

0_kit Terms of Use

Thank You for using Tresorit's "0_kit" Software Development Kit ("0_kit") and related on-line services. Tresorit's 0_kit is an online service that enables companies to use encryption in their applications in the manner authorized herein. For a summary of the service, go to <http://tresorit.com/0-kit>

These terms and conditions of use ("Terms") apply to your and your authorized end-users' (together referred to as "You" or "Your") use of the Tresorit 0-kit via the on-line service offered by Tresorit (the "Service"), the underlying Tresorit software (the "Software") and any other related materials and documentation. Please carefully read these Terms before using the Service or the Software. These Terms and the Service chosen by You form the agreement between You and Tresorit ("Agreement") and shall be binding on You and your employees and/or agents. The Service is provided by Tresorit AG, Switzerland or its designated agent ("Tresorit"). By using the Service or by downloading, installing, registering or otherwise using the Software, You are consenting to be bound by these Terms. Subject to the terms and conditions in this Agreement (as a condition to the grant below), Tresorit hereby grants You and You accept a non-exclusive, royalty free, non-transferable, non-sublicensable, revocable license during the term of service provided hereunder to use the, Service, the Software and the 0_kit to develop and implement Your software application. This Agreement binds You and Your respective representatives, and permitted and approved successors (including those by merger and acquisition) or any permitted assigns.

If You do not agree to all of these Terms, any use of the Service and/or Software is unauthorized and You may not download, install, register, copy or otherwise use the Service, the Software and/or part of the 0_kit and You must cease all access to and/or use of the Service and You must remove and destroy any downloads of the Software and any copies immediately.

If You complete the electronic registration process or otherwise indicate acceptance of these Terms, You represent that:

- You have full legal capacity to contractually obligate Yourself to these Terms and You are not barred under any applicable laws from to do so.
- You understand English and have read, understood and accepted these Terms stated herein.
- You may only use the Service and the Software in compliance with these Terms.
- You are over 18 years old.

Tresorit is dedicated to continuous improvement of all parts of the Service and Software, so if You have any question or feedback on these Terms, please let us know by sending an email to support@tresorit.com.

1. Access to the Service

In order to use the 0_kit and the Software, You need to complete a registration process for the Service. When You register to the Service, You must:

- 1.1 Provide information (“Registration Data”) which is true, current, complete and accurate.
- 1.2 Maintain and promptly update Registration Data to keep it true, current, complete and accurate.
- 1.3 Acknowledge that 0-kit is a Software Development Kit (SDK), which is designed to integrate the Software into Your software application and is used to encrypt and decrypt Your end customers’ data. In order for You to deliver higher security in Your application, You further agree that it is solely your responsibility to secure your software application and properly integrate 0_kit, and Tresorit will not be held liable if You do not follow the integration guidance provided by Tresorit.
- 1.4 Acknowledge that in relation to the scope, use, protection, sharing, handling, management and procession of any data that You provide to Tresorit in connection with the use of the Service, including the Registration Data or data that Tresorit obtains from Your use of the Service, including your customers data you upload by using our Service, the Tresorit Privacy Policy <https://tresorit.com/privacy-policy> shall form an integral part of these Terms.
- 1.5 Acknowledge and agree that any of Your affiliates or any entity or person that controls You, is controlled by You, or under common control with You, such as a subsidiary, parent company, or employee shall be bound by these Terms and that You will be responsible for the acts and omissions of Your affiliates in connection with each affiliate’s use of our Services. Your affiliates may order Services directly from us under these Terms.
- 1.6 Agree that Your customers and Your customers’ end users (collectively “Your end-users”) will use the Service and the Software through Your application and that You will be responsible for the acts and omissions of Your end users in connection with their use of our Services and Software.

2. Ownership and security of Your Content

2.1. You and Your end-users retain full ownership to the data and any information You submit to us (collectively “Your Content”) in connection with the use of the Service and Software. Tresorit does not claim any ownership to any of Your Content. These Terms do not grant us any rights to Your Content or intellectual property except for the rights that are required for us to run the Service and deliver the Software, including the following rights: Tresorit may redundantly store or backup Your users’ encryption keys, user account data directly or through the use of trusted third parties, like

Microsoft, to provide the Service in a hosted environment. You hereby grant us the permission to take any and all actions that we need to undertake to provide the Service and for You and Your end users to use the Service and Software, including but not limited to, Your agreement that Tresorit may transfer Your end-users' encryption keys and user profile data between Tresorit servers and other end-users' devices with whom they share Your Content. You agree that you will obtain from Your end users this same grant of rights via the license to your software application.

