

# Annex D: General Terms and Conditions

Version August 2020

## 1. DEFINITIONS

In this Agreement and Subscription Plan, which these general terms and conditions are a part of, the following definitions are used, regardless of whether the term is used in the plural or singular form in this Agreement and Subscription Plan.

**Additional Fees:** the fees for extra services and / or activities as described in Appendix B.

**Additional Services:** extra services and / or activities that the Customer can purchase, including, for example, the Closing USB drive.

**Affiliate:** an entity which is controlled by the respective Party with which the entity is affiliated. The term "control" means the (in)direct legal or economic ownership of at least 50% of the total of all shares with voting rights in an entity.

**Authorisation/Authorised:** the authorisations provided by or on behalf of the Customer to gain access to and to use the Service.

**Confidential Information:** information that is confidential by nature or is indicated as such, including in any case personal data, trade secrets and know-how, source code, commercial plans, financial information, Content and customer and relationship data.

**Content:** the documents, information and data which is placed or generated by, at the behest of, or at the invitation of the Customer on the Platform or in a Vault.

**Customer:** the contract party with whom Virtual Vaults has entered into this Agreement.

**Failure:** the reproducible and serious non-fulfilment of the functional or technical specifications of the Platform that are explicitly described by Virtual Vaults in writing in Appendix A.

**Fees:** the fees as described in Appendix B.

**Framework Agreement:** this framework agreement including its associated annexes which will apply to and form an integral part of all Subsequent Agreements entered into under this framework agreement.

**Guest user:** is an Authorised person who is invited by the Customer in accordance with its Authorisation. On the basis of an individual email address and password, the Guest user has registered a user profile recorded on the Virtual Vaults Platform.

**Order Form:** the standard order form of Virtual Vaults which is attached to this Agreement. The order form completed and signed by the Customer constitutes the Subscription Plan.

**Order Interface:** the standard order interface of Virtual Vaults which is available through the Virtual Vaults Platform. The order interface form completed by the Customer constitutes the Subscription Plan.

**Party:** Virtual Vaults and/or the Customer.

**Platform:** the online shielded Virtual Vaults platform, the intellectual property rights of which belong to Virtual Vaults, its licensors and/or its suppliers and with the help of which the Service is provided. The Platform (and the Service) runs and will continue to run on the infrastructure of (or administered by) Virtual Vaults.

**Service:** the agreed services to be provided by Virtual Vaults to the Customer - including the Vault - as defined in this Agreement (including the Service Description and the - additional - choices made by the Customer on the Order form or the Order interface of the Virtual Vaults Platform). The Service includes the Subscription Plan and any other agreed Additional Services and modules.

**Subscription:** the agreed services to be provided by Virtual Vaults to the Customer (such as Vaults and Support) to which the Subscription Tier and Subscription Term relate. The term of the Subscription will commence on the day it is available for the first User and will continue through the end of the Subsequent Agreement.

**Subscription Manager:** an Authorized person designated in the Platform by the Subscription Owner and who may order additional Subscription Plans and / or other Services under the Agreement via the Order Interface on the Platform provided for this purpose

**Subscription Owner:** is authorized on behalf of the Customer under the Agreement to order additional Subscription Plans and / or other Services via the Order Interface on the Platform, to view and change payment- and contract data and to assign Subscription Managers

**Subscription Plan:** the agreed Services to be provided by Virtual Vaults to the Customer to which the Team Size, Subscription Term and - where applicable - the Trial Period is applicable. The duration of the Subscription Plan starts when the Vault is opened or the Service is put into use and continues as long as there is a valid subscription plan (whether or not extended). The Subscription Plan is per Vault.

**Subscription Term:** the agreed upon term of the subscription as set out in the Order Form or Order Interface. If no Subscription Term has been selected in the Subscription Plan, a Subscription Term of 1 month applies.

**Support:** the agreed support services as described in Appendix C.

**Team Size:** the maximum number of Users as defined in the Order Form or the Order Interface with the right to access and use the Service.

