



QUINYX GENERAL TERMS AND CONDITIONS

These general terms and conditions (the "General Terms and Conditions"), together with the Ordering Document(s) (as defined below), constitute the Agreement (as defined below) between the Quinyx entity and the customer listed in the Ordering Document ("Quinyx" and the "Customer", respectively). This Agreement shall govern the relationship between Quinyx and the Customer (including in respect of any Service or any Solutions provided by Quinyx). Capitalised but undefined terms in these General Terms and Conditions shall have the meaning given to them in the Ordering Document.

1) Definitions

- a) "Affiliate" means any business entity from time to time Controlling, Controlled by, or under common Control with, either party;
- b) "Agreement" shall mean the Ordering Document(s), these General Terms and Conditions, the Data Processing Agreement, the Information Security Overview and, where applicable, any Statement of Work and any other document included by explicit reference (as varied from time to time in accordance with these General Terms and Conditions);
- c) "AI Modules" means the standard Quinyx AI modules, as described under the "AI Optimization" section of the Feature List, to be provided by Quinyx as part of the Service (where identified in an Ordering Document);
- d) "Confidential Information" means information in any form which is expressed to be confidential or which might reasonably be regarded as confidential in nature, not including information to the extent it: (i) was already lawfully known to the receiving party at the time of the disclosure; (ii) became lawfully known to the receiving party independently; or (iii) is in, or comes into, the public domain other than by wrongful use of or disclosure by the receiving party;
- e) "Contract Year" means a period of twelve (12) months beginning on the Start Date or any anniversary thereof;
- f) "Control": a business entity shall be deemed to "control" another business entity if it owns, directly or indirectly, in excess of 50% of the outstanding voting securities or capital stock of such business entity or any other comparable equity or ownership interest with respect to a business entity;
- g) "Customer Data" refers to data in electronic form submitted to, or otherwise made available to Quinyx by the Customer for purposes of, the Service or Solutions;
- h) "Customer Underlying IPR" means all Intellectual Property Rights (including general concepts, ideas, methodologies, processes, techniques or algorithms), of the Customer which have been developed by the Customer independently of the Agreement (whether prior to the Start Date or otherwise);
- i) "Data Processing Agreement" means the data processing agreement set forth in Appendix A to these General Terms and Conditions or any other data processing agreement in place between the Customer and Quinyx in relation to the Service or Solutions;
- j) "Data Protection Laws" has the meaning set out in the Data Processing Agreement;
- k) "Developed Materials" mean any materials specifically developed by Quinyx as part of the Solutions that have been developed specifically for the Customer;
- l) "Feature List" means the Quinyx feature list found at https://app.quinyx.com/feature_list.html, as updated by Quinyx from time to time subject to the terms of the Agreement;
- m) "Force Majeure Event" means any circumstance not within a party's reasonable control including acts of God, flood, drought or other natural disaster, imposition of sanctions, embargo, failure of IT or telecommunication systems or software (including a failure of the IT or telecommunication systems or software of a third party), any law or any action taken by a government or public authority, travel restrictions, any labour or trade dispute, and interruption or failure of utility service but excludes any circumstance that may impact the Customer's ability to pay the fees and/or retain any minimum order quantities;
- n) "Good Industry Practice" means the degree of skill and care, which would reasonably and ordinarily be expected from an experienced service provider similar to Quinyx engaged in the provision of services or solutions similar to the Services and Solutions;
- o) "Information Security Overview" means the latest version of Quinyx's Standard Policies and Procedures - Information Security Overview as made available from time to time at www.quinyx.com/privacy;



- p) "Intellectual Property Rights" means patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
- q) "Maintenance" means any maintenance that Quinyx carries out to improve or correct any deficiencies with the Service. For the avoidance of doubt, Maintenance does not include any form of general management, support or consultancy related to the Customer's IT infrastructure or any Third Party Application;
- r) "Materials" refers to the Developed Materials, as well as all other written and graphical content, including the Service methodology, provided by or through the Service and Solutions, including text, photographs, illustrations and designs, whether provided by Quinyx or a third party, and all Intellectual Property Rights therein;
- s) "Ordering Document" shall mean each (initial or a subsequent) order document setting out the details of the Service or Solutions ordered by the Customer, which references these General Terms and Conditions;
- t) "Quinyx Underlying IPR" means all Intellectual Property Rights owned or controlled by Quinyx and its licensors, including in Quinyx's pre-existing processes and procedures, general concepts, ideas, methodologies, processes, techniques or algorithms, which have been developed independently of the Agreement (including any additions and improvements made to such items in the course of providing the Services or Solutions unless specifically identified in the Ordering Document or any Statement of Work as being specifically developed for the Customer and not forming part of Quinyx Underlying IPR on an on-going basis);
- u) "Service" means the standard Workforce Management Service and/or AI Modules (as applicable) as indicated in the Ordering Document(s), and as described in the Feature List;
- v) "Service Availability" refers to the availability of the relevant Service as further described in section 4);
- w) "Service Fees" shall mean the fees payable for the Service, as set out in the Ordering Document;
- x) "Solutions" refers to all services and products other than the Service, (including implementation projects, integrations, adaptations, customizations, hardware, SMS, training, consultancy services) that are provided by Quinyx to the Customer as set out in a Statement of Work and/or the Ordering Document;
- y) "Start Date" refers to the date listed as the Start Date in the Ordering Document (and if no such date is provided then this shall be the date that the Agreement is signed);
- z) "Statement of Work" means a statement of work agreed by the parties pursuant to the Agreement, which sets out details (including any relevant specification) of Solutions to be provided by Quinyx under the Agreement;
- aa) "Support Portal" means the Customer support portal available at <https://support.quinyx.com>;
- bb) "Term" has the meaning stated in section 13)a) below;
- cc) "Third Party Agreement" has meaning set out in section 6)e) below;
- dd) "Third Party Application" shall mean a software, tool, product or service provided to the Customer that is not Quinyx branded or owned by Quinyx and which is (i) listed in the Ordering Document as a Third Party Application; and/or (ii); provided to the Customer subject to a Third Party Agreement; and always including implementation or integration partners engaged by the Customer;
- ee) "Third Party IPR" means all Intellectual Property Rights in any Service or Solutions that are not Quinyx-branded or owned by Quinyx (including in any Third Party Application);
- ff) "Units" means a location owned or operated by the Customer where Quinyx has agreed that employees, agents and contractors of the Customer can use the Service or the Solutions as specified in the Ordering Document;
- gg) "User" refers to those employees, agents and contractors of the Customer who use the Service or the Solutions pursuant to this Agreement;
- hh) "Virus" means any thing or device (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, or adversely affect the user experience;



