



# Terms & Conditions

## ViriCiti

### 1. Definitions

1.1. In these terms and conditions the following definitions shall have the following meanings:

**Agreement:** any agreement ViriCiti concludes, including, but not limited to, the License, granting user access rights in respect of SAAS, providing of other services, of software, of Units an/or of other goods;

**Client:** the party to an Agreement;

**Error:** the material failure to meet the functional specifications of the Service which failure is made known to ViriCiti in writing and, if the Service is entirely or partly custom-designed, the functional specifications explicitly agreed between the Parties in writing. Errors include “Defects” as defined in a Service Level Agreement agreed upon between the Parties, if any;

**User:** the natural person that has access to the Units and/or Service;

**Information:** all information which the User makes accessible by using the Units or the Service for the Units or the Service and all information generated by using the Units or the Service;

**License:** the right to access and use the Service granted by ViriCiti to Client in an Agreement;

**Parties:** ViriCiti and Client;

Service:	the service or services provided or to be provided by ViriCiti to Client, including insofar as agreed upon between the Parties possible accompanying communication-, storage- and other services, excluding the Units;
Terms and Conditions:	these terms and conditions;
Unit:	the hardware unit, including its embedded software as well as any update and upgrade thereto, delivered by ViriCiti to Client and installed in the Client's vehicles, premises or installations;
ViriCiti:	ViriCiti LLC, a Delaware limited liability company, or an affiliate of ViriCiti LLC that declares these Terms and Conditions applicable.

### Applicability

- 1.2. These Terms and Conditions shall apply to all offers made by ViriCiti and to all Agreements.
- 1.3. Acceptance of a deviation of these terms and conditions detrimental to ViriCiti only applies to the transaction to which the deviation pertains.

## 2. Offers and acceptance

- 2.1. Unless explicitly specified otherwise, all offers made by ViriCiti are non-binding.
- 2.2. Acceptance of a binding offer from ViriCiti is only binding for ViriCiti if the acceptance reaches ViriCiti within the term specified therein and, if the offer does not contain an applicable time period, if the acceptance reaches ViriCiti within ten days after the offer was made.

## 3. Fees and payment

- 3.1. Unless agreed upon otherwise, the fee for the License shall be paid for a license term of twelve months, and shall be paid at least one month in advance of such term.
- 3.2. Unless agreed upon otherwise or indicated otherwise, all fees are exclusive of VAT, withholding tax and other charges imposed by the government, customs charges, and transport, travel, insurance, communication and installation costs.
- 3.3. ViriCiti shall be entitled to adjust its fees once per calendar year in accordance with the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics.
- 3.4. Furthermore, ViriCiti is entitled to increase its fees due to an increase of the costs of materials, services that are necessary for the performance of the Agreement, delivery charges, government levies or circumstances of a comparable nature. If Client does not terminate the Agreement within thirty days after the notice of such fee increase, Client shall be deemed to have agreed upon such increased fee. If Client does not agree to the increased fees, Client may terminate the Agreement in writing. Within ten days after receiving such termination notice, ViriCiti

shall be entitled to rescind the termination, by informing Client that the price increase shall not apply to the respective Agreement.

- 3.5. Client shall make all payments due to ViriCiti without discount or set-off.
- 3.6. Upon first request by ViriCiti, Client shall provide security, such as a letter of credit, for the fulfillment of its current and future obligations.

#### **4. Performance**

- 4.1. ViriCiti does not guarantee that the Units, the Service and related goods or services of ViriCiti shall function and be available without disruption, errors or defects or that all errors or defects shall be repaired. ViriCiti shall not be in default by the occurrence of such errors or defects.

#### **5. The provision of the Service**

- 5.1. ViriCiti shall provide the Service to Client remotely via internet or via another network, without providing a physical carrier of the Service to Client (also known as "Software as a Service" or "SAAS").
- 5.2. Unless agreed upon otherwise, Client itself shall install, set up, parameterize and tune the (auxiliary) software required on its own hardware and adapt the hardware used, other (auxiliary software) and operating environment where necessary, as well as achieving the interoperability desired by Client. ViriCiti is not responsible for the purchase or operation thereof.