2.2. Your end-users' encryption keys and passwords will be stored in an encrypted, non-invertible form on Tresorit's servers, subject only to certain separate Tresorit recovery services which You or Your end-users may subscribe for by separate agreement.

2.3. The Service and Software are designed in a way that You and Your end-users' data is encrypted by the Software on Your end users' device, whether or not stored by You. You are not able to decrypt Your end-users' data, but You're still responsible to store and handle such data in an encrypted form.

2.4. Unless You or Your end-users subscribe to certain separate Tresorit recovery services pursuant to a separate agreement, Your end-users' encrypted profile and encrypted data cannot be decrypted or inverted by Tresorit or any third party without Your end-users explicitly sharing those data or without those third parties possessing Your end-users' passwords.

2.5. You agree that Tresorit may collect and store certain limited information which is needed to run the Service, like Your contact and billing information, Your email address, user registrations, user login events, messages sent to our support team, etc. in a non-encrypted form. You also agree that some third party-provided components of the Service may require different passwords than Your Tresorit account password, which may be stored in a less secure form (referred together as "Non-Encrypted Content"). Tresorit transmits Non-Encrypted Content by using encrypted channels with reasonable care and skills. Tresorit requires access to Non-Encrypted Content to provide and administer the Service, for example, Your email address in a non-encrypted form in order to send You certain notifications regarding the Service and Software.

2.6. You agree that Tresorit may transmit Non-Encrypted Content to trusted third parties only on a need-to-know basis (e.g. Your email address to the e-mail notification provider) to provide the Service.

2.7. You agree that Tresorit may need to transmit this encrypted data to a third party, respecting all limitations and statements in paragraph 6, if Tresorit has a reason to believe that it is required:

- To comply with any law or order issued by any legal authority.
- To avoid infringement of the rights of a third party.
- Protect the property of Tresorit or the personal safety of our users and/or the public.

3. Security and Your responsibility

3.1. You agree to keep any keys or other access credentials for the Service and Software private and use only as authorized in these Terms.

3.2. You understand that we use strong cryptography algorithms to protect Your and Your end-users' data; we do not have access to Your end-users' Profile in a decrypted form and we don't store Your end-users' encrypted data; You and/or Your end-users perform such storage. **Due to Tresorit's client-side encryption technology, Your responsibilities may be higher than with regard to other similar services. You expressly take the responsibility, as stated in these Terms.**

3.3. We use Your end-users' passwords to derive a key to encrypt their data. Unless Your end-users subscribe to Tresorit's recovery service by separate agreement, Tresorit does not have access to Your end-users passwords, and there is no way for Tresorit to recover them in the event of a loss of such a password. . **Use of any recovery function is optional and need to be handled with extreme care. Tresorit disclaims all responsibility for preserving or protecting Your and Your end-users passwords in connection with the use of the Service and the Software and will not be liable for loss of passwords or encrypted data in any event.**

3.4. You are solely responsible and liable for any content Your end-users encrypt and share by using our Service and/or our Software. You hereby agree and undertake the necessary verification:

- To respect data or content of third parties protected by copyright, patent, trademark, trade secret or other intellectual property ("Protected Content").
- Not to use the Service and/or Software to transmit any unlawful, harassing, libelous, defamatory, racist, indecent, abusive, violent, threatening, intimidating, harmful, vulgar, offensive or otherwise objectionable content or material of any kind or nature.
- To comply with all applicable laws, rules and regulations.
- Not to use the Service and/or the Software for any actions or purposes related to terrorism.
- Not to use the Service for any illegal purposes.

3.5. You acknowledge that You are responsible and liable if You allow Your users to share encrypted contents with other end-users or third parties. You hereby confirm and agree that any such shared content can be decrypted by end-users and third parties with whom is shared with. If content is shared with the wrong user ID, an unknown and undesired user might get access to Your end users' data. **You and Your end-users are solely responsible for and agree to implement proper review and approval processes for any end-user initiated sharing transaction.**

3.6. Tresorit has no control with regard to the content stored and shared by You and Your end-users using the Service and/or the Software. We are not responsible for the accuracy, completeness, appropriateness, or legality of data You may be able to access using the Service and/or the Software.

3.7. We recommend that Your end-users choose long, complex passwords and keep them confidential. Your end-users must not authorize any third party to use their user accounts on their behalf. **You are responsible for all activities in relation to Your end-users' accounts. Tresorit**

is not liable for any loss or damage arising from any unauthorized use of Your end-users' accounts.

3.8. Tresorit NEVER sends emails asking Your users' passwords.

3.9. You must contact us right away if You suspect misuse of Your users' accounts or any security breach in the Service.

3.10. You accept that You are solely responsible to store Your users' encrypted data. Tresorit only encrypts the data for You, so that You can store it in an encrypted form in Your own database or file system.

