

DOCUMENT HAS NOT YET BEEN APPROVED



COUNTY of EL DORADO

Procurement & Contracts

BLANKET PURCHASE ORDER

PURCHASE ORDER NO.
BP20170544

DATE	REQUISITION NO.	TYPE	BLANKET PO#	PAGE	DELIVERY DATE	EXPIRATION DATE	THIS NUMBER MUST BE ON ALL INVOICES, PACKING LISTS, AND RELATED PAPER WORK.
03/13/17		BP		01		02/28/18	

VENDOR

VIRTRU CORPORATION
PO BOX 53253
WASHINGTON DC 20009

SHIP TO

THIS IS NOT AN ORDER
SEE SPECIFIC ORDERS
AGAINST BLANKET FOR
SHIP TO ADDRESS

REQUESTOR	F.O.B. POINT	TERMS
	DESTINATION	NET 30

NOTE CONDITIONS ON REVERSE

LINE	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	EXTENDED TOTAL
001			202-30 I.T.: SOFTWARE LICENS VIRTRU FOR GOOGLE VAULT LICENSE		
002			202-30 I.T.: SOFTWARE LICENS BULK CLI TOOL LICENSE		
003			900-05 SVCS:FREIGHT; SOFTWARE FOR PERIOD: 03/01/2017 - 02/28/2018 REFERENCE: QUOTE DATED 11/9/2016 INVOICE TO: SAME AS SHIP TO FOR ORDER QUESTIONS CONTACT: JON HENRY AT 530-621-5452 FOR BILLING QUESTIONS CONTACT: LINDSEY GONSALVES AT 530-621-4549 CONTRACT ADMINISTRATOR: DAVID RUSSELL, ASSISTANT DIRECTOR OR SUCCESSOR EXHIBIT "A" IS INCORPORATED TO AND MADE A PART OF THIS PURCHASE ORDER CONTRACT. TO THE EXTENT THAT THE TERMS AND CONTINUED, NEXT PAGE		

This Purchase Order expressly limits acceptance to the terms and conditions stated herein, set forth on the reverse side hereof and any supplementary or additional terms and conditions annexed hereto or incorporated herein by reference. Any additional or different terms and conditions proposed by seller are objected to and hereby rejected.

SFX TOTAL INDEX SUB-OBJECT USER CODE

I hereby certify that this purchase order is issued in accordance with procedures prescribed by ordinance and BOS Policy C-17 governing purchase of such items for the County of El Dorado.

Purchasing Agent

(Note: Authorized signature in lieu of Purchasing Agent for purchase less than \$5,000.00)

VENDOR COPY

0 21700



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	DESTINATION	NET 30

NOTE CONDITIONS ON REVERSE

LINE	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	EXTENDED TOTAL
			<p>CONDITIONS OF THE VENDOR CONFLICT WITH THE TERMS AND CONDITIONS OF THE COUNTY, THE TERMS AND CONDITIONS OF THE VENDOR SHALL PREVAIL.</p> <p>MEDIA: ELECTRONIC DOWNLOAD ONLY</p> <p>THIS PURCHASE ORDER IS BEING ISSUED FOR THE ACQUISITION OF SOFTWARE LICENSES, SOFTWARE MAINTENANCE, UPGRADE PROTECTION, AND/OR RENEWALS OF SAME.</p> <p>EL DORADO COUNTY DOES NOT ACCEPT PHYSICAL MEDIA FOR EITHER THE INITIAL PURCHASE OF SOFTWARE LICENSES AND/OR ANY SOFTWARE MAINTENANCE AND UPDATES.</p> <p>SOFTWARE, MAINTENANCE AND UPGRADE PROTECTION WHEN ELECTRONICALLY DOWNLOADED ARE NOT SUBJECT TO TAXATION PER THE STATE OF CALIFORNIA, BOE REGULATION 1502.</p> <p>SHOULD EL DORADO COUNTY EVER RECEIVE PHYSICAL MEDIA OR DOCUMENTATION RELATIVE TO THIS SOFTWARE AND/OR SOFTWARE MAINTENANCE AND/OR LICENSE UPDATES, THE COUNTY SHALL BEAR THE CONTINUED, NEXT PAGE</p>		