**Trial Period:** trial period of the Subscription Plan consisting of the number of calendar days as stated in the Agreement, the Order Form or the Order Interface.

**User:** is an Authorised person who is invited by the Customer in accordance with its Authorisation and who is a team member included in the Team Size. Users are employees or other individuals on the side of the Customer and/or its Affiliate. On the basis of an individual email address and password, the User has registered a user profile on the Virtual Vaults Platform. A User may never be a competitor of Virtual Vaults.

**Vault:** the agreed virtual data room which is part of the Service and which bears a name assigned by the Customer and a randomly generated unique identification number.

**Vault Admin:** a User who is authorised by the Customer in writing or through the Platform to act as project representative with the highest administrative role within a Vault to make decisions about Authorisation (roles, access rights, authorities), Content, the Service (including the closing and archiving of a Vault); this all within accordance with the terms and conditions of this Agreement and/ or Subscription Plan. In addition, they may invite or deactivate other Vault Admins.

**Vault Owner:** a user who has registered a user profile on the basis of an individual email address and password on the Virtual Vaults Platform and who is legal representative of the Customer (or authorised to act on its behalf) and has the authority to make decisions about the Service (including the closing of a Vault). This Vault Owner has access to the Platform but not to the Vault (and its Contents).

**Virtual Vaults:** Virtual Vaults Nederland B.V.

## 2. APPLICABILITY

- 2.1. This Agreement with its associated annexes applies to all Subscription Plans ordered through the Order Form or Order Interface. This Agreement is an integral part of the Subscription Plan(s). The various components are complementary to each other. In the event of a conflict between provisions in the Service Level Agreement, the Data Pro Processing Provisions, the General Terms and Conditions and the Terms of Use, the provision in the first part will prevail over the provision in the later cited part of this Agreement, unless this ranking is expressly deviated from in the respective part. In the event of a conflict between a provision in the Order Form or Order Interface and a provision in (the annexes associated with) this Agreement, the provision in (the annexes associated with) this Agreement shall prevail, unless Parties in the Order Form or Order Interface expressly deviate from the (annexes associated with this) Agreement, with reference to the respective article.

## 3. ESTABLISHMENT AND DURATION

- 3.1. The Agreement is established by the signing by (the last of) both Parties. A Subscription Plan is established per the date of the confirmation of receipt of the unchanged Virtual Vaults Order Form signed by the Customer (and sent online) or per the day of receipt of the completion by or on behalf of the Customer of the Order Interface of the Virtual Vaults Platform.
- 3.2. The Agreement continues for the duration as laid down in such Agreement, in the absence whereof an initial duration of one (1) year applies.
- 3.3. The Agreement is each time renewed automatically by a period equal to the initial contract period, unless the Agreement is terminated in accordance with articles 3.4 and 3.5 and/or article 13.
- 3.4. The Agreement may be terminated by the end of the agreed contract term with due observance upon agreed notice period, in the absence of which a notice period of one (1) month applies. The Agreement can not end before the date the last Subscription Plan ends. If a Trial Period applies, the Customer is entitled to cancel the relevant Subscription Plan at the end of the Trial Period free of charge via the intended and offered functionality in the Platform (for example by closing a Vault).
- 3.5. Any termination (opzegging) of the Agreement must take place in writing by registered letter.
- 3.6. A Subscription Plan has an initial term from the date of establishment until the last day of the

initial Subscription Term. Unless the Subscription Plan is terminated in accordance with the relevant provisions of the Agreement, the Subscription Plan will be renewed automatically each time with the renewal term as set out in the Order Form or Order Interface, in the absence of which a renewal term the same as the initial Subscription Term applies.

