General Terms and Conditions for the use of "Ninja" of DeepCloud AG (November 2023)

1.   General information

1.1   These are the General Terms and Conditions (GTCs) of DeepCloud AG, Abacus-Platz 1, 9300 Wittenbach, Switzerland (DeepCloud) for the use of 21.ABANINJA / 21.ABASALARY as well as a NinjaBox (collectively referred to as "Ninja"), including the available Applications and plug-ins, in the form of a Software-as-a-Service (SaaS) solution, including content hosting.

1.2   To that purpose, it is necessary to consent to these GTCs and to acknowledge the Privacy Policy of DeepCloud (by selecting the check box during registration). The contractual relationship between DeepCloud and the Ninja account holder (Owner) begins up on registration for a Ninja account.

1.3   This offer is addressed exclusively to businesses, not to consumers. The Owner hereby confirms that he or she is authorized to enter into the contractual relationship for the business.

1.4   These GTCs are without prejudice to other provisions applicable to the use of Deep Services of DeepCloud, to services of Abacus Research AG (Abacus) or other third-party providers, and apply in addition to these provisions.

2.   Ninja account, Owners and authorized Users

2.1   After successful registration, a Ninja account is opened. Login is password-protected. In case of login via a third-party provider, the provisions of the third-party provider are applicable.

2.2   All contractually relevant information about the Owner and Users must always be accurate and current. DeepCloud may require proof of the accuracy of such information or conduct verifications itself.

2.3   Before DeepCloud will execute a change of Owner, both the old and the new Owners must express their consent through their respective authorized representatives (in writing or electronically).

2.4   Contractually relevant information (e.g. invoices, reminders, changes in services or contracts, operational information such as maintenance work, etc.) may be validly delivered to the Owner if sent by post or to the Owner's e-mail address, Ninja account or otherwise.

2.5   The Owner is liable for the (mis-)conduct of the Users authorized by the Owner (including its Administrators). They receive access to Ninja and may be granted different rights depending on the User group.

3.   Scope of use

3.1   Ninja is composed of the Ninja Application and other plug-ins (such as AbaSalary, AbaClik and AbaClock) (Applications).

3.2   Depending on the scope of use, they are offered free of charge or for a fee; for some of them, there is a trial period. Owners who activate an Application undertake to pay the specified prices. They will automatically be extended monthly in the absence of timely notice of termination.

3.3   Details on the Applications, their scope of use and prices are stated in the relevant Application. The Owner is aware of the essential functionalities of each Application and acknowledges them as proper, appropriate and suitable for use in accordance with the contract. The Owner itself shall clarify whether they meet its requirements. DeepCloud gives no guarantee in that respect (not even if an Application was recommended by a digital coach).

3.4   The Applications comprise permission to use the relevant software online and the storage of data through hosting. DeepCloud provides the necessary infrastructure (hardware and software) to that purpose. The Owner is not entitled to ongoing updates or functional enhancements of the Applications. DeepCloud may change its functionalities.

3.5   The Owner hereby accepts that the Applications are operated in the same release for all Owners and are launched at the same time for all Owners.

3.6   DeepCloud may call upon qualified third parties to perform its obligations, which the Owner hereby approves.

3.7   Ninja has the option of using an "auto-complete" function during address entry of business data. Misuse of that function, e.g. to make unlawful use of the address data, is prohibited. In case of a violation, DeepCloud may terminate the contractual relationship or function, require deletion of the data and claim compensation.

4.   Additional Services

4.1   The scope of use of the Applications does not include more extensive services such as custom development or adjustment of an Application or additional services or software from third-party providers via an interface.

4.2   Additional services or software may be used, however, provided that the corresponding requirements are met in the Applications. Separate contractual and data protection provisions are applicable in that case, which the Owner accepts upon activation or use.

4.3   By using or activating such additional services, the Owner expressly authorizes the participating parties to access, exchange and process the data and documents as necessary.

4.4   In Ninja, it is possible to connect to services of payment providers (such as banks, payment service providers) directly or by using DeepPay. In that case, too, data is exchanged among the relevant participants. To ensure unambiguous assignment, the required ID and access data to the relevant third-party provider are used. Each participant is responsible for ensuring the data processing and security of the data in their respective spheres of activity in accordance with the agreed provisions. DeepCloud enables data exchange through an interface to such third-party providers, in order to map them in the Applications without being involved in the services of the third-party providers or having any influence over their services. The Owner hereby grants DeepCloud and the relevant third-party providers its consent to such data transfer between Ninja or the relevant Application and such a service. Upon termination of the contractual relationship or of such a service, the Owner itself shall revoke its consent to data transfer vis-à-vis the third-party provider of the linked service. DeepCloud, for its part, shall revoke its consent to the relevant data transfer and perform no further data transfers.

