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General Terms and Conditions of n'cloud.swiss AG

1. Conclusion of a contract, scope of these general terms and conditions

1.1. These general terms and conditions regulate the mutual rights and obligations of n'cloud.swiss AG, Poststrasse 1, 5707 Seengen, Switzerland (hereinafter referred to simply as "**n'cloud**") and n'cloud customers (hereinafter referred to as "**customer or customers**"). A contract for the use of n'cloud's services comes into effect when n'cloud accepts a customer's order for the same.

1.2. If customers place orders through the n'cloud website or some other electronic means, these orders are considered binding until such time as they are accepted or not by n'cloud.

1.3. These terms and conditions serve as the basis for these contracts and apply even if not explicitly referenced in all agreements between the parties. n'cloud hereby explicitly rejects any customer terms and conditions. Agreements that deviate from these terms and conditions, including this clause, must be made in writing.

1.4. Any deviating provisions made in individual agreements between the parties shall take precedence over these terms.

2. Scope of services offered by n'cloud; n'cloud's obligations

2.1. n'cloud provides all kinds of internet- and IT-related services and products and makes these available within the terms of the agreement with the customer and the operational resources available.

2.2. n'cloud is obliged to provide those services (hereinafter referred to simply as "**n'cloud services**") as detailed in its bid and its agreements with the customer. Some of these service descriptions are also available on the n'cloud homepage at www.ncloud.swiss. The n'cloud services are subject to continuous maintenance.

2.3. The internet is a global system of independent, interconnected networks and computers. n'cloud can only control those systems that are on its network and therefore cannot guarantee flawless internet service.

2.4. n'cloud may adapt its services and these terms and conditions at any time. The customer will be notified of any changes to n'cloud's services or these terms and conditions by email or by post. If the customer does not want to accept the changes, the customer must notify n'cloud by registered letter within 60 calendar days, after which time the contract with the customer shall be deemed terminated once the contractual notice period expires. If the customer fails to make such written notification, the changes shall be deemed accepted from the 61st calendar day after notification of the same.

2.5. If n'cloud provides any services free of charge, these may be discontinued at any time without notice. This does not create grounds for a price reduction or refund or a claim for damages.

2.6. n'cloud may use third parties and subcontractors to fulfil its contractual obligations.

2.7. n'cloud will strive to ensure the permanent availability of its infrastructure (data centre, servers, internet lines, etc.). For maintenance purposes, and in case of unexpected system failures, n'cloud may at any time and without notice restrict services and restart corresponding systems.

2.8. Delays in delivery and service due to force majeure or other events which make it significantly more difficult or impossible for n'cloud to provide its services, in particular strikes, lockouts, official orders, breakdown of communication networks and gateways run by other operators, even if they are suppliers or subcontractors of n'cloud or its sub-suppliers, subcontractors or operators of network node computers authorised by n'cloud all entitle n'cloud to extend the deadline to deliver and/or provide service for the duration of the event, plus a reasonable start-up time thereafter. If such events continue without interruption for more than 2 weeks, n'cloud is entitled to terminate the contract without notice.

3. Customer responsibilities

3.1. Depending on the scope of n'cloud services agreed, close cooperation between n'cloud and the customer may be required. In this case, intermediate targets and cooperation and inspection requirements will be defined in the individual service agreements. If customers fail to meet these requirements, n'cloud is released from any further obligation to provide service. After giving the customer due notice, n'cloud may also bill any and all costs incurred to the customer for immediate payment.

3.2. The customer agrees to provide n'cloud at its own expense all information, specifications and data from its operations as required for the fulfilment of the contract. Customers shall in particular:

3.2.1. notify n'cloud of any required information on existing technical facilities and interfaces for the use of n'cloud services and to allow n'cloud to install the necessary technical equipment at its site as required;

3.2.2. name a contact person authorised to take binding decisions and give instructions to n'cloud;

3.2.3. provide immediate notice of all relevant changes to its operations that might have an impact on the provision of n'cloud services;

3.2.4. notify n'cloud immediately of any recognisable faults or damage (fault report) and to take all necessary measures within reason to allow the faults or damage and their causes to be identified and facilitate and accelerate their elimination;

3.2.5. notify n'cloud within one month of any of the following circumstances: any change in the customer's personal or corporate data; any changes in members of partnerships; or any further material or legal fact that will or can have a significant impact on the agreement with n'cloud;

3.3. to allow n'cloud to perform remote maintenance and procure access to their premises and IT system, software library, and customer data to the extent necessary to perform its services.