- ii) "Workforce Management Service" means the standard Quinyx workforce management solution, as described in the Feature List, to be provided by Quinyx as part of the Service (where identified in an Ordering Document);
- jj) "Working Hour" has the meaning stated in section 3)c)ii).

Interpretation: (i) A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; (ii) Unless otherwise stated, time shall not be of the essence for the performance of any obligation by Quinyx; (iii) Any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; iv) a reference to writing or written includes emails; and v) if applicable, holding company and subsidiary have the meaning as defined in the applicable governing law.

2) Delivery of the Service and Solutions

- a) *Service*. Where identified in the Ordering Document, Quinyx will give access to and provide the Service to the Customer during the Term subject to the terms of the Agreement. In advance of entering into this Agreement, the Customer confirms that it has been given the opportunity to review the Feature List associated with the Service and Quinyx's standard policies and procedures that are in effect as at the Start Date and confirms that it is happy to proceed with the Agreement on that basis.
- b) *Solutions*. Where identified in the Ordering Document, Quinyx shall provide the Solutions in accordance with the Agreement, including any Statement of Work and in accordance with Good Industry Practice. Quinyx shall use reasonable endeavours to meet any stipulated performance dates and apply such time, attention, resources, trained personnel and skills as it deems necessary for the due and proper performance of the relevant obligation. Quinyx will provide the Solutions to the Customer pursuant to its standard policies and procedures, including relevant third party warranties in effect from time to time.
- c) *Collaboration*. The Customer will provide such co-operation, facilities, materials, information and resources, irrespective of whether it concerns in-house or third party resources, as reasonably requested by Quinyx. The Customer will collaborate with Quinyx in the appropriate manner and promptly respond to reasonable requests for consultation, information, decisions and approvals. The Customer will review documents received and shall ensure that the environment where Solutions shall be applied, fulfills the minimum requirements reasonably specified by Quinyx from time to time.
- d) *Promptness*. Each party shall use all reasonable endeavours to ensure that all information provided to the other party is accurate and provided in a timely manner. The parties shall notify each other of any circumstances that may have an impact on delivery, and otherwise perform their respective obligations in a manner that will enable delivery of the Solutions.
- e) *Use of the Service and Materials*. The Customer shall not:
 - i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Service or Materials in any form or media or by any means;
 - ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Service;
 - iii) access all or any part of the Service and Materials in order to build a product or service which competes with the Service;
 - iv) use the Service and/or Materials to provide services to third parties;
 - v) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Service and/or Materials available to any third party except the Authorised Users; or
 - vi) attempt to obtain, or assist third parties in obtaining, access to the Service (save for the Users).

3) Payment

- a) *Service Fees*. Unless otherwise agreed in the Ordering Document, the Customer will pay to Quinyx the Service Fees in full, yearly in advance on the Start Date and on each anniversary of the Start Date.
- b) *Adjustments*. At the end of the Initial Term and any Extended Term the Service Fees may be increased (but, for the avoidance of doubt, not decreased) in accordance with the most recent final adjustment of the European Union's Labour Cost Index ("LCI") for the European Union and the Information and Communication Trade, using June each year as the base month, in comparison with the LCI at the start of the Initial Term or then current Extended Term, as the case may be. The index is available on the website of Eurostat. In addition, Quinyx is entitled to, at the latest three (3) months before the end of the Initial Term (or the Extended Term, as the case may be), adjust the Service Fees by an additional amount by way of a written notice to the Customer to take effect from the start of the next relevant Extended Term. If the Customer does not



accept the adjusted Service Fees in accordance with this provision, the Customer may choose to terminate the Agreement from the end of the Initial Term (or the Extended Term, as the case may be). If such termination is not made, the Agreement will continue with the new Service Fees.

