

## **1 Subject**

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These Terms and Conditions govern the access to the Cloud Services offered by the Enterprise Customers Division of Swisscom (Switzerland) Ltd (hereinafter “Swisscom”) and their use by Customer as well as Customer’s authorized employees, agents, consultants and end users (collectively, “Authorized Users”). The access to and use of the Cloud Services is also subject to the additional terms and conditions in their current version available on the respective service portals, as well as to the Data Protection Regulations of Swisscom (Switzerland) AG regarding the Use of Swisscom Portals and Swisscom Internet Services<sup>1</sup>.

Within Switzerland, Swisscom’s Cloud Services are provided both for commercial or professional use by business customers headquartered in Switzerland and for non-commercial use by private individuals domiciled in Switzerland. Outside of Switzerland Swisscom’s Cloud Services may only be used in countries as listed in the respective service portal. Furthermore access to and use of the Cloud Services by private individuals or consumers outside of Switzerland is prohibited.

## **2 Requirements for Use**

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### **2.1 Registration**

Use of the Cloud Services requires the full and truthful registration of Customer via the respective service portal, the placement on file of a valid credit card issued to Customer or one of its Authorized Users, and Customer’s confirmation of its acceptance of the present Terms and Conditions and all other terms and conditions in their current version available on the respective service portal, as integral components of the agreement between the Parties.

Swisscom may rely on Customer’s representation according to which Customer will use the Cloud Services solely for commercial, professional or non-private purposes without performing any independent checks on Customer or any commercial or corporate registers. Swisscom may further rely on any representation made by any Authorized User according to which such Authorized User is entitled to bind Customer without having to further examine the accuracy of such representation). Customer acknowledges that all information, orders, transmissions of data, changes of service, notifications, and the like that Customer sends to Swisscom via the service portal shall be deemed to have been composed

and authorised by Customer or by Authorised Users, as the case may be.

Swisscom reserves the right to verify Customer’s information and identity at any time. If Swisscom has legitimate doubts as to the identity of Customer or its users, Swisscom may suspend or block the accounts in question without owing compensation.

In case of changes (e.g., contact e-mail address), Customer and the Authorized Users are required to update their data profile.

### **2.2 Authentication**

Customer or its users, as the case may be, shall be authenticated by Swisscom via e-mail address or in another manner established by Swisscom.

Customer and the Authorized Users shall be solely responsible for maintaining the confidentiality and security of their login credentials and for any activities that occur through the use of their login credentials. Swisscom cannot and will not be responsible regarding confidentiality and security of login credentials and for any activities that occur through the use thereof. If there is a risk of unauthorized use of login credentials by third parties, Customer shall immediately inform Swisscom, and shall procure that Authorized Users do so.

## **3 Use by Customer**

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### **3.1 Right of Use**

Upon completing registration, Customer shall receive a confirmation from Swisscom by email which authorises Customer to access and use Swisscom’s Cloud Services, and to permit such access and use to Authorized Users, for their intended purpose and in accordance with the applicable law and these Terms and Conditions.

### **3.2 Customer’s Responsibility**

Customer is solely responsible for all the information, content and data that Customer or any Authorized Users upload, store, transmit, disclose, share or otherwise make available on or through the Cloud Services and any consequences thereof. Customer represent and warrants, and shall procure that the Authorized Users represent and warrant, that Customer and/or the Authorized Users have all the rights, power and authority necessary to upload, store, transmit, disclose, share or otherwise make available any information, content and data on or through the Cloud Services.

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<sup>1</sup> [https://www.swisscom.ch/dam/swisscom/en/res/residential-additional-pages/legal-aspects/Privacy Statement\\_EN.pdf](https://www.swisscom.ch/dam/swisscom/en/res/residential-additional-pages/legal-aspects/Privacy Statement_EN.pdf)

### 3.3 Improper Use

Customer agrees, and shall procure that the Authorized Users shall agree, not to upload, store, transmit, disclose, share or otherwise make available any information, content and data on or through the Cloud Services that: (i) is untrue, false, and violates any applicable laws or regulations; (ii) is harmful, fraudulent, threatening, obscene, libellous, defamatory, discriminatory, racist, violent, offensive, harassing, or otherwise objectionable; (iii) includes unauthorized disclosure of personal information; or (iv) infringes on intellectual property rights of any third party. Customer also agree, and shall procure that the Authorized Users agree, that they will not use the Cloud Services in any manner that could damage, disable, overburden or impair the Swisscom technical infrastructure.