- 3.7. Without prejudice to the provisions of article 13 the Subscription Plan may only be terminated by the end of the agreed Subscription Term with due observance of the agreed notice period, in the absence of a notice period of one (1) month applies.
- 3.8. Cancellation of a Subscription Plan and / or Service must take place: (a) in writing by registered letter to the other Party; or (b) via the intended and offered functionality in the Platform (for example by closing a Vault). If a Subscription Plan is cancelled, it will only end at the end of the agreed Subscription Term. If the Customer cancels the termination before the Subscription Term has expired via the intended and offered functionality in the Platform (for example by reopening a Vault), the Subscription Term will be (again) tacitly each time, subject to termination in accordance with the provisions of the Agreement, extended in accordance with the provisions of article 3.6.
- 3.9. One (1) month is a calendar month.

#### 4. FEES AND PAYMENT TERMS

- 4.1. From the start of the agreed Subscription Term for the Service, the Customer will owe the agreed Fees and any Additional Fees associated with the Subscription Term, as laid down in the Agreement and/or Subscription Plan (Appendix B: Fees and Additional fees). The Customer does not owe any (Additional) Fee for the Trial Period. The Customer may not offset or suspend payment.
- 4.2. Per the date of the upgrade of the Team Size, the Customer will owe an Additional fee to Virtual Vaults that is equal to the difference between the Fee already owed for the lower Team Size and the Fee associated with the higher Team Size to which the Customer has upgraded.
- 4.3. If the Customer wishes to downgrade the Team Size during a Subscription Term (switch from a higher Team Size to a lower Team Size), the Customer will continue to owe the Fee associated with the initially agreed Team Size during the Subscription Term in which the downgrade takes place. The Customer owes the Fee associated with the lower Team Size from the first day of the next renewal period of the Subscription Term.

- 4.4. In case of non-timely payment, the Customer will, by operation of law, owe the statutory commercial interest rate and, after the Customer has been sent a payment reminder in any way, the claim may be transferred in which case the Customer must pay all judicial and extrajudicial costs, including costs of third parties that are engaged.
- 4.5. Payment must take place within the agreed payment period, in the absence of which a payment period of 20 days from invoice date applies.
- 4.6. Prices and rates are in Euros, exclusive of VAT and other government levies.
- 4.7. Fees will be billed monthly, quarterly, or annually, depending on the selected Subscription Term.

#### 5. VIRTUAL VAULTS SERVICE

- 5.1. Customer may purchase Services for its own entity or for its Affiliates through the Order Form or Order Interface under this Agreement, this as set out in article 3.1. The rights and obligations of the Agreement and/or Subscription Plan(s) with regard to such Services shall remain with Customer. Affiliates cannot derive any rights from the Agreement and/or Subscription Plan(s). Subject to any deviating applicable provision of mandatory law, no liabilities arise under and/or in connection with the Agreement and Subscription Plan(s) for Virtual Vaults towards the Affiliates. Nothing in this Agreement and/or Subscription Plan(s) should be understood as/is intended as third-party beneficiary clause for the purpose of the Affiliates.
- 5.2. Virtual Vaults, as expert vendor, will make all commercially reasonable efforts to provide the Service in accordance with the provisions of the Agreement (including the associated annexes).
- 5.3. Virtual Vaults will use all commercially reasonable efforts to resolve, Failures within a reasonable period of time in accordance with the provisions of the Service Level Agreement. Reports of any Failures must be reported to the Support Desk of Virtual Vaults in accordance with the relevant provisions of the Service Level Agreement. Virtual Vaults does not guarantee that the Service is available without interruption. The Customer will lend Virtual Vaults its full cooperation in a timely manner and provide relevant information needed to provide the Service.
- 5.4. The Customer will upload Content (or have such uploaded) for which the Customer holds all required rights under the law and/or pursuant to an agreement (for example, where it concerns

the Confidential Information which is obtained or disclosed as part of an employment relationship or under a non-disclosure agreement) and only in accordance with applicable laws and regulations, including the privacy regulations.