c) *Fees for Solutions.*

- i) Unless otherwise agreed in the Ordering Document, payment of the fees for Solutions shall be made on a time and materials basis as set out in the Ordering Document or relevant Statement of Work at Quinyx's then current standard hourly rates for the relevant resources. Estimates, or the equivalent, of fees and expenses shall not be deemed to be an offer to provide the Solutions for a fixed fee. All fees for Solutions shall be invoiced monthly in arrears and shall be payable within thirty (30) days from the date of the invoice.
 - ii) Regular Working Hours etc. Regular working hours for Quinyx's consultants are 8 am to 5 pm) Monday–Friday, excluding local public holidays and any other commonly applied local working hour adjustments (all as applicable for the relevant Quinyx office). ("Working Hours"). If the Customer requires work to be carried out outside of regular working hours, this must be separately agreed between the parties and is subject to additional charge.
 - iii) Travel and expenses. Unless otherwise agreed in writing in advance, Quinyx will charge compensation for time spent on travel from the relevant Quinyx office. Compensation will be charged at a rate which corresponds to 50% of the hourly rate applied by Quinyx for the Solutions that required the travel and all expenses incurred by Quinyx in the performance of the Solutions. All other travel costs, accommodation and daily allowances shall be paid for by the Customer at cost. When traveling, Quinyx will, where possible, travel in economy class or similar, book standard rate accommodation, and if specifically agreed comply with the Customer's travel policy.
- d) *Payment.* If the Customer wishes to dispute an invoice, it shall pay the undisputed part of the invoice and provide Quinyx with a sufficiently detailed explanation of why it disputes the invoice within 14 days of the due date. The parties shall then aim to settle the dispute within a further 14 days and failing that shall refer the dispute to the dispute resolution procedure in accordance with section 14)o). All amounts due under the Agreement shall be paid: (i) in full without any withholding, deduction, set-off or counterclaim; and (ii) in cleared funds via bank transfer to a bank account nominated in writing by Quinyx. To the extent that the Customer pays, deducts and or withholds any tax, duty, commission or other withholding, then the Customer shall gross up the relevant amount payable under the Agreement so as to ensure that, after making the deduction or withholding, Quinyx receives the full amount as expressed in this Agreement.
- e) *Taxes.* All fees due under the Agreement are stated exclusive of value added tax and all other duties, charges, transaction taxes or levies which may be payable as a result of the provision of the Service or the Solutions (but excluding any employment or income taxes) ("**Taxes**"). The Customer shall pay any such Taxes chargeable on those sums in addition to the agreed fees as and when requested by Quinyx.
- f) *Late payment.* If payment of any undisputed amounts due are not received in full within thirty (30) days of the date of the invoice then, without prejudice to any other rights that Quinyx may have, Quinyx shall be entitled to: (i) charge interest on the overdue amount at the rate of 4% per annum; and (ii) in the event that full payment has not been received within ten (10) days of the date of the first payment reminder, temporarily block the Customer's access to the Service or suspend the provision of the Solutions until receipt of payment in full. If the Customer has not paid within sixty (60) days of the due date of the invoice then, without prejudice to any other rights that Quinyx may have, Quinyx shall be entitled to immediately terminate the Agreement and to recover from the Customer all of its costs, losses and liabilities on an indemnity basis.

4) **Service Availability**

- a) *Performance.* Subject to the remaining provisions of this section 4), Quinyx warrants that the Service Availability shall be no less than 99.9% each month, where "Service Availability" means the availability of the relevant Service measured on a monthly basis as follows:
 - i) total minutes in the relevant calendar month ("**Total Minutes**"); minus
 - ii) the total minutes that the Service is not available in the relevant month as calculated in accordance with the Quinyx monitoring system (excluding any minutes that the Service is not available due in whole or in part to any of the Permitted Exclusions); divided by
 - iii) the Total Minutes,expressed as a percentage.
- b) *Measurement.* The measuring point for Service Availability is the availability of the Service of Quinyx's production tenants at Quinyx's hosting provider's data centre internet connection points.
- c) *Credits.* In respect of each of the Workforce Management Service and the AI Modules (as applicable), Quinyx's Service Availability for the previous month is provided every first Monday of a month in the Support Portal. In the event of non-fulfilment of the warranted Service Availability during a certain month, the Customer is entitled to request that Quinyx issues credits, corresponding to a percentage reduction of the relevant proportion of that month's Service Fee ("**Credits**"), provided that such request is made in writing within 14 days of the end of the



relevant calendar month in which Quinyx failed to meet the Service Availability target, according to the following tables:

Workforce Management Service

Actual Service Availability/month	Credit
98.0 – 99.9%	20%
95.0 – 98.0%	25%
90.0 – 95.0%	35%
<90%	50%

AI Modules

Actual Service Availability/month	Credit
98.0 – 99.9%	20%
95.0 – 98.0%	25%
90.0 – 95.0%	35%
<90%	50%

- d) **Eligibility.** Eligibility to Credits is subject to the Customer not having any undisputed outstanding balances due or in any other way being in material breach of the Agreement. The Credit shall be the Customer's sole and exclusive remedy for Quinyx's failure to meet its obligations under Sections 4) or 5). For the avoidance of doubt, the Credit shall only apply to the relevant proportion of the Service Fee to which Quinyx's failure to meet the Service Availability relates. For example, where Quinyx fails to meet the agreed Service Availability in respect of the Workforce Management Service but meets the agreed Service Availability in respect of the AI Modules, the Customer shall only be entitled to request a Credit in respect of the element of the Service Fee which relates to the Workforce Management Service and not the element of the Service Fee which relates to the AI Modules.
- e) **Right to Terminate.** If the actual Service Availability in respect of both the Workforce Management Service and the AI Modules is less than 90% for any two consecutive calendar months, the Customer shall be entitled to immediately terminate this Agreement and be entitled to a refund of any then already paid Service Fees related to the then remaining term of the Agreement. Termination of this Agreement shall in addition to such refund be the Customer's sole and exclusive remedy for Quinyx's failure to meet the agreed Service Availability.
- f) **Permitted Exclusions.** Quinyx shall not be deemed to have failed to meet the relevant Service Availability calculation and therefore no Service Credit shall be made available to the Customer or other remedy apply if the relevant failure has arisen due to:
 - i) unavailability caused by a Third Party Application (including issues related to networks, services, hardware or software that Quinyx is not responsible for managing), disruptions in the Customer's internet connection or the Customer's connection to intermediate backbone networks;
 - ii) a Force Majeure Event;
 - iii) a fault, defect, error or issue caused by the Customer Equipment;
 - iv) Quinyx undertaking any Maintenance in accordance with the Agreement; and/or
 - v) any act or omission by the Customer in breach of the Agreement
 (the "**Permitted Exclusions**").