4.5   DeepCloud is not responsible for the data handling and processing during use of the additional services of the third-party providers (including payments ordered through them or account information). DeepCloud rejects any and all liability in that regard.

4.6   DeepCloud may restrict, interrupt or (permanently) terminate use of such additional services for good cause. DeepCloud will exercise that right to the necessary extent, particularly in case of anomalies in access behaviour, malfunctions, hazards, impairment of other systems, (urgent) maintenance work, data security breaches or other emergencies, unusual attacks, breaches of contract or similar reasons, as well as in cases of *force majeure*.

4.7   DeepCloud offers other Deep Services that may be integrated into the Applications. Deep Services are also subject to DeepCloud's General Terms and Conditions.

5.   Use of AbaClock

5.1 When AbaClock is used (iPad time recording), valid subscriptions for the Owner's employees and the purchase of the terminals are required to synchronize the data from the terminals into the Application. Strict compliance with Apple's Terms of Use is required. The terminals are equipped by default with technical measures to ensure data security, proper functioning and technical support for AbaClock. Diagnostic data is collected for troubleshooting, hazard detection and prevention, and to improve the User experience. The Owner agrees to the above-mentioned default settings and may have the measures changed at any time.

5.2 If use of the terminals by means of facial recognition is activated in AbaClock, the Owner, as the Controller, is responsible for ensuring that such data processing is lawful (e.g. by informing the Users, performing a data protection impact assessment) and shall examine, under its own responsibility, whether justifying factors (such as consent) are required and, if so, whether such factors exist. DeepCloud disclaims any and all liability in that regard.

5.3 With facial recognition, Users can authenticate themselves and use the terminal by matching the iPad photos on the terminal with the facial models of their data stored in AbaClock 3. The facial models of the Users are generated by special facial recognition software that extracts the unique reference features from a photo. They are stored in the terminal and in the Application for subsequent use of other terminals. The photos created on the User's iPad are not stored permanently and are automatically deleted after use. They are only snapshots. As an alternative to facial recognition, it is possible to use AbaClock by means of a badge.

6. Data processing of information by Google

6.1 In Ninja, GoogleTag Manager can be used (a service of Google Ireland Limited, Gordon House, Barrow Street, Dublin 4, Ireland, hereinafter "Google", as the Data Controller in the EU, EEA and Switzerland). That way, it is possible to manage website-tags. Tags are little pieces of code on the website that facilitate using Google's implemented services.

6.2 in addition, Google Analytics ("GA") and Google Signals (which are likewise Google services) are also used in Ninja. GA places cookies to enable analysis of the use of Ninja by the User and can be used to enhance its functions. Google Signals collects additional information about Users who have activated personalized displays (interests and demographic data). This allows shipping displays to such Users in cross-device remarketing-campaigns. To that purpose, various data and information about the usage and its Users are collected and generally sent to a Google server in the USA, where that data is stored.

6.3 GA is used exclusively with the extension "anonymizeIp()", which is intended to exclude direct identifiability of persons. That extension is used by Google to truncate the IP address within EU Member States or other Contracting States to the EEA Agreement. Only in exceptional cases is the full IP-address sent to a Google server in USA and truncated there. According to Google, the IP address sent by the browser within GA will not be combined with other Google data. During a visit, User behaviour is recorded in the form of "events". Events may include, among other things: page loads, session start-up, interaction with the website, coarse location (region), technical information about the browser and the terminals used. Google uses such information in order to analyse a pseudonymized User's use of Ninja and to compile an activity report.

6.4 The storage of cookies can be disabled by the corresponding setting in the browser-software. If so, all the functions of the website and also of other websites may not be fully available for use. Moreover, it is possible to prevent transmission to Google of the data generated by cookies about website use (including the IP-address) as well as the processing of such data by Google, by downloading and installing the browser plug-in available at https://tools.google.com/dlpage/gaoptout?hl=en. The same procedure should then be followed on all the devices used. Please note that if all the cookies placed are deleted, the plug-in has to be loaded again to prevent use of GA.

