

**GENERAL TERMS AND CONDITIONS FOR THE PROVISION OF QUALIFIED PRESERVATION SERVICE OF ELECTRONIC SIGNATURES AND/OR SEALS**

**BETWEEN**

**"QTSP" eWitness Malta Ltd**, with registered offices in Giuseppe Cali Street, Ta' Xbiex, XBX, 1425, Malta, VAT registration number MT25589001 in the person of its legal representative, hereinafter, for reasons of brevity, also referred to as **"QTSP" (Qualified Trust Service Provider)"**

**AND**

\_\_\_\_\_ with registered office in \_\_\_\_\_  
\_\_\_\_\_ Tax Code \_\_\_\_\_ and AT no. \_\_\_\_\_ Economic  
Administrative Index no. \_\_\_\_\_ in the person of its legal representative, hereinafter, for reasons of brevity, also referred to as **"Customer"**

**WHEREAS**

- the "QTSP" is entitled to provide the long-term preservation of electronic signatures and/or seals service in accordance with eIDAS Regulation based on the eWitness® System to the "Customer";
- in turn, the "Customer" intends to delegate the long-term preservation service for its own documents, the type of which is stated in **attachment "G"** to the herein contract), according to the modes and terms specified below via the Witness® System, (necessary - if provided for in the contract - also for notary certifications of the same);
- in his role as owner of the electronic documentation as specified in Attachment "G" (or as specified above) and as long-term preservation manager, the "Customer" intends to entrust the entire compliant long-term preservation process to outsourcing, as specified in the herein contract;
- the herein contract replaces and annuls any previous agreements in existence with the "QTSP" and the "Customer";

**WITH ALL THE ABOVE MATTERS CONSIDERED**

eWitness Malta Ltd and \_\_\_\_\_ (hereinafter in this document referred to jointly as "the Parties")

**STIPULATE AND AGREE AS FOLLOWS:**

**Article 1 - Premises and attachments**

- 1.1 - The Premises and Attachments are an integral part of the herein Contract.
- 1.2 - The following documents are attached to the herein Contract:
  - **Attachment A - Contractual Economic terms for the active services;**
  - **Attachment B - Appointment to external personal data controller, pursuant to EU Regulation 2016/679 (GDPR);**
  - 
  - **Attachment C - Appointment of Long-term preservation manager's proxy**
  - **Attachment D - Long-term preservation manual drawn up by the "Customer"**
  - **Attachment E - Long-term preservation system manual;**
  - **Attachment F - General Document on eWitness® long-term preservation system and on security requisites.**
  - **Attachment G - Type of documents involved in the preservation service**

- **Attachment H – Document platform operational manual (optional)**
- **Attachment I - eWitness - “Customer” Ticketing System**

1.3 - In the interpretation, application and execution of what is foreseen in the herein General Terms and Conditions and in the Attachments, unless otherwise wanted by the Parties and expressed in written form, the General Terms prevail over the Attachments.

## **Article 2 – Definitions**

2.1 - For the purpose of interpretation, application and execution of the herein contract, the following definitions apply:

**Access to the URL:** connection mode, on which basis the “Customer” or “third-party Customers” accesses its own documents by typing the URL communicated in its own navigation software.

**DDA (Digital Document Archive):** set of electronic document and images taken by scanning the “Customer’s” or “third-party Customers’ ” analogue documents, and which are the subject of the services stated in the herein contract.

**Customer:** the subject owning the electronic documents, also relevant to taxation purposes, that are covered by the services governed in the herein contract and its attachments.

**Third party Customers:** the subject owning the electronic documents, also relevant to taxation purposes, that are covered by the services governed in the herein contract and its attachments”.

**Personal Identification Code:** pair of keys comprising a User ID and a password, to be used together for identification and access to the system for being able to use the services provided under the herein contract.

**Dimensional Criteria:** reference parameters used to identify service configuration and that are made based on determination of price.

**Contract:** the herein contract and its Attachments.

**Long-term preservation manager's proxy:** subject named by the the long-term preservation manager (the “Customer”/“third-party Customers”) who carries out - on appointment by the Long-term preservation manager -, all the activities related to the provisioning of the service

**Electronic document required for taxation/fiscal purposes:** document in a static unchangeable format, issued with a time reference and digital signature by the “Customer” or “third-party Customers” in observance of the current legislation in force.

**Submission Information Package:** PDF/A format document, signed digitally and marked with time stamp, by the Long-term preservation manager’s proxy. It contains the fingerprints of the electronic documents that the “Customer” or the “third-party Customers” have sent in a given time period to the eWitness® System.

**Archival Information Package:** XML file structured according to SinCRO UNI 11386:2010 standard, signed and digitally stamped (XADES-T) by theby the Long-term preservation manager's proxy. It is a group of one or more submission information packages attributed uniquely to the “Customer” or the “third-party Customers” and contains the fingerprints of the electronic documents divided by unique type, added to with metadata of the type represented and requested by current legislation.

**Dissemination Information Package:** contains the digital document or set of digital documents, together with all or some of the metadata foreseen in the archival information package. In line with the current laws in force, the dissemination information package is structured in the data model as the archival information package. The difference lies in its destination, as it was conceived for use by the final user for exhibition.

**Time stamp:** this is the creation of a digital signature on the document, by an entrusted third party, to which information about a certain date and time is associated.

**Not@reyes®-box:** hardware tool that can guarantee an encrypted virtual private network (VPN) as a secure connection to the eWitness® System.