- 5.5. The Customer will ensure that its Users and Guest users comply with the Terms of Use as stated in Appendix F and other conditions of the Agreement that are relevant to them, explicitly including the confidentiality of the Content and other Confidential Information as specified in more detail in article 8 (Confidentiality and Privacy).
  - 5.6. The Customer will inventory the potential for risks to his organisation that result from Failures and interruptions and, if necessary, take additional measures. In the unlikely event that the converter within the Platform does not convert a document or does not convert it properly, the Customer must make the original document available himself. The Customer should always retain copies of uploaded documents.
  - 5.7. Virtual Vaults is entitled to suspend the execution of and/or access to the Service if the Customer or Affiliate does not fulfil its obligations under the Agreement and the Subscription Plan, including the obligation of timely payment.
  - 5.8. Virtual Vaults is entitled to change the Service by, for example, implementing updates and upgrades which do not negatively change the functionality of the Service.
  - 5.9. Virtual Vaults may index the prices annually in accordance with the price index figures for the service price index (DPI): commercial service and transport: "Information & communication": "computer programming, consultancy & associated services" or – if relevant given the agreed Services – "services in the field of information" (index 2018=100) as published by the Central Statistical Office (Centraal Bureau voor de Statistiek).
  - 5.10. Virtual Vaults is entitled to adjust the prices. Virtual Vaults will announce a change in advance through an email or message through the Platform. Except in the event of a price change (indexation) as referred to in Article 5.9, the Customer, if it does not agree with a price change that is substantially adverse, will be entitled to cancel the Agreement by registered letter per the start of the date on which the change takes effect.
  - 5.11. If the number of Users of the Customer has reached the limit of the Team Size, the Customer may upgrade the Team Size to a higher Team Size so that additional Users can be added, this all in accordance with the terms of the Agreement.
- ## 6. VAULT
- 6.1. A Vault, unless otherwise agreed, may only be used for a maximum of one (transactional) project (there is a use for a project as soon as one or more Guest users are invited). Thus it is not allowed to reuse or recycle a Vault for an additional project or other purpose. For this purpose, Virtual Vaults may, but is not required to, monitor/check Vaults. In all cases in which Virtual Vaults suspects that this clause is being violated, Virtual Vaults has the right to deny access to a Vault. Virtual Vaults may take these measures without further notice in advance to Customer or Affiliate. If an additional Vault is needed, the Customer or Affiliate must conclude a new Subscription Plan under the Agreement for this.
  - 6.2. During the term of the Subscription Term, the Vault Owner and the Vault Admins may close one or more Vaults through the respective functionality in the Platform or by requesting Virtual Vaults to close such Vault(s). During the term of the Subscription Term, the Vault Admin may reopen a closed Vault (or have such reopened), taking into account the provisions of article 14.
  - 6.3. The Vault Admin may direct Virtual Vaults during the Subscription Term to archive the Content, in accordance with the relevant applicable archiving procedure of Virtual Vaults ("Closing medium") against the agreed (archiving) fee. The Vault Admin may submit a request for archiving to Virtual Vaults up to fourteen (14) days after the closing of a Vault. The request to archive must be made through the Platform.
  - 6.4. In the situation Customer loses the decryption key, Virtual Vaults will keep the records of the recipient of the decryption key, the Vault name and ID, and the company name for a maximum of 5 years after the year that the closing archive was requested, as best effort. After that, Virtual Vaults will destroy these records. Only in the situation that Virtual Vaults has sufficient certainty that they can judge that the applicant is entitled to receive the decryption key, will Virtual Vaults supply the decryption key again.
  - 6.5. The storage capacity of a Vault is based on the Fair Use Policy. The Fair Use Policy serves to prevent excessive use of the Vault. Under the Fair Use Policy, excessive or other misuse is not allowed. Excessive use means: storage utilisation that is substantially above the average of a similar Vault type. If Virtual Vaults suspects excessive use or suspects misuse, Virtual Vaults will contact the Customer. Parties will

then consult with each other to see if the use can be reduced and/or the Vault is used according to the Fair Use Policy. If in the opinion of Virtual Vaults the use cannot be reduced and/or the Vault is not used in accordance with the Fair Use Policy, Virtual Vaults reserves the right to charge a surcharge and/or to suspend the Service, temporarily or permanently deny access to one or multiple Vaults or to cancel the respective Subscription Plan intermediate.