6.5 The GA data (such as User and advertising IDs) is automatically deleted 14 months after collection, once a month.

6.6 For the details of Google's Terms of Use and Privacy Policy, see the Google website. Google LLC, as Google's parent company, is a US company, so information might also be processed in the USA. Both the EU and Switzerland have issued positive adequacy decisions regarding the USA, after entering into a Swiss/EU-US Data Privacy Framework. In addition, whenever possible, further safeguards are provided such as entering into standard data protection clauses or obtaining consent to commissioned data processing in order to ensure lawful data transmission.

7. Rights of use, intellectual property rights

7.1 DeepCloud hereby grants a personal, non-exclusive, non-transferable, non-assignable, single right, limited in time and space, to use the software for personal usage, for the duration of the contractual relationship . This means that only the Owner and the Owner's Users may use the Applications.

7.2 Without the written consent of DeepCloud , the Owner is prohibited from making the Software used in this process available in any form to unauthorized third parties, and from sub-licensing, transferring or otherwise exploiting the software. Furthermore, the Owner is not entitled to use the relevant software for any other use than that offered by DeepCloud herein.

7.3 The Owner shall not circumvent the restriction of the scope of the granted rights by integrating proprietary program components into the Software. The Owner is not entitled to expand the number of authorized Users by programming a proprietary user interface. If Owners with an external Interface enter or view data that is processed via interfaces, such Owners will be counted in the scope of use.

7.4 DeepCloud has the right to license interfaces and report generators for the purpose of exporting data from the Applications to third-party systems, which data could be processed there. The Owner may use such interfaces to programs, including those of other providers, to the Applications or report generators only within the scope of this contractual relationship. Such is also the case whenever interfaces and report generators are primarily used to view or print out the data via a third-party system so that Users of the third-party system can view and use that data. The Owner shall comply with the specified usage options and limits and is not entitled to circumvent them through technical means of evasion.

7.5 The Owner shall inform DeepCloud immediately in writing if third parties assert intellectual property rights (e.g. copyrights or patent rights) against the Owner due to use of the Applications. The Owner shall not take any legal actions without the authorization of DeepCloud nor acknowledge any third-party claims on its own initiative without DeepCloud's consent. DeepCloud shall take all necessary defensive measures, such as defending against third-party claims, at its own expense, unless such claims are based on breaches of duty by the Owner or by the Owner's Users.

7.6 All intellectual property rights to the Applications (including software), to content, texts, images, photographs, videos, logos, or other information of DeepCloud, including its websites, belong exclusively to DeepCloud or to the specifically designated rights holders. Written consent of the rights holders must be obtained in advance for any further use of any intellectual property rights. All DeepCloud documentation made accessible to the Owner in the contractual relationship shall be considered the intellectual property of DeepCloud.

8. Obligations of the Owner and the Owner's Users

8.1   The Owner shall use the Applications within the granted scope, comply with its obligations under these GTCs and ensure that its Users also comply herewith, to the extent relevant. The Owner shall indemnify DeepCloud against all third-party claims based on use of the Applications by the Owner or by Owner's Users in violation of the contract or of the law and shall hold DeepCloud harmless.

8.2   The Owner and the Owner's Users shall provide for the necessary state-of-the-art conditions for secure use of the Applications (e.g., by protecting their own systems and terminals from misuse, attacks and malware).

8.3   They shall ensure sufficient access protection (e.g., strong passwords and changing the passwords in case of need).

8.4   They shall immediately report any malfunctions and abnormalities and provide possible support services in order to be able to resolve the malfunction or lock the Application.

8.5   They shall comply with the relevant statutory provisions when using the Applications, particularly provisions on data protection, competition and intellectual property rights, and shall not process any unlawful content in the Applications. The Owner is responsible for such content. DeepCloud is under no obligation to check the content for legality or lawfulness but reserves the right to view, change and/or delete such, as far as possible after notifying the Owner, if there is a justified suspicion of illegal content, if necessary. In the event of an order from a government agency or court, DeepCloud may be required to hand over or grant access to that content.

9.   Fee, payment terms, credit information

9.1   In case of paid use of an Application, a fee is payable by the Owner in accordance with the current price quotations. The fee is determined by the relevant scope of use of an Application plus a monthly subscription fee or package fee, where applicable. The payment obligation takes effect upon ordering an Application and/or extending the scope of use. DeepCloud is entitled to change the prices for the Applications (including subscription fees).