5) Service Maintenance and Service Support

- a) **Service Support.** The provisions of this section 5) only apply to support in respect of the Service (and not in respect of any Solutions).
- b) **Updates.** The Customer is aware that Quinyx continuously updates and develops the Service. Provided that Quinyx does not materially degrade the functionality of the Service (as measured reasonably against the applicable Feature List elements and their specific characteristics at the time of signing of the Agreement), Quinyx shall be entitled to continuously use the latest version of the standard software for the provision of the Service, even if this leads to certain minor changes in the use for the Customer. Quinyx will use reasonable endeavours to notify the Customer at least seven days before any scheduled update or other Maintenance. Such notification shall typically be included in release notes made available to the Customer and shall include information about any material changes in any upcoming releases.



- c) *Reproducing Errors.* Quinyx is responsible for fault detection in case of incidents (errors and disruptions) in the Service and for assistance regarding elementary technical and functional issues and in the interpretation of Materials. Quinyx must be able to reproduce the errors in order to remedy them. The Customer is expected to cooperate as reasonably requested in order to reproduce errors and carry out fault detection measures. The Customer shall, if necessary, provide a secure technical possibility to carry out support through remote connection.
- d) *Third Party Applications.* If there is a fault in a Third Party Application and Quinyx is unable to rectify it itself, Quinyx shall report this to the relevant Third Party Application supplier and install any solution received from that supplier if this can be done without having an adverse effect on the Service. Over and above this, to the maximum extent permitted by applicable law, Quinyx has no liability for faults in the Third Party Application.
- e) *Customer Representative.* Quinyx and the Customer shall agree on named contact persons from the Customer who is solely entitled to report issues with the Service to Quinyx's support function. The number of contacts is determined by the Customer's size. The support contact persons must have undergone relevant training in relation to the Service. In case of changes in contacts, the Customer shall inform Quinyx in writing.
- f) *Customer Success Plans.* The support provided by Quinyx shall be determined by the applicable level of the Customer Success Plan (as set out in the table below). The Ordering Document shall specify the level of support provided under a Customer Success Plan but where no Customer Success Plan is specified in the Ordering Document, Quinyx will provide support in accordance with the Bronze plan.

Support	Customer Success Plans			
	Bronze	Silver	Gold	Platinum
Access to Quinyx customer community	X	X	X	X
Access to Support Portal	X	X	X	X
8 X 5 support online	X	X	X	
Outbound phone	X			
Access to "Customer Success email	X			
8 X 5 Support online and inbound/outbound phone		X	X	X
Named Customer Success Manager, catch ups two times/year		X		
Named Customer Success Manager, quarterly service reviews			X	X
Enhanced Support SLA (as set out in section 5)h))			X	X
Bi-yearly strategy and roadmap presentation			X	X
Yearly configuration review with Quinyx Expert			X	
Two times/year configuration review with Quinyx Expert				X
Yearly optimisation data exercise				X
24 X 7 support via phone and online				X
Named Support Engineer				X
Named Quinyx executive sponsor				X
Annual immersion day				X

- g) *Support Hours.* Quinyx will provide support between 08:00 and 17:00 local time on normal local working days in the following time zones: EET, CET, GMT, EST, CST, MST and PST. Any exceptions in service hours are notified no less than two weeks in advance in the Support Portal. If



the Customer has the Bronze Customer Success Plan, the Customer may only contact Quinyx via the Support Portal unless otherwise indicated in subsection (h) below. For any other Customer Success Plan, the Customer may contact Quinyx via the Support Portal or by telephone. Quinyx's contact telephone numbers can be found on the Support Portal.

h) *Response Times.* Quinyx shall use reasonable endeavours to respond to incidents or issues with the Service within the time period specified below depending on the gravity of the incident (as determined by Quinyx acting reasonably). For clarity, the response itself shall be proportionate to the level of gravity of the incident and automated emails shall not constitute an acceptable response for the purpose of this clause. Without limiting the generality of the foregoing, an example of an acceptable response from Quinyx would be to meet the relevant target response time below and, if applicable, set up an incident ticket without undue delay thereafter:

