

Terms of Service XEROF

Preamble

WHEREAS, Xerof is an online exchange and money transmitting business provided by FE Swiss Financial AG, with legal seat in Zug designed to

- *enable Users to settle the purchase price or part of the purchase price of goods, services or contributions in Digital Assets and the Recipient to receive the purchase price or part of the purchase price in FIAT (“Xerof Transaction Services”);*
- *enable Users to exchange Digital Assets to FIAT and vice versa (“Xerof OTC Exchange Services”);*
- *enable Users to store Digital Assets (“Xerof Custodial Services”) (Xerof Transaction Services, Xerof OTC Exchange Services and Xerof Custodial Services in the following together “Xerof Services”).*

WHEREAS, User is a legal entity or individual person who desires to use the Xerof Services. By accessing the Xerof Website and using the Xerof Services User agrees and accepts these Terms.

1. Definitions

“**Digital Assets**” shall mean digital assets registered on a blockchain or another distributed and encryption-based ledger or based on similar technology.

“**Exchange**” shall mean the exchange of Digital Assets to FIAT and vice versa provided by Xerof to User.

“**Exchange Fee**” shall mean the fee for the Exchange charged by Xerof to User as indicated in the Welcome Letter.

“**Welcome Letter**” shall mean the letter sent by Xerof to User consisting of the information as indicated in clause 8.

“**Recipient**” shall mean the designated recipient of the Transaction.

“**Recipient Bank Account**” shall mean the bank account of the Recipient designated by User.

“**Terms**” shall mean these terms of service.

“**Transaction**” shall mean the transaction from User to Recipient for the purpose of settlement of a purchase price or part of the purchase price of goods, services or contributions provided by the Recipient to the User.

“**Transaction Information**” shall mean the information provided by User to Xerof necessary to perform the Transaction as requested by Xerof (such as amount and type of User Digital Assets which shall be used for the Transaction, PUK of the User from which the User Digital Assets will be transferred to Xerof, contact details from Recipient, information regarding the underlying purchase, Recipient Bank Account details and FIAT currency in which the Recipient should receive the funds).

“**Transaction Fee**” shall mean the fee for the Transaction charged by Xerof to User as indicated in the Welcome Letter.

“**User Account**” shall mean the account of the User accessible via the Xerof Website.

“**User Bank Account**” shall mean the bank account of a User connected to a User Account.

“**User Account Access Data**” shall mean information and data necessary to log-in to User Account.

“**User Digital Assets**” shall mean Digital Assets of the User used to execute the Transaction or the Exchange.

“**User Custodial Assets**” shall mean Digital Assets of the User in custody with Xerof as part of the Xerof Custodial Services.

“**User Information**” shall mean the information requested on the Xerof Website to create a User Account.

“**Xerof Bank Account**” shall mean a bank account in the name of Xerof.

“**Xerof User Wallet**” shall mean an individual and on-chain segregated wallet held by Xerof for a User.

“**Xerof Wallet**” shall mean a wallet held by Xerof used to perform the Exchange.

“**Xerof Website**” shall mean the website www.xerof.com.

2. Xerof Services

1. Xerof provides a simple and convenient way to:
 - settle the purchase price of goods, services or contributions provided by the Recipient to the User (“**Xerof Transaction Services**”);
 - exchange Digital Assets to FIAT and vice versa (“**Xerof OTC Exchange Services**”);
 - enable Users to store Digital Assets (“**Xerof Custodial Services**”)
2. Only Digital Assets which qualify as Utility or Payment Token according to the guidelines of the Swiss Financial Market Supervisory Authority (“FINMA”) of 16 February 2018 for subordination requests concerning Initial Coin Offerings will be accepted for Xerof Services.

3. Onboarding as a User

3.1. Setting up a User Account

3. In order to use the Xerof Services, User needs to set up a User Account by providing User Information on the login interface on the Xerof Website and accepting these Terms.

3.2. KYC/AML Process

4. Once User has submitted User Information User must complete certain verification procedures (“**KYC-Check**”) which will be conducted by Xerof or a KYC/AML partner of Xerof (“**KYC Service Provider**”). Additional KYC-Checks may be performed before each transaction.
5. User acknowledges that pursuant to any applicable anti-money laundering, anti-terrorist financing, government sanction and “KYC”-laws, whether within Switzerland or elsewhere (collectively, including any guidelines or orders thereunder, the “**AML Legislation**”), Xerof or its KYC Service Provider may be required to obtain, verify and record information regarding User, User’s directors, User’s partners or User’s author-

ized signing officers and the transaction (e.g. source of funds) contemplated by these Terms.