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SHIP TO ADDRESS

REQUESTOR	F.O.B. POINT	TERMS
	DESTINATION	NET 30

NOTE CONDITIONS ON REVERSE

LINE	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	EXTENDED TOTAL
			COST OF ANY APPLICABLE TAXES RELATIVE TO THIS TRANSACTION. NO BUSINESS LICENSE REQUIRED NO TANGIBLE PROPERTY OR MEDIA RECEIVED		
				CONTRACT AMOUNT:	2,100.00

This Purchase Order expressly limits acceptance to the terms and conditions stated herein, set forth on the reverse side hereof and any supplementary or additional terms and conditions annexed hereto or incorporated herein by reference. Any additional or different terms and conditions proposed by seller are objected to and hereby rejected.

PLEASE REFER ALL QUESTIONS
CONCERNING THIS ORDER TO:

LINDSAY GONSALVES
(530) 621-4549 EXT 4549

VENDOR NUMBER : 027965

REQUESTING DEPT: INFORMATION TECHNOLOGIES
360 FAIR LANE

PLACERVILLE

CA 95667

VENDOR COPY

I hereby certify that this purchase order is issued in accordance with procedures prescribed by ordinance and BOS Policy C-17 governing purchase of such items for the County of El Dorado.

Purchasing Agent

(Note: Authorized signature in lieu of Purchasing Agent for purchase less than \$5,000.00)

0 21700

Virtru Pro Subscription Agreement Terms and Conditions

Last Updated: September 7, 2016

1. Definitions

For purposes of this Agreement, the following terms shall have the following meanings:

1.1 " Customer Content" means the information and content Customer and Customer Users create and/or distribute using the Virtru Pro Services.

1.2 " Customer User" means any Customer-authorized employee, contractor or agent who is permitted to utilize the Virtru Pro Services in accordance with the terms and conditions of this Agreement.

1.3 " Derivative Work" means a new or modified work that is based on or derived from a preexisting work, including, without limitation, a work that, in the absence of a license, would infringe the copyright in such preexisting work or that uses trade secrets or other proprietary information with respect to such preexisting work.

1.4 " Materials" means the Virtru Pro software (including any object code, executable files, or browser plug-ins) or materials related thereto provided by Virtru to Customer hereunder, including, without limitation, any software downloaded from Virtru's website or from the Virtru Pro Services; any related materials and documentation therefor; and any modifications, error corrections, bug fixes, new releases, enhanced functionality (including platform integration features not generally available to non-commercial users of Virtru's software) or other updates thereto that may be provided hereunder by Virtru to Customer during the term of this Agreement.

1.5 " Order Form" means the Virtru-generated order documentation executed by Virtru and Customer that forms a part of this Agreement.

1.6 " Support Services" means the delivery of front-end support to Customer Users by telephone, email or other methods and the training of Customer Users, in each case relating to the use of the Materials and Virtru Pro Services.

1.7 " Third Party Services" means any services used in connection with the Materials that are hosted by a party other than Virtru or Licensee.

1.8 " Virtru Application Data" means the Customer- and Customer User-related data that is necessary to operate, improve and maintain the Virtru Pro Services, including, without limitation, key access policies (including updates or revisions to those policies), authorized user email addresses, IP addresses, access requests, error reports, crash reports, platform information, sender email addresses, recipient email addresses, encryption keys, message expiration dates and times, and display names for files and email subject lines.

1.9 "Virtru Pro Services" means the Virtru-hosted services made available by Virtru to Customer in connection with the Materials.

2. Rights in Materials and to use Service

2.1 Grant of Rights. Subject to the terms and conditions of this Agreement, Virtru (a) hereby grants to Customer a restricted, non-exclusive, nontransferable, nonsublicensable, royalty-free (except as set forth in Section 2.3), revocable right to use, during the term of this Agreement and in accordance with the documentation provided by Virtru, the Materials (the "**License**"), and (b) Virtru will make the Virtru Pro Services available to Customer pursuant to this Agreement during the term of this Agreement. Except as set forth in this Section 2.1, no other right or license of any kind is granted by Virtru to Customer hereunder with respect to the Materials or the Virtru Pro Services. Customer acknowledges and agrees that, unless otherwise agreed in writing between the parties, Customer shall be solely responsible for procuring and complying with any license or right to use any Third Party Services, including those offered by Customer's email services provider. Neither this Agreement nor Virtru's Privacy Policy (defined below) shall apply with respect to data stored on, manipulated, or transmitted by means of your use of Third Party Materials.