3.4. Customers are responsible for the proper functioning of their current hardware and software components (in particular programs, licensing, configuration, and installing the latest updates) on their end devices. n'cloud does not guarantee that n'cloud services will function properly on any technically flawed or outdated systems used by customers.

3.5. Customers are obliged to keep their login data secret to protect against third-party access and to change their login at least twice a year.

3.6. Customers agree to use n'cloud's services properly in accordance with these terms and conditions and the respective manufacturer's instructions.

3.7 Customers agree to secure and assume responsibility for fulfilling compliance and regulatory requirements and obtaining regulatory approvals such as may be required now or in the future for the use of n'cloud services.

4. Usage rules, responsibility for web content, and transmitting and retrieving data

4.1. Customers are responsible for the use of n'cloud's services by their users, especially any web content they create or data they store. Customers shall in particular:

4.1.1. not access or offer information with illegal or immoral content or such as may be in violation of any rights of third parties or link or otherwise refer to such information offered by third parties;

4.1.2. comply with applicable laws and respect the copyrights, personal, name and trademark rights of third parties;

4.1.3. not use n'cloud's services to cause injury or harass third parties, in particular by unauthorised intrusion into third-party systems (hacking), spreading of viruses of any kind, or by sending unsolicited emails (spam, junk mail, etc.);

4.1.4. ensure that any scripts and programs placed on n'cloud servers are not affected by bugs or are not so massive that they could disrupt n'cloud's ability to provide service;

4.1.5. refrain from searching networks for open ports to other computer systems; refrain by configuring server services (such as proxy, news, mail and web server services) in such a way that may cause unintended replication of data (dupes, mail relaying); and refrain from falsifying email and news headers and IP addresses.

4.1.6 not be allowed to sell, sub license, render, give permission to use, or give access to n'cloud services and/or n'cloud products in any manner to any other third parties, except its directors, officers, employees, affiliates, agents, contractors, providing such they have signed contractual provisions with similar obligations, specified in this clause, unless expressly authorised otherwise in writing by n'cloud.

4.2. n'cloud is under no obligation to check content posted by customers for compliance with the laws and these terms and conditions. Upon evidence or suggestion of such breach, n'cloud reserves the right to terminate the customer's access to its services immediately without notice. n'cloud reserves the right to assert claims for damages and to notify the authorities accordingly as well as take any other appropriate steps under civil and criminal law.

4.3. If there is sufficient evidence to suggest that the customer is in breach of para. 4.1 above, whether the content of the site(s) used by the customer are in breach of the law or the rights of third parties, n'cloud is entitled to block the same until such time as there is a court ruling on its legality or the customer can document that it has been restored to a state in compliance with these terms. If the customer fails to respond to corresponding warning, n'cloud is entitled to terminate the contractual relationship with the customer without further notice. This does not create grounds for the customer to claim a price reduction, refund, or damages.

5. Warranty

5.1. n'cloud warrants its customers that the services it provides meet the specifications defined in its bid if properly used in compliance with these terms by the customer and will not deviate from the same to such an extent that they no longer fulfil their purpose in whole or in part. The customer is initially only entitled to free

troubleshooting. If n'cloud is not successful in resolving the issue, the customer may, at n'cloud's discretion, entitled only to:

5.1.1. a workaround; or

5.1.2. immediate termination of the corresponding n'cloud service and reimbursement of any advance payments prorated for the service period already used.

Any further warranty is excluded. n'cloud's warranty is waived if the fault has been caused by the use of the service in such a way that deviates from that described or permitted or by any other circumstances beyond n'cloud's control, including, but not limited to the customer's failure to comply with n'cloud or manufacturer instructions for the use of hardware or software, changes to the customer's interface made by the customer or third parties, inadequate usage of the service by the customer, disruption or loss of service caused by electricity outages, anything else impacting n'cloud services that are beyond n'cloud's control, or any breach of these terms by the customer. n'cloud provides a guarantee for uninterrupted or error-free operation.