6. User undertakes to promptly provide or cause to be provided to Xerof or to KYC Service Provider all required information, including supporting documentation and other evidence, as may be reasonably requested by Xerof or its KYC Service Provider, in order to complete Xerof's or the Service Provider's KYC-Check to ensure compliance with applicable AML Legislation, whether now or hereafter in existence. The same applies in case one of Xerof's bank or Recipient Bank requires additional information regarding the source of funds of deposits/transactions made or intended to be made by Xerof.
7. User understands that the outcome of the KYC-Check, e.g. the non-admission of a transaction, or the exclusion at any time later, lies in the sole discretion of Xerof and/or the KYC Service Provider. User further understands that the amount of information requested to provide as part of the KYC-Check may be subject to change over time and that you may at a later point in time be required to provide additional documents and/or information, based on which your transaction may be rejected.
8. Xerof or the KYC Service Provider may designate the KYC-Check process to a KYC Service Provider. All documents and information submitted by the User may be sent to one or more KYC Service Provider for review.

3.3.Login Details for User Account and Transaction Fee

9. If the initial KYC-Check was successful, User will receive User Account Access Data and information regarding the Transaction Fee, Exchange Fee and/or Custodial Fees applicable for the User ("**Welcome Letter**").
10. User shall not be permitted to make these User Account Access Data available to third parties and User is responsible for any use and activities in connection with the User Account. User shall inform Xerof immediately if User becomes aware of any an unauthorised access to his User Account.

4. Xerof Transaction Services

4.1.Performance of the Transaction

11. In order to perform a Transaction, User shall designate the type of transaction which should be processed by Xerof by providing the Transaction Information in the respective form in its User Account ("**Transaction Order**"). Xerof may perform an additional KYC-Check for each and every Transaction Order.
12. Upon successful completion of the KYC-Check the User shall transfer Digital Assets to the Xerof User Wallet. Xerof will confirm receipt of the funds by displaying them in the respective User Account. Before performing the exchange of the Digital Assets Xerof in the FIAT currency as defined in the Transaction Order, Xerof will propose to the User when, how, to what conditions the exchange shall be performed ("**Exchange Offer**"). The User shall confirm the Exchange Offer ("**Exchange Confirmation**"). By providing the Exchange Confirmation the User authorizes Xerof to execute the Exchange Offer and charge the User any applicable fees (as described in Section 4.2). Xerof will perform the exchange and transfer the FIAT amount to the Recipient Bank Account, whereas the actual exchange rate may be different from the

prevailing rate indicated via the Exchange Offer. If the exchange rate from the Exchange Offer deviates, to the User's detriment, substantially from the exchange rate when the exchange may be executed (at least 1 %) Xerof will not execute the exchange ("Failed Exchange"). In such case Xerof informs User accordingly and provides a new Exchange Offer.

4.2.Fees

13. The fee to be paid by User to Xerof for performance of the Transaction will be calculated as a percentage of the transaction amount ("**Transaction Fee**") and becomes due and payable upon placing the Transaction Order. By placing the Transaction Order the User accepts the Transaction Fee as designated by Xerof.
14. In addition to the Transaction Fees, additional expenses, interests, charges, commissions, mark-ups or taxes may occur for the execution of the Transaction ("**Third Party Fees**"). Xerof will inform User in advance about such Third Party Fees.
15. User authorizes Xerof and Xerof's designated payment processor to deduct the Transaction Fee and any applicable Third Party Fees from the transaction amount before transferring the exchanged FIAT of the Digital Assets to the Recipient Bank Account.
16. Once the Transaction is executed a confirmation of the Transaction will be electronically made available via the User Account detailing the particulars of the Transaction (in particular all relevant fees).