3.11. Tresorit disclaims all liability related to or arising from a circumstance where Your and/or Your end-users' computers are stolen or hacked or an unauthorized person gains access to Your or Your end-users' data by accessing a locally stored copy, or by obtaining un-protected passwords.

4. Payments and pricing

4.1. Fees: You agree to pay the usage fees set forth in Your Tresorit registration form, which form(s) shall be considered an integral part of our agreement under these Terms. In addition, You agree to pay any applicable support fees in connection with Your order of any support services pursuant to the terms set forth in our Support Terms.

4.2. You agree to pay all fees that You owe to Tresorit in US dollars no later than 30 days after the date of the invoice.

4.3. Fee Disputes: You must notify us in writing if You dispute any portion of any fees paid or payable by You under our agreement. You must provide that written notice to us within sixty (60) days of the applicable charge and we will work together with You to resolve the applicable dispute promptly. If You do not provide us with this written notice of Your fee dispute within this 60 day period, You will be deemed to have waived any claim related thereto and You will not be entitled to dispute any fees paid or payable by You.

4.4. Your subscription to the Service contains usage quotas which will be set forth in your registration form. A usage quota can set for the maximum number of registered users or the maximum number of encrypt/decrypt transactions for Your Service subscription.

4.5. Each Service subscription has its own billing period, and can be paid in monthly or yearly installments paid as elected by You

4.6. Payment of fees may be made by preauthorized credit card charge. In that case:

- We will automatically charge Your credit card or other agreed payment options monthly or yearly, for each month, partial month or year, depending upon which billing period You have selected. You agree that Your Service subscription is automatically renewed for the

same period at the end of the billing period (“Renewal date”) unless You notify us in writing to the contrary at least fifteen (15) days before the Renewal date.

- You agree and authorize Tresorit to periodically authorize Your credit card in anticipation of account or related charges.
- You must be authorized to use the credit card You have entered.
- You agree that if You do not provide Tresorit with a current valid credit card number with sufficient credit upon request during the effective period of Your Service subscription, You will be in violation of these Terms.

4.7. If Your Service subscription has started on a calendar day not contained in a given month or year, Tresorit will bill Your credit card on the last day of such month or year.

4.8. If any fee of a Service subscription is not paid (or Tresorit was unable to charge Your credit card) within 30 days of the invoice’s date, Tresorit has the right to suspend Your and Your end-users’ use of the Service and Software.

4.9. Your Service subscription may include a time commitment (Committed Period; e.g. one year commitment with monthly payment). If You cancel, terminate or rescind a Service subscription prior to the end of the Committed Period, we are entitled to charge You for the remaining Committed Period according to Your Service subscription.

4.10. Tresorit reserves the right to change prices of Your Service. If there is a specific length and price offered to You, or You have a Committed Period, price will remain the same for that time. Tresorit will provide at least 30 days advance notice to You about the change of the price.

4.11. All payments by You to Tresorit are final, nonrefundable and there are no refunds or credits for partially used billing periods or partially used Committed Periods, except as expressly stated herein.

4.12. Unless specifically provided otherwise herein, payment of all fees are due and payable to Tresorit without demand, invoicing or notice before the commencement of the period to which those fees apply.

4.13. You agree to be responsible for and to pay any applicable sales, personal property, use, VAT, excise, withholding, or any other taxes that may be imposed, based on this license, use or possession of the Service, or any other product or service provided under these Terms, excluding taxes based on net income payable by Tresorit. If You are exempt from paying any sales, use or other taxes, You must provide Tresorit with appropriate evidence of tax exemption for all relevant jurisdictions.

5. Proprietary Rights

5.1. Except for open source applications identified in these Terms, all contents of the Tresorit site (www.tresorit.com, Tresorit.io, tresor.it and any subdomains of those), the 0_kit, the Software and the Service and the associated computer programs including but not limited to design, logo, trademarks, domain names, text, software, technical drawings, configurations, graphics, patents, other files, and their selection and arrangement, any other intellectual and industrial property or proprietary rights (“Service Content”) are protected by copyright and other intellectual property laws, and owned by Tresorit and/or its suppliers, affiliates, or licensors.

5.2. Unless we have specifically permitted herein, no portion of the Service, the 0_kit or Software may be reproduced, modified, distributed, published in any form, or by any means, without prior written permission from Tresorit. Any rights not expressly granted herein are reserved, and no title to or ownership of any proprietary rights related to the Service, the 0_kit and/or the Software are transferred to You pursuant to these Terms or Your use of the Service, the 0_kit and/or the Software.