**Parties/Party:** indicates the QTSP, the “Customer”, depending on the case

**Password:** part of the pair of Personal Identification Code that is attributed to a user, who becomes an Authorised User. Together with the User ID, it is used as an identification tool and authorisation tool to access the system and together with the profile given to each user, is an enablement tool for carrying out specific activities attributed to the assigned profile.

**Electronic mail:** electronic system for sending digital documents.

**Profile:** set of powers that are attributed to a holder uQTSPser to carry out given expressly indicated activities within the system. The various profiles are created by the "QTSP" based on specific instructions provided by the "Customer".

**Long-term preservation manager:** The "Customer" or "third-party Customers", subject named in article 7 of the herein contract.

**Server:** computer that offers services to users, such as memorising files (file server) or programmes (application server), that can be used remotely, from several terminals.

**System:** set of hardware and software applications, organised by the "QTSP" in order for the "Customer" or "third-party Customers" to use the services that are the subject of the herein contract.

**eWitness® System:** long-term preservation and notary certification platform, fully available to the "QTSP" made available to the "Customer" or "third-party Customers" to provide the services as set out in the herein contract.

**Software:** set of programmes that are part of the infrastructure made available to provide the Services that are the subject of the herein contract.

**Third party:** any subject other than one of the parties, as identified at the bottom of the contract.

**Token:** hardware support as a tool for recognition of the user's biometric data for validation of certified access to the eLearning solution, an integral mandatory part of the services offered.

**User ID:** part of the pair of Personal Identification Code that is attributed to a user, who becomes an Authorised User. Together with the password, it is used as an identification tool and authorisation tool to access the system and together with the profile given to each user, is an enablement tool for carrying out specific activities attributed to the assigned profile.

**Holder User/Authorised User:** subject who is a part of the internal "Customer's" or "third-party Customers'" organisation and who can access the system to carry out the activities specifically attributed to the assigned profile.

2.3 - The definitions above can also be extended and applied to the attachments.

2.4 - The following acronyms can be used:

- DDA: Digital Document Archive,
- ASP: Application Service Provider,
- PEC: Certified Electronic Mail,
- RFT: Regarding tax purposes.

### **Article 3 - Object of the contract**

3.1 - The Services that the "QTSP" undertakes to provide to the "Customer" are listed here below:

- A) long-term preservation of electronic signatures and/or seals, according to eIDAS Regulation;
- B) application of the long-term preservation process to flows/documents received;
- C) availability of the technological infrastructure for the execution of services as in points A) and B);
- D) infrastructure ordinary assistance and maintenance as set out in points A) and B);
- E) ordinary assistance and maintenance for use of the service as set out in points A) and B);

3.2 - The characteristics of each service and modes in which they are provided are governed by the herein article, the subsequent ones and the attachments.

3.3 - The services chosen by the "Customer" are the ones indicated in this contract and in the attachments that are an integral, substantial part of the contract.

3.4 - With particular reference to each service, in observance of the contents of article 1.3, the following general principles apply:

3.4.1 - **Electronic flow management transmitted by the customer:** The service consists in acquisition, using the tools made available by the "QTSP", of the customer's documents in digital form, for the processing and retaining of said documents, in the preservation system named eWitness® System, according the modes, criteria and times agreed between the parties and described in the herein General Terms and in the Attachments referred to. The "Customer"

can access its own documents by accessing the document website made available by the "QTSP". The documents will only be accessible for the subjects (Holder Users) who have been authorised by the "Customer" and further to their identification and authentication. The identification and authorisation system is based on the allocation of a pair of personal identification codes, comprising a User ID and a password: generation and management of a User ID and password are governed under Regulation EU 679/2016 (GDPR).

**3.4.2 - Long-term preservation of electronic signatures and/or seals according to eIDAS Regulation:** The Service consists of the carrying out of the operations required to store, on any support for which authenticity, integrity, validity and legibility is guaranteed over long period of time, the electronic documents, electronic signatures and/or seals stored in the eWitness® System, according to the requirements of eIDAS Regulation, with the modes, terms and limits agreed by the parties and described in the herein contract. The Service also includes the regular control of the copies and duplicates, including electronic ones - also with notary certification, where required by the current legislation or by the "Customer" to provide the "Customer" of the retained documents.

**3.4.3 - Technological infrastructure for the execution of the services as in points A). B) as set out in article 3.1:** In order to provide all the services as set out in the herein contract, eWitness Malta Ltd provides the "Customer" with the eWitness® System technological infrastructure, comprising suitable hardware and software. The Not@reyes®-box hardware tool may be installed at the "**Customer**" site as the entry point in the encrypted virtual private network (VPN) for secure connection to the eWitness® System.

**3.4.4 Infrastructure assistance and maintenance:** The service comprises - within the limits and according to the modes specified in Attachment A or in other subsequent agreements - in providing assistance for the preparation of suitable and necessary operational and technological solutions and the resolution of infrastructure problems, that may occur while carrying out the contract. This activity can be carried out directly by the "QTSP" staff, or by third party subjects specifically identified and appointed. The parties reciprocally acknowledge that the service will be limited solely to routine maintenance work, without prejudice to the possibility that any assistance not included in the service can be provided anyway, further to the stipulation of specific written agreements.

**3.4.5 - Assistance and maintenance for using the Service:** The service consists of providing assistance for the use of the services stated in the herein contract, by the Users, and in preparing solutions to any technical and operational problems that may arise in the period during which the herein contract is in force.

**3.5 - Configuration of the technical and functional specifications of the services as set out in paragraph 3.4 above, and the relative choices of the "Customer",** are described in the attachments and are considered suitable by the "Customer" for its own organisational and structural needs. The "QTSP" reserves the right to amend and/or substitute and/or update the hardware and/or the software currently dedicated to providing the services, with others with equal or greater requirements.