2.2 Restrictions. Customer shall not, without the prior written consent of Virtru: (a) copy all or any portion of the Materials or Virtru Pro Services; (b) decompile, disassemble, scrape or otherwise reverse engineer the Materials, Virtru Pro Services or any portion thereof, or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Materials or used in the Virtru Pro Services or any portion thereof; (c) modify, translate or create any Derivative Works based upon the Materials or

Virtru Pro Services; (d) distribute, disclose, market, rent, lease, assign, sublicense, pledge or otherwise transfer the Materials, in whole or in part, to any third party or export the Materials outside the United States; (e) engage in any activity that interferes with or disrupts the Virtru Pro Services (or the servers and networks that are connected to the Virtru Pro Services); (f) remove or alter any copyright, trademark, trade name or other proprietary notices, legends, symbols or labels appearing on or in copies of the Materials or the Virtru Pro Services; (g) perform, or release the results of, benchmark tests or other comparisons of the Materials or Virtru Pro Services with other programs or services; (h) transfer the Materials to any computer other than a computer owned by Customer and used by Customer in Customer's operations; (i) permit the Materials or Virtru Pro Services to be used for processing the data of any third party; (j) incorporate the Materials, Virtru Pro Services or any portion thereof into any other program, product or service, or use the Materials or Virtru Pro Services to provide similar services or functionality to third parties; (k) provide any third party with access to the Virtru Pro Services other than as expressly permitted herein; (l) trade or resell the Materials or Virtru Pro Services for any purpose; (m) use the Materials or Virtru Pro Services for any unlawful or tortious purpose; (n) use the Virtru Pro Services to transmit Customer Content that is illegal or that infringes or misappropriates any third party's privacy or intellectual property rights; (o) use the Virtru Pro Services to transmit any viruses, worms, time bombs, Trojan horses or any other harmful or malicious code; (p) use the Materials or Virtru Pro Services for any purpose where an accurate verification of identity has critical or life-threatening consequences; or (q) use the Materials or Virtru Pro Services for any purpose other than in accordance with the terms and conditions of this Agreement or Virtru's then-current privacy policy (available at <https://www.virtru.com/privacy-policy/>)(the "**Privacy Policy**"). Customer shall ensure that all Customer

Users of the Virtru Pro Service and Materials comply with the terms and conditions of this Agreement. Customer shall be responsible for compliance with this Agreement by each Customer User and it shall monitor and manage all Customer Users in connection with this Agreement.

2.3 Fees; Payment. In consideration of the Virtru's provision of the Virtru Pro Services and Materials, Customer shall make payments to Virtru in accordance with the terms set forth on the Order Form.

2.4 Seats; Reporting. Customer shall initially be permitted to use the Materials and Virtru Pro Services with respect to the number of seats set forth on the Order Form (the "**Baseline Seat Count**"). Each seat shall be used by one Customer User. During the term of this Agreement, Customer will report to Virtru the total number of users of the Materials and Virtru Pro Services on an annual basis. Such report will be submitted to sales@virtru.com and shall be due thirty (30) days prior to each anniversary of the date of this Agreement (each, a "**Reporting Date**") based on the actual number of users as of the date thirty (30) days prior to such Reporting Date (each, a "**Seat Count Date**"). If the actual number of Customer Users as of any Seat Count Date is higher than the Baseline Seat Count, Customer will pay the "Subscription Fee per Seat" set forth in the Order Form (the "**Subscription Fee**") for each such additional user for any Renewal Term.

2.5 Adjustment Events. In addition to the annual reporting required under Section 2.4 above, Customer shall report to Virtru any increase of ten percent (10%) or more in the aggregate number of Customer Users in excess of the Baseline Seat Count that occurs between Reporting Dates (an "**Adjustment Event**") and agrees to pay Virtru, within thirty (30) days

following any such Adjustment Event, a prorated Subscription Fee for each such additional user for the remaining portion of the applicable term and for any Renewal Term.