Level of Gravity	1 - Critical	2 - Urgent	3 - High	4 - Other
Definition	Commercially critical situation which affects all Users including the accessibility of the system without any alternative solution to the problem.	Customer critical situation which affects payroll transactions for a significant number of customers' Users (at minimum 100 Users), without any alternative solution to the problem.	Serious situation in which important functions do not operate satisfactorily or problems in the performance which seriously affects the use of the Service. No alternative solution is available.	Elementary technical and functional issues where an alternative solution is available.
Manner to report the incident	Via Support Portal or telephone	Via Support Portal or (for Silver, Gold and Platinum only) telephone	Via Support Portal or (for Silver, Gold and Platinum only) telephone	Via Support Portal or (for Silver, Gold and Platinum only) telephone
Target response time for Customers with Bronze or Silver Customer Success Plans	Within 1 Working Hour	Within 8 Working Hours	Within 24 Working Hours	Within 24 Working Hours
Target response time for Customers with Gold or Platinum Customer Success Plans	Within 1 Working Hour	Within 4 Working Hours	Within 8 Working Hours	Within 8 Working Hours

6) Customer Obligations.

a) *Obligations.* The Customer shall:

- i) provide Quinyx in a timely manner with accurate and complete information as reasonably requested and in any form reasonably required by Quinyx;
- ii) obtain and maintain all necessary licences and consents as required to enable Quinyx to perform its obligations under the Agreement and ensure that the Customer's use of the Service and Solutions complies with all applicable laws and any local bargaining agreements that may apply to the Customer;
- iii) ensure that its own providers' networks and systems comply with the relevant specifications provided by Quinyx from time to time and can interface with the Service;
- iv) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Quinyx's data centres, and all loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;



- v) regularly back up all Customer Data and any other relevant data, software and programs on its own systems;
 - vi) comply with the relevant terms and conditions of any Third Party Agreement;
 - vii) remain responsible for the use of the Service and Solutions by Users (including in accordance with any applicable terms of use and privacy notices provided in advance of such use);
 - viii) comply with any additional responsibilities of the Customer as set out in the relevant Ordering Document or Statement of Work;
 - ix) co-operate with Quinyx in all matters relating to the Agreement;
 - x) not transfer, sell, share, licence or provide the Solutions or Service to any third party without Quinyx's (and any relevant third party's) prior written consent; and
 - xi) ensure that any relevant Customer Equipment is in good working order and is suitable for the purposes for which it is to be used.
- b) *Restrictions.* The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Service that is unlawful, offensive, is discriminatory or causes damage or injury to any person or property, and Quinyx reserves the right, without liability or prejudice to its other rights to the Customer, to suspend the Customer's access to the Service itself for any breaches of this section.
- c) *Unauthorised Access.* The Customer shall remain responsible for, and use all reasonable endeavours to prevent, any unauthorised access to, or use of, the Service and/or the Materials and, in the event of any such unauthorised access or use, promptly notify Quinyx.
- d) *Customer Default.* Without prejudice to any other right or remedy Quinyx may have, if Quinyx's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees (a "**Customer Default**") then:
- i) Quinyx shall use reasonable endeavours to mitigate the impact of the Customer Default;
 - ii) Quinyx shall not be responsible for any failure to carry out the relevant obligations and shall be allowed an extension of time to perform its obligations; and
 - iii) the Customer shall reimburse Quinyx for all reasonable additional amounts incurred by Quinyx as a result of the Customer Default.
- e) *Third Party Agreements.* The Customer understands and agrees that Third Party Applications may be provided to the Customer using third party providers and therefore containing Third Party IPR and therefore may be subject to the relevant terms and conditions of the third party provider (including all end-user licensing agreements and service support agreements) ("**Third Party Agreements**") and that in such instances, the Customer's use, enjoyment and receipt of such Third Party Applications, Solution and Services will be governed by the Third Party Agreements provided that Quinyx shall use reasonable endeavours to bring the relevant Third Party Agreement to the Customer's attention in advance. Notwithstanding any other provision of the Agreement, the Customer will always be required to comply with such Third Party Agreements and may need to enter into a Third Party Agreement directly with the relevant third party before it is able to receive or use any of the Third Party Applications, Solution and Services, and the terms of such Third Party Agreement shall prevail over the Agreement in the event of any conflict or inconsistency.

7) Intellectual Property Rights

- a) *Quinyx's Intellectual Property Rights.* Unless stated otherwise, nothing in the Agreement shall provide the Customer with any right, title or interest in or to the Intellectual Property Rights of Quinyx, its licensors or any manufacturer or provider of the Service or the Solutions (including the Materials). Ownership of all Intellectual Property Rights in the Materials shall vest in Quinyx or its licensors.
- b) *Grant of rights.* Quinyx hereby grants the Customer a non-exclusive, non-transferable and non-sublicensable (other than as provided for in the Agreement) right and licence to use the Quinyx Underlying IPR (including the Materials) solely in connection with the Customer's and its Users use of the Service and receipt of the Solutions for its internal business purposes during the Term.
- c) *Customer Licence.* The Customer grants Quinyx a royalty free, non-exclusive licence to use the Customer Underlying IPR, Customer Equipment and the Customer Data to the extent necessary to provide the Service and the Solutions in accordance with the terms of the Agreement. The Customer also provides Quinyx with a perpetual right to use the Customer Data for further development purposes, subject however to that Customer Data used for this purpose will be anonymised and such anonymisation will be irreversible and result in such Customer Data no longer constituting personal data.
- d) *Indemnity.* Quinyx shall indemnify the Customer against any loss, damage or costs (including reasonable legal fees) directly incurred by the



Customer arising from a third party claim alleging that use of the, Service infringes the Intellectual Property Rights of that third party provided that:

- i) the claim has not arisen from: (a) the Customer's or its personnel's breach of the Agreement (including use of the Service in a manner not contemplated by the Agreement); or (b) the combination of the Service with other third party materials or products;
- ii) the Customer immediately notifies Quinyx of the claim;
- iii) Quinyx having the sole conduct of all negotiations and litigation and settlement arising from the claim;
- iv) the Customer providing Quinyx with all information and assistance reasonably required by Quinyx; and
- v) the Customer making no admission in respect of the claim.