5.2. Warranty services are provided and taken care by trained professionals according to section 7.1.

Costs for consumable supplies (for example: data storage medium, toner, printer ribbons and the like) and/or transport- and travel expenses originating from services not covered by our warranty services are to be borne by the customer.

5.3. If n'cloud has sold third-party products (in particular hardware and software) to the customer, the respective manufacturer's warranty and other provisions for these third-party products apply. Defects or malfunctions of these third-party products and any restrictions in service and/or damages caused are to be settled directly with their manufacturers. If n'cloud provides services to the customer based on defective third-party products, the customer shall pay n'cloud for its services at the standard rate.

6. Software licenses and product/service names and managed services

6.1. Unless otherwise expressly agreed, the following rules concern the license (right to use) software and product or service names with respect to services managed by n'cloud: The customer is granted a non-exclusive, non-transferable license for its own internal use of the software and other n'cloud services for the duration of its contract with n'cloud. The software may not be made accessible to third parties. The license terms for standard third-party products apply to the extent that they contain further restrictions. The source code will be provided only if expressly agreed.

6.2. If any claims are made for the infringement of intellectual property rights in connection with the purpose of the contract (software development or implementation of other projects), solely the manufacturer of this software and other products are responsible according to their own terms. Customers must therefore assert any claims directly against the manufacturer. At the same time, they are required to notify n'cloud in writing within 30 calendar days.

6.3. If customers are prohibited by court order from using the contractual object in whole or in part or if n'cloud believes that there is a threat of a lawsuit on the basis of the infringement of property rights, n'cloud may at its discretion opt for one of the following measures:

6.3.1. to replace the contractual object at the customer's expense with another that does not violate any third-party

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rights and complies with the customer's requirements or is equivalent to the contractual object being replaced;
6.3.2. to terminate the corresponding n'cloud service without notice.

7.   Support and maintenance

7.1. n'cloud offers telephone-based support services in German and English from 9:00 to 12:00 and 1:30 to 5:00 on weekdays (not on Saturdays, Sundays and public holidays at n'cloud's headquarters). Additional support requirements exceeding the basic-support-services have to be regulated individually in the customer contracts.

All enquiries or troubleshooting requests must be made by telephone to the n'cloud coordination centre at +41 62 511 82 82. The centre may authorise customers to call technicians directly. Within 2 hours during the support hours defined above, the customer will receive a confirmation indicating that their message has been processed. n'cloud cannot guarantee that the issue will be resolved.

7.2. n'cloud agrees to provide maintenance services for the duration of its contract with the customer. Maintenance includes the elimination of all defects (either free of charge or for a fee, depending on the cause in accordance with Section 5 above) and the continued development and updating of the n'cloud services.

7.3. Bug fixes, support and maintenance are typically done in the form of remote maintenance.

8.   Delivery of goods, re-exports

8.1. All delivery times should be regarded as non-binding. Delivery deadlines are only binding if n'cloud has stated in writing that they are binding. Customers will be notified of delivery delays in writing. The customer is not entitled to withdraw from the contract due to delayed delivery and hereby waives any claims for damages against n'cloud. The customer is responsible for all shipping and installation costs.

8.2. The benefit and risk of the contractual object shall pass to the customer as soon as the shipment has been handed over to the person or company performing the transport or the object has otherwise left n'cloud premises for delivery.

8.3. n'cloud is entitled to make partial deliveries, unless otherwise agreed in writing.

8.4. The customer is aware that re-exports, particularly of hardware, may possibly be prohibited by law or may only be possible after receiving a special permit. If the customer resells a product subject to this re-export ban, the customer must notify the buyer of the restriction.

9.   Prices, fees, payment, retention of title

9.1. All prices agreed for n'cloud services are denominated in Swiss francs and are, unless otherwise stated, exclusive of VAT and other government levies. The prices agreed do not include any costs for delivery, packaging, or other incidental product costs.