Customer shall not, and procure that the Authorized Users shall not, upload, store, transmit, disclose, share or otherwise make available any information, content and data on or through the Cloud Services which contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment. Customer shall not, and procure that the Authorized Users shall not, interfere with or disrupt the Cloud Services or the security or integrity of networks, computers, communications systems, software applications, or Swisscom's infrastructure. Customer shall not, and procure that the Authorized Users shall not, collect other users' information, content or data, by using automated means (such as harvesting bots, robots, spiders, or scrapers).

Customer shall indemnify and hold Swisscom and its affiliates, shareholders, directors, officers, employees and third-party suppliers harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of Customer's or any Authorized User's access to and use of the Cloud Services or violation of these Terms and Conditions or applicable law. Swisscom reserves the right to seek remedies and damages to the fullest extent permitted by law, including, without limitation, legal action and/or criminal prosecution.

Swisscom may take appropriate measures (e.g., blocking access, suspending or deactivating services) in case of improper use without owing compensation. In the event of unlawful conduct, Customer may also face compensation claims from injured third parties and criminal penalties on the part of the competent authorities.

If Customer identifies an improper use of the Cloud Services, Customer is requested to report this to Swisscom

immediately using the contact information on the respective service portal. Customer may also block its access or that of its users via the service portal.

## 4 Swisscom's Services

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### 4.1 General Provisions

The individual content and scope of Swisscom's services are indicated in the service descriptions and other terms and conditions on the respective service portal.

Swisscom reserves the right to change the type of service provided by it at any time and at its absolute discretion, as well as to make technological adaptations in order to further develop its services.

### 4.2 Availability

Swisscom strives but is under no obligation to make the Cloud Services available 24 hours a day, seven days a week. Individual services are offered only within limited hours of operation. Swisscom has the right to interrupt the aforementioned services at its absolute discretion anytime if it deems this appropriate for good cause, such as malfunctions, risk of improper use, etc.

### 4.3 Security

Particular emphasis was placed on security in the course of developing the Cloud Services. Customer acknowledges that, despite every effort on the part of Swisscom and notwithstanding the use of modern technologies and security standards, the systems and processes used cannot be guaranteed to be absolutely secure and free of errors. Swisscom reserves the right to interrupt the Cloud Services at any time without stating the reasons for this in the event that security risks are identified. Swisscom is not liable for any losses resulting from such interruptions.

Swisscom reserves the right to implement other security features or to otherwise authenticate the user.

### 4.4 Limitations

Customer is responsible for supplying and maintaining the technology required for accessing Swisscom's services, including but not limited to end devices, an Internet connection, and interfaces. Swisscom assumes no liability for the necessary hardware and software nor for any effects occurring during or as a result of the transmission via Internet. Swisscom is not liable for losses incurred by Customer as a result of transmission errors, technical defects, interruptions, malfunctions, or unlawful intrusions.

## **5 Remuneration**

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Customer is required to pay for all purchased services in a timely manner. The remuneration is based on Customer's actual use of the services and on the prices in effect at the time, which are published on the service portal or announced immediately prior to using a service.

Payment for services purchased in the preceding month shall be effected by Swisscom by charging the credit card placed on file by Customer. Furthermore, an itemised statement and a usage report for the preceding month are available via the respective service portal.

## **6 Duration and Termination of Agreement**

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The Agreement shall take effect upon confirmation by Swisscom after successful registration by Customer and is entered into for an indefinite period. Either Party may terminate the Agreement at any time by giving notice via e-mail thirty (30) days in advance.

## **7 Amendments to the Agreement**

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Swisscom reserves the right to change its services and products and the prices of the same, as well as the present Terms and Conditions for Online Access and Use, at any time. Swisscom shall inform Customer of such changes and the effective date of the same by e-mail or via the respective service portal. Absent notice of termination, the changes to the Agreement shall be deemed approved by Customer.

## **8 Additional Terms and Conditions**

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Where the present Terms and Conditions and other documents refer to the written form, e-mail or communication via the respective service portal shall suffice for purposes of fulfilling the writing requirement.