5.3. We appreciate Your feedback and we may use Your feedback, ideas, comments, enhancement requests, recommendations or suggestions (“Suggestions”) You send us or post in our forums without any obligation to You, and You hereby grant to Tresorit a world-wide, royalty free, irrevocable, perpetual license to use and otherwise incorporate any Suggestions.

6. Software and user license

6.1. The 0_kit platform consists of 3 components:

1. Wrapper: a JavaScript/Java/Objective C wrapper that is directly called from Your application
2. Core: a C or JavaScript library that the Wrapper calls directly.
3. Server API: a Tresorit-hosted application that serves the Core library calls

6.2. There are licensing rules apply to these 3 components:

1. Wrapper: It is licensed under Apache Open Source License 2.0

Core and Server API together represent the licensed Software.

6.3. The Service, 0_kit and Software are licensed, not sold, and Tresorit retains and reserves all rights not expressly granted in this Agreement and You expressly acknowledge that Tresorit, its

licensors and its end users retain all worldwide right, title and interest therein, including all rights in patents, trademarks, trade names, copyrights, trade secrets, know-how, data (including all applications therefor), and all proprietary rights under the laws of the United States, any other jurisdiction or any treaty. You agree not to do anything inconsistent with such ownership, including without limitation, challenging the validity of the licenses granted herein, except as specifically authorized herein.

6.4. You are permitted to use the licensed Software and the Service to include in applications you developed (Your Application) provided that you comply with these Terms, and you must:

- add significant primary functionality to it in Your Applications;
- require distributors and external end users to agree to terms that protect it at least as much as this agreement;
- indemnify, defend, and hold harmless Tresorit from any claims, including attorneys' fees, related to the distribution or use of your applications, except to the extent that any claim is based solely on the Software and Service.
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6.5. Your license to use the Service, the 0_kit and the Software shall be automatically terminated if You violate these Terms.

6.6. You may not:

- Modify or create derivative works of the Licensed Material that competes with the Licensed Software.
- Remove or modify any Service Content, disclaimer or warning notice included or embedded in any part of the Service or in any part of the Software or any copy thereof.
- Analyze, decompile, disassemble, reverse engineer, or otherwise attempt to derive all or any part, particularly the source code of the Licensed Software, except for the scope in which such limitation is explicitly prohibited by law. For any release from these limitations the prior written express consent of Tresorit is required.
- Interfere with, modify, disrupt or disable features or functionality of the, Service, the 0_kit and/or the Software, including without limitation any such mechanism used to restrict or control the functionality, or defeat, avoid, bypass, remove, deactivate or otherwise circumvent any software protection or monitoring mechanisms of the, Service, the 0_kit and/or the Software;
- use Tresorit's trademarks in Your Applications' names or in a way that suggests Your Applications come from or are endorsed by Tresorit, except the "Secured by Tresorit" logo

6.7. The Software contains third party, open-source, well-analyzed software components ("Third Party Component"), and each of them are chosen with reasonable care and each is subject to additional notices, disclaimers and/or terms and conditions. Such additional Third Party Component notices, disclaimers and/or terms and conditions are included in the product installation folder and to the extent applicable, are hereby made a part of and are incorporated by reference into these Terms. By accepting and agreeing to these Terms, You are also accepting and agreeing to such Third Party Component applicable notices, disclaimers, terms and conditions, if any, set forth

therein. Tresorit acknowledges the efforts of the open-source developers, and what they have done for the community so far. You find the list of their names and their copyright notice here: <https://tresorit.com/third-party-code>.

6.8. EXCEPT FOR THOSE EXPRESSLY SET FORTH IN THESE TERMS, TRESORIT DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE AND FITNESS FOR A PARTICULAR PURPOSE, FOR THE SERVICE, THE 0_KIT, THE SOFTWARE AND ALL ACCOMPANYING WRITTEN MATERIALS. YOU UNDERSTAND AND AGREE THAT TRESORIT'S CUMULATIVE LIABILITY TO YOU AND YOUR END-USERS FOR ANY AND ALL LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES AND/OR DAMAGES ARISING OUT OF OR RELATED TO THESE TERMS AND/OR THE SERVICE, THE 0_KIT, AND THE SOFTWARE, REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, SHALL BE LIMITED TO THE AMOUNTS YOU HAVE PAID TO TRESORIT FOR YOUR CURRENT SERVICE SUBSCRIPTION. IN NO EVENT SHALL TRESORIT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, PUNITIVE, INCIDENTAL OR SIMILAR DAMAGES OF ANY KIND WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTIONS, LOSS OF BUSINESS DATA, OR ANY OTHER PECUNIARY LOSS, ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICE, THE 0_KIT AND/OR THE SOFTWARE, EVEN IF TRESORIT HAS BEEN ADVISED OF, OR OTHERWISE SHOULD HAVE BEEN AWARE OF, THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF THE LEGAL THEORY OR BASIS FOR SUCH CLAIM. SOME JURISDICTIONS DO NOT ALLOW DISCLAIMERS OF IMPLIED WARRANTIES OR LIMITATIONS ON LIABILITY, SO THESE LIMITATIONS MAY NOT APPLY IN CERTAIN CIRCUMSTANCES.