#### **6. Intellectual property and License**

- 6.1. All copyright and any other intellectual and industrial property rights as well as similar rights, including neighboring rights, database rights, rights for the protection of knowhow and confidential business information, in regard to the Service, the Units and all other software, goods or services delivered or provided by ViriCiti accrue exclusively to ViriCiti and/or its licensors.
- 6.2. The rights to use the Service and allow the User to use the Service as determined in these terms and conditions and in the Agreement granted to Client shall be non-exclusive, non-transferable and non-sub-licensable.
- 6.3. The preceding paragraphs of this article also apply to software specifically developed for Client.
- 6.4. Unless agreed otherwise in writing, Client shall only be permitted to use the Service within and on behalf of its own company or organization and shall not use the Service to process data on behalf of third parties, e.g. for services such as 'time-sharing', 'application service provision', 'software as a service' and 'outsourcing'.
- 6.5. Client shall not decompile, reverse engineer or analyze the Service.
- 6.6. If the Service is used in a manner other than as agreed upon between the Parties, outside the agreed period or for other purposes than within the organization of Client as a consequence of an act of Client or a User, the Parties agree that it would be impracticable to determine accurately the extent of the loss, damage and expenditure that either

ViriCiti would have in such circumstances, therefore, the Parties agree that as liquidated damages if such an event occurs Client shall pay ViriCiti 300% of the fee that ViriCiti usually applies to such extended usage, with a minimum amount of \$10,000 per incident and such liquidated damages shall be without prejudice to the other rights which ViriCiti may have pursuant to the Agreement or law.

- 6.7. Both Client and the User shall keep usernames and passwords for the Service confidential. Client shall be responsible and liable for every use of such usernames and passwords.
- 6.8. For the avoidance of doubt: for standard software which is required for the Service but which is not a part of the Service, such as operating system software, browser software, plugins, interface software and such, as well as other third party software which ViriCiti has indicated as excluded from the Service, Client and/or the User shall conclude a license agreement for all such ancillary software at its own expense.
- 6.9. Neither Client nor the User is entitled to make changes to or delete any indicia of ViriCiti's intellectual property rights in or at the Service or the Units or in the documentation thereof.
- 6.10. Neither Client nor the User shall delete or bypass technical security of the Service or the Units.
- 6.11. ViriCiti shall at all times be entitled to use all data uploaded to the Service or otherwise provided or collected free of charge to improve its business. If such data are personal data ViriCiti shall anonymize such data. If anonymizing is not feasible, ViriCiti shall only use such personal data insofar as such use is lawful under the applicable privacy laws. In furtherance of the foregoing, Client hereby grants to ViriCiti a worldwide, royalty free perpetual license to all data uploaded to the Service or otherwise provided to or collected by ViriCiti for ViriCiti to improve its services.
- 6.12. Client shall ensure that all Users or other persons whom have gained access to the Client's Units or the Service shall comply with the usage restrictions agreed upon in these Terms and Conditions. Non-compliance by a User or other person shall be regarded as non-compliance by Client itself.
- 6.13. With respect to software or other materials of third parties which are a part of the Service or the Units, Client and the Users shall have no more rights and obligations in such third party materials than ViriCiti has.
- 6.14. This clause 7 applies also to the software embedded in the Units.

## **7. Retention of title**

- 7.1. All Units or other tangible materials ("Other Materials") delivered or made available by ViriCiti shall remain the property of ViriCiti until Client has met in full the payment obligations under the Agreement and title shall thus pass to Client upon Client's satisfaction of its payment obligations in full.
- 7.2. Client shall use commercially reasonable efforts to protect and safeguard the Units and Other Materials during the time that title in such Units and Other Materials remains with ViriCiti. Client shall be liable for any losses or damages to Units or Other Materials (whether arising from theft, fire, adverse weather, acts of God, civil unrest, accident or otherwise) and shall be obligated to pay the purchase price in full notwithstanding any loss or damage to Units or Other Materials following ViriCiti's delivery of such items.

- 7.3. If a third party attempts to impose attachment on Units or Other Materials delivered under retention of title or if a third party undertakes any action that has as its object to establish or invoke any rights in relation to such Units or Other Materials, Client shall promptly notify ViriCiti thereof.
- 7.4. If ViriCiti at any time wishes to exercise its property rights under the Agreement, Client hereby grants ViriCiti or any third party designated by ViriCiti the unconditional and irrevocable permission to enter the properties where the Units or Other Materials are located and to repossess such Units or Other Materials.
- 7.5. The risk of loss, damages or depreciation of the Units or Other Materials shall transfer to Client upon the moment ViriCiti makes said goods available to Client or the carrier. Notwithstanding the aforesaid, if and when ViriCiti arranges for transport, ViriCiti shall take out, for the account of Client, customary insurance for all risks involved in delivering the Units and Other Materials to the delivery location specified by Client. Risks exceeding the insured amount will be borne by Client.