## 7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. All intellectual and industrial property rights of Virtual Vaults on any work, including the works which are part of the Platform, (part of) the Service and preparatory material thereof, as well as any material produced in any other pre-phase of the Platform and/or (part of) the Service, will (continue to) remain with Virtual Vaults and/or its suppliers. Any software that is part of the Platform and/or the Service is only made available to the Customer (and its Users and Guest users) remotely online as object code as part of the Service, in accordance with these terms and conditions. The Customer will never and in no way be provided with the customer's source code. The Customer will never be given a physical carrier with the software nor will the software be made available in such a manner that it would be downloadable. Nothing in the Agreement or Subsequent Agreement will be construed as a transfer of any right of intellectual property of one Party to the other Party.
- 7.2. Rights are granted to the Customer under the condition that the Customer has paid all amounts owed under the Subscription Plan. Subject to deviating applicable mandatory law, Virtual Vaults may keep documents, data and/or data files that were provided in the context of the Subscription Plan, until the Customer has paid all amounts due to Virtual Vaults.
- 7.3. The Customer will receive a license to use the Service for the duration of the Subscription Plan. The user right is non-transferable right, cannot be sublicensed other than explicitly stated in this paragraph, and is non-exclusive. The user right includes access to and use of the Service by Users/ Guest users of the Customer and/or, where relevant, of the Affiliate in accordance with the terms of the Subscription Plan, expressly also including the Terms of Use, to upload Content to the Platform (more specifically the Vault) in the context of the intended project of the Customer, to review these and to download them, in accordance with the Authorisations assigned by the Customer/Vault Admins to the Users/ Guest users. The Customer only receives the rights as expressly granted in these Terms and such as included in applicable provisions of compulsory law.
- 7.4. The Customer will only use the Platform (including the Vault) or have such used in accordance with the Terms of Use.
- 7.5. There is no transfer of intellectual property of the Content placed in the Vault. Virtual Vaults does not take note of the Content of a Vault and has no influence on what data is stored in a Vault. Virtual Vaults cannot therefore be held responsible for the Content. The intellectual property (such as copyrights) in the Data is not transferred in any way in relation to the Service. The Customer will ensure that it and/or the Affiliate has (acquired) all rights, titles and authorisations that are required for Virtual Vaults to provide its services to the Customer, including the making available online and for downloading of the Content to/for Users/ Guest users. In this context, the Customer ensures that it agrees with its Users/ Guest users in writing that - without changing the ownership of the Content uploaded on behalf of/by them - the Customer is entitled to Authorise other Users/ Guest users to gain access to said Content and to use it for the purpose of the project for which the Content is uploaded.
- 7.6. Virtual Vaults may have audits performed on the use of the Service. Such audit will take place during business hours. The Customer will cooperate with this and provide Virtual Vaults with necessary information. If an audit shows that the Customer has misused the Service or has used it too much, or did not pay enough, the related fees will be charged to the Customer. In that event, the Customer must pay the cost of the audit.
- 7.7. The Customer authorises Virtual Vaults, following the closing of a Vault - and in the event of a sales/ purchase transaction, not until after the transaction has been made public by the Customer and/or Guest users - to mention its name and logo on the website of Virtual Vaults as well as in other publications.

## 8. CONFIDENTIALITY AND PRIVACY

- 8.1. Each party will treat Confidential Information from the other party confidentially, and not use this for a purpose other than the implementation of the Agreement.
- 8.2. The confidentiality will not apply if: (a) the information is (made) public at no fault of the recipient; (b) the information is needed for the receiving party to defend itself in court; [c] the receiving party has a legal obligation to disclose. In the event of [b] and [c], the receiving party will

immediately inform the originating party of the necessity of disclosure and will limit the disclosure to what is necessary for its defence in court or to meet its legal obligation.