**3.6 - Services of a different nature and size than the ones expressly identified and governed in the contract and attachments are excluded.**

**3.7 -** The "QTSP" Preserves the right to make implementation and/or improvements to the services that are the object of the herein contract, also in relation to technical specifications and/or configuration of services, where they are necessary for the correct execution of the services set out in the contract or the updating of National and/or EU Regulations and technical standards, without further charges for the customer.

#### **Article 4 - Supply modes for management services of data flow and long-term preservation of electronic signatures and/or seals**

**4.1 -** The "Customer" will hand over the documents, or put at disposal to the "QTSP", in the form, mode and terms identified in the attachments. On its part, the "QTSP" will take the documents, informing the "Customer" of the result of handling of single flows delivered in a form consistent with the adopted delivery mode, notwithstanding the impossibility of carrying out a check on the actual content of what was delivered by the "Customer" and the consequent exemption of the "QTSP" from any responsibility for the completeness, regularity and

compliance of the content of documents that are the object of the services to legal requirements and any provisions issued by issuing subjects. The "Customer" acknowledges and recognises that the "QTSP" activity does not include any controls of the actual content of the documents involved in the services at the time when they are handed over.

4.2 - The "QTSP" will provide the "Customer" with a website for the management, consultation and exhibition of digital documents that are stored.

4.3 - Any document, also in the form of submission information package delivered by the "Customer" to the "QTSP" will be stored on the eWitness® System and periodically checked for integrity and for numerical and chronological continuity of the documents, and all other controls required for the correct carrying out of the long-term preservation activities.

4.4 - Whatever the connection mode to the document system chosen by the "Customer", it will be necessary to use the specific User ID and Password, issued individually to each authorised user. Each user can be identified on the system by USER ID and password, and will be associated to a specific profile, that can comprise various powers, regarding data operations on data, based on the instructions provided in writing by the "Customer". Each user can only carry out those operations that are included in the corresponding profile. Activation of the Personal ID Codes and relative profiles can only be carried out after receiving specific written communication by the "Customer".

4.5 - Within the terms of eIDAS Regulation, and as long as the "Customer" sends them in time, the "QTSP" will fulfil long-term preservation of electronic signatures and/or seals procedures for said documents sent by the "Customer", placing an electronic signature with digital certificate by the Long-term preservation service manager, and the timestamp.

4.5.1. - In the foreseen cases, consistently with the timescales stated in the current laws in force, also regarding the various types of documents, the "QTSP" will form the archival information packages. These packages will be signed digitally and time stamped by the same.

4.5.1.2. - In the cases foreseen by the contract and/or in the cases where a request for exhibition is received from the "Customer", the Long-term preservation service manager will form the dissemination information package. If expressly requested, the dissemination information package may not coincide with the original stored archival information package. In this case, the dissemination information package may be an extraction of the original archival information package.

4.6 - The "QTSP" will register the documents that undergo the long-term preservation process, guaranteeing legibility over time, using an alignment mechanism between the data storage found on the Main Data Center and on its own Backup Data Center, both equipped for Disaster Recovery management.

4.7 - The "QTSP" ensures the periodical check of archive integrity and legibility, according to the modes and times foreseen by law.

4.8 - In the cases foreseen by article 24 below and in all cases on request from the "Customer", the "QTSP" will produce digital copies of electronic documents placed in the long-term preservation system as established by the current technical regulations. If required by the current legislation or by the "Customer", the process or result of the system can be certified by the Long-term preservation service management proxy. For this purpose, and in the cases foreseen, a specific written agreement must be completed that will contain roles, modes, times and payments. Digital copies can refer to an entire original archival information package, or an extraction of one.

## **Article 5 - Set-up and management of the technological infrastructure**

5.1 - The "QTSP" will acquire and process the flow of documents. The hardware tool named Not@reyes®-box is installed at "QTSP" premises, but could be at Customer's site as well, as an entry point to the encrypted virtual private network (VPN) for secure connection to the eWitness® System.

5.2 - The "QTSP" is the manager of the technological infrastructure comprising hardware and software suitable for the proposed services. The "QTSP" guarantees that the servers of the above infrastructure are maintained in secure conditions, in observance of the current legislation (eIDAS Regulation, applicable ETSI standards for Qualified Trust Service Providers EU Regulation

2016/679 (GDPR) and subsequent amendments and additions, providing suitable fire detection, continuous power units, antivirus and firewall devices.

**Article 6 - Provision Modes for assistance and maintenance services for the infrastructure and use of service**

6.1 - The "QTSP" will arrange for the management and maintenance of the hardware and software that make up the IT structure that supports the service offered.

6.2 - The "Customer" will inform the "QTSP" of any anomalies in the management and maintenance of hardware and software that make up the infrastructure so that the latter will resolve them.

6.3 - Any malfunctions that may be detected by the Users/Customers must be reported by the "Customer" to the QTSP, via email sent to [spoc@ewitness.eu](mailto:spoc@ewitness.eu) who will activate an assistance ticket.

**6.4 - Maintenance work:**

6.4.1 - After the "Customer" has reported the matter to the help desk service by telephone or via the eWitness "Customer" Ticketing System (see Attachment I), the "QTSP" staff will evaluate the possibility of solving the problems found, intervening remotely or at the "Customer's" premises.

6.4.2 - The choice will be announced to the "Customer" by telephone or email, together with the time scale for the intervention.

6.4.3 - The "Customer" undertakes to provide the necessary cooperation and, in particular for interventions at their own premises, to allow access to the premises and equipment, where the operations needed to solve the problem must be carried out.