## **8. Availability and maintenance**

- 8.1. ViriCiti shall use commercially reasonable efforts to make the Service available twenty-four hours a day, unless the access to the Service must be suspended due to maintenance of the Service or the systems of ViriCiti or of a third party appointed by ViriCiti. ViriCiti may temporarily shut down the Service entirely or partially for preventive, corrective or adaptive maintenance. ViriCiti shall shut down the Service for no longer than necessary, if possible outside of business hours and, if reasonably possible, after informing Client.
- 8.2. ViriCiti is not responsible for an internet or other connection required for the use of the Service by Client or User.
- 8.3. In any event, ViriCiti shall not be in default if the access to the Service is impossible due to circumstances beyond its control. Such circumstances include, but are not limited to, the loss or unavailability of connection or services of third parties required to maintain the availability of the Service.
- 8.4. ViriCiti does not guarantee that the Service will function if the system for which it was designed (including the platform and/or the relevant API) is upgraded or in another way modified.

## **9. Support**

- 9.1. If the Parties have agreed that ViriCiti shall provide support to Client or a User, ViriCiti shall only advise i) during the term of the License, ii) by phone and e-mail, and iii) about the use and functioning of the Service, the Units and Other Materials. ViriCiti may set conditions about the qualifications and the number of Client's contact persons eligible for support. Properly substantiated requests for support shall be taken up by ViriCiti within a reasonable time. ViriCiti does not make any guarantee regarding the accuracy, completeness or timeliness of the support. Unless agreed upon otherwise in writing, support shall only be provided on working days during the normal opening hours of ViriCiti.

## **10. Updates/Errors/demands to the configuration**

- 10.1. ViriCiti does not guarantee that the Units and the Service or the usage thereof will always be compliant with all relevant legislation and regulation.

- 10.2. Unless agreed upon otherwise, Client shall be responsible for the management, including verification of the settings, the usage of the Units and the Service and the way in which the results thereof will be used. Client is also responsible for instructing each User how to use the Units and Service.
- 10.3. ViriCiti does not warrant or guarantee that the Service shall function without Errors and without interruptions. ViriCiti shall use commercially reasonable efforts to make the functionality of the Service conform with the official description upon delivery.
- 10.4. Data generated or stored by or in relation to the Service or the Units may not be stored or disappear due to errors, interruptions, maintenance or the unavailability of the Service or the Units. ViriCiti shall in no event be liable for such loss.
- 10.5. Without prejudice to the other provisions hereof, ViriCiti shall always be entitled to apply temporary solutions or program bypasses or problem-avoiding restrictions to the Service and to drop or add certain functionalities.
- 10.6. ViriCiti is not obligated to provide upgrades of the Service.
- 10.7. ViriCiti is not responsible for verifying the accuracy and comprehensiveness of the results from the generated data by the Units and Service. Client itself shall verify the results of the Service and the results of the generated data by the service frequently.

## **11. Service Level Agreement**

- 11.1. In a separate document (a Service Level Agreement or, "SLA"), ViriCiti may commit itself to:
- a. certain actions in the event of Errors; and/or
  - b. providing support to Client; and/or
  - c. guaranteeing a certain amount of uptime or availability;
- in accordance with the conditions of the SLA.
- 11.2. The actions referred to in the preceding paragraph may include- the repair of Errors.
- 11.3. The SLA may always be amended unilaterally by ViriCiti. In the event of an Error Client's only right shall be to claim performance of the SLA.
- 11.4. Client shall inform ViriCiti about all relevant circumstances in order to achieve the service levels agreed to.
- 11.5. The availability measured by ViriCiti shall be deemed to be full evidence of such availability, provided Client does not provide evidence of the contrary.

## **12. The Units**

- 12.1. The Units shall be delivered to Client in the manner agreed upon in the Agreement. ViriCiti shall only be obligated to install, configure and connect the Units if agreed upon specifically in writing.

