

## PARTICIPANT TERMS OF USE

This **Participant Terms of Use** (the “**Terms of Use**”), dated as of \_\_\_\_\_ (the “**Effective Date**”), is by and between Corda Network Foundation Stichting (“**Foundation**”), and \_\_\_\_\_, a \_\_\_\_\_ (“**Participant**”). Foundation and Participant are also referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

WHEREAS, Foundation is a not-for-profit entity acting through the actions and votes undertaken by Corda Network Participants, further represented by those Corda Network Participants serving on Foundation’s board of directors;

WHEREAS, the intent of Foundation, through the Corda Network and the Services, is to run and maintain a stable and secure network with open and fair governance, while also promoting such network so as to ensure its more widespread use;

WHEREAS, Foundation governs the Corda Network based on the policies and procedures as further set forth in the Corda Network Governing Documents;

WHEREAS, Foundation provides access to the Corda Network and related services to Corda Network Participants as more fully described in Schedule B (the “**Services**”); and

WHEREAS, Participant wishes to use and benefit from the Corda Network and the Services provided by Foundation.

NOW THEREFORE, in consideration of the premises and mutual promises set forth herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

### 1. **USE OF SERVICES; RESTRICTIONS**

- 1.1 During the Term, Participant shall have the non-sublicensable, non-transferrable right to access the Corda Network and use the Services, in each case using only Corda Software, solely for internal business purposes in connection with communicating with other Corda Network Participants and participation in Business Networks.
- 1.2 Foundation grants to Participant (solely in Participant’s individual capacity as a member of a Business Network) a right to: (i) individually Operate a Corda Network Node, and (ii) allow a Representative to Operate Participant’s Corda Network Node.
- 1.3 Participant shall be fully responsible and liable for its Representatives’ compliance with the applicable provisions of these Terms of Use.
- 1.4 Participant shall not access, store, distribute or transmit any material in connection with the use of the Corda Network that:
  - (a) requires a license or other permission for use, unless Participant holds all necessary rights to do so;
  - (b) is otherwise subject to restrictions on distribution or transferability under Applicable Law;

- (c) is unlawful, fraudulent, harmful, threatening, abusive, defamatory, obscene, infringing, hateful, harassing or racially or ethnically offensive;
- (d) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability or other protected personal characteristic; or
- (e) facilitates illegal activity or is otherwise illegal, poses a substantial and imminent threat to safety, health or human life, or causes damage or injury to any person or property; including but not limited to, disclosing private sensitive personal information about others, distributing malware or malicious code, engaging in unlawful distribution of controlled substances / medication, infringing on the Intellectual Property Rights of others, money laundering, hosting child pornography, deceiving the public, identity theft and unauthorized selling of weapons or ammunition.

1.5 Participant shall not:

- (a) access the Corda Network except as set forth in these Terms of Use;
- (b) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Corda Network or Services available to any third party;
- (c) take any action that is in any way intended or calculated to damage or interfere with the functioning of any other party's Corda Network Nodes or other IT Systems, including through the introduction of any Virus;
- (d) attempt to obtain, or assist third parties in obtaining, unauthorized access to the Services, any confidentially disclosed version of any Corda Network Governing Documents, or any other party's Corda Network Nodes or other IT Systems;
- (e) operate more than one Corda Network Node in a production environment with the same Participation Certificate;
- (f) misrepresent or otherwise distort its identity on the Corda Network (including through the provision of incorrect or misleading information with respect to its Participation Certificate); or
- (g) use the Corda Network or the Services in contravention of any Applicable Laws related to money-laundering and anti-terrorist financing, including any regulations and restrictive measures imposed by the US Office of Foreign Assets Control, Her Majesty's Treasury, the European Union or the Monetary Authority of Singapore.

1.6 In addition to any use of services and other restrictions included in this Article 1, whenever accessing the Corda Pre-Production Network, Participant shall access and use the Services solely for its own internal use. Participant understands and agrees that, as they relate to the Corda Pre-Production Network, Services are intended for testing of functionally complete and tested CorDapps in realistic network settings to simulate the real-world business environment.

1.7 Participant understands and agrees that, except as expressly set forth in these Terms of Use, any provisions applicable to the Corda Network (including, without limitation, with respect to any

Participant's obligations, warranties, disclaimers, indemnification obligations and any other restrictions) shall apply mutatis mutandis to the Corda Pre-Production Network. As such, unless otherwise stated, any reference to the Corda Network in these Terms of Use shall be intended to include the Corda Pre-Production Network.

- 1.8 Notwithstanding Section 1.7 above, Participant acknowledges and agrees that the Corda Pre-Production Network shall operate in accordance with a service level agreement separate and apart from the services level agreement as set forth in Schedule C. Such service level agreement shall be provided by the Foundation.

## 2. PARTICIPANT OBLIGATIONS

- 2.1 Participant shall, at all times during the Term:

(a) provide Foundation with:

- (i) all co-operation reasonably requested by Foundation; and
- (ii) access to all information as may be reasonably requested by Foundation,

in each case, to enable Foundation to provide the Services or otherwise comply with Applicable Law, including but not limited to provision of security access information and configuration services;

- (b) comply with all Applicable Law with respect to the use of the Corda Network;
- (c) ensure that information stored in its Participation Certificate correctly reflects its legal name as registered and authorized to transact business under Applicable Law and promptly report to Foundation any change so that such Participation Certificate may be reissued;
- (d) obtain and maintain all necessary licenses, consents, and permissions necessary for Participant's use of the Corda Network and Services;
- (e) be solely responsible for procuring, installing, maintaining and securing all hardware, software, network connections, telecommunications links and other equipment necessary to connect Participant's IT Systems to the Corda Network, and maintain, patch and update all security software and IT Systems on a regular basis in accordance with standard industry practices; and
- (f) subject to Section 10, provide Foundation with such reasonable cooperation and assistance as may be requested by Foundation to enable Foundation and any Service Provider, to comply with its obligations under these Terms of Use and under Applicable Law.

- 2.2 Participant acknowledges and agrees that access to and use of the Corda Network is dependent on Participant at all times during the Term having a valid Participation Certificate.

- 2.3 Participant shall at all times comply with the Corda Network Governing Documents as may be updated from time to time on reasonable prior notice at the following URL: <https://corda.network> (which may be moved from time to time) or confidentially provided to Participant by Foundation; provided that any change to a Corda Network Governing Document may be made effective

immediately on notice to Corda Network Participants if the immediate implementation of such change is determined by Foundation to be reasonably necessary, including to prevent a security risk or otherwise comply with Applicable Law. Participant's continued use of the Services after receipt of such a notice shall constitute a representation that Participant is in compliance with the current version of the Corda Network Governing Documents.

- 2.4 Participant shall use all reasonable endeavors to prevent any unauthorized access to, or use of, its IT Systems which interact with the Corda Network (including implementing industry standard technical measures to restrict access that are in no event less than the measures employed to protect Participant's own proprietary technology) and, in the event of any such unauthorized access or use, promptly notify Foundation.

### 3. **CHANGES, UPGRADES AND SUSPENSIONS**

- 3.1 Participant acknowledges and agrees that Foundation may make changes to the Services (including but not limited to the Fees) or the Corda Network Governing Documents; provided that Foundation shall not make any change that results in any of the Services failing to accomplish its intended purpose. Where Foundation elects to make a material change to the Services or the Corda Network Governing Documents, it shall use commercially reasonable efforts to provide prior notice at the following URL: <https://corda.network> (which may be moved from time to time) (unless the immediate implementation of such change is determined by Foundation to be reasonably necessary, including to prevent a security risk or otherwise comply with Applicable Law). Participant's continued use of the Services after having been notified by Foundation of such change shall be deemed to be its acceptance of such change.
- 3.2 Foundation may from time to time specify minimum and maximum recommended versions of the Corda Software, standard network parameters, and required updates and modifications, as set forth at the following URL, <https://cordanetwork.statuspage.io>, which may be moved from time to time. Participant acknowledges and agrees that failure to use the recommended versions of the Corda Software (including any updates) may impact its ability to access or use the Corda Network and the Services, and Participant may not attempt to use the Services with any version of the Corda Software that is not so specified or that has not implemented a required update or modification. Foundation will provide notice at the following URL: <https://corda.network> (which may be moved from time to time) prior to the implementation of such a change (unless the immediate implementation of a new version or update is determined by Foundation to be reasonably necessary, including to prevent a security risk or otherwise comply with Applicable Law).
- 3.3 Without prejudice to Foundation's other rights and remedies, Foundation shall have the right at any time (with immediate effect and without notice) to (i) suspend Participant's access to the Corda Network and/or the Services; (ii) terminate Participant's access to to the Corda Network and/or the Services (iii) revoke Participant's Participation Certificate if Foundation, acting reasonably, determines that:
  - (a) Participant has failed to pay the Fees in accordance with Article 9 for a period of ninety (90) days following their due date;
  - (b) Participant has materially breached these Terms of Use and such breach is incapable of being cured, or such breach is capable of being cured and has not been cured within thirty (30) days following Foundation's notice to Participant of such breach;