6.4.4 - The cost evaluation of the activity as above will be proposed to the "Customer" who can then accept or refuse.

6.4.5 - Outside the cases foreseen in article 6.4.4 above, the updating and maintenance activity for implementation and/or improvement that will allow the development of functions not included in the herein contract will be the responsibility of the parties, within the limits and according to the modes to be agreed between the said parties.

6.4.6 - The cost evaluation of the activity as above will be proposed to the "Customer" who can then accept or refuse.

6.4.7 - In all cases, the interventions requested as urgent by the "Customer" must be compatible with any of the "QTSP" justified technical and/or organisational needs.

**Article 7 - Long-term preservation manager**

7.1 - The "Customer", as controller of the electronic documentation sent to the QTSP is the Long-term preservation manager. The "Customer", also as the Long-term preservation manager, acknowledges that it knows the current legislation in force on long-term preservation according to law.

7.1.1 - The "Customer", therefore, in compliance with what is foreseen by the above technical rules, has adopted the long-term preservation manual that is attached to the herein contract.

**Article 8 - Stipulation of the contract**

8.1 - The contract will be considered as stipulated on the date of acceptance and relative signing of the herein document by the parties' legal representative and will also govern any services issued before that moment.

8.2 - The parties recognise that the signatories of the herein document have all the necessary powers and/or authorisation and in all cases, hereinafter renounce, and reciprocally accept - to object to the flaws of the proxy or powers.

**Article 9 - Activation of Service and Final acceptance**

9.1 - Activation of the service will take place via activation of the eWitness® System technological structure, in the service modes agreed by the parties.

9.2 - The service will be activated by the "QTSP" technical staff, on a date to be agreed between the parties, following the signing of the herein contract. On completion of activation operations, the "QTSP" technical staff will carry out a test, in order to check the correct

functioning of Not@reyes®-box, the transfer system for the documents to the long-term preservation system, and access to the document website by the authorised users.

9.3 - If, during the final acceptance, any faults, defects and/or malfunctions occur, or if such exist on the date established for the completion of said phase, the "QTSP" undertakes to intervene promptly and without additional charge for the "Customer" in order to remove said imperfections.

9.4 - The parties consider the activation and positive final acceptance of the whole system confirmed hereinafter, if the first actual consolidation is reached of at least one archival information package the object of the herein contract.

9.5 - The herein article is also applied in the hypotheses that the service must be changed compared to the initial settings.

#### **Article 10 – Payments Payment and invoicing modes**

10.1 - In return for the services that are the subject of the herein contract, the "Customer" undertakes to pay the "QTSP" the amounts as payment and fees, decided according to the parameters identified in Attachment "A", with the modes and in the terms established.

10.2 - With regard to payment, the invoices will be issued at the start of the service when the contract is signed, for the fee the invoice will be sent every six months, in advance.

10.3 - The amounts due must be paid within 60 (sixty) days of the date on which the invoice is issued except for invoices issued for the reimbursement of duty/postal stamps, which must be paid immediately on issue of the invoice.

10.4 - Payment of invoices issued by the "QTSP" as per the herein contract, must be made in full, by bank transfer, to the bank account indicated in the invoice.

10.5 - In the case of non payment or part payment, in the terms as in section 3 of the herein article, notwithstanding the activation of other solutions foreseen by the herein contract or by law, the "QTSP" can apply arrears interest to the capital amount due, determined equally to the rate of interest of the Central European Bank plus 3 (three) percent. In this case, the interest will be applied starting automatically from the day after expiry of the deadline, as set out in paragraph 3 above, or without that, 30 (thirty) days after the deadline has expired .

10.6 - In the event that payment of the amount, both capital and the interest accrued pursuant to the previous sections, should not be made in full or as a balance, by the expiry date as set out in paragraph 3 above, the "QTSP" can suspend provision of the services, , if the business partner on behalf of the "Customer" has not paid within 15 (fifteen) days of receiving the communication by registered post, about the suspension of provision of services. Suspending the provision of services, pursuant to the herein article, can never be considered as a breach of contract by the "QTSP" in the service as in the herein contract. All amounts, both capital and accrued interest based on the herein article are still however due.

#### **Article 11 - Obligations and responsibilities of the Provider - Long-term preservation service manager**

11.1 - Notwithstanding what was established in other parts of the contract, the "QTSP" undertakes to carry out the activities that are the object of the herein contract "correctly", according to the terms, mode and within the limits agreed between the parties in the herein General Terms and Conditions, including the Attachments.

11.2 - In particular, in carrying out the contract, the "QTSP" undertakes to:

a) observe the provisions dictated on the matter of work safety based on the current legislation in force limited to what is his own responsibility;

b) operate in observance of what is foreseen by legislation on personal data protection (EU Regulation 2016/679 - GDPR and subsequent amendments and additions)

11.3 - The "QTSP" undertakes to constantly check the correct function of the eWitness® System technological infrastructure, in order to check the exact fulfilment of the obligations taken.

11.4 - In all cases, the "QTSP" will not be responsible for the suspensions, also partial, of services due to force majeure. As a pure example, cases of force majeure are considered to be non-foreseeable event caused by natural facts, natural catastrophes, floods, lightning, fire and riots.

11.5 - The "QTSP" cannot in any case be considered responsible for delays and/or interruptions in providing the service caused by:

- a) tampering or interventions that affect the correct functioning of the service or the equipment carried out by the "Customer's" staff or third parties authorised by the Customer;
- b) wrong use of the service by the "Customer's" and/or non-observance of the terms (delivery, control, checking documents), established in the Contract and Attachments, for carrying out the activities relating to the "Customer";
- c) malfunctioning hardware, software or electrical devices used by the "Customer" and not maintained by the "QTSP" pursuant to the herein contract;
- d) full or part interruption of the service due to interruption of the Internet network;
- e) use by the "Customer" of equipment that is not approved or without any applicable authorisations;
- f) non, mistaken, non-prompt shipment of documents in the absence of specific communication by the "Customer".