The Customer shall indemnify Quinyx against any and all loss, damage or costs (including reasonable legal fees) incurred by Quinyx arising from Quinyx's use of the Customer Underlying IPR, Customer Equipment and the Customer Data pursuant to the Agreement.

- e) *Prevention of Use.* If the Customer is prevented from using the Service or Quinyx reasonably believes it will be prevented from doing so, Quinyx, shall have the right, at its sole option, to obtain for the Customer the right to continue use of the same, or to replace or modify the Service so that it is no longer infringing or likely to infringe. If neither of these options is reasonably available to Quinyx, then Quinyx may withdraw the relevant part of the Service and its sole liability shall be to refund any pre-paid fees for such elements that were to be provided after the effective date of the withdrawal.
- f) *Publicity.* The Customer grants Quinyx the right to use its company name, logos and emblems for the purpose of the provision of the Solutions and the Service and in connection with its marketing campaigns and PR activities (including the right for Quinyx to describe the nature of the Solutions and the Service provided to the Customer under the Agreement on Quinyx's website and in mutually agreed press releases).

8) Warranties

- a) *Authority.* The Customer is responsible for preserving the confidentiality of its Users' login information and for ensuring that no unauthorized persons are given access to the Service using such login information. Both parties warrant that they have the full right and authority to enter into and perform their obligations under the Agreement.
- b) *Hardware.* This section only applies where Quinyx has agreed to provide third party hardware or products under the Agreement, as set out in an Ordering Document. Quinyx shall use its reasonable endeavours to pass on to the Customer the benefit of any warranties on any purchase or lease of third party hardware or products provided by Quinyx under the Agreement from the relevant third party manufacturer. The Customer shall notify Quinyx of any faults and return any faulty hardware and products either directly to Quinyx or to the relevant third party manufacturer (as directed by Quinyx) where Quinyx has provided such hardware or product. Where the relevant hardware or product is still within its specified warranty period and the Customer has complied with its obligations in relation to such hardware and product (including all terms required to ensure the warranty remains valid), Quinyx shall either itself commence or use reasonable endeavours to procure that the relevant third party manufacturer commences error detection and repair of submitted hardware and products promptly after receipt thereof. For the avoidance of doubt, unless explicitly indicated on an Ordering Document, the foregoing does not apply to any third party hardware acquired by the Customer in connection with a Third Party Application.
- c) *Disclaimers.* Except for any express warranties provided by Quinyx and its licensors under this Agreement, and to the maximum extent permitted by applicable law, the Service and Solutions are provided "as is" and as available, and Quinyx does not make or provide any additional warranties, either express or implied, including without limitation to merchantability, or fitness for a particular purpose. Without limiting the generality of the foregoing, (i) Quinyx has no obligation to indemnify or defend the Customer against claims related to infringement of Intellectual Property rights other than as stated in section 7)d) above; and (ii) notwithstanding section 5), Quinyx does not warrant that the Service will perform without errors or without minor interruptions. Quinyx makes no commitment to provide any services or other solutions that are not expressly stated in the Agreement.
- d) *No advice.* The Customer acknowledges that nothing in this Agreement, the Service, Solutions or Materials or any other information provided by Quinyx in connection with this Agreement constitutes legal, tax, financial or business-related advice. Quinyx does not warrant that the Customer's use of the Service, Solutions or Material will meet the Customer's requirements nor ensure Customer's compliance with any applicable legislation, regulations or collective bargaining agreements. The Customer is solely responsible for ensuring that it engages an appropriate number of personnel at each Unit to meet its own business requirements.

9) Information Security

- a) *Security, Access and Use.* Quinyx will maintain a level of security for the Service and the Solutions that is in accordance with: industry practice, applicable Data Protection Laws (including putting in place reasonable administrative, physical, technical, organisational and other security



measures to protect against unauthorized access to, or loss, destruction, unavailability or alteration of any Customer Data processed or stored by the Service) and the Information Security Overview. Quinyx may update the Information Security Overview from time to time, provided however, that any changes will not degrade the information security policies and procedures in place. Quinyx warrants that it has and will maintain, for the duration of the Agreement, ISO/IEC 27001 certification or equivalent. As far as Quinyx is reasonably aware, the Service does not contain any Viruses.

- b) *Personal data.* The Data Processing Agreement enclosed as Appendix A to the General Terms and Conditions shall apply and is incorporated into the Agreement. Save as set out in the Data Processing Agreement, Quinyx shall, to the maximum extent permitted by law, have no liability towards the Customer or any third party for the processing of personal data within the scope of the Service or any Solution. Sensitive or special category personal data will be only processed in exceptional circumstances and by specific agreement.
- c) *Loss of Customer Data.* In the event of any loss or damage to Customer Data, Quinyx will use reasonable commercial efforts to restore the lost or damaged Customer Data from the latest back-up of such Customer Data that is maintained by Quinyx in accordance with the Information Security Overview. Quinyx shall not be responsible for any loss, destruction, unavailability, alteration or disclosure of Customer Data caused by any third party provided that Quinyx can show that Quinyx has materially complied with the obligations set forth in the Information Security Overview.