- (c) there is a threat or attack (including a denial of service attack) on, or a security risk to the Services or Foundation's IT Systems or other event that may create a risk to the Services, Foundation's or any other party's IT Systems, the Corda Network or Corda Network Participants (provided that Foundation may only revoke Participant's Participation Certificate if Foundation reasonably suspects that such threat or attack originates from Participant's IT Systems);
  - (d) Foundation reasonably suspects that Participant is using, or permitting the use of, the Corda Network or the Services for fraudulent or illegal activities, or Participant is otherwise in violation of Applicable Law or these Terms of Use;
  - (e) Foundation can no longer provide the Services to Participant or to the Corda Network Participants in general due to a change in Applicable Law or a request or requirement by a Governmental Authority;
  - (f) Foundation reasonably suspects that Participant has in any way misrepresented its identity; or
  - (g) (i) Participant has filed a voluntary petition in bankruptcy or other insolvency proceeding, (ii) an order for relief by any court in bankruptcy or other insolvency proceeding has been granted with respect to Participant, (iii) Participant has made a general assignment for the benefit of creditors, (iv) a receiver, trustee, liquidator, custodian or similar official has been appointed for Participant or its assets, or (v) an involuntary petition in bankruptcy or other insolvency proceeding has been filed against Participant.
- 3.4 Participant acknowledges and agrees that Foundation shall have no liability for any Losses incurred by, or any other consequences experienced by, Participant, any other Corda Network Participant or third party as a result of any suspension, termination of the Services or revocation of its (or any other Corda Network Participant's) Participation Certificate in accordance with Section 3.3. If Participant's access to the Corda Network is terminated or Participant's Participation Certificate is revoked, Participant shall be solely responsible for the transition of its assets, transactions and data from the Corda Network.
- 3.5 Participant acknowledges and agrees that Foundation may amend these Terms of Use at any time by providing reasonable written notice to Participant. Participant's continued use of the Services after receipt of such a notice shall constitute Participant's agreement to such amendment.
4. **SYSTEM SECURITY**
- 4.1 Participant shall:
- (a) co-operate in any reasonable security arrangements that Foundation considers necessary to prevent any unauthorized access to the Services, the Corda Network or Foundation's or any third party's IT Systems or data;
  - (b) promptly report to Foundation any threats to the Services, the Corda Network or Foundation's or any third party's IT Systems or data arising as a result of any access granted under these Terms of Use;

- (c) limit access to and use of the Services and the Corda Network to only those persons with a reasonable need to access and use the same;
- (d) not use, access or attempt to access the Services, the Corda Network or any third party's data unless authorized to do so under these Terms of Use;
- (e) not attempt to interfere with the Services, the Corda Network, or Foundation's or any third party's IT Systems or data;
- (f) ensure that all of its Representatives who have access to Corda Network Nodes on the Corda Network undertake a controlled authorization process as required by Applicable Law before access is granted, and monitor access privileges on an ongoing basis;
- (g) promptly notify Foundation of any issue or other problem that may be experienced with the reliability or performance of the Corda Network or the Services provided; and
- (h) exercise all efforts necessary to protect any Corda Network Node's private keys. In the event that any private keys are compromised, Foundation shall not be under any obligation to provide the Services or otherwise compensate Participant for any Loss.

4.2 If Participant detects a breach of protective measures that will (or is likely to) have a material impact on the Corda Network or the Services, or on the integrity of any Confidential Information or other data on the Corda Network, Participant shall:

- (a) promptly act to prevent or mitigate the effects of the breach;
- (b) report the breach to Foundation as soon as reasonably practicable after detection; and
- (c) promptly identify recommended steps to help ensure that the breach does not re-occur and report those steps to Foundation.

## 5. **WARRANTIES; DISCLAIMERS**

5.1 Participant represents, warrants and agrees that:

- (a) its use of the Corda Network will not violate any Applicable Laws and it has secured all necessary approvals from Governmental Authorities in relation to its use of the Corda Network and its participation on any Business Network of which it is a participant from time to time;
- (b) its use of the Corda Network will not violate any obligations or restrictions imposed by third parties; and
- (c) it has all necessary rights to use, transfer, store and process Participant Data, and for Foundation's use and disclosure thereof in accordance with Section 6.2, does not and will not infringe, misappropriate or otherwise violate any Intellectual Property Rights or other proprietary rights of any third party.

5.2 Foundation represents, warrants and agrees that:

- (a) Foundation will use commercially reasonable efforts to provide the security and continuity of the IT Systems used by it or any Service Provider used to operate the Services and shall provide prompt notification of any security or operational incident which, as reasonably determined by Foundation, is material to the operation of the Corda Network. Foundation shall take steps to control and to mitigate, to the extent commercially and operationally practicable, any such incident, and shall take commercially reasonable steps to ensure that such an incident does not occur in the future;
- (b) Foundation has secured all necessary licenses, permits and registrations from Governmental Authorities necessary to provide the Services;
- (c) The Services provided to Participant will be provided in accordance with Applicable Law, in a competent and professional manner; and
- (d) The Services will be provided in accordance with those service levels as set forth in Schedule C.

5.3 Except as expressly provided in these Terms of Use:

- (a) Foundation shall have no responsibility for results obtained from the use of the Corda Network or the Services, or for conclusions drawn from such use;
- (b) Foundation shall have no liability for any damage caused by errors or omissions in Participant Data, or any actions taken by Foundation at Participant's direction. Foundation may refrain from acting on any instruction or direction from Participant if it determines that the same is in the best interest of Foundation or is otherwise required by Applicable Law; and
- (c) Although Foundation may attempt to verify the identity of each Corda Network Participant by following the procedures specified in the Corda Network Governing Documents, Participant shall not rely upon the identity verification checks performed by the Foundation Identity Manager, and Participant acknowledges and agrees that such verifications should not be considered to meet any regulatory requirements. Participant acknowledges and agrees that Foundation does not guarantee the identity of any Corda Network Participant and that Participant is solely responsible for conducting due diligence, including any verification required by Applicable Law, on other Corda Network Participants with whom Participant desires to transact on the Corda Network. Similarly, Participant acknowledges and agrees that Participant, and not Foundation or any Service Provider, is solely responsible for deciding which applying Corda Network Participants to authorize or whitelist to join its Business Networks.

5.4 Participant acknowledges and agrees that:

- (a) Foundation does not make any representation or warranty regarding the operation of the Corda Network Nodes or other IT Systems of any Corda Network Participants or the data transmitted thereby. The Corda Network is a distributed system where Participant can control and operate its own Corda Network Node alongside other Corda Network Nodes operated by other Corda Network Participants. Such Corda Network Nodes and related IT

Systems are not operated by Foundation or any Service Provider or any other third party under the control of Foundation;

- (b) Foundation is not responsible or liable for the actions or omissions of Participant or any other Corda Network Participant in connection with Participant's use of the Corda Network or the Services, whether such actions or omissions interoperate with, communicate with or otherwise involve or implicate any Business Network, Corda Network Node or presence on the Corda Network, or the Services;
- (c) Foundation hereby disclaims all warranties, obligations and liabilities relating to the security of any data accessed, stored, transmitted or distributed by Corda Network Participants using the Corda Network or the legality, reliability, integrity, accuracy or quality of any data provided by any third party (including any Oracle) or transmitted through the Corda Network;
- (d) The operation of the Services and the transmission of information between Corda Network Nodes may be subject to limitations, delays, and other problems inherent in the use of such communications facilities, and that Foundation has no responsibility in respect of the same;
- (e) The Foundation Notary Service does not perform legal notary functions, does not in and of itself cause transactions to be considered valid contracts under Applicable Law, and does not confer legal title to assets. Foundation shall not be party to or responsible for, and shall have no liability with respect to, any transactions between or among Corda Network Participants. The legal status of transactions (including the validity, irrevocability and whether and when such transactions may be considered finalized or confirmed) and title to assets will be determined by the framework put in place in the applicable Business Network (if any) and subject to Applicable Law, and is not determined by the Corda Network. Participants shall take their own independent legal advice in relation to such matters;
- (f) Foundation makes no representation that the Corda Network or the Services are sufficient to enable Participant to comply with any Applicable Laws related to Participant's use of the Corda Network, the Services and/or any Business Network;
- (g) Participant's access to the Corda Network and use of the Services could be impacted by an action, event or occurrence outside the reasonable control of Foundation, including riot, strike, other labor dispute, insurrection, terrorism, fire, severe weather, other act of God, shortages of materials, rationing, internet failure or other delay in receiving data, explosion, war, acts of public enemies, blockade, embargo, power failure, or action or inquiry of any Governmental Authority, which could prevent or limit (i) the ability of Foundation to continue to operate the Corda Network, or develop or provide the Services, or (ii) Participant's ability to use the Corda Network, or use or receive the Services;
- (h) Foundation has no obligation to update the Services, the Corda Network or its other IT Systems to address, mitigate, or remediate any security or other vulnerabilities in the Services, or in the Corda Network or its other IT Systems; and
- (i) Participant may access CorDapps and other applications developed by third parties or data, content or resources provided by a third party (including providers of Third Party Notary services, Third Party Identity Manager services and Oracles). Foundation shall have no responsibility for any third party applications, data, content, or services. Participant



acknowledges and agrees that all applications, data, content or services which Participant may access through the Corda Network are the sole responsibility of the party from which they originated and that Foundation is not liable for any Losses incurred as a result of the use or access of any of those third party applications, data, content, or services. Participant's use of such third party applications, data, content, or services is subject to the relevant agreement between Participant and the applicable third party, and Participant's use of the Corda Network and the Services does not affect its legal relationship with those third parties.