4.3.Cancellation of the Transaction

17. Both parties may, at any time before the exchanged FIAT of the Digital Assets is transferred to the Recipient Bank Account, cancel the Transaction without any reasons.
18. If the Transaction is cancelled by one of the parties or the Transaction may not be successfully executed for any other reason (e.g. any of the involved banks refuses the Transaction) the Transaction shall be reversed. If the Digital Assets have at the time of cancellation already been exchanged, the FIAT amount will be exchanged to the same currency of the Digital Assets again before the assets are provided to the User, whereas Xerof may in its own discretion decide when the exchange shall be executed.
19. Xerof shall not be liable for any currency lost, Third Party Fees or costs of additional transactions of a reversed transaction unless Xerof has cancelled the Transaction without valid reasons. In all other cases User shall carry any and all costs and losses (e.g. currency losses) of the cancelled transaction and Xerof is entitled to deduct all such costs before transferring the remaining Digital Assets to User.
20. If the Transaction is cancelled by Xerof without valid reasons, no Transaction Fee is due. If the Transaction is cancelled by Xerof for valid reasons, the Transaction is cancelled by User or the Transaction is not successfully executed for any other reason a reduced Transaction Fee of 50 % of the Transaction Fee ("**Reduced Transaction Fee**") is due and Xerof shall be entitled to deduct this Reduced Transaction Fee from the Digital Assets before the Transaction shall be reversed.

5. Xerof OTC Exchange Services

5.1. Performance of the Exchange

21. In order to perform an Exchange, User shall designate the type of exchange which should be processed by Xerof by providing the Exchange Information in the respective form in its User Account ("**Exchange Order**"). Each Exchange Order requires at least the User to specify the amount of Fiat currency or Digital Assets the User intends to sell ("Purchase Funds") and the Fiat currency or Digital Assets equivalent to be bought with the Purchase Funds ("Target Funds"). Xerof may perform an additional KYC-Check for each and every Exchange Order.
22. Upon successful completion of the KYC-Check the User shall transfer the designated Digital Assets to the Xerof Wallet or to Xerof Bank Account. Before performing the exchange as defined in the Exchange Order, Xerof will propose to the User the applicable exchange rate and the conditions of the exchange ("**Exchange Offer**"), which is an indicative offer. The final exchange rate will be determined at the time Xerof executes the Users Exchange Order at Xerof's sole discretion and based on a best effort basis ("**Final Exchange Rate**").
23. The User shall confirm the Exchange Offer ("**Exchange Confirmation**"). By providing the Exchange Confirmation the User authorizes Xerof to execute the Exchange Offer and charge the User any applicable fees (as described in section 5.2). Xerof will perform the exchange and transfer the FIAT amount to the User Bank Account or the Digital Assets to the designated wallet of the User, whereas the actual exchange rate may be different from the prevailing rate indicated via the Exchange Offer. If the exchange rate from the Exchange Offer deviates, to the User's detriment, substantially from the exchange rate when the exchange may be executed (at least 1 %) Xerof will not execute the exchange ("Failed Exchange"). In such case Xerof informs User accordingly and provides a new Exchange Offer. In case no successful exchange can be performed within 60 upon the inflow of the assets to Xerof, Xerof will re-transfer the Digital Assets or the FIAT amount to the User.

5.2. Fees

24. The fee to be paid by User to Xerof for performance of the Exchange will be calculated as a percentage of the Exchange Amount ("**Exchange Fee**") and becomes due and payable upon placing the Exchange Order. By placing the Exchange Order the User accepts the Exchange Fee as designated by Xerof.
25. In addition to the Exchange Fees, additional expenses, interests, charges, commissions, mark-ups or taxes may occur for the execution of the Exchange ("**Third Party Fees**"). Xerof will inform User in advance about the range of such Third Party Fees.
26. User authorizes Xerof and Xerof's designated payment processor to deduct the Exchange Fee and any applicable Third Party Fees from the Exchange Amount before transferring the Exchange Amount to the User Bank Account or the designated wallet of the User.
27. Once the Exchange is executed a confirmation of the Exchange will be electronically made available via the User Account detailing the particulars of the Exchange (in particular all relevant fees).