9.2   To activate an Application (even in case of free use), it is necessary to deposit a valid debit or credit card as a means of payment. Special features regarding the method of payment may exist in individual cases.

9.3   If additional services of DeepCloud or third-party provider are used, fees may be payable according to separate contractual provisions. Such fees may also be invoiced directly by the third-party providers.

9.4   If the limited amount of use is reached on a free version, the system will display a message stating you should switch to the paid version. Unless you switch to the paid version, no further data collection will be possible, but you can still use the Application within a limited scope.

9.5   During use of 21.ABANINJA / 21.ABASALARY, fees may be collected via Swiss21.org AG; when NinjaBox is used, via DeepCloud. The invoice amount shall be debited on the 1st day of the month following the use of the Applications, *pro rata temporis* if commencing during the month. The Owner will receive an invoice (amount pure net plus statutory VAT) for its use of the Applications. Secure payment processing when debiting the invoice amount is the responsibility of the selected payment service provider, whose own terms and conditions shall be applicable. The Owner hereby expressly authorizes DeepCloud and/or the company in charge of fee collection to collect any receivables of DeepCloud under this contractual relationship using the selected means of payment.

9.6   Any objections to an invoice shall be raised in writing and objectively justified within 30 days after the invoicing date. In the absence of a timely objection, the invoice and services provided shall be deemed to be reasonable and accepted.

9.7   Default occurs after the due date without further reminder. If the Owner defaults on payment, DeepCloud is entitled to restrict the use of the Application(s) with immediate effect without setting a grace period, to block access and to terminate the contractual relationship.

9.8   In the event of a restriction or if access is blocked, the Owner is not entitled to use the Applications but remains obliged to pay the fees when due.

9.9   In a case of default, DeepCloud may demand default interest on the late payment, expense reimbursement (e.g., for processing, reminder fees, enforcement measures) as well as other damages for delay.

9.10 In the event of late payment, third parties may be commissioned at any time to collect the receivables or receivables may be assigned to such third parties, with the costs assumed by the Owner.

9.11 After full payment of the outstanding receivables, DeepCloud shall restore access to the Application.

9.12 In case of an obligation to perform services before receiving consideration, a credit check on the user may be commissioned to safeguard legitimate interests and data on the Owner's payment history may be disclosed to the relevant credit reference agency.

10.   Data backup

10.1 DeepCloud shall create a backup of the content stored in the Applications in accordance with standard backup procedures and shall endeavour to avoid data loss as far as possible.

10.2 In principle, however, the Owner is responsible for retention and archiving of its data and documents and acknowledges that the data is not archived by DeepCloud. Before deleting the Ninja account, the Owner has the option of backing up the content stored in its Applications in a machine-readable format at any time. The Owner itself shall ensure regular data backup through a data export by using the data backup function provided.

10.3 DeepCloud can invoice the Owner for data backups that DeepCloud carries out for the Owner according to an order placed by the Owner.

10.4 In case of loss or deletion of content, DeepCloud provides no restore function other than the existing data backups.

11.   Invoice records and document exchange

11.1 The Owner is responsible for the exchange of documents (such as invoices) between the Owner and the recipients. DeepCloud checks neither the commercial basis nor the accuracy and completeness of the content of the exchanged documents that the Owner delivers to such recipients, and assumes no responsibility for the processing of format standards such as the ZUGFeRD format. Further information is available from the relevant format standard provider (cf. ZUGFeRD at http://www.ferd-net.de/).

11.2 If the Owner also uses e-business services for the exchange of digital document over a e-business network, additional terms and provisions will be applicable to that business network, which the Owner shall accept separately when using such services.

12.   Availability

12.1 DeepCloud endeavours to achieve the highest possible availability of the Applications and employs the degree of care customary in business but uninterrupted availability cannot be guaranteed. As far as possible, DeepCloud shall give the Owner reasonable prior notice of any interruptions.

12.2 Interruptions in availability are possible due to the following events: Implementation of maintenance or repair measures; any updates/upgrades; impairments caused by third-party systems such as network system failures, mobile services and Internet connections as well as capacity limits thereof; measures to protect or restore the security and integrity of the systems and servers (such as defence against hacker attacks, viruses or other damaging events); governmental or court orders; epidemics, pandemics or other cases of force majeure; malfunctions attributable to server suppliers or hosting partners; interfering acts or omissions by the Owner or the Owner's users.