7. Updates and changes to the Service

7.1. As part of the development of the Service, the 0_kit and the Software, Tresorit has the right, in its sole discretion, anytime (i) to add new features, (ii) add new third party software components or (iii) to modify or discontinue features (collectively "Changes").

7.2. If Tresorit makes a Material Change, as defined hereafter, Tresorit will notify You 30 days before such changes become effective by sending You an email. You understand and accept that You have 30 days after we sent the above mentioned email to explicitly accept such changes. After 30 days, we may limit Your access to any part of the Service, the 0_kit and/or the Software until changes are not explicitly accepted by You.

7.3. Material Change(s) means a substantive Change that would be of importance or consequence to You or Your end-users, which may include:

- Changes to privacy practices, API calls that affect the current use of the Service, the 0_kit and/or the Software, disclosure, use and collection of submitted data, or measures for data security, integrity, or access.
- Material update or substantive revision to Service, 0_kit, and/or Software functionality which may negatively affect the security of Your data.
- Material Changes do not include any changes which solely affect the performance or integrity of the Service, the 0_kit and/or the Software, such as increases in speed, reliability, or information security.
- Furthermore, Material Changes do not include any changes that improve or extend the Service or Software in a way that it does not affect existing functionality.

7.4. Tresorit has the right to make any Changes which are non-Material Change without prior notice to You.

7.5 If You have paid to use the Service and we materially downgrade its functionality, we will provide You with an adequate and proportional refund of any pre-payment, as we determine appropriate.

7.6 You are responsible to keep the Software up to date. You expressly agree that some parts of or the whole Software might be updated automatically, with or without prior notice to You. In other cases, You may need to download and install the latest version of the Software. You agree that if You do not keep the Software up to date, the Service, the 0_kit or certain features thereof may cease to be available or may not properly perform. Any updates provided by Tresorit to You shall be deemed to be subject to these Terms unless Tresorit indicates otherwise in writing.

7.7. BETA SERVICES: FROM TIME TO TIME, YOU MAY HAVE THE OPTION TO PARTICIPATE IN A PROGRAM WITH TRESORIT WHERE YOU GET TO USE ALPHA OR BETA SERVICES, PRODUCTS, FEATURES, SOFTWARE AND/OR DOCUMENTATION ("BETA SERVICES") OFFERED BY TRESORIT. THESE BETA SERVICES ARE NOT GENERALLY AVAILABLE AND MAY CONTAIN BUGS, ERRORS, DEFECTS OR HARMFUL COMPONENTS. ACCORDINGLY, ANY SUCH THE BETA SERVICES SHALL BE PROVIDED TO YOU "AS IS" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NOTWITHSTANDING ANY PUBLISHED DOCUMENTATION THAT STATES OTHERWISE, TRESORIT DOES NOT WARRANT THAT THE BETA SERVICES WILL BE ERROR-FREE OR THAT THEY WILL MEET ANY SPECIFIED SERVICE LEVEL, OR WILL OPERATE WITHOUT INTERRUPTIONS OR DOWNTIME AND YOU AGREE THAT YOUR USE OF SUCH BETA SERVICES SHALL BE AT YOUR SOLE RISK.

8. Compliance with Laws

8.1. You will not or attempt to, and will not allow others to use the Service, or the Software for any illegal, unauthorized or other improper purposes.

The transactions contemplated these Terms may be subject to the customs and export/import control laws and regulations of Your country of residence and the countries where our servers are located. You agree to comply with all customs and export laws and all other applicable laws, statues, ordinances and regulations relating to use of the Service and the Software. You acknowledge that violations of such customs and export/import control laws and regulations could subject You to criminal or civil penalties.

8.1. There may be restrictions and limitations on the import, possession, use, transfer, export and/or re-export to another country of encryption software under the laws of the country in which You intend to use the Service. It is Your sole obligation and responsibility to check such limitations before using the Service and to comply with such restrictions and limitations.

8.2. Tresorit respects privacy, but we also respect embargo legislations. You cannot download and use the Software, and You shall not include 0_kit or other materials provided by Tresorit,if:

- You our Your end-user(s) are located in, national or resident of countries listed in USA Country Group E to Supplement No. 1 of 15 CFR part 740 or any other country to which Switzerland, the European Union or the United States has embargoed goods.
- You our Your end-user are a person or entity which is prohibited from receiving export from Switzerland, the European Union or the United States.