10) Liability and Limitation

- a) *Not excluded.* Nothing in the Agreement limits or excludes a party's liability for: (i) death or personal injury caused by its negligence, (ii) fraud or fraudulent misrepresentation; (iii) any willful abandonment of the Agreement; (iv) (in the case of the Customer) payment of any fees or other amounts due to Quinyx pursuant to the Agreement; or (v) any other liability which cannot be limited or excluded by applicable law.
- b) *Exclusions.* Subject to section 10)a), neither party shall be liable to the other for any (i) loss of: earnings, profits, revenue, sales, business, goodwill, anticipated savings, use, corruption or recovery of software, data or information; and (ii) indirect or consequential loss of whatever nature.
- c) *Liability.* Subject to sections 10)a), 10)b), and 10)d), each party's maximum aggregate liability arising out of or in connection with this Agreement in each Contract Year whether in contract, tort (including negligence), for breach of statutory duty, or otherwise shall be limited to 50% of the Service Fees actually received by Quinyx in that Contract Year.
- d) *Additional Cap.* Each party's total aggregate liability under or in connection with the Agreement whether in contract, tort (including negligence), for breach of statutory duty, or otherwise arising out of or in connection with (i) that party's obligations under the indemnities provided in section 7)d), (ii) any breach of the Data Processing Agreement, and/or (iii) (in the case of Customer's liability) any breach of sections 2)e) or 7)b) by or on behalf of the Customer, shall be limited to the higher of a) €500,000 (five hundred thousand Euros) and (b) 500% of the Service Fees actually received by Quinyx under the Agreement.

11) Recommendations

Quinyx may, during delivery of the Service or Solutions, make statements about or recommendations of software, equipment or services delivered by a third party. Quinyx shall not be liable with respect to such recommendations and the Customer is responsible for making its own business decisions and shall look solely to the warranties and remedies provided by any such third party.

12) Confidentiality

- a) *Undertaking.* Each party undertakes for the Term and for a period of ten (10) years after the Term, not to disclose the other party's Confidential Information to any third party or otherwise except as permitted by section 12)b). The parties agree to use at least the same security measures to protect the Service, Confidential Information and Materials as they use to protect their own confidential information, but no less than reasonable measures.
- b) *Permitted Disclosures.* Each party may disclose the other party's Confidential Information: (i) to its Affiliates, employees, officers, representatives, consultants or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Agreement provided that the disclosing party has ensured that its Affiliates, employees, officers, representatives, consultants or advisers to whom it discloses the other party's Confidential Information complies with this section 12); and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority provided that the disclosing party notifies the other party as far in advance as reasonably possible (unless prevented from doing so by applicable law).
- c) *Restrictions on Use.* Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Agreement.

13) Term and Termination

- a) *Term.* The Agreement will commence on the Start Date and continue for an initial term of three (3) years unless otherwise agreed in writing or stated in the Ordering Document (the "**Initial Term**"). Thereafter, this Agreement will be automatically renewed for successive one (1) year periods ("**Extended Term**"), unless either party notifies the other in writing, no later than three (3) months prior to the end of the Initial Term or



the then current Extended Term (as the case may be), of its intent not to renew. Together the Initial Term with any Extended Term(s) shall be the "Term".

- b) *Termination.* Without prejudice to Quinyx's right to terminate the Agreement pursuant to section 3)f) and Customer's right to terminate the Agreement pursuant to section 4)e), a party may terminate the Agreement with immediate effect where: (i) the other party commits an irremediable material breach of the Agreement or (ii) commits any material breach of its obligations hereunder and fails to rectify such breach to the non-breaching party's satisfaction within thirty (30) days of a written demand to do so.
- c) *Effects of Termination.* Termination or expiry of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry. The following provisions will survive termination of the Agreement: (i) any obligation of the Customer to pay for the Service or Solutions rendered before termination; and (ii) any other provision of the Agreement that must survive termination to fulfil its essential purpose. Each party is also entitled to compensation for any damage, with the general limitations of liability prescribed in the Agreement.
- d) *Payment and Refunds.* On termination or expiry of the Agreement for any reason, the Customer shall immediately pay to Quinyx all outstanding unpaid invoices and, in the event Quinyx terminates the Agreement in accordance with sections 3)f) or 13)b), all other amounts that would otherwise have become payable through to the conclusion of the Term shall become due immediately. For clarity, following any termination of the Agreement, the Customer shall only be entitled to a refund of the Service Fees where the Customer has terminated the Agreement pursuant to section 13)b) provided that the refund shall be on a pro-rata basis so that only the portion of the Service Fees for the period where the Service Fees have been paid but the Service not provided shall be returned to the Customer.
- e) *Suspension.* Where Quinyx is entitled to terminate the Agreement according to section 13)b) it may, instead, elect (without prejudice to Quinyx's other rights and remedies including its right to terminate the Agreement based on the same breach) to suspend the provisioning of the Service or any Solutions by giving reasonable prior notice to that effect to the Customer.
- f) *Post Termination Support.* Should the Customer require any reasonable support or assistance after the Agreement terminates then such support and assistance shall be provided by Quinyx and chargeable on a time and materials basis in accordance with the hourly rates set out in the Ordering Document or, if no such rates have been agreed, Quinyx's then general standard hourly rates for the relevant resources, provided that Quinyx shall not be obliged to provide such support and assistance if any amounts are owed to Quinyx on termination.