- 8.3. The processing of personal data under the Agreement is subject to the Data Pro Processing Conditions (which are part of the Agreement).
- 8.4. The Customer will ensure that the Data Pro Statement, which is part of the Agreement, adequately describes the requested processing of personal data.
- 8.5. The Parties will comply with applicable laws and regulations to protect personal information.
- 8.6. In order to comply with the provisions of article 46(2)(c) GDPR, the Customer hereby authorises Virtual Vaults to conclude on behalf of the Customer a Standard Contractual Clauses (SCC) as published by the European Commission (2010/87/EU; or a subsequent version issued by the EC).

## 9. LIABILITY

- 9.1. The liability of Virtual Vaults under any grounds whatsoever and regardless of the legal basis, expressly including the warranties and indemnities agreed to with the Customer, is limited to compensation of the direct damages that can be attributed directly to Virtual Vaults up to the amount of the payments made by the Customer of Affiliate based on the Subscription Plan in the twelve (12) months prior to the damage event. For the duration of the Agreement, the liability will never exceed EUR 50,000.00.
- 9.2. Liability for indirect damages, including but not limited to consequential damages, lost profit, missed savings, reduced goodwill, damage by business stagnation and damage of third parties is excluded.
- 9.3. The liability limits contained herein will not apply:  
(a) to the extent there is any intentional act or wilful recklessness on the part of the leadership of Virtual Vaults; (b) to the extent that it is in conflict with any applicable provision of mandatory law.
- 9.4. Any claim for damages will expire after one (1) year from the moment the damage first arose.
- 9.5. Except in the cases that compliance by Virtual Vaults with one of its obligations is permanently impossible due to a failure that can be attributed to Virtual Vaults, liability only arises for Virtual Vaults if Virtual Vaults attributable remains in default

after Virtual Vaults has received a proper written notice with statement of a description of the failure accompanied by a proper substantiation of the alleged failure of Virtual Vaults and in which Virtual Vaults is given a reasonable period of time for remediation.

- 9.6. Virtual Vaults has obtained adequate business, professional liability and cybersecurity insurance in line with its liability as stated in this article.
- 9.7. All limitations and exclusions of liability agreed between the Parties will also apply for the benefit of all natural persons/legal entities which Virtual Vaults uses in the implementation of the Agreement as well as for the benefit of their subcontractors.

## 10. FORCE MAJEURE

- 10.1. Neither party will be held to fulfil an obligation if it is hindered in doing so by force majeure. Force Majeure means, among other things: force majeure at a supplier of Virtual Vaults, defects in equipment, software or materials of third parties, government actions, power outages, failures of internet, data networks or telecommunication facilities, armed conflict, general transport problems, staff shortages and strikes.
- 10.2. Each party will have the right to terminate (opzeggen) the Agreement if a force majeure event lasts longer than 45 days. Termination (opzegging) must take place by registered letter.

## 11. THIRD-PARTY PRODUCTS AND SERVICES

- 11.1. As far as part of the Service products and/or services of third parties are provided, the terms of said third party will apply to its products and/or services. These terms and conditions are available free of charge from Virtual Vaults and/or directly from the third party. If and insofar as, for whatever reason, such third-party terms and conditions are deemed not to be applicable or are declared inapplicable in the relationship between the Customer and Virtual Vaults, the provisions of these general terms and conditions of Virtual Vaults shall apply in full.

## 12. INDEMNIFICATION

- 12.1. The Customer shall indemnify Virtual Vaults from any action which is based on that the Content infringes on rights of third parties, or is in conflict with applicable laws or is otherwise unlawful or unauthorised shall reimburse all costs for Virtual

Vaults as a result thereof.