5.5 The foregoing warranties are in lieu of all other warranties, express or implied. Except for the representations and warranties set forth in Sections 5.1 and 5.2, to the maximum extent permitted by Applicable Law, the Corda Network, the Services and the Corda Network Governing Documents are provided "as is" and with all faults, and Foundation hereby expressly disclaims any and all warranties and representations, expressed or implied, relating to the operation, maintenance, condition, design, accuracy, merchantability, satisfactory quality, title, quiet enjoyment, accuracy, correspondence to description, or fitness for a particular purpose of the Corda Network, the Services or the Corda Network Governing Documents. Participant assumes the entire risk as to the results and performance of the Corda Network or the Services.

5.6 Except as otherwise expressly provided in these Terms of Use, Foundation does not make any representation, warranty or other form of guarantee that the Services will meet Participant's requirements, be error free or free from harmful code, be secure or operate without interruption. Except as otherwise expressly provided in these Terms of Use, Foundation shall have no responsibility to maintain or update the Corda Network or Services, including to address or remediate any security or other vulnerability. No oral or written information or advice given by Foundation, its agents, officers or employees shall create any warranty or representation or in any way increase the scope of any security warranty. Foundation shall not be in breach of these Terms of Use to the extent its failure to provide the Corda Network, the Services or perform any other obligation under these Terms of Use is as a result of any breach by Participant of its obligations under these Terms of Use.

## 6. **OWNERSHIP RIGHTS; USAGE DATA; FEEDBACK**

6.1 The Parties acknowledge and agree that Foundation shall own all right, title and interest (including all Intellectual Property Rights) in and to the Corda Network, the Services and the Corda Network Governing Documents, including all changes, edits, updates, enhancements, improvements and additions thereto. No title to or ownership of any materials provided in connection with these Terms of Use, including the Corda Network Governing Documents, is transferred to Participant under these Terms of Use. Participant agrees not to obstruct, conceal, manipulate, modify, alter, remove or destroy any proprietary markings (including, without limitation, any copyright notices or confidentiality legends) placed upon or contained within the Corda Network Governing Documents or any related materials. Except as expressly permitted by these Terms of Use, Participant shall not copy, download, republish, display, transmit, or distribute the Corda Network Governing Documents or any portion thereof in any form or media.

6.2 Participant acknowledges and agrees that:

- (a) Foundation may monitor the use of the Corda Network and the Services by Participant and collect data relating to such use solely for purposes of: (i) providing the Services, (ii)

ensuring compliance with these Terms of Use, and (iii) planning, development and improvements with respect to the Services.

- (b) Foundation may publish and display Usage Data for promotion of the Corda Network, during the Term and thereafter, as long as the Usage Data is aggregated or anonymized such that any individual participants, assets, transaction detail, positions or strategies cannot be identified, extracted, inferred, reverse-engineered, extrapolated or interpolated.
- (c) Participant shall cooperate with any audit or review conducted by Foundation to ensure that the data accessed, stored, distributed, used and transmitted by Participant and/or its Representatives using the Corda Network does not include data prohibited by Section 1.5. Notwithstanding the foregoing, Participant acknowledges that Foundation is not a global regulator of content or illegal activity, law enforcement, a regulatory agency or an intergovernmental organization that has the expertise and experience to police illegal activity.
- (d) “Usage Data” means: (i) the number of network participants on a particular Business Network and the jurisdictions where such participants are located (but not, for the sake of clarity, the identity of any network participant), (ii) the list and purpose of CorDapps being used by network participants, (iii) the number, type and aggregate value or quantum of transactions executed within a particular timeframe on a Business Network (but not, for the sake of clarity, pricing, transaction size or position information or actions by individual participants), (iv) the number and type of outstanding positions on the Corda Network or a given Business Network by asset type and jurisdiction or region, and (v) similar data relevant to the capacity or quality of the Services and managing or promoting the Corda Network.

- 6.3 Participant may from time to time provide Foundation with feedback relating to the Corda Network and the Services, including suggestions regarding improvements and additional functionality (“**Feedback**”). Participant agrees that any such Feedback and associated Intellectual Property Rights shall be voluntarily given and will become the property of Foundation, and hereby assigns and agrees to assign all right, title and interest in and to such Feedback and associated Intellectual Property Rights to Foundation. Participant shall not have any liability whatsoever from the creation or provision of Feedback.

## 7. DATA PROTECTION

- 7.1 The parties agree to comply with the data protection provisions set forth on Schedule D.

## 8. TERM AND TERMINATION

- 8.1 **Initial and Renewal Terms.** The initial term (the “**Initial Term**”) of these Terms of Use shall commence on the Effective Date and shall continue for a period of one (1) year. Thereafter, the Terms of Use shall automatically renew for successive one (1)-year periods (each a “**Renewal Term**,” and collectively and together with the Initial Term, the “**Term**”) unless either party provides notice to the other party of its intent not to renew the Terms of Use no less than sixty (60) days prior to the end of the then-current Term.

- 8.2 **Termination by Foundation.** Foundation may terminate these Terms of Use by written notice to Participant, effective immediately, in the following circumstances:

- (a) Participant is in material breach of these Terms of Use and such breach is incapable of being cured (including any misrepresentation by Participant of its own identifying information or that of any network participant);
- (b) Participant is in material breach of these Terms of Use and such breach is with reasonable efforts capable of being cured within thirty (30) days but has not been cured by Participant within thirty (30) days following notice from Foundation of such breach;
- (c) a Bankruptcy Event has occurred with respect to Participant; provided that Foundation shall not terminate these Terms of Use pursuant to this Section 8.2(c) for so long as Participant continues to comply with all other provisions of these Terms of Use, including the payment of all applicable Fees;
- (d) as a result of (i) the adoption of, or any change in Applicable Law (ii) any other order or determination by a Governmental Authority, in each case made after the Effective Date, (iii) it becomes, or any determination is made by a Governmental Authority after the Effective Date that it would be, unlawful for Foundation to continue to perform its obligations contemplated by these Terms of Use (each, an “**Illegality**”), and such Illegality is not mitigable through commercially reasonable steps;
- (e) Participant is (i) unable to perform any material portion of its obligations under these Terms of Use due to a Force Majeure Event and (ii) unable to resume its performance of such obligations within 30 calendar days of such Force Majeure Event; or
- (f) as described in Section 12.3.

**8.3 Termination by Participant.** Participant may terminate these Terms of Use by written notice to Foundation, effective immediately, in the following circumstances:

- (a) Foundation is in material breach of any of its obligations under these Terms of Use and such breach is incapable of being cured;
- (b) Foundation is in material breach of any of its obligations under these Terms of Use and (i) such breach is with reasonable efforts capable of being cured within thirty (30) days but has not been cured by Foundation within thirty (30) days following notice from Participant of such breach;
- (c) a Bankruptcy Event has occurred with respect to Foundation;
- (d) as a result of any Illegality Participant is no longer permitted to access the Services, operate the Business Network or otherwise perform its obligations contemplated by these Terms of Use, and such Illegality is not mitigable through commercially reasonable steps; or
- (e) Foundation is (i) unable to perform any material portion of its obligations under these Terms of Use due to a Force Majeure Event and (ii) unable to resume its performance of such obligations within sixty (60) calendar days of such Force Majeure Event.

**8.4 Effect of Termination.** Following any termination of these Terms of Use: (i) Foundation shall revoke Participant’s Participation Certificate, and (ii) Participant shall cease all use of the Services and Corda Network Governing Documents. For the sake of clarity, following termination of these

Terms of Use, Participant shall have no further right to operate any Business Network on the Corda Network. Upon the termination of these Terms of Use, the accrued rights of the parties as at termination or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination shall not be affected or prejudiced. Subject to the foregoing provisions of this clause, all rights and licenses of these Terms of Use shall terminate.

The termination of these Terms of Use shall not of itself give rise to any liability on the part of Foundation to pay any compensation to Participant for loss of profits or goodwill, to reimburse Participant for any costs relating to or resulting from such termination, or for any other loss or damage.