12.3 If such events occur, DeepCloud is entitled to restrict access to the Ninja account and the Applications, as well as any additional services including those from third-party providers, or to interrupt them as long as necessary without thereby entitling the Owner to any claims (including price reductions, refunds of payments made, or damages), without prejudice to any mandatory statutory liability claims.

12.4 DeepCloud shall schedule any planned interruptions to be as short as possible and, if possible, at suitable times of day, and resolve them as quickly as possible.

13. Support

13.1 Support shall be provided online and by e-mail during the support hours communicated. For the details, see the webpages about Ninja.

13.2 Any malfunction shall be categorized according to the degree of impairment) and appropriate categories shall be taken, according to the category, to restore trouble-free operation as quickly as possible. If the cause of the malfunction is not in an Application, the Owner or, if the cause is known, the relevant third-party provider of the additional service, shall be informed so that it may take the appropriate actions.

13.3 DeepCloud reserves the right to charge for its support services at its latest hourly rates, unless DeepCloud is at fault. Additional services (such as other response times, stand-by duty, on-site assignments, training, etc.) may be charged at the current hourly rates by agreement.

13.4 The Owner may commission the services of a digital coach for the support at Ninja, in which case the contractual relationship shall be exclusively between the Owner and the digital coach, and DeepCloud will not be a party to it.

14. Abuse, Breach of Contract, Force Majeure

14.1 DeepCloud shall take appropriate measures to protect against the Ninja account and Applications being used in violation of the contract or of the law. In case of a well-founded suspicion or breach of existing obligations, the storage of illegal content or other misuse by the Owner or the Owner's Users, DeepCloud may limit or block access to the Ninja account and/or Applications and terminate the contractual relationship. Further rights and claims of DeepCloud are reserved.

14.2 Blocking access alone does not constitute any termination of the contractual relationship. DeepCloud may grant the Owner access to the Applications again if the Owner has ceased the use that is in violation of the contract or of the law.

14.3 If use of the Ninja account or Applications is interrupted by a case of *force majeure* or other circumstances or events that substantially impair or render impossible the performance of services by DeepCloud or any third-party providers, DeepCloud is entitled to interrupt performance of services for the duration of such an Event or of its consequences and to extend the period in question by an appropriate amount of time before beginning further performance of services. DeepCloud shall be released from its performance obligations for the period in question. If such a case continues without interruption for a period of more than 10 days, the contractual relationship may be terminated by either party. The Owner is not entitled to any damages or other claims against DeepCloud if such a circumstance is beyond DeepCloud's reasonable control.

15. Warranty and Liability

15.1 The Applications are of customary quality for a corresponding SaaS solution and are provided "as is". DeepCloud offers the Owner faithful and careful execution of its services according to these terms and conditions. Any further guarantee for the use of the Ninja account or the Applications (including the software used, hosting, and so on) is excluded to the extent permitted by law.

15.2 Services provided free of charge are provided without any claims to performance or warranty. DeepCloud may discontinue free services with reasonable advance notice or offer them only against payment.

15.3 DeepCloud does not warrant uninterrupted and trouble-free use of the Ninja account or Application, nether generally nor at a certain point in time, nor does it warrant that the Ninja account and Application will meet the Owner's individual needs.

15.4 If the "auto-complete"-function is used for address entry, DeepCloud does not guarantee the business data in question or that such data will be available for every country desired by the Owner.

15.5 DeepCloud's liability is limited to damage caused wilfully or through gross negligence, as well as injury to life and limb. In all other respects, any further liability is expressly excluded, particularly liability for consequential damages, financial loss, and indirect damages (such as additional expenses, lost profit, third-party claims, etc.) and for vicarious agents (including third parties involved). The same exclusion applies to any no-fault liability.

15.6 Any claims shall be asserted by the Owner within six months after performance of the services.

15.7 The above disclaimers and limitations of liability shall apply to contractual as well as non-contractual claims of the Owner.

15.8 Excluded from such limitations of liability and disclaimers are obligatory statutory liability provisions.

16. Data Protection and Confidentiality

16.1 The Parties undertake to comply with the relevant data protection provisions.

16.2 In the context of the offer of Applications for the Owner, DeepCloud is the Commissioned Data Processor as defined by the data protection provisions, and the Owner is the Controller. By accepting these GTCs, the Owner also accepts the Data Processing Agreement (DPA) with its Annex ("Additional Commissioned Data Processors" list) in its current version.