12.2. Virtual Vaults will indemnify the Customer against any legal claim of a third party which is based on the allegation that the elements of the Service developed by Virtual Vaults itself or other works delivered that are developed by Virtual Vaults under the Subsequent Agreement, attributable infringe upon a Dutch intellectual or industrial property right, under the condition that:

12.2.1. The Customer immediately informs Virtual Vaults by registered letter and in advance by email about the existence and the content of the legal claim. The Customer refrains from any acknowledgement or other statement related to the relevant intellectual property rights which has or may have any negative impact on the defence of Virtual Vaults and the further handling of the case, including agreeing to any settlements, without the prior written consent of Virtual Vaults; and

12.2.2. The Customer will leave the leadership of the defence against the claim and the further handling of the case, including the agreement to any settlements, to Virtual Vaults. For this purpose, the Customer will provide any required information and cooperation to Virtual Vaults to defend itself against the legal claim, with the understanding that: (a) the Customer is entitled to retain its own legal representation with respect to the claim; (b) Virtual Vaults will involve the Customer in the handling of the case; and (c) Virtual Vaults will not, without the consent of the Customer, agree to any settlement related to the legal claim for which the Customer is indemnified by Virtual Vaults, to the extent that the settlement would entail expenses for the Customer or would have a significant negative impact on the further use of the works agreed to under the Agreement for which Virtual Vaults indemnifies the Customer. The Customer will not refuse or delay its consent on unreasonable grounds.

12.2.3. The Customer indemnifies Virtual Vaults against any legal claim, regardless of the legal basis, on the part of Users/ Guest users and Affiliates of the Customer in connection with the implementation of the Subsequent agreement (including this Agreement) and shall reimburse all resulting costs for Virtual Vaults.

### 13. TERMINATION

13.1. Parties are entitled to terminate (op te zeggen) the Subscription Plan with immediate effect in the following cases:

13.1.1. In case the other Party does not fulfil the obligations under the Subscription Plan, this all with due observance of the provisions in paragraph 13.3 of this article;

13.1.2. In the event of force majeure in accordance with the provisions of article 10.2;

13.1.3. In the event of (applying for) bankruptcy or suspension of payment of the other Party.

13.2. Except in the cases referred to in article 13.1.2, article 13.1.3 or if fulfilment by Virtual Vaults of one of its obligations is no longer possible due to actions or omissions that can be attributed to Virtual Vaults, there will only be an option to terminate (opzeggen) the Subscription Plan if Virtual Vaults remains in default after Virtual Vaults has received a proper written notice with statement of a description of the failure by a proper substantiation of the alleged attributable failure of Virtual Vaults and in which Virtual Vaults is given a reasonable period of time for remediation.

13.3. Subject to the termination options mentioned above in this article and in article 3, interim termination (tussentijdse opzegging) of the Agreement or Subscription Plan is expressly excluded as well as the whole or partial dissolution (ontbinding) of the Agreement or Subscription Plan. If, during the term of the Subscription Term, the Customer nevertheless, despite the above, indicates that it wishes to terminate the Subscription Plan, Virtual Vaults is no longer obligated to provide the agreed Service and the Customer, without any further notification or notice being required, will owe Virtual Vaults a lump sum equal to the fee due under the Subscription Plan until the time the Subscription Plan ends/would end in accordance with the provisions of article 3. The buy-out amount being due and payable does not affect the payability of what was already provided and/or delivered under the Subscription Plan.

### 14. CONSEQUENCES OF TERMINATION

14.1. Upon the end of the Subscription Plan, without further notice being required, the Service and the access of the (Users and Guest users of the) Customer to the Platform and the Service will end with immediate effect.

14.2. If a Vault is closed during the term of the Subscription Plan, then from the time the Subscription Plan ends, they can no longer be reopened under such Subscription Plan. In that event, the Vault Admin can only reopen a Vault

and the Content located therein if the Customer has concluded a new Subscription Plan with Virtual Vaults for this purpose before the Content is removed from the systems of Virtual Vaults as referred to in the following paragraph of this article.