2.6 Seat Count Audit. At any time during the term of this Agreement, Virtru shall have the right to audit Customer's usage of the Virtru Pro Services and Materials (a "**Seat Count Audit**"). If the actual number of Customer Users as of the date of any Seat Count Audit is higher than the Baseline Seat Count, Customer will pay the "Subscription Fee per Seat" set forth in the Order Form for the remaining portion of the applicable term and for any subsequent Renewal Term.

3. Support

3.1 General. Virtru will provide support to Customer and Customer Users through Virtru's generally available online ticketing and support system. The Virtru Pro Services may be inaccessible from time to time due to planned or unplanned maintenance, or due to unavailability of third-party sites or servers. Except as expressly provided in this Section 3 or as may otherwise be provided under a written support agreement entered into by Virtru and Customer, Virtru is under no obligation to support the Materials or Virtru Pro Services in any way, nor to provide any modification, error correction, bug fix, new release or other update (each an "**Update**") to or for the Materials or Virtru Pro Service. In the event Virtru, in its sole discretion, supplies or makes available any Update to Customer, such Update shall be deemed to be part of the Materials or Virtru Pro Services (as applicable) hereunder and shall be subject to the terms and conditions of this Agreement.

3.2 Support Services. Virtru will provide Customer Users with Support Services. Virtru will provide the Support Services during Virtru's normal

business hours, Monday to Friday, except holidays. Virtru will respond to Customer support inquiries or requests within one business day. Virtru will not be required to provide the Support Services if Customer has failed to pay any amount payable to Virtru under this Agreement and such amount is more than thirty (30) days overdue.

3.3 Updates Virtru will provide Customer with one copy of each Update made generally available by Virtru to its customers that pay for customer support and maintenance during the term of this Agreement.

4. Proprietary Rights

4.1 General. As between Virtru and Customer, Virtru retains all right, title and interest, including, without limitation, all patent rights, copyrights, trademarks and trade secrets, in and to the Materials, Virtru Pro Services and any portion thereof, including, without limitation, any copy or Derivative Work of the Materials, Virtru Pro Services or any portion thereof and any Update thereto. Customer agrees to take any action reasonably requested by Virtru to evidence, maintain, enforce or defend the foregoing. Customer shall not take any action to jeopardize, limit or interfere in any manner with Virtru's ownership of and rights with respect to the Materials, Virtru Pro Services or any Derivative Work or Update. Customer shall have only those rights in or to the Materials, Virtru Pro Services and any Derivative Work or Update granted to it pursuant to this Agreement.

4.2 Feedback. Customer and Customer Users may provide suggestions, requests, recommendations and other feedback concerning Customer's use of the Materials and Virtru Pro Services (including, without limitation, any errors or difficulties discovered with respect thereto) (the "**Feedback**"). Customer agrees that all Feedback shall be the sole property of Virtru and

Virtru may use such Feedback at its discretion without the consent of Customer.

5. Customer Content and Application Data

5.1 Acknowledgements. Customer acknowledges that Virtru does not monitor Customer Content or the content third parties create and/or distribute using the Virtru Pro Services, nor does Virtru have the ability to decrypt Customer Content that has been encrypted. Customer acknowledges that Virtru has no responsibility (or related liability) for backing up any Customer Content and that, following expiration or termination of this Agreement, Customer may no longer have access to Customer Content.

5.2 Ownership of Customer Content. As between Virtru and Customer, Customer retains all right, title and interest, including, without limitation, all patent rights, copyrights, trademarks and trade secrets, in and to the Customer Content and any portion thereof.

5.3 License to Use Virtru Application Data. Customer hereby grants to Virtru a worldwide, non-exclusive, transferable, sublicensable, royalty-free, perpetual, irrevocable right and license to use, reproduce, distribute, adapt, create Derivative Works of, and transmit the Virtru Application Data for the purpose of performing its obligations hereunder, including the operation, improvement and maintenance of the Virtru Pro Services, and for any other purposes permitted under the Privacy Policy.