11.6 - The "Customer" also acknowledges that the "QTSP" activity, with specific reference to services for documents in general, does not include fiscal obligations subsequent to the time of issue and/or creation of the document, other than preserving them according to eIDAS Regulation. For example, the activities regarding accounts keeping and registration of incoming and outgoing invoices in respective registers, the payment of relative taxes that remain the exclusive competence of the "Customer" are therefore expressly excluded.

11.7 - In all cases, considering the nature of the services provided as part of the herein contract, the parties agree that the maximum limit for compensation by the QTSP, for any direct or indirect damage, caused to the "Customer" or third parties, that can be blamed on the "QTSP" itself, pursuant to and in accordance with the herein contract cannot be more than 100% of the payments and fees recognised overall for the entire duration of the validity of the service, as established in the previous article 10.1.

## **Article 12 - Customer's obligations, responsibilities and exemption**

12.1 - The "Customer" undertakes, in addition to what is foreseen in article 10 and in other parts of the herein contract:

- (a) On the date when the herein contract is signed, the "Customer" provides the "QTSP" with the ID data required for Not@reyes®- box, via which the "QTSP" will arrange protection of "Customer" access to the eWitness® System;
- (b) to use the services exclusively in the realm of its own professional activity, as described in the premises;
- (c) to not allow use of the services by subjects other than the subjects authorised to supervise the correct use of them;
- (d) to work in compliance with the provisions on safety in the workplace, on personal data protection (EU Regulation 2016/679 - GDPR -and later amendments and additions) civil and penal protection of programmes, data, computer systems, electronic communications and data banks, and to supervise the work of its appointees;
- (e) to abstain from memorising data or documents in the eWitness® System Data Base, from transmitting, divulging, distributing, sending or circulating via a technological infrastructure, that may contain material that has been illegally handled, or has illegal content, and to supervise the correct work by authorised subjects for accessing the services, with explicit exemption for the "QTSP" from all responsibility and burden of verification on the matter;
- (f) to abide by the instructions set out in the contract and attachments, observing terms, deadlines and delivery,;
- (g) to respect the generation, delivery, blocking and regeneration procedures for the personal identification codes (User ID and password) in order to access the system and to give the authorised users the obligations of keeping personal identification codes, adopting suitable security measures to avoid thefts, loss or situations where unauthorised third parties can see them or take control of them;
- (h) to abstain from enacting any activity that may cause damage to the system and/or programmes, the servers, the databases, using any media and modes, also remotely.

12.2 12.3 - In the event of violation of the content of the article 12.1 (e) above, the "Customer" undertakes to exempt and release the "QTSP" from any damage or liability (costs, charges or



expenses of any kind, including legal costs) that it may suffer, as a consequence of said breach, even if deriving from third-party requests for compensation.

12.4 - The "Customer" undertakes to communicate to the "QTSP" the subjects authorised to send binding declarations in the various procedures foreseen by the contract, keeping a list of requests made available, also for any checks. Without said communication, the "Customer" cannot object in any way that the communication was not binding for example for flaws or lack of proxy.

12.5 - Without prejudice to all the "customer's" responsibilities regarding the formation of accounting and fiscal documents, the "Customer" undertakes to deliver them, transmit them or make them available in the modes and terms as set out in the contractual attachments, renouncing considering the "QTSP" responsible for the non-observance of the term to proceed with the long-term preservation in the event of non, inexact, delayed fulfilment by the "Customer" of the obligation as set out herein.

### **Article 13 - Exclusivity clause and know-how**

13.1 - The parties reciprocally acknowledge that the herein contract does not create any exclusivity restrictions on themselves.

13.2 - The herein Contract does not create any right for the "Customer" with regard to the use of any new concept, idea, method, know-how or technique that must be processed by the "QTSP" for the purpose of carrying out the herein contract.

### **Article 14 - Intellectual property rights**

14.1 - Any invention, material, data, that already exists, property of the contracting parties, will remain the property of said party without the receiving party obtaining any ownership rights or rights of any other type. With regard to the herein contract, as part of the eWitness® System technological infrastructure, for the purpose of providing the services that are the object of the herein contract, any solution or function, in particular software, also developed based on the "Customer's" needs and/or requests, must be considered assets protected by the Berne Convention and national applicable laws, as intellectual property. All rights for economic use, compared to the above solutions or functions, lie exclusively with the QTSP.

14.2 - Signing the herein Contract exclusively brings the "Customer" the right to use said solutions, software in particular, within the limits and according to the modes provided for in the contract and the attachments. This right to use is intended in all cases, limited to what is necessary to use the services governed by this contract.

14.3 - The "Customer's" staff are forbidden to enact the activities such as, for example: reproduction, extraction, translation, adaptation, distribution to the public in any actuated form or the transfer to software topics carried out for any reasons, whether at a charge or free of charge. For the entire duration of the Contract, the "Customer" is forbidden to carry out interventions on the software, even if for the correction of any flaws and/or defects, duplication, decompiling, assembling, transformation, and modification of software.

14.4 - In relation to any User Manual that will be distributed to authorised users and any training material, that may be distributed during training sessions, all rights are reserved for the "QTSP" and may be governed by agreements with the respective authors; said documentation may only be used by authorised users to whom it has been distributed, for internal purposes and may not in any case be divulged to subjects outside the "Customer's" structure.