8.3. By subscribing to the Service or using any of the Software, You represent and warrant that You are not - and are not controlled by - any such person or entity and are not controlled by a national or resident of any such country.

9. Disclaimers and Indemnification

9.1. Provided as-is: Tresorit uses reasonable care and skill and will use reasonable commercial efforts to promptly remedy any faults of which we are aware. **However, the provide the Service, 0_kit and Softare are provided “as is” and “as available”, without express or implied warranty or condition of any kind and You shall use it at Your own risk. To the maximum extent permitted by applicable law, we also disclaim any warranties of merchantability, fitness for a particular purpose or non-infringement or any warranty that the Service are of any particular quality or purpose and correspondence to the Documentation.**

9.2. Force major: Tresorit will not be liable to You or to any other person for failure to perform or any delay in the performance of the Service or the Software due to fire, flood, war, riot, strike,

explosion, lock out, injunction, natural disaster, interruption of transportation, acts of war, terrorism, labor disputes, acts of civil or military authority, power blackouts, computer viruses, or any other event beyond Tresorit's reasonable control.

9.3. Remedy: You agree that the sole and exclusive remedy for unsatisfactory Service or Software shall be termination of the Service and a refund of any amount actually paid by You for the current Service subscription term. Aggregate liability, including any negligence on Your part, for all claims relating to the Service is limited to the amounts paid by You to Tresorit for the past six months of the Service in question.

9.4. High Risk Activities: The Service is not intended for use in hazardous environment requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation, air traffic control or aircraft communication systems, direct life support machines or weapon systems in which the failure of the Service could lead directly to death, personal injury or severe physical or environmental damage ("High Risk Activities"). Accordingly, Tresorit and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities.

9.5. Indemnification: You agree to indemnify, defend, and hold harmless Tresorit and its employees, affiliates, contractors, and agents from and against any and all claims, damages, losses, liabilities, suits, actions, demands, proceedings (whether legal or administrative), and expenses (including, without limitation, reasonable attorneys' fees) arising from or related to:

- Any breach of these Terms by You.
- Any infringement of the Tresorit's or its third party licensors' rights and interests in the Service, O_kit, Software and the underlying components..
- Any fraud or manipulation by You.
- Any claims for infringement of any third party rights arising from or related to Your data.
- Any claims of credit card fraud based on any information released by You.
- Tresorit will reasonably notify You of any such claim or demand that it is subject to Your indemnification obligation.

10. Acceptable Use and Prohibitions

10.1. You agree not to misuse the Service or the Software. You promise that You will not, will not attempt to or will not encourage or assist any third party to or attempt to:

- Access or use the Service in a way intended to improperly avoid incurring fees or exceeding any Feature Quotas.
- Use the Service to access, change, damage, delete or edit data without authorization.
- Use any unauthorized means to modify, reroute, or gain access to the Service.
- Misrepresent Your identity, including without limitation by representing that You are a Tresorit employee or representative or another user of the Service.

- Try to access the Service with unauthorized software.
- Damage, disable, overburden or impair the Service or any network connected to the Service.
- Use the Service, directly or indirectly, to offer any service that competes with the Service.
- Participate in any group that encourages violation of these Terms.
- Probe, scan, or test the vulnerability of any system or network. Tresorit may, in its sole discretion, make exceptions to this duty and allow hacking activities against and limited to its non-production infrastructure (“Hacker Arena”).
- Participate in any activity which interferes or may interfere with the efficiency of the Service.
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- Use the Service to facilitate any mass mails, spam, chain letters, snowball systems, or similar communications, regardless of whether they are commercial in nature.
- Use the Service to collect, store or transmit personal data of any person without such person’s consent.
- Store or transmit any software or data containing any virus, malware, trojan, spyware or other software or program code that is malicious in nature.
- Send us untruthful abuse reports.
- Violate the law in any way, or to violate the privacy of others, or to defame others.

11. Overuse

11.1. If Your usage is above what is enabled by Your current Aggregated Feature Quota, Tresorit will notify You about Your overuse. If, in 30 days upon the delivery of such notice, You do not upgrade and increase Your Feature Quota to fit in with Your actual usage, or if You do not decrease Your usage, for example, by reducing the number of registered users, Tresorit may, at its sole discretion and without further notice, block Your access to the Service, curtail and restrict our Service (e.g. restrict the maximum number of registered users or the maximum number of members) terminate Your account, or delete some or all of Your account information, settings or any other data from its systems, so as to reduce Your storage space available according to Your current Aggregated Feature Quota.