16.3 Further commissioned data processors shall be carefully selected and commissioned by DeepCloud. They only receive data to the extent necessary to perform the order processing specifically agreed upon. Commissioned data processing shall be performed in Switzerland and in third countries for which an adequate level of data protection is assured. For data processed outside those countries, DeepCloud shall provide appropriate safeguards such as entering into standard data protection clauses or consent shall be obtained for data transfer to foreign countries. If it is necessary to access data from outside Switzerland, then it shall be done exclusively via secure VPN channels.

16.4 When AbaClock is used, the Owner is responsible for lawful usage during processing of data of its employees or of other data subjects, particularly whenever it is possible to name the terminal's location, to generate the profile of the User's movements and time recording through facial recognition.

16.5 The Owner may delete its content in the Applications at any time, provided that the content is not related to an accounting-relevant transaction in Ninja for which such content is needed.

16.6   In some Applications an information exchange with or between systems of a third-party providers may occur or content may be synchronized with such systems, and it may involve personal data as well as transaction data. In doing so, the Owner shall expressly allow the parties involved the necessary access, exchange between the respective systems and processing of the content. The Owner shall provide for lawful use as well as informing the data subjects and obtaining their consent to such data processing where necessary.

16.7   For a description of how DeepCloud processes data in other respects, see the latest Privacy Policy posted on its website.

16.8   The business and trade secrets of the Parties are secret and shall be treated as confidential as information and data labelled as confidential or recognizable as such under the circumstances. The Parties shall not use such information for their own purposes, disclose it to unauthorized third parties in whole or in part, provide it, or otherwise make it available.

17.   Data security

17.1   DeepCloud shall take technical and organizational measures that are suitable, in particular, to the state of the art, the type, and extent of the data processing when using the Applications as well as possible risks resulting from their use. This includes the use of security measures such as firewalls or antivirus programs to protect the Owner's content.

17.2   The Applications and any additional services from third-party providers shall be provided online State-of-the-art encryption mechanisms are used for data transmission.

17.3   DeepCloud shall check for possible threats to data security at regular intervals .

18.   Customer satisfaction, promotional measures

18.1   DeepCloud is interested in the satisfaction of its customers. DeepCloud may inquire by e-mail or in electronic form whether its services can be used in a satisfactory manner or send information about using the Applications (such as maintenance, new features, usage options)..

18.2   Moreover, DeepCloud may send the Owner information about its own similar contractual products or additionally used services by e-mail or by post or contact the Owner by telephone.

18.3   Registration for an individual newsletter is consent based. In the process, DeepCloud or the sender specified during registration for the newsletter (such as Swiss21.org AG)may send the newsletter in question.

18.4   For the Owner's promotional measures, DeepCloud may call on service providers and disclose the relevant data to them.

18.5   DeepCloud may disclose the Owner's contact data to Abacus Group companies (listed under www.abacus.ch) in Switzerland or the EU, as well as to their partner companies and to Swiss21.org AG (listed under www.swiss21.org). Any promotional measures shall comply with the statutory requirements.

18.6   The Owner may express an objection to a promotional measure at any time or revoke any consent granted by using the contact information in the website's legal notice or clicking on the unsubscribe link in a newsletter.

19.   Duration and termination of the contractual relationship

19.1   This contract shall enter into effect upon acceptance of these GTCs during registration to the Ninja account, at the latest upon logging into the Applications. The contractual relationship with DeepCloud shall be concluded for an indefinite period of time.

19.2   The Owner may terminate the use of all Applications and any services from third-party providers at any time by clicking "Delete company account" on its Swiss21.org account or in Ninja under "Company details". The system issues a warning with a note. If the Owner then confirms the deletion Swiss21.org and/or the Ninja account will be deactivated through a soft delete process. The Owner itself may reactivate its account by logging in again with 30 days so as to allow the Application(s) to be restored together with the content. In that case, the contractual relationship shall continue.

19.3   If no reactivation occurs within the 30-day time limit, it will no longer be possible to restore the content. In the case of 21.ABASALARY, there is no soft delete process.

19.4   Individual Applications or services can be terminated by deactivating them. Content shall be deleted when the existing backup periods expire, at the latest.

19.5   DeepCloud may terminate the contractual relationship in whole or in part on one month's notice to the end of a month, without stating any reasons and without having to pay any compensation. The same rule applies to Applications or services that depend on third-party services or are provided by third parties. In particular, DeepCloud may give notice of termination of certain Applications if they have not been actively used for at least 180 days. Advance warnings will be given that the Application will be terminated unless activated within the prescribed period.