14.5 - The "Customer's" data and documents are and remain the property of the "Customer". The "QTSP" does not take any responsibility for the content of said data and/or documents. The "Customer's" data and/or documents cannot be handled and used by the "QTSP" for purposes other than that of providing the services. Said "Customer's" data and/or documents cannot be sold, transferred, hired, disclosed in any form and media or transferred from the "QTSP" to third parties. The "Customer" can, however, communicate, transmit and have such data handled by the "QTSP" for provision of the service, notwithstanding, in this case, the "QTSP" responsibility for the exact, punctual fulfilment of the obligations taken.

### **Article 15 - Confidential information**

15.1 - Each of the Parties recognises the confidential character of any information communicated to it by the other party in execution of the herein contract, and consequently undertakes for any reason to:

- a) neither communicate and/or nor divulge all or part, neither written nor oral or graphic form, in in any other form or with any other means on any instrument that may be known based on technological development, any reserved information transmitted by the other party to third parties, without prior and specific written consent from the party to which said information refers;
- b) not use, neither all nor part, neither directly nor indirectly, and also via subsidiaries or associated companies, any reserved information transmitted by the other party for purposes other than the stipulation and execution of the herein contract.

15.2 - The parties reciprocally acknowledge that the following cannot be considered reserved, for the purpose of the herein article, in any case:

- a) the information that is of public domain at the time of communication, or that becomes it later, without the party that received the information having violated the herein contract;
- b) the information that when communicated is already known by the party receiving it, as long as that knowledge is not obtained fraudulently and the party can prove this;
- c) the information that at the moment of communication is already known by the party receiving it, having been previously transmitted by a lawful third party and not bound to a confidentiality obligation regarding the use or communication of said information;
- d) the information processed by each party fully independently;
- e) the information that the party is obliged to communicate or divulge in fulfilment of a lawful order by any authority, as long as the party that received the order immediately informs the party that owns the reserved information, so that it can request the most suitable judicial provisions to protect its own interests or other suitable solution, or release the other parties from the obligation of confidentiality;
- f) the information for which authorisation for disclosure has not been authorised beforehand by party that transmits it.

15.3 - The "QTSP" will maintain the confidentiality of the information in its possession in the same terms as the herein article.

#### **Article 16 – Subcontracting**

16.1 – For the provisioning of its services as QTSP, eWitness Malta Ltd sub-contract in whole or in part specific activities to eWitness Italia s.r.l. with registered office in Milan, via Turati no.29. However eWitness Malta Ltd takes the final and overall responsibility for the Qualified Trust Service provided to the customer.

If there should be a need to subcontract single operations or phases of the process to individuals and/or legal entities besides eWitness Italia s.r.l. prior binding authorisation must be given by the "Customer".

#### **Article 17 - Transfer of the contract**

17.1 - The herein contract cannot be transferred to third parties without the prior written consent from the other party.

17.2 - It is therefore expressly forbidden for the "Customer" to transfer the herein contract or enjoy the advantages, directly or indirectly to subsidiaries or associated companies.

#### **Article 18 - Contract Amendments**

18.1 - Any amendment to the herein contract or the attachment will be valid and binding, for the parties, only if provided in written format and signed by both parties.

#### **Article 19 - Various provisions**

19.1 - The herein contract is the result of negotiations carried out between the parties, regarding the services contained herein; signing it annuls any prior deal and/or agreement signed or oral, between the parties and regarding the same services.

19.2 - Any delay, lack of one party in carrying out a right deriving from the herein contract, tolerance of the counter party's conduct in violation of the contents of the herein contract, cannot be interpreted as the renunciation of said right, nor the part exercising of a right may preclude the full exercising of the same right in the future.

The non-prompt fulfilment of legal or contractual obligations brings about the compensation of damage by the party that has caused it and the right to suspend the service.

### **Article 20 - Communications between the Parties**

20.1 - For the purpose of the herein contract, the parties elect their domicile at their own offices and therefore respectively at:

a) for the "QTSP" **eWitness Malta Ltd**

Address: Giuseppe Cali Street, Ta' Xbiex, XBX, 1425,

Telephone: +356 27761017

Person appointed to maintain relations with the subscribers for the forwarding of information about the contract, including the information to be retained: Stefano TAZZI

c) for the "Customer" \_\_\_\_\_

Address:

Telephone:

Fax:

Person appointed to maintain relations with the subscribers for the forwarding of information about the contract, including the information to be retained: \_\_\_\_\_

The communications between the parties, other than the ones that are the object of the services set out in article 3, will be sent via certified email and will take effect from the moment they are received.

20.2 - The Parties must promptly communicate any change to their respective addresses, during the period of validity of the contract. If no communication of said changes is provided, all communications and/or notifications that will be carried out based on previously provided addresses will be considered fully valid and effective.

### **Article 21 – Privacy**

21.1 - Each party undertakes to handle the other party's data, that it will come into possession of during execution of the herein contract, in compliance with what is foreseen **by EU Regulation 2016/679 - GDPR – and in compliance with the Maltese Chapter 586 Data Protection Act**. In particular, the QTSP" in his capacity as **processor pursuant to article 28 or other processor** declares to have adopted all the measures necessary for processing data in compliance with the law, i.e. to process personal data in a legal, correct and transparent manner, in respect of that laid down by the GDPR. Further information regarding this matter is available on the website [www.ewitness.eu](http://www.ewitness.eu) in the Data Protection Section.