6. Proprietary Information

6.1 Proprietary Information. Both parties acknowledge that, in the course of this Agreement each may obtain confidential or proprietary information of the other party ("**Proprietary Information**"). "Proprietary Information" will include, without limitation, (a) the existence of and terms of this Agreement, (b) trade secrets, know-how, inventions (whether or not patentable), techniques, processes, programs (whether in source code or object code form), ideas, algorithms, formulas, schematics, testing procedures, software design and architecture, computer code, documentation, design and functional specifications, product requirements, problem reports, performance information, software documents, hardware, devices, designs, drawings, unpublished patent applications, data, plans, strategies and forecasts, and (c) technical, engineering, manufacturing, product, marketing, servicing, financial, personnel and other information. Virtru's "Proprietary Information" will include, without limitation, the Materials (including all Derivative Works and Updates) and all confidential information related thereto provided by Virtru to Customer in connection with this Agreement. Virtru's Proprietary Information shall, as between Customer and Virtru, belong solely to Virtru, and Customer's Proprietary Information shall, as between Customer and Virtru, belong solely to Customer.

6.2 Use and Disclosure Restrictions. Each party agrees (a) to protect the other party's Proprietary Information from unauthorized dissemination and use; (b) to use the other party's Proprietary Information only for the performance of this Agreement and the exercise of any rights under this Agreement; (c) not to disclose any Proprietary Information, or any part or parts thereof, to any of its employees, agents, contractors or any other individuals except to its employees who are under confidentiality obligations no less restrictive than the requirements of this Section 6; (d) with respect to Customer, not to disclose or otherwise provide to any third party, without

the prior written consent of Virtru or as otherwise set forth in a separate written agreement between the parties hereto entered into after the date hereof, as applicable, any of Virtru's Proprietary Information, materials or any data or other information produced, obtained or created by Customer in connection with Customer's use of the Materials, including, without limitation, the existence of this Agreement and the existence and possible applications of the Materials; (e) to undertake whatever action is necessary (or authorize the other party to do so in the name of such party) to prevent or remedy any breach of such party's confidentiality obligations herein set forth or any other unauthorized disclosure of any Proprietary Information by its current or former employees, agents or contractors; and (f) not to remove or destroy any proprietary or confidential legends or markings placed upon or contained within the Proprietary Information provided to such party by the other party.

6.3 Exclusions. The foregoing restrictions on disclosure and use shall not apply with respect to any Proprietary Information that: (a) is or becomes publicly known through no act or omission of the other party; (b) was rightfully known by the receiving party without confidential or proprietary restriction before receipt from the other party, as evidenced by the receiving party's contemporaneous written records; (c) becomes rightfully known to the receiving party without confidential or proprietary restriction from a source other than the disclosing party that does not owe a duty of confidentiality with respect to such Proprietary Information; or (d) is independently developed without the use of the Proprietary Information as evidenced by the receiving party's written records. In addition, a party may use or disclose Proprietary Information to the extent (i) approved in writing by the other party and (ii) a party is legally compelled to disclose such Proprietary Information, provided, however, that prior to any such compelled

disclosure, such party shall cooperate fully with the other party in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of the Proprietary Information. Further, each party may disclose the terms and conditions of this Agreement: (A) in confidence, to legal counsel; (B) in confidence, to accountants, banks, and financing sources and their advisors; and (C) in connection with the enforcement of this Agreement or any rights hereunder.

6.4 Equitable Relief. Each party agrees that, due to the unique nature of the other party's Proprietary Information, the unauthorized disclosure or use of the other party's Proprietary Information or any other breach of any provision of this Section 6 will cause irreparable harm and significant injury to the other party, the extent of which will be difficult to ascertain and for which there will be no adequate remedy at law. Accordingly, each party agrees that the other party, in addition to any other available remedies, shall have the right to seek an immediate injunction and other equitable relief enjoining any breach or threatened breach of this Section 6 without the necessity of posting any bond or other security. Each party shall notify the other party in writing immediately upon becoming aware of any such breach or threatened breach.