6. Xerof Custodial Services

6.1. Custody Set-Up for Digital Assets

28. The types of Digital Assets covered by the Xerof Custodial Services are defined by Xerof upon opening of a User Account and further Digital Assets can be supported in accordance with the provision in section 11 below.
29. All Users Digital Assets held in custody by Xerof for a User (“User Custodial Assets”) will be held in Xerof User Wallets. For each User Xerof will hold an on-chain segregated Xerof User Wallet. Such Xerof User Wallet only contain Digital Assets which belong to the User. A pooling with the Digital Assets of other User may only take place if User uses the Xerof OTC Exchange Services as described in section 5 above. Access to such Xerof User Wallets is based on a multi-signature approach according to which every on-chain transaction from a Xerof User Wallet needs to be signed by Xerof who controls the respective private key/private key shard (“Xerof User Wallet Private Key”). Xerof will only sign transaction upon receipt of an instruction by the User within the User Account.
30. Xerof assures that the Digital Assets of the User will at all times be individualised in the books of Xerof as assets in the property of User.

6.2. Deposits and Withdrawals

31. The User may make deposits to (transfer-in) and withdrawals from (transfer-out) the User Custodial Assets balances in accordance to the respective process specified in the User Account.
- **Deposits of Digital Assets:** Xerof may verify the Users control over the sender wallet(s) used applying any method determined at the discretion of Xerof. If Digital Assets are being deposited from a third-party sender wallet, Xerof only accepts such a transaction if the respective third-party successfully passes a KYC/AML check as determined at the sole discretion of Xerof.
 - **Withdrawals of Digital Assets:** Xerof does accept withdrawals from the Xerof User Wallets to external accounts or wallets under control by any person other than the User only, if such third party successfully passes a KYC/AML check determined at the sole discretion of Xerof.

Xerof may verify the User’s control over the receiving wallet(s) used applying any method determined at the discretion of Xerof.

32. The User understands and accepts that:
- Any transfer-in and transfer-out Instructions by the User are subject to the required compliance checks according to the anti-money laundering directive of Xerof as a regulated Swiss financial intermediary and can be rejected at its sole discretion. Xerof is not obliged to provide any reasons for its decision.
 - Xerof does not guarantee any maximum duration for the processing of transfer-in and transfer-out transactions/instructions and disclaims any liability for losses or damages caused by delays in the processing of such transactions/instructions.
 - The User bears the full risk for the accuracy of the provided recipient addresses for transfer-out Instructions as well as for initiating the correct transaction to the wallet address Xerof has provided for the transfer-in transactions. Xerof dis-

claims any liability for losses or damages caused by the User using or providing incorrect wallet addresses in this regard.

6.3. Ownership of Digital Assets

33. Xerof hereby acknowledges and agrees that it is a custodian of the User Custodial Assets which always remain in the property of the User and that Xerof has no right, interest, or title in such User Custodial Assets. Xerof hereby confirms that the User Custodial Assets do not constitute an asset on the balance sheet of Xerof and that the User Custodial Assets will at all times be identifiable in Xerof's database as being stored on behalf of Customer (via an on-chain segregation).

6.4. Safekeeping of User Custodial Assets

34. Xerof shall use commercially reasonable efforts to keep in safe custody on behalf of the User all User Custodial Assets received by Xerof. All User Custodial Assets connected to the User Account shall be held in the related Xerof User Wallets at all times – except for explicit transaction instructions made by User. Xerof will use commercially reasonable efforts to keep its keys to the Xerof User Wallets secure, to prevent unauthorized access to or use of the keys to the Xerof User Wallet and shall maintain at least one (1) backup key to use as a replacement.

6.5. Reporting and Valuation of Custodied Digital Assets

35. Xerof shall provide User with periodic reports, transaction notices and/or statements of accounts relating to the User Custodial Assets. Xerof shall provide such statements of accounts on a monthly basis and ensures on a best effort basis that User can obtain such data as required for income and/or wealth tax purposes of the User.

36. The User will have thirty (30) days to file any written objections or exceptions with Xerof after respective account statement has been made available via the User Account or other pre-agreed communication channel. If the User does not file any objections or exceptions within the thirty (30) day period, this shall indicate the User's approval of the statement and will preclude the User from making future objections or exceptions regarding the information contained in the statement. Such approval by the User shall be full acquittal and discharge of User regarding the transactions and information on such statement.

6.6. Record Keeping

37. User shall have access to the books and records pertaining to User Custodial Assets, which are in the possession or under the control of Xerof at all times during Xerof's normal business hours. Upon the reasonable request of Xerof, copies of any such books and records shall be provided by Xerof to the User, at the User's expense. All records maintained pursuant to this provision shall be retained by User for such period as required by applicable law, but in no event for less than ten (10) years, after which retention of such records shall be at Xerof's discretion.