19.6   Termination of the contractual relationship does not entitle the Owner the right to a refund of any fees already paid. Even in the event of termination during a current month, the entire month is still owed as compensation. All receivables due shall be paid.

19.7   Both parties reserve the right to terminate the contract without notice for good cause. Good cause is deemed to include, in particular, reasonable suspicion of misuse of the Ninja account or an Application, any serious breach of the existing contractual provisions by the Owner or the Owner's Users, as well as insolvency, bankruptcy or a petition for debt moratorium of the other party.

19.8   Upon termination of the contractual relationship by DeepCloud, DeepCloud shall block access to the Ninja account within 5 working days, terminate use of the Applications and cease technical communications with third party Applications. Applications and services that are deactivated individually shall be blocked immediately. This means in particular that all pending business cases or services as well as any associated status messages and information will no longer be transported, executed or available.

19.9   The Owner itself shall provide a backup or archiving plan for its content. The Owner shall be responsible for the migration plan for its content upon termination or notice of termination of the Application(s). The Owner shall back up its data inventory in a timely manner under its own responsibility and delete the corresponding content or hereby authorizes DeepCloud to perform its deletion. Access to the Owner's content is excluded after termination of the contractual relationship since the content will be deleted at the latest upon completion of the soft delete process, where applicable, at the latest upon expiration of existing backup periods. Exceptions to such deletion include data that DeepCloud has the right and/or obligation to retain, as well as such data in the archiving systems as will not be deleted until the appropriate, customary periods have expired.

19.10   In case of termination of complex Ninja accounts, the Parties can cooperate for the purpose of orderly data transfer regardless of the reason for contract termination. DeepCloud shall assist the Owner with the necessary termination actions upon request, including any migration services. For planning purposes, the Owner shall inform DeepCloud of its expected need for support sufficiently in advance of the end of the contract. DeepCloud may charge the Owner for its services at its current hourly rates upon termination of the contract.

20.   Course materials

20.1 All course materials (regardless of their form) for the Applications are protected by copyright, regardless of how the Owner has obtained such materials. In particular, the right to reproduce, present, disseminate or edit the course materials in whole or in part is held exclusively by DeepCloud or the designated rights holder. The copyright notices in the course materials shall be complied with and shall not be removed.

20.2 Any recording of an event (audio, photo, video) is strictly prohibited. Any commercial exploitation requires written consent from DeepCloud or the rights holder. Only a registered course participant is permitted to use the course materials.

20.3 Any guarantee or liability for the content of the course materials or for loss or damage resulting from their use is hereby excluded to the extent permitted by law.

21. Other Provisions

21.1 These GTCs shall replace and supersede any previous contracts and general terms and conditions concerning the use of Ninja and the Applications. Any general terms and conditions of business or license terms of the Owner are hereby waived and shall not be incorporated into the contract even if DeepCloud does not expressly object thereto or unconditionally accepts the services.

21.2 DeepCloud may change these GTCs and its prices for well-founded reasons and shall give notice of any such changes reasonably in advance (e.g. in Ninja, by e-mail). Such changes shall be considered accepted unless the Owner gives notice of termination of the contractual relationship before the effective date of the new GTCs; in any case, the changes shall be deemed accepted upon use of the Application(s) after the effective date of the new provisions. Price adjustments shall take place at the beginning of each calendar month. If technical changes that cannot be postponed lead to a conflict with the GTCs, DeepCloud is entitled to implement the changes immediately.

21.3 DeepCloud may assign or transfer rights and obligations as well as the contractual relationship to qualified third parties for good cause. The Owner hereby agrees to a possible assignment or transfer of these rights and obligations.

21.4 In the event that individual provisions of these GTC prove to be invalid or null and void, this will not render the remaining provisions invalid or null and void. Instead, they shall be replaced by provisions that most closely reflect their economic purpose. The same will apply in the event of a gap or omission.

21.5 Swiss law will apply to the exclusion of the provisions of private international law and the Vienna Convention on Contracts for the International Sale of Goods. All disputes arising out of this contractual relationship shall be referred exclusively to the courts of the city of St. Gallen.

21.6 All references to persons are to be understood as gender-neutral.

21.7 These GTC are available in a printable format. They are available in various languages. In case of discrepancies or contradictions, the German version shall prevail.