7. No Warranty

THE MATERIALS AND VIRTRU PRO SERVICES ARE PROVIDED "AS IS" AND VIRTRU DISCLAIMS ALL IMPLIED WARRANTIES RELATING TO THE MATERIALS AND VIRTRU PRO SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT

OF THIRD PARTY RIGHTS, OR WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. VIRTRU DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION INCLUDED IN, TRANSMITTED THROUGH OR MADE AVAILABLE BY THE MATERIALS OR VIRTRU PRO SERVICES, WHICH MAY INCLUDE INACCURACIES OR ERRORS. FOR THE AVOIDANCE OF DOUBT, VIRTRU MAKES NO WARRANTIES OR REPRESENTATIONS AND WILL HAVE NO LIABILITY OR RESPONSIBILITY FOR ANY THIRD PARTY MATERIALS. VIRTRU DOES NOT REPRESENT OR IMPLY THAT IT ENDORSES ANY THIRD PARTY MATERIALS, OR THAT IT BELIEVES THE OPERATION OF ANY THIRD PARTY MATERIALS WILL BE ACCURATE, USEFUL OR NON-HARMFUL. THIRD PARTY MATERIALS MAY HAVE TECHNICAL INACCURACIES, MAY CAUSE MISTAKES OR ERRORS, AND MAY TRANSMIT, STORE, OR OTHERWISE MANIPULATE DATA IN A MANNER THAT IS OBJECTIONABLE TO CUSTOMER. CUSTOMER IS RESPONSIBLE FOR TAKING PRECAUTIONS TO PROTECT ITSELF AND CUSTOMER'S COMPUTER SYSTEMS IN CONNECTION WITH THE USE OF THIRD PARTY MATERIALS.

8. Virtru's Entire Liability

TO THE EXTENT ALLOWED BY APPLICABLE LAW AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR LIMITATION OF LIABILITY: (a) IN NO EVENT SHALL VIRTRU OR ITS SUPPLIERS BE LIABLE FOR ANY DAMAGES FOR LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OR DATA, INADVERTENT DISCLOSURE OF DATA, OR INTERRUPTION OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR OTHER ECONOMIC LOSS ARISING FROM OR RELATING TO

THIS AGREEMENT OR THE SUBJECT HEREOF, EVEN IF VIRTRU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, HOWEVER CAUSED, AND (b) NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, VIRTRU'S ENTIRE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SUBJECT HEREOF, UNDER ANY LEGAL THEORY (WHETHER IN CONTRACT, TORT, INDEMNITY OR OTHERWISE), IF ANY, SHALL NOT EXCEED TEN THOUSAND DOLLARS (US\$10,000).

9. Term and Termination

9.1 Term. This Agreement shall commence on the Effective Date and, unless sooner terminated pursuant to the terms hereof, shall continue in full force and effect for one (1) year (the "**Initial Term**"). Thereafter, this Agreement shall automatically renew for successive one (1) year periods (each a "**Renewal Term**"), unless either party provides the other party with written notice of its intent not to renew at least thirty (30) days prior to the end of the then-current term. The automatic renewal of this Agreement will be for the Baseline Seat Count, as adjusted pursuant to Sections 2.4, 2.5 and/or 2.6, on the same payment terms as set forth on the cover page of this Agreement.

9.2 Termination. Either party may terminate this Agreement immediately upon written notice to the other party if the other party fails to perform any of its duties or obligations hereunder and, except with respect to Customer's breach of Section 2.1 or 2.2, which breach shall not be subject to any cure period, fails to cure such default within thirty (30) days following receipt of written notice from the non-defaulting party specifying the occurrence or existence of the default. Customer shall notify Virtru within twenty-four (24) hours of Customer becoming aware of any breach (other

than by Virtru) of the terms and conditions of this Agreement, including, without limitation, Sections 2 and 5.

9.3 Effect of Termination. Upon the expiration or termination of this Agreement, the rights granted to Customer hereunder shall terminate. Customer will cease all use of the Materials, return to Virtru or destroy the Materials in its possession, and, upon Virtru's request, so certify such actions to Virtru. Any costs incurred in returning or destroying the Materials upon termination shall be borne by Customer. The provisions of Sections 2.2, 4.2, 5, 6, 7, 8, and 9.3, and 10 and those provisions of the Order Form that by their nature should survive expiration or termination of this Agreement shall survive the expiration or any termination of this Agreement. Termination of this Agreement by either party shall not act as a waiver of any breach of this Agreement and shall not act as a release of either party from any liability for breach of such party's obligations under this Agreement. Neither party shall be liable to the other for damages of any kind solely as a result of terminating this Agreement in accordance with its terms, and termination of this Agreement by a party shall be without prejudice to any other right or remedy of such party under this Agreement or applicable law.