## **13. Acceptance; Warranty of the Units and Other Materials**

- 13.1. Client shall promptly examine the Units and Other Materials following delivery. Client shall examine and determine if the quality and/or quantity of the delivered the Units and Other Materials corresponds with the Agreement. Any

visible defects must be reported in writing to ViriCiti within seven days after delivery. Non-visible defects must be reported in writing to ViriCiti immediately and in any event no later than within fourteen days upon the discovery thereof and within 30 days following delivery. Notification of any alleged defect must at least include a detailed description of the alleged defect, as to enable ViriCiti to respond adequately. Client must provide all necessary information to ViriCiti as to enable ViriCiti to examine the complaint.

- 13.2. ViriCiti warrants for a period of two years following delivery that the Units will materially conform to ViriCiti's published specifications in effect as of the date of manufacture and will be free from material defects in material and workmanship. The foregoing warranty shall apply with respect to any Units that are repaired or replaced with the period of the warranty beginning on the date of initial delivery (i.e., not the date of repair or replacement). The sole remedy for a breach of the foregoing warranty is repair or replacement (at ViriCiti's election) of the defective Unit.
- 13.3. A warranty on Units and Other Materials does not cover travel costs, transportation costs and damages caused by assembly or disassembly.
- 13.4. No warranty shall apply:
- a. if Client, a User or a third party has made any alterations, modifications or changes to the Units or Other Materials without the express written consent of ViriCiti;
  - b. to defects caused by or the result of improper or inappropriate use, improper storage or maintenance by Client, a User or a third party;
  - c. if the Units or Other Materials are sold or transferred by Client to a third party;
  - d. if the Units or Other Materials are used for any purpose other than indicated, including the use not in accordance with the instruction manual or instructions given by ViriCiti;
  - e. to defect caused by or arises from any circumstances that are outside ViriCiti's control, including but not limited to weather conditions (for instance, but not limited to extreme temperatures or rainfall), or
  - f. if Client does not satisfy its obligations under the Agreement.
- 13.5. Claims do not influence Client's payment obligations under the Agreement. Client remains obligated to accept and pay for the Units and Other Materials.
- 13.6. ViriCiti is entitled to, at its sole discretion, decide to either replace or repair defective Units or Other Materials.
- 13.7. The materials replaced by ViriCiti under warranty shall become ViriCiti's property after the replacement thereof.
- 13.8. The warranty does not include the performance of data conversion which may be necessary as the result of the defect, repair or replacement.
- 13.9. Client cannot invoke rights with regard to non-conformity of materials delivered other than as expressly set out in this article.
- 13.10. If a warranty claim has no merit, including a defect reported later than the warranty period set out in the first subclause of this article, Client will no longer be entitled to repair or replacement free of charge or any compensation by ViriCiti. Costs of performed work or recovery, including research costs, outside the scope of this warranty shall be charged by ViriCiti in accordance with the usual rates.
- 13.11. **EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 13.2 VIRICITI MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE UNITS, OTHER MATERIALS OR SERVICES, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b)**

**WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

**13.12.** Parts manufactured or intellectual property produced by a third party (“Third Party Product”) may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Units, Other Materials or Services. Third Party Products are not covered by the warranty in clause 13.2. For the avoidance of doubt, **VIRICITI MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

#### **14. Personal Data**

**14.1.** Both Parties shall act in accordance with the obligations relating to personal data under applicable law.

**14.2.** ViriCiti processes personal data of the User and personal data of Clients contact persons, among others in order to execute the Agreement, as mentioned in more detail in the privacy statement. Regarding such data ViriCiti shall be controller.

#### **15. Liability**

**15.1.** ViriCiti shall only be liable to the Client to the extent set forth in this Article.

**15.2.** ViriCiti shall not be liable for the use of the Service, Units or Other Materials by Client or the User.

**15.3.** ViriCiti will in no event be liable for any damages, of any kind that:

- a. are caused by or result from late, incomplete or incorrect information provided by Client or a User;
- b. are caused by or result from operating errors caused by Client or damage to the Units or Other Materials that result from or are caused by Client after the installation thereof;
- c. are caused by or result from the installation of the Product, if such installation is carried out by Client or any third party engaged by Client for this purpose;
- d. are caused by or result from any act or omission of any third party engaged by Client during the implementation of the Units or Other Materials or any time thereafter;
- e. result from the improper use of the Units or Other Materials by Client or a User;
- f. are caused by or result from any advice given in any way, shape or form by ViriCiti to Client;
- g. are caused by or result from the use of the Units or Other Materials by Client for any other purpose than the purpose stipulated in the Agreement;
- h. are caused by or result from the modification of the Units or Other Materials if such modification was made by Client, without ViriCiti's written consent.