14) **Miscellaneous**

- a) *Notices.* Notices pursuant to the Agreement (i) for Quinyx shall be sent to:

Quinyx AB
Att. Legal Department
Vattugatan 17
111 52 Stockholm
Sweden

Email: legal@quinyx.com

or to the address later notified to the Customer; and (ii) for the Customer shall be sent to the address listed on the Ordering Document (or if no such address is listed then the Customer's registered office or such other address and/or e-mail address provided).

Notices will be deemed received if: (A) delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; (B) if sent by pre-paid first class post or other next business day delivery service, at 9am on the second business day after posting or at the time recorded by the delivery service; and (C) if sent by email, at 9.00am on the next Business Day after transmission.

Any notice or other communication in accordance with the Agreement shall be made in writing and may for example be made by email. This section does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

- b) *Amendments.* No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives). Notwithstanding the foregoing, Quinyx may amend these General Terms and Conditions and any documents referred to in these General Terms and Conditions before the start of any Extended Term provided it has given the Customer at least three (3) months' written notice. If the Customer opposes such amendments, the Customer may choose to terminate the Agreement effective at the end of the Initial Term or the Extended Term (as the case may be). Amendments will be effective at the start of the next Extended Term unless agreed otherwise and provided that the Agreement is not terminated at the Customer's request. Furthermore, notwithstanding the above, Quinyx may, acting reasonably, amend policies, procedures and corresponding relevant information at any time by posting a new version at www.quinyx.com and notifying the Customer thereof through 'release notes' made available to the Customer in accordance with Quinyx



applicable process from time to time, and such amended version will become effective two (2) months, at the earliest, after such notice is sent unless Quinyx reasonably considers that such amendment should come into force earlier in order to ensure that Quinyx or the Customer is compliant with applicable law.

- c) *Force Majeure*. Either party may be excused from fulfilment, and shall notify the other party thereof, of any obligation if such fulfilment is prevented by a Force Majeure Event, but only during the period that the fulfilment is prevented or delayed and provided that the affected party: (i) as soon as reasonably practicable after the start of the Force Majeure Event, notifies the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement; and (ii) uses reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- d) *Code of Conduct*. Quinyx shall at all times comply with its Code of Conduct, in its latest form made available from time to time at www.quinyx.com/policies.
- e) *Non Solicitation*. The Customer shall not, without the prior written consent of Quinyx, at any time from the Start Date to the expiry of six (6) months after termination or expiry of the Agreement, attempt to solicit or entice away from Quinyx any Quinyx personnel except where such Quinyx personnel have responded to a general advertising campaign for the relevant role.
- f) *No Waiver*. Neither party will be deemed to have waived any of its rights under the Agreement by lapse of time or by any statement or representation other than by an authorized representative and in an explicit written waiver. No waiver of a breach of the Agreement will constitute a waiver of any prior or subsequent breach of the Agreement.
- g) *Assignment*. The Customer may not assign, transfer, novate declare a trust over or deal in any other manner with any of its rights or obligations under the Agreement, without Quinyx's prior written consent, which consent shall not be unreasonably withheld. Quinyx shall be entitled to freely assign, transfer, declare a trust over or deal in any other manner with any of its rights or obligations under the Agreement in whole or in part provided that the Customer's prior written consent shall be obtained prior to any assignment or transfer of the Agreement in whole to any person whose core business is in direct competition with the Customer's core business as determined by Quinyx (acting reasonably).
- h) *Severability*. To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of the Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of the Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfil its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of the Agreement will continue in full force and effect.
- i) *Representations*: Neither party shall have any remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement, unless the statement was made fraudulently.
- j) *Rights and Remedies*. The rights and remedies provided under the Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- k) *Relationship of the parties*. The parties are independent contractors. The Agreement does not create nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. There are no third-party beneficiaries to this Agreement.
- l) *Export*. Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Service (including not making the Service available to any person or entity that is located in a country that is subject to a European Union, United Nations or U.S. government restriction or embargo).
- m) *Counterparts*. The Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. Unless the parties agree otherwise, this Agreement shall be executed by electronic signature and a counterpart of the Agreement executed by a party that is transmitted electronically in any format shall be treated as an original and fully binding with legal force and effect. As a result, the parties waive any rights they may have to object to such treatment.
- n) *Other Terms*. Except as expressly provided otherwise, the Agreement shall apply to the exclusion of, and shall prevail over, any terms and conditions contained in or referred to it any documentation submitted by the Customer, or in any correspondence or elsewhere or implied by trade custom, practice or course of dealing, unless specifically excluded or varied in writing by a director or other authorised representative of both parties
- o) *Disputes*. If a dispute arises out of or in connection with the Agreement or the performance, validity or enforceability of it ("**Dispute**") then the parties shall follow the procedure set out in this section:
 - i) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("**Dispute Notice**"), together with relevant supporting documents. On service of the Dispute Notice, suitably senior representatives of the Customer and of Quinyx shall attempt in good faith to resolve the Dispute;



- ii) if such representatives are for any reason unable to resolve the Dispute within 10 days of service of the Dispute Notice, the Dispute shall be referred to the Chief Executive Officer of the Customer and Chief Executive Officer of Quinyx who shall attempt in good faith to resolve it; and

 - iii) if for any reason they are unable to resolve the Dispute within 20 days of it being referred to them, then the matter shall be referred to the applicable court or arbitration forum in accordance with the Ordering Document, provided that nothing shall prevent Quinyx from commencing or continuing dispute proceedings in relation to any Dispute where Quinyx considers it is reasonable to do so despite not completing the process set out in this section.
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