10. General Provisions

10.1 Notices. Any notice, request, demand or other communication required or permitted hereunder shall be in writing, shall reference this Agreement and shall be deemed to be properly given: (a) when delivered personally; (b) seven (7) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (c) two (2) business days after deposit with a private industry express courier, with written confirmation of receipt. All notices shall be sent to the address set forth on

the cover page of this Agreement and to the notice of the person executing this Agreement (or to such other address as may be designated by a party by giving written notice to the other party pursuant to this Section 10.1).

10.2 Termination. This Agreement may not be assigned, in whole or part, whether voluntarily, by operation of law or otherwise, by Customer without the prior written consent of Virtru. Subject to the preceding sentence, the rights and liabilities of the parties hereto shall bind, and inure to the benefit of, their respective assignees and successors and is binding on the parties and their successors and assigns. Any attempted assignment other than in accordance with this Section 10.2 shall be null and void.

10.3 Effect of Termination. This Agreement is to be construed in accordance with and governed by the internal laws of the Commonwealth of Virginia (but expressly excluding the Uniform Computer Information Transactions Act ("**UCITA**") as enacted in Virginia) without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the Commonwealth of Virginia (excluding UCITA) to the rights and duties of the parties. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be commenced in a federal court in the Eastern District of Virginia or in state courts with jurisdiction over Fairfax County, Virginia, and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding.

10.4 Attorneys' Fees. If any legal action, including, without limitation, an action for arbitration or injunctive relief, is brought relating to this Agreement or the breach hereof, the prevailing party in any final judgment or arbitration award, or the non-dismissing party in the event of a dismissal

without prejudice, shall be entitled to the full amount of all reasonable expenses, including all court costs, arbitration fees and actual attorneys' fees paid or incurred in good faith.

10.5 Waiver. The waiver by either party of a breach of or a default under any provision of this Agreement, shall be in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy.

10.6 Severability. If the application of any provision of this Agreement to any particular facts or circumstances shall be held to be invalid or unenforceable by an arbitration panel or a court of competent jurisdiction, then (a) the validity and enforceability of such provision as applied to any other particular facts or circumstances and the validity of other provisions of this Agreement shall not in any way be affected or impaired thereby and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

10.7 Relationship of the Parties. Nothing contained in this Agreement shall be deemed or construed as creating a joint venture, partnership, agency, employment or fiduciary relationship between the parties. Neither party nor its agents have any authority of any kind to bind the other party in any respect whatsoever, and the relationship of the parties is, and at all times shall continue to be, that of independent contractors.

10.8 Restricted Rights. If Customer is an agency or instrumentality of the United States Government, the Materials are "commercial computer software" and "commercial computer software documentation," and, pursuant to FAR 12.212 or DFARS 227.7202, and their successors, as applicable, use reproduction and disclosure of the Materials are governed by the terms of this Agreement.

10.9 Reference. Customer agrees to serve as a "reference customer" that may be disclosed by Virtru to third parties (including by displaying Customer's name, logo and/or a link to Customer's web site on Virtru's web site) and, upon reasonable notice from Virtru, shall serve as a reference to potential customers, vendors, investors, or other third parties designated by Virtru; provided, however, that Virtru shall provide Customer with reasonable prior notice of its need to have Customer serve as a reference and will provide Customer with a reasonable opportunity to review any public references to Customer.

OUR TECHNOLOGY
ABOUT
CUSTOMERS
VIRTRU IN THE NEWS
VIRTRU FOR G SUITE
PRICING
FAQ
CONTACT US
PRIVACY POLICY
WEBSITE TERMS

VIRTRU BASIC TERMS

VIRTRU PRO TERMS

CAREERS

PARTNERS

PRESS RELEASES

SOLUTIONS FOR:

HEALTHCARE

EDUCATION

NON-PROFITS

CRIMINAL JUSTICE

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