**15.4. IN NO EVENT SHALL VIRICITI'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED**



**THE TOTAL OF THE AMOUNTS PAID TO VIRICITI FOR THE GOODS AND SERVICES SOLD HEREUNDER DURING THE 12 MONTH PERIOD IMMEDIATELY PRIOR TO THE OCCURRENCE OF THE EVENT GIVING RISE TO LIABILITY.**

- 15.5. If a failure or unlawful conduct is related to an assignment to provide a service, such as developing customized software for Client, the liability of ViriCiti is limited to the fee for that assignment.
- 15.6. Liability shall at any time be limited to the direct damage suffered by Client. Direct damage only contains out-of-pocket costs which Client necessarily had to incur pursuant to the event giving rise to the damage. Without limitation, loss of goodwill, (possible) loss of (future) turnover or profit, claims of third parties because of other than direct damage, working hours of employees and such shall not be eligible for compensation. **IN NO EVENT SHALL VIRICITI BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**
- 15.7. The limitations of liability of ViriCiti do not apply if the liability is caused by gross negligence or intent of ViriCiti's management team.
- 15.8. Client must promptly notify ViriCiti of breach or default of this Agreement in writing. After receipt of a default notice, ViriCiti shall have a commercially reasonable period of time to attempt to cure a breach. The default notice shall contain a sufficiently detailed description of the breach or default in order to enable ViriCiti to react adequately.
- 15.9. Claims of Client under or in connection with the Agreement will expire after one (1) year, starting on the day that Client becomes aware or should have been aware of the grounds for the claim.

## **16. Indemnification**

- 16.1. Client shall indemnify, defend and hold harmless ViriCiti from all claims made by third parties and all direct, indirect and consequential liabilities, costs, proceedings, damages, losses and expenses (including legal and other professional expenses), awarded against, or incurred or paid by ViriCiti as a result of or in connection with:
- a. any breach of any of Client's obligations under the Agreement or any statutory or regulatory breach;
  - b. any claim made for any liability, loss, damage or costs incurred by ViriCiti relating to or arising from any direct or indirect breach of the obligations under the Agreement by Client, any fraud or failure to perform under the Agreement by Client.
- 16.2. If a claim or dispute is brought against ViriCiti by a third party directly or indirectly regarding Client's actions, Client is obligated to assist ViriCiti in any way possible and without delay, by for instance providing necessary information, in the defense of the claim without delay. All costs relating to retrieving of such information will be borne by Client..

## **17. Force Majeure**

- 17.1. No failure or omission by either of the Parties in the performance of any obligation under the Agreement shall be deemed a breach of the Agreement or create any liability if the same arises on account of force majeure. Force majeure on the part of ViriCiti shall include a situation of force majeure encountered by ViriCiti's own suppliers or

contractors, governmental measures, amendments in the directions of supervisors, faults affecting the internet and other networks and/or electricity, war, riot, general transport problems, physical intrusion and an hack of ViriCiti's systems despite complying with these terms specified norms.

- 17.2. If a situation of force majeure lasts for longer than three months, both Parties shall be entitled to terminate the Agreement without liability. The Client shall settle the License fee on a pro rata basis for the amount of Services received.

## **18. Confidentiality**

- 18.1. All Confidential Information provided by ViriCiti to Client or a User or otherwise obtained by Client or a User will be treated as confidential by Client or a User, its representatives, employees and/or subcontractors and neither used other than for the benefit of ViriCiti or operation of the Units, Other Materials and Service nor disclosed to third parties without the prior written consent of ViriCiti, except insofar as required by law.

- 18.2. "Confidential Information" shall be deemed to be, without limitation:

- matters of a clearly confidential nature and/or specified as confidential in writing;
- information related to the business, clients or suppliers of ViriCiti;
- trade secrets;
- technical know-how of ViriCiti;
- the specifics of the Agreement,
- information specified as confidential by ViriCiti and all information of which the confidentiality is or should reasonably be knowable.

- 18.3. Client shall cause its representatives, employees and/or subcontractors to whom confidential information is disclosed to be bound by the confidentiality obligations set out in this article.