21.2 - The "Customer" declares that it has and will collect data, in his quality as Controller, in the documents that it will deliver to the QTSP, adopting all the measures necessary and adequate for processing the data, so as to guarantee lawful handling, pursuant to the current legislation in force on the matter. Therefore, the "Customer" guarantees that the data collected, handled and that will be sent to "QTSP" in order to execute the services object of the herein contract, are and will be collected and handled in compliance with the provisions on the protection of personal data and the provisions of the Regulation.

21.3 – The "QTSP" is appointed by **the "client" Data Processor pursuant to art. 28**, concerning personal data that it must handle, due to the execution and management of the services that are the object of the herein contract. The above appointment is expressly governed by the contents of **Attachment B**.

21.4 - The "QTSP" guarantees that has the suitable structures and skills for carrying out the respective activities for the provisioning of the service, in compliance with the provisions set out in the Regulation and use, where necessary, for the purposes of its activity, such "other Processors", imposing on the sub-processor, through a contract or other legal deed, the same obligations concerning data protection as those to which the "QTSP" is liable in his capacity as

Processor and guaranteeing the adoption of adequate technical and organisational measures so that the processing satisfies the requirements laid down by EU Regulation 2016/679 and by provisions concerning the protection of personal data.

#### **Article 22 - Duration of contract and renewal. Withdrawal**

22.1 - The herein contract is valid until the date of \_\_\_\_\_, except for cases of termination and withdrawal governed otherwise.

22.2 - On the date of expiry as per the paragraph above, the contract can be intended as tacitly renewed in the same terms for another minimum period of one year within 30 days of the end of the contract, and so on for subsequent expiration dates, without prejudice for the parties to give notice of termination at least two months in advance by means of registered letter with return receipt or certified e-mail.

#### **Article 23 - Express Termination Clause**

23.1 - Without prejudice for any of the several solutions foreseen by the herein contract or law, the parties reserve the right to terminate the contract with immediate effect, pursuant to and in accordance with the civil code, on verification of one of the following circumstances, by sending written notice via certified email:

- a) if the other party is placed in liquidation, is declared bankrupt or is subjected to another insolvency procedure;
- b) if the Customer, 30 (thirty) days after suspension of the service as set out in article 10.6, has not yet paid the due amount;
- c) in case of interruption of the service for more than 30 consecutive days.

23.2 - The payments accrued at the time when the contract is terminated are still due, in all cases, however.

#### **Art. 24. Migration of data in all cases of termination of contract**

24.1 - In all cases of cessation of contract (for example, expiry, withdrawal, termination) the "QTSP" must keep all documents and submission information packages sent by the "Customer" until the natural expiry of the contracted period, guaranteeing all obligations foreseen by the long-term preservation system manual.

24.1.1 If only one of the hypotheses as in point 24.1 occurs and in all cases on written request from the "Customer", the "QTSP" must make available documents in remote mode - or, if requested, also on digital support (e.g. CD, DVD):

- one or more dissemination information packages regarding one or more certain archival information packages or extracts of one, referring to the taxation year and/or the type requested by the "Customer";
- one or more electronic copies - where required by current legislation or by the "Customer" also certified by the long-term preservation manager's proxy - of preserved documents and identified in one or more of the archival information packages.

24.1.2 When electronic copies or analogical copies of the original digital document are requested (also certified by the Long-term preservation manager's proxy) a specific agreement must be signed in which the roles, times and payments must be agreed. In all cases, the information will be provided in a standard format compatible with other long-term preservation systems, as foreseen in ISO 14721:2012 OAIS, ISO/IEC 27001:2013, ETSI TS 101 533-1 V1.3.1 (2012-04), ETSI TR 101 533-2 V1.3.1 (2012-04), UNI 11386:2010 Standard SInCRO, ISO 15836:2009. This list is not to be considered exhaustive or compulsory.

The moving of information must take place within 90 (ninety) days of ending of the contract, notwithstanding the obligations set out in point 24.1.2 and 24.4.

In all cases, the parties must collaborate actively and loyally for all technical matters following the ceasing of the contract and the migration of data packages.

24.2 - The "QTSP" undertakes to not communicate and/or spread and/or use data as in the previous paragraph any further, or to keep a copy of the data, except for what is stated in the herein article. In all cases, the data and/or documents must be preserved in observance of the obligations set by civil, fiscal and taxation laws.

24.3 - When required by par. 1, the "QTSP" will hand over the documents and digital copies as set out in paragraph 1 to the Customer, at the offices indicated by the former. The relative accompanying letter must have the list of documents contained in digital supports (both in reference to the ones obtained from preservation and return) ordered by type and reference period. Two copies of the letter and list will be drawn up.

24.4 - On delivery, the "Customer" will issue a specific receipt, signing the copy of the attachment that will remain with the QTSP. Within 90 (ninety) working days of delivery of the material, the "Customer" must verify legibility of the support content. This procedure will end with the signing of the "final check report" by the "Customer", which must be handed to the QTSP.

24.5 - All contestations directly connected with integrity of the content in optical supports that the "Customer" may optionally request, that have not been carried out formally within 30 (thirty) days of delivering/making available, can no longer be made by the same "Customer". In all cases, after the deadline as above, if the "Customer" has not carried out any activities, all the material delivered as in the list sent will be considered to be accepted without reservations. The "Customer" herein renounces - and the "QTSP" accepts - carrying out such demands.

24.6 - It is agreed that the "QTSP" will maintain a copy of everything delivered/made available by the "Customer" for the entire period of time until the deadline has passed for verification and for signing the "final check report". The copy held by the "QTSP" will only be disposed of after signing and delivering the "final check report".