12. Inactive Free Accounts

12.1. If You use a limited trial plan and You haven't upgraded to a paid account within 120 days from Your trial account creation, Tresorit will send You a notice. Fifteen (15) days after such notice, Tresorit may delete Your trial account and terminate the Agreement between You and Tresorit.

13. Renewal

13.1. You can use our Services during the agreed time (Subscription period).

13.2. You agree that Your Service subscription is automatically renewed for the same period at the end of the Service subscription or Committed Period ("Renewal date") unless You state otherwise one (1) day or earlier before the Renewal date.

14. Suspension

14.1. Tresorit may monitor the use of our Service.

14.2. Tresorit may immediately upon notice to You (i) suspend Your or any other user's right to access or use any portion or all of the Service and/or (ii) suspend Your account(s) and/or (iii) curtail and restrict our Service (e.g. restrict the maximum number of tresors or the maximum number of member per tresor) if:

- We have a reason to believe that You are, or Your account has been used in breach of these Terms or any applicable laws. In such case we may suspend Your account without any prior notice.
- We are unable to verify or authenticate Your provided information to us.
- You are more than 30 days late on any payment (in particular on Your Subscription fees).
- You become the subject of any bankruptcy, dissolution or similar proceeding, You haven't paid Your invoices for over 30 days and we cannot find Your successor.

14.3. Our right to suspend Your or any other user's right to access or use any portion or all of the Service is in addition to our right to terminate the Agreement.

15. Effects of Suspension

12.1. If we suspend Your right to access or use any portion or all of our Service,

- You remain responsible and liable for all fees and charges which have incurred up to the date of suspension;
- You remain responsible and liable for any applicable fees and charges for any Service to which You continue to have access;
- We will not erase and delete any of Your Content as a result of Your suspension, except as specified elsewhere in these Terms.

16. Termination by the Customer

16.1. You may stop using the Service at any time. If You just stop using the Service, this does not terminate the Agreement and Your obligations.

16.2. Termination for convenience: You may terminate this Agreement in Your sole discretion and for any reason by (i) closing Your account(s) for all Services with an account closing mechanism or (ii) by contacting support at support@tresorit.com.

16.3. There is no refund for any pre-paid service. If You terminate the Service subscription, Your Service subscription will not be renewed. If Your Service subscription included a time commitment (Committed Period) and You terminate the Service subscription before the Commitment Period expires, we are entitled to charge You the remaining fees until the end of the commitment.

16.4. We may ask You for indication of reasons to terminate, but even if we would be quite happy to get feedback, You are not obligated to share such reasons.

16.5. Termination for cause: You may terminate this Agreement for cause upon 30 day advance notice to Tresorit if there is any material default or breach of the Terms by Tresorit, unless we have cured the material default or breach within the 30 day notice period. In case of termination for cause, we will provide You with a pro-rata refund of any pre-payment.

17. Termination by Tresorit

17.1. Termination for convenience: Tresorit may decide, in its sole discretion and at any time, to discontinue the Service and/or to terminate the Agreement by providing 30 days advance notice. In this case, we will provide You with a pro-rata refund of any pre-payment.

17.2. Termination for cause: Tresorit may terminate Your account for cause immediately upon notice to You if:

- We have a reason to believe that You are, or Your account has been used in breach of these Terms or any applicable laws. In such case we may terminate the Agreement without any prior notice.
- We are unable to verify or authenticate Your provided information to us.
- Your actions or inaction may subject Tresorit, its affiliates, or any third party to liability.
- You are more than 60 days late on any payment (in particular on Your Service fees).
- In order to comply with the applicable mandatory laws or, to comply with the final court order of a competent judicial body.
- You become the subject of any bankruptcy, dissolution or similar proceeding, You haven't paid Your invoices for over 30 days and we cannot find Your successor.

18. Effects of Termination

General Effects of termination: upon any termination of this Agreement:

18.1. All Your rights under these Terms immediately terminate.

18.2. You remain responsible and liable for all fees and charges You have incurred up to the date of termination;

18.3. You agree (i) that You stop any use of the Service and the Software, (ii) that You erase and delete any Software You have downloaded on Your systems or on Your devices and (iii) that You undertake not to access Tresorit's systems or the Service by whatever way and means; in particular, but not limited to, You undertake not to access the Service via the user account of a third party.

18.4. Sections IV, X and XI of these Terms and in particular all disclaimers, limitations of warranties and damages, and confidential commitments set forth in these Terms or otherwise existing at law survive any termination, expiration or rescission of these Terms.