- 8.5 **Survival.** The following provisions of these Terms of Use shall survive any termination thereof, and shall continue in full force and effect following such termination: this Section 8.5, Sections 1.3 to 1.5 (inclusive), 6, 7, 8.4, 9 to 12 (inclusive), and 16 to 18 (inclusive).

## 9. **PAYMENTS.**

- 9.1 **Fees.** Participant agrees to pay to Foundation the Fees. Participant may notify Foundation in writing that such Participant's Fees may be collected from a Representative in accordance with the provisions of this Section 9. For the avoidance of doubt, Participant shall remain fully liable for all Fees (including any interest as set forth in Section 9.3 below) owed to Foundation hereunder.
- 9.2 **Invoicing and Payment.** Foundation shall invoice Participant in accordance with those terms and procedures to be communicated by Foundation to Participant from time to time.
- 9.3 **Late Payments.** Subject to Section 3.3(a), in the event any Fees payable hereunder are not received by Foundation by the applicable due date, then if such amounts remain unpaid more than thirty (30) days after such due date, such amounts shall accrue interest at the rate of five percent (5%) of the outstanding balance per month or at the maximum rate permitted by Applicable Law, whichever is lower. Such interest shall accrue daily, on a non-compounding basis, from (and including) the due date until (but excluding) the date such payment is received by Foundation.
- 9.4 **Taxes.** The amounts payable under these Terms of Use are exclusive of any present or future (i) sales, use, value added or other similar taxes, however designated; (ii) tariffs, assessments, duties or similar taxes or charges whether imposed by domestic or foreign Governmental Authority or entities, (iii) any interest, additions to tax or penalties applicable to (i) and (ii), which be levied or imposed on the provision of the Services, Fees or expenses under these Terms of Use (collectively, "**Taxes**"). Participant shall pay such Taxes directly. To the extent Foundation is required to collect any such Taxes, such Taxes shall be added to the amounts otherwise due hereunder to Foundation and shall be separately stated on the relevant invoice to Participant. If any Applicable Law requires the deduction or withholding of Taxes from any payment by Participant, then (i) Participant shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld (each such amount, a "**Withheld Tax Amount**") to the relevant Governmental Authority in accordance with Applicable Law, and (ii) the amounts payable under these Terms of Use shall be increased such that the total amount received by Foundation from Participant, net of

any Withheld Tax Amount (and net of any deduction or withholding applicable to additional sums payable under this Section 9.4), is equal to the amount of Fees provided for in these Terms of Use.

## 10. **CONFIDENTIALITY.**

- 10.1 **Confidential Information Defined.** As used herein, “**Confidential Information**” means information of or concerning a Party (the “disclosing party”) relating to its systems, security, procedures, products, Intellectual Property Rights, business strategies (including the existence of, the terms of and its position in any dispute in relation to these Terms of Use), employees, officers, contractors and agents, customers and contacts, and any other information of such Party that is supplied to the other Party (the “receiving party”) or its Representatives in connection with these Terms of Use, except to the extent that the same can be shown to have been (a) previously known by the receiving party on a non-confidential basis, (b) available to the receiving party on a non-confidential basis from a source other than the disclosing party or its Representatives without such source being in violation of any obligation to the disclosing party or its Representatives, (c) in the public domain through no fault of the receiving party or (d) later lawfully acquired by the receiving party from sources other than the disclosing party or its Representatives.
- 10.2 **Restrictions on Disclosure.** Each Party agrees that it will not disclose or make publicly available, and shall cause its respective Representatives to not disclose or make publicly available, any Confidential Information of the other Party except as expressly permitted under the terms of these Terms of Use. In any case, the receiving party shall exercise at least the same standard of care to protect such information from unauthorized disclosure or use as it uses to protect its own confidential information of a similar nature, which in no event shall be less than reasonable care. For the sake of clarity, each Party may disclose Confidential Information to its respective Representatives, provided that such Party shall ensure that such Representatives comply with the confidentiality provisions of these Terms of Use.
- 10.3 **Permitted Disclosures.** A recipient may disclose Confidential Information to third parties if: (a) (i) such Confidential Information is required to be filed with or disclosed to any Governmental Authority, (ii) it is requested to do so by any Governmental Authority having regulatory authority over such recipient (or its Affiliates), or (iii) otherwise required by Applicable Law; provided, that, the recipient shall, to the extent practicable and permitted by Applicable Law, (A) notify the disclosing party in advance of any disclosure of such Confidential Information to a Governmental Authority and (B) provide the disclosing party with a reasonable opportunity to seek an appropriate protective order or other reliable assurances that confidential treatment shall be afforded to such Confidential Information (including reasonable assistance by recipient at disclosing party’s expense); or (b) the disclosure of such Confidential Information is reasonably necessary in connection with the enforcement or defense of any rights or remedies hereunder or the transactions contemplated hereby; provided, in each case, that the recipient shall have, where applicable, taken such reasonable steps to protect the confidentiality of such information as the recipient takes with respect to the protection of its own comparable confidential information in such circumstances.
- 10.4 **Notification of Breach.** Each Party shall notify the other promptly following discovery of any unauthorized disclosure of the other Party’s Confidential Information.
- 10.5 **Treatment Following Termination.** Within five (5) Business Days following any termination of these Terms of Use, each Party shall return to the other Party or destroy all copies of Confidential Information of the other Party under the control of such Party and its Representatives and certify

in writing to the other Party that it has complied with the terms of this Section 10.5. Notwithstanding the foregoing, a Party may retain (a) backup and archival copies of Confidential Information made in the ordinary course of business (provided that no effort is made to access or reconstruct such stored Confidential Information), (b) Confidential Information that such Party or an Affiliate thereof is required to retain pursuant to any Applicable Law, and (c) Confidential Information that such Party or an Affiliate thereof is required to retain pursuant to the Corda Network Governing Documents. Any Confidential Information retained by a Party following termination of these Terms of Use shall remain subject to this Section 10.

- 10.6 **Information Held by Other Corda Network Participants.** For the sake of clarity, Participant acknowledges that any Confidential Information transmitted through the Corda Network may be stored by other Corda Network Participants and will not be subject to the provisions of these Terms of Use.

## 11. **LIMITATION OF LIABILITY.**

- 11.1 Nothing in these Terms of Use excludes the liability of a party for: (a) death or personal injury; or (b) fraud or fraudulent misrepresentation.

- 11.2 Subject to Section 11.1:

- (a) except for a party's indemnification obligations under Section 12, neither party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business or opportunity, loss of use or loss of business expectations, depletion of goodwill and/or similar losses or loss or corruption of data or information, business interruption, or pure economic loss, or for any special, exemplary, incidental, punitive, indirect or consequential loss, costs, damages, charges or expenses however arising under or in connection with these Terms of Use (including the performance and non-performance), even if such party has been advised of the possibility of such damages and regardless of whether such damages could have been foreseen or prevented; and
- (b) except in connection with a breach of a party's confidentiality obligations under Section 10 and for a party's indemnification obligations under Section 12, a party's total aggregate liability in contract, tort (including negligence or breach of statutory duty), strict liability, statutory or otherwise, misrepresentation, restitution or otherwise, arising in connection with the performance, contemplated performance or non-performance of these Terms of Use shall be limited to 200% of the Fees paid (or in the case of Participant's liability, paid and payable) by Participant during the 12 months immediately preceding the date on which the claim arose.

## 12. **INDEMNIFICATION.**

- 12.1 Foundation shall defend and hold harmless Participant and its Representatives against any third party claim that the Services or Corda Network Governing Documents infringes any Intellectual Property Rights of a third party, and shall indemnify Participant for any amounts awarded against Participant in judgment or settlement of such claims, provided that:

- (a) Foundation is given prompt notice of any such claim;

- (b) Participant provides reasonable co-operation to Foundation in the defence and settlement of such claim, at Foundation's expense; and
  - (c) Foundation is given sole authority to defend or settle the claim.
- 12.2 In no event shall Foundation or its Representatives (including its Service Providers) be liable to Participant to the extent that such alleged infringement is based on, or arising from, a claim pursuant to Section 12.5, or is based on, or arising from:
  - (a) a modification of the Services or Corda Network Governing Documents by or on behalf of Participant;
  - (b) Participant's use of the Services in combination with any software, hardware, materials or service not supplied by Foundation;
  - (c) Participant Data and any other hardware, software or other materials not provided by Foundation, including any claim that any of the foregoing infringes or misappropriates any third party rights, including Intellectual Property Rights; or
  - (d) any infringement claim related to the Services or the Corda Network Governing Documents related to Participant's use of the Services or Corda Network Governing Documents after notice of the alleged or actual infringement from Foundation or any appropriate authority.
- 12.3 In the defence or settlement of any claim, Foundation in its sole discretion may procure the right for Participant to continue using the Corda Network and/or the Services, replace or modify the Corda Network and/or the Services so that they become non-infringing or, if such remedies are not commercially reasonably available, terminate these Terms of Use without any additional liability or obligation to pay liquidated damages or other additional costs to Participant.
- 12.4 The foregoing and Section 11.2(b) state Participant's sole and exclusive rights and remedies, and Foundation's (including Foundation's Representatives) entire obligations and liability, for infringement claims.
- 12.5 Participant shall defend, indemnify and hold harmless Foundation and its Representatives against all Losses based on, or arising from Section 12.2(a) – (d), or based on, or arising from:
  - (a) Participant's use of the Corda Network or the Services or Corda Network Governing Documents in a manner not permitted by these Terms of Use, or inconsistent with the Corda Network Governing Documents or other written instructions provided by Foundation;
  - (b) Participant's failure to comply with the Corda Network Governing Documents; or
  - (c) any action or omission taken by Foundation at the request or instruction of Participant, other than as required by the Corda Network Governing Documents or these Terms of Use.
- 12.6 The indemnification obligations set forth in Section 12.5 shall apply only where:
  - (a) Participant is given prompt notice of any such claim;

- (b) Foundation provides reasonable co-operation to Participant in the defence and settlement of such claim, at Participant's expense; and
- (c) Participant is given sole authority to defend or settle the claim.