24.7 - The "QTSP" guarantees that it will create the databases by adopting formats, standards and technical and operational formats that are suitable for interoperability in order to allow the "Customer" to migrate the data to databases managed by others, if the contract is terminated. Should further operations and/or activities be required or requested by the "Customer", they will be the subject to cost evaluation by the "QTSP" based on the current rates.

24.8 - The "QTSP" guarantees that it will implement all necessary actions in the event that preservation service activities should no longer be provided.

These actions will guarantee monitoring of the long-term preservation service migration consistently with the planned provisions for several players involved. By means of a transition phase of interoperability, this means guaranteeing availability and full integrity of the preserved information, up to the moment of termination, making it available to any new preservation service providers who may take over the service.

The termination procedure will take place according to the timescales agreed with the new preservation service subject, in observance of the procedures provided for by various types of migration that can be implemented in accordance with the contents of the OAIS standard (ISO 14721:2012), providing for the generation of distribution packages, taken from the preservation packages archived in the system, which will be delivered using the modes agreed and in compliance with the procedures described in the Companies Preservation Manual.

24.9 - Cancellation of the provision of the long-term preservation service may occur for one of the following reasons:

- Bankruptcy and other insolvency procedures

Estimated time for migration procedure: 4 months

- Sale/Transfer of company division

Estimated time for migration procedure: 4 months

- Breach of contractual obligations by the Customer

Estimated time for migration procedure: 90 days

An estimation of the timescale for each event must be considered as a guideline, also to be adapted to estimations for any service provided, for each Customer.

Said regulations ensure the possibility for the "Customer" of allowing a new preservation provider to take over that can in turn guarantee continuation of providing the long-term preservation service.

24.10 The "QTSP" undertakes to inform MCA, in its role as supervisory body, of the implementation of the termination procedure, via certified email.

In addition to stating possible modes and timescales for implementation, the communication will also contain information regarding:

- the list of Customers involved;

- the types of documents preserved up to the moment when the contract will be terminated will be listed for each Customer;
- the number of documents preserved, the overall size of the storage space and a list of the types of storage used will be indicated for each type of document.
- any other information considered useful for the purpose of ensuring full transparency for the Customers involved regarding the transfer into the new preservation system.

24.11 In extreme cases, where it is not possible to activate the procedure as described above, the "QTSP" guarantee accessibility to preserved documents by access via a specifically configured utility on the system. Access modes and relative authentication credentials - together with all the technical and operational documents required for the correct functioning of the long-term preservation system - are deposited in trust at the offices of the Notary Public Giuseppina De Nardis, who will provide them solely to the subjects and in the cases expressly stated in the trust deposit contract.

### **Article 25 – Choice of law and place of jurisdiction**

25.1 According to:

- Rome I Regulation, Recital 25, Article 3 and 6 (re applicable law),
- Brussels I Regulation, Article 18 (re jurisdiction & enforcement of judgements),
- Rome Convention of 1980, Article 3 (re applicable law) or to EU Regulation 593/08.

The parties are free to choose the law to which to submit their contractual relationship/agreement and to choose to resolve any issue according to the law of the country in which the customer has his residence and the courts of his domicile to decide any issues re the contractual relationship/agreement.

### **Article 26 - Place of jurisdiction**

26.1 – As specified in Article 25.

### **Article 27 - costs, duties and taxes**

27.1 - Any costs, duties or taxes regarding the stipulation and signing of the herein contract are agreed as payable by the parties at \_\_\_\_\_.

27.2 - Any joint responsibility of one party for any amounts not paid by the other parties is expressly excluded.

27.3 - Where one party has breached his own obligations as foreseen in the herein article and this causes difficulties, unacceptable delays, making stipulations and/or executions impossible, the other party cannot provide for payment of the amount not paid by the counterparty, without any prejudice to the right of withdrawal.

### **Article 28 – Model 231 Code of Ethics**

The parties declare that they have read and know the respective Code of Ethics and organisational Models and undertake, for themselves and for all the collaborators involved in carrying out the contract, to standardise the principles contained therein in relation to the relationships that interconnect and interconnect with each other. Each of the parties will have the right to threaten the termination of the contact in the cases of application to another party of one of the sanctions foreseen by law 231/2001 and amendments and additions, for the legal entities.

### **Article 29 – Accessibility for person whit disability**

Within the limits of the possibilities and where it makes sense, eWitness aims to make its services accessible to people with disabilities by putting into practice all the necessary measures (for example, eWitness to support disable people, on his website includes a button which can activate the riding of a page and can use also third party tools like magnifier, screen reader, etc.).

(digitally signed)

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(digitally signed)  
eWitness Malta Ltd

The parties declare that they know and have understood, and consequently have approved specifically what provided for in the following articles:

Article 7 (Long-term preservation manager) – Article 8 (Stipulation of the contract) – Article 9 (Activation of Service and Final Acceptance) – Article 10 (Payments, payment and invoicing modes) – Article 11 (The Provider - Long-term Preservation Service Manager’s obligations and responsibilities) – Article 12 The "Customer"’s and the "business-technological partner’s" obligations and responsibilities and exemption – Article 13 (Exclusivity and Know how) - Article 14 (Intellectual property rights) – Article 15 (Confidential information) – Article 16 (Subcontracting) – Article 17 (Transfer of the Contract) – Article 18 (Contract Amendments) – Article 19 (Various Provisions) – Article 20 (Communications between the parties) – Article 21 (Privacy) – Article 22 (Duration, renewal and withdrawal from contract) – Article 23 (Express termination clause) – Article 24 Migration of data in all cases of termination of the contract – Article 25 (Applicable law) – Article 26 (Exclusive place of jurisdiction) – Article 27 (Costs, duties or taxes).

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(digitally signed)  
eWitness Malta Ltd