7. Audit Rights

38. If the provision of the Xerof Services is part of an outsourcing Agreement due to which User outsources own activities to Xerof (in the sense of the FINMA Outsourcing Circular 2018/3 or similar provision), which Xerof needs to be informed in

writing about, the User, its audit firm as well as any regulatory body under whose licensing regime the User operates shall have the right – at the User’s expense – to inspect and audit all information relating to the outsourced function at any time without restriction.

8. Use of Subcontractors

39. The Customer understands that Xerof may perform any of its duties or obligations under this Agreement through subcontractors, agents or sub-custodians (including affiliates), whenever and on such terms and conditions as Xerof, in its sole discretion, deems necessary or appropriate to perform such duties or obligations or liabilities; provided that no arrangement with such subcontractor, agent or sub-custodian shall discharge Xerof from its duties and obligations for the selection and instruction of such subcontractor, agent or sub-custodian.

9. Suspension Due to Market Disruption

40. The User agrees and understands that in the event of a market disruption, Xerof may, in its sole discretion, do one or more of the following: (i) suspend access to the Xerof Services; or (ii) prevent the User from completing any actions via the Xerof Services. It can do so itself or via its sub-contractors. Xerof is not liable for any losses suffered by the User resulting from such actions. Following such an event, when Xerof Services resume, the User agrees and understands that the prevailing market prices may differ significantly from the prices prior to such event.

10. No Asset Management or Investment Advice

41. Xerof is not acting under this Agreement as manager or investment adviser to the User, and responsibility for the selection, acquisition and disposal of the User Custodial Assets or execution of any exchange or transaction remains with the User all times. Xerof shall have no obligation to explain or warn of any risks taken or to be taken by the User. In particular Xerof has no duty to inform the User of any information on an asset in the User Account which Xerof may have learned in connection with another User Account or User or from any source other than in the operation of the User Account.

42. The information on the User Account or provided via other communication channels does not constitute legal, financial or investment advice and is not intended as a recommendation for buying, trading or selling Digital Assets or Fiat currencies. Xerof recommends seeking advice of legal and financial experts before starting to buy, trading or selling Digital Assets. Digital Assets are volatile. Buying and selling of Digital Assets carries with it a high degree of risk. The Customer should be fully aware of the level of risk involved before trading. Any loss of data, Digital Assets or profit is on the User’s sole responsibility. Xerof will not be responsible for the consequences of reliance upon any opinion or statement contained herein or for any omission.

11. Fork and Airdrop Policy / Digital Asset Support

43. In the event of a Fork, the User can only claim the version of that Digital Asset which is deemed the official/prevaling one at the sole discretion of Xerof.
44. Any Airdrops Xerof as custody service provider receives related to the Digital Assets of the User shall become part of the User Custodial Assets of such User as well, if Xerof supports the Digital Asset created in the course of such Airdrop. User understands and accepts that it lies in Xerof's sole discretion whether to support a Digital Asset, respectively the related Airdrop procedure and that Xerof, if not doing so, still might keep the related Airdrops as its own exclusive property.
45. For which Digital Assets Xerof provides the Xerof Services lies at the sole discretion of Xerof and Xerof can add or remove support towards certain Digital Assets without being obliged to explain such a decision. Which Digital Assets are supported towards a specific User is being agreed between such User and Xerof. User shall not expect that Xerof supports any other Digital Assets as explicitly stated by Xerof via its website or any other pre-agreed communication channel. This means, in particular and without limitation, User should not attempt to receive, request, send, store, or engage in any other type of transaction involving any Digital Asset unless expressly supported by Xerof. Xerof will have no responsibility or liability if customer loses, burns, or otherwise cannot access or control any digital assets that Xerof does not support.