### 13. **FORCE MAJEURE.**

- 13.1 No Party shall be considered to be in default of any of its representations and warranties under these Terms of Use as a result of a Force Majeure Event, or in breach of its obligations under these Terms of Use to the extent that performance of such obligations is prevented by any Force Majeure Event; provided, that (x) the Force Majeure Event was not caused by the negligence of the Party whose performance is adversely affected, or by the negligence of its Representatives, (y) notice of such Force Majeure Event is given in accordance with the provisions of Section 13 and (z) the Party whose performance is adversely affected uses commercially reasonable efforts to promptly overcome or mitigate the effects of such Force Majeure Event. Upon the occurrence of a Force Majeure Event, the Parties shall consult in good faith with respect to any commercially reasonable measures that may be taken in order to mitigate the impact of such Force Majeure Event. The Party whose performance is adversely affected by a Force Majeure Event shall give the other Party prompt written notice of the Force Majeure Event's cessation or abatement.

### 14. **SUBCONTRACTORS.**

- 14.1 Foundation may subcontract any of the Services to a third party (a "Service Provider"), without the need for prior written consent from Participant. Foundation shall remain fully responsible for all of Service Provider's acts and/or omissions.
- 14.2 Participant acknowledges and agrees that the Services are provided to Participant by Foundation only and that it has no contractual privity with any Service Provider related to the Services, and that it shall have no right to bring a claim or other recourse against any Service Provider or any of its Representatives. Each Service Provider of Foundation shall be an intended third party beneficiary of this Section 14 and all disclaimers and limitations on liability set forth in these Terms of Use, entitled to enforce the same against Participant directly.

### 15. **FOUNDATION NOTICE DETAILS.**

- 15.1 Foundation may provide general notices regarding the operation of the Services and other information regarding the Corda Network to all Participants by posting on a designated website. If these Terms of Use require Foundation to provide any notice or communication to Participant on an individual basis, such notice or communication shall be in writing and may be delivered by email to the email address provided by or on behalf of Participant in connection with the issuance of Participant's Participation Certificate.
- 15.2 Where these Terms of Use require Participant to provide any notice or communication to Foundation, such notice or communication shall be in writing and may be sent via reputable overnight courier or email to the address set out below: Address: Johan Huizingalaan 763 A, 1066 VH Amsterdam, The Netherlands, Email: [info@corda.network](mailto:info@corda.network), Marked for the attention of: Corda



Network Foundation Stichting, or at any other address or email address or to any other addressee as Foundation may have provided for this purpose from time to time, including via web notice.

**16. GOVERNING LAW; WAIVER OF JURY TRIAL; DISPUTE RESOLUTION; ENTIRE AGREEMENT.**

- 16.1 These Terms of Use and all non-contractual or other obligations arising out of or in connection with them, the subject matter hereof or the activities of the Parties in connection with or contemplated by these Terms of Use, shall be governed by, construed under and enforced in accordance with English law.
- 16.2 The Parties hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to these Terms of Use or any or the transactions contemplated hereby. Any dispute, controversy or claim arising from, relating to or in connection with these Terms of Use or the transactions contemplated hereby, including one regarding the existence, validity or termination of these Terms of Use or the consequences of their nullity and any non-contractual or other dispute (a “**Dispute**”) shall be resolved and shall be finally settled by arbitration under the rules of the London Court of International Arbitration (“**LCIA**”) in force at the time such arbitration is commenced. The seat of the arbitration shall be London, England, all hearings shall take place in London, England, and the language of the arbitration shall be English.
- 16.3 The arbitration tribunal shall consist of three (3) arbitrators. The petitioning Party and the Party defending the arbitration shall each nominate one arbitrator within fourteen (14) calendar days after delivery of the demand for arbitration. If either Party fails to nominate an arbitrator, upon request of any other Party to the arbitration, such arbitrator shall instead be appointed by the LCIA within seven (7) calendar days of receiving such request. The first two appointed arbitrators shall nominate the third arbitrator within thirty (30) calendar days of their appointment. If the first two appointed arbitrators fail to nominate a third arbitrator, then, upon request of any party to the arbitration, the third arbitrator shall be appointed by the LCIA within seven (7) calendar days of receiving such request.
- 16.4 All disputes concerning or relating to arbitrability of Disputes under these Terms of Use or the jurisdiction of the arbitrators shall be resolved by the arbitrators. The award rendered in any arbitration commenced hereunder shall be final and conclusive and binding upon the parties to the Dispute on the date it is rendered. The Parties undertake to implement any award rendered by the tribunal and judgment upon the award may be entered in any court of competent jurisdiction. The site of arbitration shall be London, United Kingdom, and all arbitration proceedings shall be confidential.
- 16.5 These Terms of Use, including the Corda Network Governing Documents, constitute the entire agreement between the Foundation and you regarding your use of the Services. Statements or representations made by employees, distributors, resellers or any other third party do not constitute warranties by the Foundation, do not bind the Foundation and should not be relied upon by you.

**17. THIRD PARTY RIGHTS.**

- 17.1 Subject to any provisions of these Terms of Use under which rights are expressly granted to third parties, a person who is not a party to these Terms of Use has no right under the Contracts (Rights

of Third Parties) Act 1999 to enforce any term of these Terms of Use but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

## 18. **DEFINED TERMS.**

18.1 For the purposes of these Terms of Use, the following terms shall have the following meanings:

- (a) **“Affiliate”** means, with respect to any Person at any time, any other Person directly or indirectly Controlling, Controlled by, or under common Control with, such Person at such time. A Person shall be deemed to **“Control”** another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.
- (b) **“Applicable Law”** means any and all (i) laws, ordinances, or regulations, (ii) codes, standards, rules, requirements, orders and criteria issued under any laws, ordinances or regulations, (iii) rules of any self-regulatory organization (including the rules of any securities exchange or equivalent) and (iv) any and all judgments, orders, writs, directives, authorizations, rulings, decisions, injunctions, decrees, assessments, settlement agreements, or awards of any Governmental Authority.
- (c) **“Bankruptcy Event”** means, with respect to any Person: (a) the filing of a voluntary petition in bankruptcy or other insolvency proceeding by such Person, (b) the entry of an order for relief by any court in bankruptcy or other insolvency proceeding by such Person, (c) a general assignment by such Person for the benefit of creditors, (d) the appointment of a receiver, trustee, liquidator, custodian or similar official with respect to such Person or its property, or (e) the filing of an involuntary petition in bankruptcy or other insolvency proceeding against such Person that remains undismissed for a period of sixty (60) days.
- (d) **“Business Network”** means a group of Corda Network Participants that transact with each other via one or more CorDapps and according to a defined set of rules.
- (e) **“CorDapp”** means a uniquely marketed or distributed software application that leverages the Corda Software APIs and depends on Corda Software for its execution.
- (f) **“Corda”** means R3’s distributed ledger platform software made available pursuant to an Apache License available at [github.com/corda](https://github.com/corda).
- (g) **“Corda Enterprise”** means the proprietary version of the Corda Software, licensed by R3 or an Affiliate thereof other than through an open source license.
- (h) **“Corda Network”** means the set of infrastructure, services, standards, policies, agreements and governance mechanisms (including the Corda Network Governing Documents) which enable participants on the Corda Network to interact with each other, including through Business Networks.
- (i) **“Corda Network Governing Documents”** means the principles, rules, standards, conventions and policies, including but not limited to technical documentation, governing activity within the Corda Network and to which each network participant and Participant must adhere, as adopted by Foundation from time to time and provided to Participant.