- 18.4. Client will be responsible to prevent any action or failure to act that would constitute a breach or violation of any of the terms, obligations and understandings of this Agreement by Client, a User, or Client's representatives, employees and/or subcontractors, which includes taking all reasonable measures, at its cost (including, but not limited to, court proceedings), to restrain Client's representatives, employees and/or subcontractors from prohibited or unauthorized disclosure or use of Confidential Information. Client agrees to notify ViriCiti without undue delay in writing of any misappropriation or misuse by any of its representatives, employees and/or subcontractors of Confidential Information of which it becomes aware. Client agrees that the acts or omissions of its representatives, employees and/or subcontractors in connection with the Confidential Information will be treated as the acts or omissions of Client.

## **19. Term and termination of the Agreement**

- 19.1. Unless agreed upon otherwise the License shall initially be granted for a period of two years.

- 19.2. If the Parties have not agreed upon a starting period, the License shall start on the day Client receives access to the Service.

- 19.3. The term of the License shall be extended automatically by one year after the end of a period and invoiced accordingly, unless ViriCiti or Client terminates the Agreement in writing with due observance of a notice period of one month prior to the end of the respective period.

- 19.4. Without prejudice to its statutory and other contractual rights to termination, ViriCiti is entitled to terminate or dissolve the Agreement at any time with immediate effect by notice in writing without a notice of default to Client in any of the following circumstances, without incurring any liabilities whatsoever towards Client, if:
- a. Client or a User uses or let someone use the Service or Units in violation of the applicable rights of use or usage restrictions and/or has breached any intellectual property rights relating to the Service or a Unit;
  - b. any change of control of Client;
  - c. Client has filed for bankruptcy or is declared bankrupt.

19.5. The termination of the Agreement shall never cause ViriCiti to be liable for any compensation.

19.6. The termination of the Agreement does not discharge Parties from their current obligations. The termination explicitly does not discharge Parties from obligations regarding intellectual property rights, confidentiality, applicable law and the competent court and other provisions which by their nature should remain in full force after the termination of the Agreement.

## 20. Miscellaneous

20.1. Without prior written consent of ViriCiti, Client is not entitled to transfer any of its obligations, rights or claims in relation to the Agreement and any transfer without the consent of ViriCiti is void *ab initio*.

20.2. ViriCiti shall be entitled to transfer its company and/or the Agreement entirely or partially to a third party within the concern of ViriCiti or fully transfer its company. In such event, the third party shall fully take ViriCiti's place. Client shall upon first request of ViriCiti fully cooperate with the assignment of agreement.

20.3. Additions and amendments to the Agreement shall only be valid if agreed upon between the Parties in writing.

20.4. If at any time any term or provision in the Agreement or these Terms and Conditions shall be held to be illegal, invalid or unenforceable by any government authority or court of competent jurisdiction, in whole or in part, such term or provision or part shall to that extent be deemed not to form part of the Agreement or these Terms and Conditions, but the enforceability of the remainder of the Agreement or the Terms and Conditions shall not be affected. In such event the Parties shall negotiate the amendment of any such term or provision in such manner that it becomes legal, valid and enforceable without affecting the original intent or the economic purpose and effect of such term or provision.

20.5. The applicability of the Convention on Agreements for the International Sale of Goods 1980 (CISG) is expressly excluded.

20.6. The (digital) administration and the (digital) data in ViriCiti's systems or the systems which are used on behalf of ViriCiti (such as logfiles), will provide full evidence on any and all of ViriCiti's statements unless Client provides overriding evidence on the contrary.

20.7. The Agreement and any agreements and obligations arising therefrom shall be governed by and construed in accordance with the laws of South Carolina. All disputes between the Parties arising under the Agreement and any agreements and obligations arising therefrom shall be submitted to the competent courts of Greenville County, South Carolina.

- 20.8. ViriCiti is entitled to amend these Terms and Conditions. The amended provisions shall be applicable to the Agreement, unless Client makes an objection against the amended provisions within four weeks after receiving the notice of the amendment of the Terms and Conditions. If Client makes an objection against the amended provision within the above mentioned period and the amendments result in a material worse position of Client, Client shall be entitled to terminate the Agreement without an obligation to pay compensation, if:
- i) it notifies ViriCiti in writing that it wants to terminate the contract due to the amended provisions; and
  - ii) ViriCiti does not notify Client within four weeks after receiving that notice, that ViriCiti is willing to continue the Agreement under the former conditions.