12. Risks

46. The User understands and accepts the risks connected to Digital Assets, the Transaction, the Exchange and any other services provided by Xerof as part of this Agreement. In particular, but not exhaustively, the User understands the inherent risks listed hereinafter:
 - **Risk of Theft:** The Client understands and accepts that the Digital Assets used for the Transaction, Exchange or Custody may be exposed to attacks by hackers or other individuals that could result in theft or complete loss of the Digital Assets of the User.
 - **Risk of Mining Attacks:** The User understands and accepts that, the blockchain is susceptible to attacks, including but not limited to denial of service attacks, exploits of consensus nodes, and byzantine attacks on the consensus nodes. Any successful attacks present a risk to the performance of the Xerof Services.
 - **Risk of Transaction Verification:** The User understands and accepts that the Transaction, Exchange or Custody may be delayed or not be executed due to the transaction volume on the respective blockchain, mining attacks and/or similar events.
 - **Risk of Software Weaknesses:** The User understands and accepts that the relevant blockchain, the underlying software application, and software platform may still be in an early developmental stage and unproven. The User acknowledges that there is an inherent risk that the software could contain weaknesses, vulnerabilities or bugs causing, inter alia, a complete loss of the Digital Assets for the Xerof Services.

- **Prices and Availability:** The User understands and accepts that all prices during the Suggested Exchange reflect the exchange rates of Broker/Exchange applicable to the sale of the Digital Assets. Particularly during periods of high volume, illiquidity, fast movement or volatility in the marketplace for any Digital Assets, the actual market rate at which the exchange is executed may be different from the prevailing rate indicated via the Exchange Offer.

13. Warranties of User

47. By accepting these Terms, User represents and warrants that:

- he/she is the sole legal and ultimate beneficial owner of the Digital Assets used for the Xerof Services;
- he/she may only use the User Account and the Xerof Services for the contractually agreed purpose, which is the settlement of a purchase price of goods, services or contributions provided by the Recipient to the User. In particular, using the User Account and the Xerof Services for currency exchange services (this includes the exchange of fiat money into Digital Assets and vice versa) and any transfer of money and assets not serving as a payment by the User to Recipient for goods, services or contributions rendered by the Recipient to the User is strictly forbidden;
- he/she will use the Xerof Services and User Account only for himself/herself, and not on behalf of any third party, unless you have obtained prior approval from Xerof. Each User may register only one User Account;
- he/she is fully responsible for all activity that occurs under the User Account. Xerof may, in its sole discretion, refuse to open a User Account for a User, or fully or partially suspend or terminate any User Account,
- he/she is not using Xerof Services for any illegal purposes;
- he/she has a deep understanding of the functionality and transmission mechanisms of blockchain-based software Digital Assets;
- that all information provided within any registration or KYC-Check linked to his User Account is true and accurate;
- the Digital Assets used for the Xerof Services are (i) good, clean, clear and are of non-criminal origin; (ii) completely free and clear of any liens or encumbrances of any kind of any rights of third-party interests; and (iii) have no origins that may be connected to any breach of money laundering regulations whatsoever, as defined in the jurisdiction of origin, or internationally;
- he/she is not being listed, or associated with any person or entity being listed, on any of the US Department of Commerce's Denied Persons or Entity List, the US Department of Treasury's Specially Designated Nationals or Blocked Persons Lists, the US Department of State's Debarred Parties List, the EU Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions or the Swiss SECO's Overall List of Sanctioned Individuals, Entities and Organizations;
- he/she is not a citizen or resident of the United States of America, nor a person subject to US taxation based on the Foreign Account Tax Compliance Act

(FATCA), nor resident of, citizen of or located in a geographic area that is subject to UN-, US-, EU-, Swiss or any other sovereign country sanctions or embargoes;

14. Warranties of Xerof

48. Xerof is a company duly organized, validly existing and in good standing under the laws of Switzerland and has all requisite corporate power and authority to carry on its statutory purpose and operation as now conducted and as presently proposed to be conducted.
49. Xerof has all requisite power and authority to execute and deliver the obligations under these Terms.

15. Liability

50. Xerof carries out the Xerof Service with reasonable care.
51. The liability of Xerof is limited to acts of intent and gross negligence and direct damages. Any liability for indirect damage or consequential damage including loss of profit is excluded. In particular, Xerof shall in particular not be liable for damages resulting from delayed or non-executed processing of Transaction or Exchange Orders or from transfers of the User of Digital Assets on non-notified block chain addresses.
52. Xerof cannot guarantee that the Xerof Website and Xerof Services may be available all the time. Xerof Website and Xerof Services may be unavailable for various reasons, including routine maintenance. The User accepts that due to circumstances within or outside the control of Xerof the use of the Xerof Service may be interrupted, suspended or terminated. Xerof expressly excludes any liability for damages due to such circumstances. Xerof shall not be liable for any Failed Exchange and in particular any adverse exchange rates due to a Failed Exchange.
53. Xerof shall be liable for the acts or omissions of their subcontractors in the same way as for itself.