After the termination of the Agreement, Tresorit is entitled to keep or to erase and delete any data from You (including, but not limited to, Your Encrypted user Profiles) according to our Privacy Policy.

All disclaimers, limitations of warranties and damages, and confidential commitments set forth in these Terms or otherwise existing at law survive any termination, expiration or rescission of these Terms.

19. Miscellaneous

19.1. Governing law and Jurisdiction

- The Agreement shall be governed by and construed and interpreted in accordance with the substantive laws of Delaware, United States of America, [] excluding the applicable conflict of law rules. The parties specifically exclude applicability of (i) the United Nations Convention on the Sale of Goods and (ii) any Incoterms.
- Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be determined by arbitration administered by the American Arbitration Association. The number of arbitrators shall be one (1) as shall be selected by the AAA. The place of arbitration shall be Boston Massachusetts. The language of the arbitration shall be English. Notwithstanding the foregoing and the commencement of any arbitration proceeding, Tresorit will have the right to seek temporary and permanent injunctive relief from a court of competent jurisdiction in order to protect its rights and interests in its Service, Software and related intellectual property.
- These Terms and all associated Documentation to which they refer to have been written in the English language and the parties agree that the governing language is English. All communications and any dispute associated with these Terms shall be in the English language.

19.2. Severability. If any provision of these Terms is held invalid, illegal or unenforceable, such provision shall be enforced to the fullest extent permitted by applicable law and the validity, legality and enforceability of the remaining provisions shall not be affected thereby.

19.3. Identifying You as customer.

- Tresorit shall have the right to publish and identify You as a customer of the Service. You agree that Tresorit may use any logo and/or name associated with You on our website and other marketing materials in order to identify You as a Tresorit user.
- We also give You the right to identify Tresorit as Your vendor, use the Tresorit or 0_kit logo and mention us on Your website and marketing materials.
- We respect Your privacy, and You can ask us to stop identifying You anytime. If we receive Your written notice sent to support@tresorit.com on the day You registered, we don't have the right to identify You. Afterwards, within 30 day after recipient of such notice sent to support@tresorit.com, we shall stop identifying You on any new marketing materials or on our website.

19.4. Other agreements. These Terms and all associated Documentation to which they refer to constitute the entire and exclusive agreement between You and Tresorit with respect to the Service, the 0_kit and the Software, and supersede and replace any prior representations, understandings, contract or oral or written statements regarding regarding such subject matter.

19.5. Notices. You accept that we may send You notices or communications to Your email address provided during registration, or otherwise by any means, in our sole discretion, which by it is likely we can reach You. Any notice shall be deemed delivered if was sent to Your email address provided during registration. It is Your responsibility to regularly check Your email account for new emails and to make sure emails from Tresorit can pass Your spam and/or other filters. All notices

sent by You to Tresorit in connection with these Terms be in writing and sent by first class mail or certified mail (receipt being deemed 72 hours after postage and return receipt requested) or personally delivered at the address of Tresorit AG, Büelstrasse 7, CH-9052 Niederteufen, Switzerland.

19.6. Expiration of claims. You and Tresorit agree that except for claims related to the indemnification obligations above, all claims arising under or related to these Terms must be brought within two years after the date the cause of action arose.

19.7. Attorneys Fees . In the event Tresorit is required to take action against You to enforce any term of these Terms, whether by court action or arbitration, Tresorit shall be entitled to recover the reasonable attorney's fees and expenses incurred in taking such actions..

19.8. Waiver. The failure of either party to enforce a provision is not a waiver of its right to do so later. The waiver by Tresorit of any breach shall not be deemed a waiver of any subsequent breach of the same or any other term of these Terms.

19.9. Remedy. Any remedy made available to Tresorit by any of the provisions of these Terms is not intended to be exclusive of any other remedy.

19.10. Third party services and content. The Service may contain features and functionalities linking You or providing You with certain functionality and access to third party websites and services. Tresorit has no influence on the content of these linked pages, dissociates itself herewith explicitly from all such contents, and makes no warranty whatsoever with respect to such links, websites, or services.

19.11. Assignment. You may not assign Your rights or obligations under these Terms without Tresorit's express written consent.

19.12. Third party beneficiary. Tresorit and You are not legal partners or agents; instead, our relationship is that of independent contractors. No partnership or joint venture is intended or established by these Terms. These Terms create no third party beneficiary rights.

IMPORTANT: BY SUBMITTING YOUR PERSONAL INFORMATION YOU GIVE YOUR CONSENT THAT ALL PERSONAL INFORMATION YOU SUBMIT MAY BE PROCESSED IN THE MANNER AND FOR THE PURPOSES DESCRIBED IN THE FOLLOWING PRIVACY POLICY.