- (j) **“Corda Network Node”** means a single implementation of the Corda Software able to create, modify, contribute to and digitally sign records within the Corda Network on behalf of a participant in the Corda Network.
- (k) **“Corda Network Participant”** means a Person that has entered into participant terms of use for access to the Corda Network and/or the Services with Foundation.
- (l) **Corda Pre-Production Network** means a discrete pre-production network (and sub-set of Services) of the Corda Network, which may be accessed via the Services and which may be updated from time to time. For the avoidance of doubt, as they relate to the Corda Pre-Production Network, the Services shall be subject to certain restrictions as more fully described in Section 1.8.
- (m) **“Corda Software”** means Corda and/or Corda Enterprise.
- (n) **“Data Protection Law”** means all of the following: (i) the GDPR, (ii) Directive 95/46/EC, Directive 2002/58/EC and Directive 2009/136/EC, together with any national implementing laws in any Member State of the European Union, and (iii) any equivalent Applicable Law dealing with the same or similar subject matter anywhere in the world (including, for the avoidance of doubt, any Applicable Law concerning the processing of data relating to living persons).
- (o) **“Fees”** means the fees described in at the following URL: <https://corda.network> (which may be moved from time to time), as such fees may be updated by Foundation’s board of directors from time to time.
- (p) **“Force Majeure Event”** means any action, event or occurrence outside the reasonable control of the Party in question, including riot, strike, other labor dispute (excluding a Party’s own labor disputes), insurrection, terrorism, fire, severe weather, other act of God, shortages of materials, rationing, internet failure or other delay in receiving data, explosion, war, acts of public enemies, blockade, embargo, power failure or action of any Governmental Authority (other than any action of a Governmental Authority directed specifically to the affected Party).
- (q) **“Foundation Identity Manager”** means the component operated by Foundation which provides the technical means for the Corda Network Nodes to participate in the Corda Network through the issuance of a Participation Certificate, as more fully described on Schedule B.
- (r) **“Foundation Network Map Service”** means a service provided by Foundation that accepts signed documents describing routing and identifying information from the Corda Network Participants and makes this information available to other Corda Network Participants, as more fully described on Schedule B.
- (s) **“Foundation Notary Service”** means a service provided by Foundation that may digitally sign a transaction presented to it, provided no transaction referring to any of the same inputs has been previously signed by the Foundation Notary Service and the transaction timestamp is within bounds, as more fully described on Schedule B.

- (t) **“Foundation Support Service”** means a service provided by Foundation related to the resolution of inquiries and incidents relating to the operation of the Services, as more fully described on Schedule B.
- (u) **“GDPR”** means the General Data Protection Regulation (EU) 2016/679.
- (v) **“Governmental Authority”** means any nation or government, any state or other political subdivision thereof, any supra-national authority and any self-regulatory or quasi-governmental organization exercising executive, legislative, judicial, regulatory or administrative functions or pertaining to government (including, in each case, any branch, department or official thereof).
- (w) **“Host”** means to operate a computer system designed and operated to provide services for external parties.
- (x) **“Intellectual Property Rights”** means any intellectual property or similar proprietary rights in any jurisdiction, whether registered or unregistered, including such rights in and to: (a) trademarks and pending trademark applications, trade dress, service marks, certification marks, logos, domain names, uniform resource locators, trade names and fictional business names, together with all translations, adaptations, derivations and combinations and like intellectual property rights, together with all goodwill associated with the foregoing, (b) issued patents and pending patent applications, and any and all divisions, continuations, continuations-in-part, reissues, renewals, provisionals, continuing patent applications, reexaminations, and extensions thereof, any counterparts claiming priority therefrom, utility models, patents of importation/confirmation, certificates of invention, certificates of registration and like rights, inventions, invention disclosures, discoveries and improvements, whether or not patentable, (c) works of authorship, all copyrightable works (including software) and all copyrights including all applications, registrations and renewals thereof, and all rights corresponding thereto, (d) trade secrets, business, technical and know-how information, non-public information, and confidential information and rights to limit the use or disclosure thereof by any Person, (e) mask works and (f) moral rights.
- (y) **“IT Systems”** means, in relation to a person or entity, that person’s or entity’s information and communications technologies, including hardware, software, networks and interfaces (in each case, whether owned by that person or entity or licensed or leased from a third party).
- (z) **“Losses”** means all losses, penalties, fines, costs, damages (and any interest due thereon), liabilities, amounts paid in settlements and offsets and reasonable attorneys’ fees.
- (aa) **“Manage”** means provide operational controls and confirm the correct operation of software systems.
- (bb) **“Notary”** means a technical service that attests to the uniqueness, timestamp and, in some cases, validity of new transactions to proposers and accepters of such transactions.
- (cc) **“Operate”** means to both Host and Manage a Corda Network Node.

- (dd) **“Oracle”** means a Corda Network Participant that provides data or other information to other Corda Network Participants.
- (ee) **“Participation Certificate”** means a digital certificate issued by the Foundation Identity Manager or a Third Party Identity Manager to any Corda Network Participant, allowing them to operate a Corda Network Node on the Corda Network. The Participation Certificate includes the Corda Network Participant’s identifying information and is digitally signed by Foundation or the provider of the applicable Third Party Identity Manager.
- (ff) **“Participant Data”** means any data which Participant or its Representatives input into, access, store, distribute, use or transmit to the Corda Network and information, materials, instructions or scripts provided to Foundation by Participant in connection with the the Corda Network or the Services.
- (gg) **“Person”** means a natural person, partnership, domestic or foreign limited partnership, domestic or foreign limited liability company, trust, estate, association, corporation, other legal entity, or Governmental Authority.
- (hh) **“Personal Data”** means any personal data or other sensitive or confidential information (as defined under any Data Protection Law).
- (ii) **“R3”** means R3 LLC, the owner of the Corda Software as of the Effective Date, or any successor entity thereafter.
- (jj) **“Representatives”** means a Party’s or a Service Provider’s Affiliates, and directors, officers, employees, attorneys, auditors, accountants, agents, service providers (including, consultants, contractors, node operators, representatives and/or agents).
- (kk) **“Services”** means the Foundation Identity Manager, the Foundation Network Map Service and/or the Foundation Notary Service provided by Foundation to Participant.
- (ll) **“Service Level Agreement”** means the service level agreement as set forth as Schedule C.
- (mm) **“Third Party Identity Manager”** means a participant on the Corda Network (that is not Foundation or an Affiliate of Foundation) that has been authorized by the Foundation Identity Manager to provide the technical means for Corda Network Nodes to participate in the Corda Network through the issuance of a Participation Certificate.
- (nn) **“Third Party Notary”** means a Corda Network Participant (that is not Foundation or an Affiliate of Foundation) authorized to act as a Notary by Foundation.
- (oo) **“Virus”** means any software intended to damage or interfere with the intended operation of IT Systems or software (including by rearranging, altering or erasing a software program or data in whole or part or otherwise), or any device, method or token that permits the circumvention of any part of information technology security, including any computer viruses, worms, time bombs, logic bombs, Trojan horses, salamis, trap doors, backdoors, undocumented passwords, protect codes or other malicious computer instructions, or any devices or techniques that can, or are designed to, threaten, assault, vandalize, subvert,

disrupt, damage, copy, misappropriate, disable or shutdown an IT System, a software program, or any component thereof, including its security or user data.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the Parties has caused these Terms of Use to be executed on its behalf by its officer thereunto duly authorized, all as of the day and year first above written.

CORDA NETWORK FOUNDATION STICHTING

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

CORDA NETWORK FOUNDATION STICHTING

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **SCHEDULE A**

### Fees

Subject to Section 9.1 of the Terms of Use, the Fees shall be as set forth at the following URL, <https://corda.network/participation/membership-tiers.html>, which may be moved from time to time.



## **SCHEDULE B**

### Services

Participant shall receive the following Services to be provided by Foundation under these Terms of Use in accordance with those fees set forth in Schedule A.

1. Foundation Identity Manager

The Foundation Identity Manager receives certificate signing requests from prospective Corda Network Participants and reviews the information submitted by the requestor. A digitally signed Participation Certificate is returned if:

- i. Based on the information provided, the prospective Corda Network Participant meets the requirements specified in the Corda Network Governing Documents; and
- ii. Evidence is provided by the Corda Network Participant that the Corda Network Participant has agreed to these Terms of Use.

The Corda Network Participant can use the Participation Certificate to register itself with the Foundation Network Map Service.

2. Foundation Network Map Service

The Foundation Network Map Service accepts digitally signed documents describing network routing and identifying information from Corda Network Participants, based on the Participation Certificates signed by the Foundation Identity Manager or a Third Party Identity Manager, and makes this information available to Corda Network Participants.

3. Foundation Notary Service

The Foundation Notary Service is a technical service that may digitally sign a transaction presented to it provided no transaction referring to any of the same inputs has been previously signed by the Foundation Notary Service and the transaction timestamp is within bounds. Participants and Network Participants may wish to enter into legal agreements which rely on the presence of such digital signature when determining whether a transaction to which they are party, or upon the details of which they otherwise rely, is to be treated as “confirmed” in accordance with the terms of the underlying agreement. For the sake of clarity, the Foundation Notary Service is only designed to validate that no input state with respect to a transaction has been previously consumed, and does not validate that a Network Participant has consented to any transaction or that any transaction has been finalized.