16. Confidentiality

54. The Parties agree to hold each other's "Confidential Information" confidential for a period of three (3) years following the termination of the contractual relationship. The Parties agree, that unless required by law or required by a service provider (e.g. KYC Service Provider), they shall not make each other's Confidential Information available in any form to any third party or to use each other's Confidential Information for any purpose other than the implementation of these Terms. Each Party agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of these Terms.
55. Confidential Information shall mean all material and information that has or will come into possession or knowledge of the other Party in connection with its performance hereunder and which in the ordinary course of business is considered to be treated confidential. A Party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other Party; (b) was in the other Party's lawful possession prior to the disclosure

and had not been obtained by the other Party either directly or indirectly from the disclosing Party; (c) is lawfully disclosed to the other Party by a third party without restriction on disclosure; (d) is independently developed by the other Party; or (e) is required to be disclosed by law or governmental regulation or by any competent body or authority provided that the recipient shall inform the disclosing Party of its obligation to disclose information, of the information to be disclosed and of the circumstances in which the disclosure is alleged to be required) as early as reasonably possible before such disclosure must be made and shall take all reasonable actions to avoid and limit such disclosure. The Parties agree that the information duty under (e) shall not apply to disclosures towards tax authorities.

17. Data Protection

56. Any use of your personal data is governed by our Privacy Policy which can be accessed in its most current version on the Xerof Website.

18. Intellectual Property

57. User accepts that any and all rights (including copyrights, design rights and/or other intellectual property rights) of Xerof (in particular but not exclusively in the Xerof Website and the Xerof Services) shall remain in the sole property of Xerof. Xerof does not assign any right, title and interest in any and all work results created or developed by Xerof under this Agreement, including, but without limitation, all patents, copyrights, trade secrets and other proprietary rights.

19. Applicable Law and Jurisdiction

58. These Terms shall be governed by and construed in accordance with **Swiss law**, excluding the Swiss conflict of law rules. The application of the United Nations Convention for Contracts for the International Sales of Goods is hereby expressly excluded.

Any dispute, controversy or claim arising out of or in connection with this Agreement or the breach, termination, existence, legal competence or invalidity thereof, shall be exclusively settled by the courts of Zug, Switzerland.

20. Miscellaneous

59. These Terms do not create a principal or agent, employer or employee partnership, joint venture, or any other relationship except that of independent contractors between the Parties. Nothing contained herein shall be construed to create or imply a joint venture, principal and agent, employer or employee, partnership, or any other relationship except that of independent contractors between the parties, and neither party shall have any right, power or authority to create any obligation, express or implied, on behalf of the other in connection with the performance hereunder.

60. No modification, amendment, supplement to or waiver of these terms, including this Section, shall be binding upon the parties hereto unless made in writing and duly signed by both parties.

61. The representations and warranties in these Terms are final. Apart from these representations and warranties there are no express or implied representations or warranties respecting these Terms and/or Xerof Services.
62. Neither Party shall have the right to assign or transfer these rights and obligations under these Terms, in full or in part, to any third party without the prior written and express consent of the other Party. The Parties agree that any assignment or transfer in violation of this Section shall be null and void.
63. Xerof shall be entitled to use subcontractors to perform the obligations under these Terms.
64. Xerof reserves the right to change these Terms at any time, effective immediately upon accepted by the User upon the next login to the User Account.
65. These Terms contain the entire agreement between the parties regarding the subject matter hereof and supersedes all understandings and agreements whether written or oral.
66. If any provision of these Terms should be invalid in any jurisdiction under applicable law, the legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby. In such an event, the Parties commit themselves to compose a legally valid replacement rule which approaches the invalid provision as closely as possible within the economic intent of this Agreement. With this in mind, these Terms will be interpreted as though the invalid clause had been omitted from the outset.
67. If any Party waives the enforcement or exercise of its contractual right in a particular case, this may not be considered a general waiver of the respective right or any other contractual right or the exercise and enforcement thereof.

FE Swiss Financial AG, last updated December 20, 2022