a third party (other than disclosure to an affiliate of a party on a need-to-know basis and such affiliate is informed of the confidential nature of such information and is instructed to keep such information confidential), all information made known and documents produced in the arbitration not otherwise in the public domain, all evidence and materials created for the purpose of the arbitration, and all awards arising from the arbitration, except, and to the extent that disclosure is required by law or regulation, is required to protect or pursue a legal right or is required to enforce or challenge an award in legal proceedings before a court or other competent judicial authority.
- 20. Equitable Relief.** Notwithstanding anything in the foregoing to the contrary, each Party acknowledges that a breach or threatened breach of this Agreement by the other Party or its Personnel will cause irreparable harm to the non-breaching Party for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by a Party or its Personnel, the non-breaching Party shall be entitled a temporary restraining order, injunction, specific performance and any other equitable relief available from a court of competent jurisdiction, and the Parties hereby waive any requirement for the securing or posting of any bond or the showing of actual monetary damages in connection with such claim. The existence of any claim or cause of action of the breaching Party against the non-breaching Party, whether predicated on this Agreement or otherwise, shall not preclude the non-breaching Party’s right to equitable relief.
- 21. Miscellaneous.**
- a. **Relationship.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.



- b. **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and in English language, and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or email (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to Customer at the addresses indicated above and to Nuix as follows: Suite 200, 13755 Sunrise Valley Drive, Herndon, VA 20171.
- c. **Interpretation.** For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Sections, Schedules, Exhibits and Statements of Work refer to the Sections of, and Schedules, Exhibits and Statements of Work attached to this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Schedules, Exhibits and Statements of Work referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.
- d. **Entire Agreement.** This Agreement, together with all Schedules, Exhibits and Statements of Work and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms and provisions of this Agreement and those of any Schedule, Exhibit or Statement of Work, the following order of precedence shall govern: (a) first, this Agreement, exclusive of its Exhibits and Schedules; (b) second, the applicable Statement of Work and any corresponding Change Order; and (c) third, any Attachments and Schedules to this Agreement.
- e. **Assignment.** Neither Party may assign, transfer or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed; provided, that, upon prior written notice to the other Party, either Party may assign the Agreement to an Affiliate of such Party or to a successor of all or substantially all of the assets of such Party through merger, reorganization, consolidation or acquisition. No assignment shall relieve the assigning Party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Furthermore, for the purposes of this Agreement the acquisition of an equity interest in Customer of greater than 25 percent by any third party shall be considered an "assignment."
- f. **Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.