4. Foundation Support Service

The Foundation Support Service which is provided by Foundation to Participants to manage and resolve inquiries and incidents relating to the operation of the Foundation Identity Manager, Foundation Network Map Service and Foundation Notary Service, and any other services that may be provided by Foundation to Participant, and as further set forth in Schedule C.

For the avoidance of doubt, the Corda Network Governing Documents may contain details of certain further services available from Foundation which are developed over the course of time and are not listed above. Unless otherwise agreed to by the parties in writing, any such services shall not be deemed “Services” for the purposes of these Terms of Use and Foundation shall not be obliged to provide such services to Participant.

## **SCHEDULE C**

### **SERVICE LEVEL AGREEMENT AND FOUNDATION SUPPORT SERVICE HANDBOOK**

#### Service Level Agreement

The service level agreement (“SLA”) for the Production Network, as amended from time to time by the Foundation, can be found at the following URL (which may be moved from time to time):

<https://corda.network/service-levels/network-services-sla-production>

The SLA for the Pre-Production Network, as amended from time to time by the Foundation, can be found at the following URL (which may be moved from time to time): <https://corda.network/service-levels/network-services-sla-preproduction>

#### Foundation Support Service Handbook

The Foundation Support Service Handbook, as amended from time to time by the Foundation, can be found at the following URL (which may be moved from time to time): <https://corda.network/service-levels/network-support-sla>

## **SCHEDULE D**

### **Data Processing Addendum (DPA)**

This DPA forms part of the Participant Terms of Use entered into between Foundation and the Participant on the date hereof (the "Agreement"), and all references to the "Agreement" shall include this DPA (including the SCCs, as defined herein). All capitalized terms not defined in this DPA shall have the meanings set forth in the Agreement. This DPA applies where and only to the extent that Foundation processes Participant Personal Data that is protected by Data Protection Laws applicable to the EEA.

#### **1. Definitions**

"Participant Personal Data" means any personal data that Foundation processes on behalf of Participant as a processor pursuant to the Agreement, and as more particularly described in this DPA.

"Data Protection Laws" means all data protection and privacy laws applicable to the processing of personal data under the Agreement, including, where applicable, EU Data Protection Law.

"EU Data Protection Law" means (i) Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) ("GDPR"); (ii) Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector; and (iii) applicable national implementations of (i) and (ii) (or in respect of the United Kingdom, any applicable national legislation that replaces or converts in domestic law the GDPR or any other law relating to data and privacy as a consequence of the United Kingdom leaving the European Union); in each case, as may be amended, superseded or replaced.

"EEA" means, for the purposes of this DPA, the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom.

"Privacy Shield" means the EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield Framework self-certification program operated by the U.S. Department of Commerce and approved by the European Commission pursuant to Decision C(2016)4176 of 12 July 2016 and by the Swiss Federal Council on January 11, 2017 respectively.

"Privacy Shield Principles" means the Privacy Shield Principles (as supplemented by the Supplemental Principles) contained in Annex II to the European Commission Decision C(2016)4176 of 12 July 2016 (as may be amended, superseded or replaced).

"SCCs" means the standard contractual clauses for processors as approved by the European Commission.

"Security Incident" means any unauthorized or unlawful breach of security that leads to the accidental or unlawful destruction, loss, or alteration of, or unauthorized disclosure of or access to, Participant Personal Data on systems managed or otherwise controlled by Foundation.

"Sensitive Data" means (a) social security number, passport number, driver's license number, or similar identifier (or any portion thereof); (b) credit or debit card number (other than the truncated (last four digits)

of a credit or debit card); (c) employment, financial, genetic, biometric or health information; (d) racial, ethnic, political or religious affiliation, trade union membership, or information about sexual life or sexual orientation; (e) account passwords; or (f) other information that falls within the definition of "special categories of data" under the GDPR or any other applicable Data Protection Laws.

"Sub-processor" means any processor engaged by Foundation or its Affiliates to assist in fulfilling its obligations under the Agreement or this DPA. Sub-processors may include third parties or Affiliates of Foundation but shall exclude Foundation employees or consultants.

The terms "personal data", "controller", "processor" and "processing" shall have the meaning given to them in the GDPR, and "process", "processes" and "processed" shall be interpreted accordingly.

## **2. Roles and Responsibilities**

2.1 Parties' roles. As between Foundation and Participant, Participant is the controller of Participant Personal Data, and Foundation shall process Participant Personal Data only as a processor acting on behalf of Participant as described in Annex A (Details of Processing) of this DPA.

2.2 Purpose limitation. Foundation shall process Participant Personal Data only for the purposes described in this DPA and in accordance with Participant's documented lawful instructions, except where otherwise required by applicable law. The parties agree that the Agreement sets out Participant's complete and final instructions to Foundation in relation to the processing of Participant Personal Data, and processing differing from these instructions (if any) shall require prior written agreement between the parties.

2.3 Prohibited data. Participant will not provide (or cause to be provided) any Sensitive Data to Foundation for processing under the Agreement, and will have no liability whatsoever for Sensitive Data, whether in connection with a Security Incident. Foundation will have no liability whatsoever for Sensitive Data, whether in connection with a Security Incident or otherwise. For the avoidance of doubt, this DPA will not apply to Sensitive Data.

2.4 Participant compliance. Participant represents and warrants that (i) it has complied, and will continue to comply, with all applicable Data Protection Laws in respect of its processing of Participant Personal Data and any processing instructions it issues to Foundation; and (ii) it has provided, and will continue to provide, all notice and has obtained, and will continue to obtain, all consents and rights necessary under Data Protection Laws for Foundation to process Participant Personal Data for the purposes described in the Agreement. Participant shall have sole responsibility for the accuracy, quality, and legality of Participant Personal Data and the means by which Participant acquired Participant Personal Data. Without prejudice to the generality of the foregoing, Participant agrees that it shall be responsible for complying with all laws (including Data Protection Laws) applicable to any emails or other content created, sent or managed pursuant to the Agreement, including those relating to obtaining consents (where required) to send emails, the content of the emails and its email deployment practices.

2.5 Notification obligations regarding Participant's instructions. Foundation shall promptly notify Participant in writing, unless prohibited from doing so under Data Protection Laws, if it becomes aware or believes that any data processing instruction from Participant violates Data Protection Laws.

## **3. Sub-processing**

3.1 Authorized Sub-processors. Participant agrees that Foundation may engage Sub-processors to process Participant Personal Data on Participant's behalf. The Sub-processors currently engaged by Foundation and authorized by Participant are available at <https://corda.network/policy/gdpr> (which may be moved from time to time, which Foundation shall update at least ten (10) calendar days prior to adding or removing Sub-processors).

3.2 Objection to Sub-processors. Participant may object in writing to Foundation's appointment of a new Sub-processor within seven (5) calendar days of receiving notice in accordance with Section 3.1 above, provided that such objection is based on reasonable grounds relating to data protection. In such event, Foundation will take such objection into account in appointing such Sub-processor.

3.3 Sub-processor obligations. Foundation shall: (i) enter into a written agreement with each Sub-processor containing data protection obligations that provide at least the same level of protection for Participant Personal Data as those in this DPA, to the extent applicable to the nature of the services provided by such Sub-processor; and (ii) remain responsible for such Sub-processor's compliance with the obligations of this DPA and for any acts or omissions of such Sub-processor that cause Foundation to breach any of its obligations under this DPA.

#### **4. Security**

4.1 Security Measures. Foundation shall implement and maintain appropriate technical and organizational security measures to protect Participant Personal Data from Security Incidents and to preserve the security and confidentiality of Participant Personal Data in accordance with Foundation's security standards described in Annex B ("Security Measures").

4.2 Confidentiality of processing. Foundation shall ensure that any person who is authorized by Foundation to process Participant Personal Data (including its staff, agents and subcontractors) shall be under an obligation of confidentiality commensurate with the obligations of confidentiality in clause 2 of Article C (General Terms and Conditions) in the Agreement.

4.3 Updates to Security Measures. Participant is responsible for reviewing the information made available by Foundation relating to data security and making an independent determination as to whether the Service

meets Participant's requirements and legal obligations under Data Protection Laws. Participant acknowledges that the Security Measures are subject to technical progress and development and that Foundation may update or modify the Security Measures from time to time, provided that such updates and modifications do not result in the degradation of the overall security of the Services provided to Participant.

4.4 Security Incident response. Upon becoming aware of a Security Incident, Foundation shall: (i) notify Participant without undue delay, and where feasible, in any event no later than 48 hours from becoming aware of the Security Incident; (ii) provide timely information relating to the Security Incident as it becomes known or as is reasonably requested by Participant; and (iii) promptly take reasonable steps to contain and investigate any Security Incident. Foundation notification of or response to a Security Incident under this Section 4.4 shall not be construed as an acknowledgment by Foundation of any fault or liability with respect to the Security Incident.