- 14.3. After the request for archiving, Virtual Vaults will provide (a copy of) the Content to the Customer in accordance with the applicable archiving procedure of Virtual Vaults ("Closing medium") against the agreed (archiving) fee. The Vault Admin may submit a request for archiving to Virtual Vaults up to fourteen (14) days from the closing of the Vault. The request to archive must be made through the Platform. Virtual Vaults will remove the Content from its active systems within a period of 30 days from (a) the time Virtual Vaults was notified of the closing by Customer – using the relevant and provided functionality in the Platform - of a Vault; or (b) the end of the Agreement, whatever comes first. Parties can agree to another time period in writing. Therefore, the Customer must ensure before that date that: (a) if it uses the Archive option of Virtual Vaults, it has - where necessary - verified the Content thereof in a timely manner; (b) if it does not use the Archive option of Virtual Vaults, it has – where necessary- made a current backup of the Content and has verified this in a timely manner.
- 14.4. In case of an application for bankruptcy of Virtual Vaults, without prejudice to the other provisions of this article, the Customer may submit a request for archiving and Virtual Vaults will, as soon as possible after said request, provide (a copy of) the Content to the Customer in accordance with the applicable archiving procedure of Virtual Vaults ("Closing medium") against the agreed (archiving) fee.

## 15. TRANSFER OF RIGHTS AND OBLIGATIONS

- 15.1. The Customer shall never be able to transfer the rights and obligations under the Agreement and/or Subscription Plan(s) to a third party without the prior consent from Virtual Vaults, which consent shall not be unreasonably withheld.
- 15.2. Virtual Vaults may transfer its rights and obligations under the Agreement and/or Subscription Plan(s) to a Virtual Vaults Affiliate.

## 16. SURVIVABILITY

- 16.1. Provisions which in their nature are intended to survive the termination of the Agreement or

Subscription Plan(s), will remain in effect. These will in any case include the provisions relating to Liability, Confidentiality and Privacy.

## 17. OTHER PROVISIONS

- 17.1. These Terms and Conditions are available in Dutch and in a variety of translations. In the event of possible differences in interpretations, the Dutch version will prevail.
- 17.2. If a provision is wholly or partially void or annulled, this will not affect the remaining provisions of the Agreement or Subscription Plan(s)). The Parties will consult with each other as soon as possible to agree to a provision with a similar intent which will replace the void or annulled (part of the) provision.
- 17.3. Data from the administration/registries of Virtual Vaults is considered conclusive proof.
- 17.4. None of the provisions is intended as a clause that assigns rights to a third party (not a contract party), with the exception of Article 9.7.

## 18. APPLICABLE LAW AND DISPUTES

- 18.1. These terms and conditions are governed by Dutch law.
- 18.2. Disputes arising as a result of the Agreement and/or as a result of any Subscription Plan that are a result thereof, will be settled by arbitration in accordance with the Arbitration Regulation of the Stichting Geschillenoplossing Automatisering (SGOA), this all without prejudice to the right of the parties to request a provisional measure in (arbitration) injunction proceedings and without prejudice to the right of the parties to take pre-judgement measures. The place of arbitration will be The Hague.
- 18.3. If a dispute as a result of the Agreement and/or as a result of any Subscription Plan that are a result thereof, should fall within the jurisdiction of the subdistrict court, each of the parties, in deviation of the provisions of article 18.2, is authorised to file the case as a subdistrict case before the legally competent District Court. Prior authority only accrues to parties if, with regard to said dispute, no arbitral proceedings were filed yet in accordance with the provisions of article 18.2. If the case was filed, with due observance of this article 18.3, by one or more parties for hearing and judgement with the legally competent District Court, the subdistrict of said District Court has

jurisdiction to hear the case and to render a relevant judgement.

- 18.4. With regard to a dispute as a result of the Agreement and/or as a result of any Subscription Plan(s) that are a result thereof, each of the Parties will in all cases be authorised to file ICT-Mediation proceedings in accordance with the ICT-Mediation Rules of Procedure of the Stichting Geschillenoplossing Automatisering (SGOA). The counterparty must actively take part in a filed ICT-Mediation, which legally enforceable obligation will in any case include at least one joint meeting of mediators and parties, in order to give this extrajudicial form of dispute settlement a chance. Each of the parties is free to end the ICT-Mediation proceedings after a first joint discussion of mediators and parties. The provisions of this paragraph will not prevent any party deeming such necessary from asking for a provision in (arbitration) injunction proceedings or taking pre-judgement measures.