4.5 Participant responsibilities. Notwithstanding the above, Participant agrees that except as provided by

this DPA, Participant is responsible for protecting the security of Participant Personal Data when in transit to and from Foundation, and taking any appropriate steps to securely encrypt or backup any Participant Personal Data uploaded to Foundation.

## **5. Security Reports**

5.1 Records. Upon reasonable written request from the Participant, Foundation shall make available to Participant all information reasonably necessary to demonstrate compliance with this DPA.

## **6. International Transfers**

6.1 Data centre locations. In the event that Foundation transfers and processes Participant Personal Data to and in the United States and anywhere else in the world where Foundation, its Affiliates or its Sub-processors maintain data processing operations. Foundation shall at all times ensure that such transfers are made in compliance with the requirements of Data Protection Laws.

6.2 EEA Data transfers. To the extent that Foundation is a recipient of Participant Personal Data protected by Data Protection Laws applicable to the EEA ("EEA Data"), the parties agree that Foundation agrees to abide by and process EEA Data in compliance with the SCCs which are incorporated in full by reference and form an integral part of this DPA. For the purposes of the SCCs: (i) Foundation agrees that it is the "data importer" and Participant is the "data exporter" under the SCCs; (ii) Annexes A and B of this DPA shall replace Appendixes 1 and 2 of the SCCs, respectively

## **7. Return or Deletion of Data**

7.1 Deletion on termination. Upon termination or expiration of the Agreement, Foundation shall (at Participant's election) delete or return to Participant all Participant Personal Data (including copies) in its possession or control, except that this requirement shall not apply to the extent Foundation is required by applicable law to retain some or all of the Participant Personal Data, or to Participant Personal Data it has archived on back-up systems, which Participant Personal Data Foundation shall securely isolate, protect from any further processing and eventually delete in accordance with Foundation's data retention policies, except to the extent required by applicable law.

## **8. Data Subject Rights and Cooperation**

8.1 Data subject requests. Foundation shall (at Participant's expense) provide reasonable cooperation to assist Participant to respond to any requests from individuals or applicable data protection authorities relating to the processing of Participant Personal Data under the Agreement. In the event that any such request is made to Foundation directly, Foundation shall not respond to such communication directly except as appropriate (for example, to direct the data subject to contact Participant) or legally required, without Participant's prior authorization. If Foundation is required to respond to such a request, Foundation shall promptly notify Participant and provide Participant with a copy of the request unless Foundation is legally prohibited from doing so. For the avoidance of doubt, nothing in the Agreement (including this DPA) shall restrict or prevent Foundation from responding to any data subject or data protection authority requests in relation to personal data for which Foundation is a controller.

8.2 Subpoenas and court orders. If a law enforcement agency sends Foundation a demand for Participant

Personal Data (for example, through a subpoena or court order), Foundation shall attempt to redirect the law enforcement agency to request that data directly from Participant. As part of this effort, Foundation may provide Participant's basic contact information to the law enforcement agency. If compelled to disclose Participant Personal Data to a law enforcement agency, then Foundation shall give Participant reasonable notice of the demand to allow Participant to seek a protective order or other appropriate remedy, unless Foundation is legally prohibited from doing so.

8.3 Data protection impact assessment. To the extent required under applicable Data Protection Laws, Foundation shall (at Participant's expense) provide all reasonably requested information regarding the Services to enable Participant to carry out data protection impact assessments or prior consultations with data protection authorities as required by law.

## **9. Limitation of Liability**

9.1 Each party's and all of its Affiliates' liability taken together in the aggregate arising out of or related to this DPA (including the SCCs) shall be subject to the exclusions and limitations of liability set forth in the Agreement.

9.2 Any claims against Foundation or its Affiliates under or in connection with this DPA (including, where applicable, the SCCs) shall be brought solely against the entity that is a party to the Agreement.

9.3 In no event shall any party limit its liability with respect to any individual's data protection rights under this DPA or otherwise.

## **10. Relationship with the Agreement**

10.1 This DPA shall remain in effect for as long as Foundation carries out Participant Personal Data processing operations on behalf of Participant or until termination of the Agreement (and all Participant Personal Data has been returned or deleted in accordance with Section 7.1 above).

10.2 The parties agree that this DPA shall replace any existing data processing agreement or similar document that the parties may have previously entered into in connection with the Agreement.

10.3 In the event of any conflict or inconsistency between this DPA and the Agreement, the provisions of the following documents (in order of precedence) shall prevail: (a) SCCs; then (b) this DPA; and then (c) the Agreement.

10.4 Except for any changes made by this DPA, the Agreement remains unchanged and in full force and effect.

10.5 Notwithstanding anything to the contrary in the Agreement (including this DPA), Foundation shall have a right to collect, use and disclose data relating to the use, support and/or operation of the Corda Network ("CN Data") for its legitimate business purposes. To the extent any such CN Data is considered personal data under Data Protection Laws, Foundation shall be responsible for and shall process such data in accordance with Foundation's Privacy Policy located at <https://corda.network/policy/gdpr> and Data Protection Laws. For the avoidance of doubt, this DPA shall not apply to CN Data.



10.6 No one other than a party to this DPA, its successors and permitted assignees shall have any right to enforce any of its terms.

10.7 This DPA shall be governed by and construed in accordance with governing law and jurisdiction provisions in the Agreement, unless required otherwise by applicable Data Protection Laws.

**Annex A**  
**Details of Data Processing**

1. Subject matter: The subject matter of the data processing under this DPA is the Participant Personal Data.
2. Duration: As between Foundation and Participant, the duration of the data processing under this DPA is until the expiration or termination of the Agreement in accordance with its terms.
3. Purpose: Foundation shall only process Participant Personal Data for the following purposes: (i) processing to perform its obligations under the Agreement; and (ii) processing to comply with any other reasonable instructions provided by Participant (e.g., via email or support tickets) that are consistent with the terms of the Agreement (individually and collectively, the "Purpose").
4. Nature of the processing: In Foundation's provision of support to the Participant in their use of the Corda Network as well as related onboarding and billing processes, as more particularly described in the Agreement.
5. Categories of data subjects: Participants' employees
6. Types of Participant Personal Data: Participant may upload, submit or otherwise provide certain personal data to Foundation, the extent of which is typically determined and controlled by Participant in its sole discretion, and may include the following types of personal data:

Participant employees: Identification and contact data (name, job title, contact details, including email address) and IT information (IP addresses, usage data, cookies data, online navigation data, location data, browser data).

7. Sensitive Data: Foundation does not want to, nor does it intentionally, collect or process any Sensitive Data in connection with the provision of the Services.
8. Processing Operations: Participant Personal Data will be processed in accordance with the Agreement (including this DPA) and may be subject to the following processing activities:
  - Storage and other processing necessary to provide, maintain and improve Corda Network or the Services provided to Participant pursuant to the Agreement; and/or
  - Disclosures in accordance with the Agreement and/or as compelled by applicable law.

## **Annex B**

### **Security Measures**

#### **1. Organizational Security Controls**

Foundation will implement and maintain technical and organizational measures to protect Participant Personal Data against accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access as described below ("Security Measures"). The Security Measures include governance around access to systems storing Participant Personal Data; to help restore timely access to Participant Personal Data following an incident; and for regular testing of effectiveness. Foundation will maintain such Participant Personal Data according to the control framework defined by Foundation's information security management framework.

##### ***a. Security Compliance***

Foundation will take appropriate steps to require compliance with Security Measures by its employees, contractors and Sub-processors to the extent applicable to their scope of performance, including ensuring that all persons authorized to process personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

##### ***b. Data Incidents***

If Foundation becomes aware of any data incidents, Foundation will follow steps outlined above in the security incident identification section.

##### ***c. Security Responsibility***

Foundation's information security manager is responsible for ensuring that any technical solutions to the protection of personal data meet the requirements of the controller, the information owner and applicable regulation.

#### **2. Technical Security Controls**

##### ***a. Access Policy***

Foundation's internal access control processes and policies are designed to prevent unauthorized persons and/or systems from gaining access to systems used to process Participant Personal Data. Foundation's information security manager provides only authorized users have access to Participant Personal Data and all users are allocated unique user IDs for access to systems processing Participant Personal Data.

##### ***b. Data***

Production systems containing Participant Personal Data will be logically segregated from development systems. Appropriate authentication schemes will be maintained for systems processing personal information. Systems processing personal data will adequately protect that information at rest and in transit. Participant Personal Data will be deleted in accordance to Data Retention and Deletion section above.

##### ***c. Sub-processor Security***

Foundation reviews security and privacy practices of Sub-processors to require Sub-processors provide a level of security and privacy appropriate to their access to data and the scope of the services they are engaged to provide.