9.2. In principle, all package prices agreed for n'cloud services such as installation and maintenance must be paid in advance. The invoices issued by n'cloud are due net within 30 days. After this deadline, the customer will automatically be in default with no further warning necessary. Any objections to the invoice must be made in writing by the customer before the payment deadline. If no

objections are made by the deadline, the invoice will be deemed accepted by the customer.

9.3. n'cloud services billed on an hourly basis, such as support and troubleshooting, will be charged each month in arrears. Support is typically provided via remote maintenance. If the customer or the problem requires a n'cloud staff member to travel to the customer's location, the journey time will be charged at the hourly labour rate in addition to any travel and accommodation expenses.

9.4. Prices for n'cloud services are based on the current price list. Customers will be notified of any price changes as soon as possible. n'cloud however may make price adjustments of up to 10% p.a without observing the notice period (e.g. currency risk and license surcharges by suppliers).

9.5 For customer orders CHF 5,000.00 and higher, the following payment terms shall apply: The customer shall pay 50% of the order value when placing the order, with the balance invoiced once the work is complete or partially invoiced at the end of each month based on the progress on the job. For orders of products not normally carried by n'cloud or for orders with a high proportion of hardware, n'cloud may require customers to make a reasonable down payment.

9.6. Customers must reimburse n'cloud for any collection costs (fees for bounced checks, direct debits refused, etc.) incurred.

9.7. All deliveries remain n'cloud's property until such time as their purchase price has been paid in full. n'cloud reserves the right to register its retained title in the appropriate register. Customers are not allowed to pledge or transfer ownership of the goods to which n'cloud retains title. Intellectual property rights are not transferred to the customer. Any processing or transformation of the goods to which n'cloud retains title shall be done on its behalf as the owner, but without any obligation for the same. If n'cloud's (co-)ownership of the goods is disposed of by resale of the goods, the customer hereby agrees to transfer the pro-rated share of any resulting claims to n'cloud.

9.8. Any excess amounts paid for subscriptions will be refunded at the customer's request, less a processing fee of at least CHF 20.00 for domestic and at least CHF 50.00 for foreign customers at least CHF 50.00, subject to the terms under section 12.1 below. If the customer fails to make an express request for such refund, n'cloud is entitled to retain any such excess amounts and apply them as advance payment of future accounts receivable from the customer. The customer is not entitled to interest on such advance payment.

9.9. All sums payable under this clause and contracts entered into between customers and n'cloud, shall be paid free and clear of all tax deductions and tax withholdings whatsoever, or obligatory charges and duties. Any and all such additional charges, including, but not limited to, freight charges, insurance premiums, fees for permits certifications, fees, levies and customs duties shall be borne by the customers.

10. Default

10.1. If the customer is in default of payment, n'cloud is entitled to suspend or terminate its services. In this instance, the customer is no longer entitled to receive services from n'cloud while still being obliged to pay all fees as they come due periodically. A processing fee of at least CHF 50.00 will be charged to restore service.

10.2. If case of default, n'cloud is also entitled to charge interest on the amount due at the rate of 8% per annum.

10.3. If the customer fails to pay its balance in full for two consecutive billing periods, n'cloud may terminate the contract without further notice.

10.4. n'cloud reserves the right to assert further claims for delayed payments, especially for costs incurred by n'cloud for dunning and enforcement proceedings. n'cloud may charge the customer a reminder fee of at least CHF 20.00 per reminder.

10.5. In addition, n'cloud is entitled to assign or sell the outstanding amount plus late fees and default interest to third parties for collection purposes. n'cloud will charge the customer the CHF 60.00 fee for the assignment of its claims to the collection agency.

11. Security

11.1. If the customer has been repeatedly late in making its payments, n'cloud is authorised by the customer to demand pre-payment or a security (bank guarantee, surety, etc.) in the amount of the cumulative invoices of the previous 2 months before the most recent default or any reasonable amount based on the average expected future sales.

11.2. The customer agrees to arrange the security demanded by n'cloud immediately, otherwise n'cloud is entitled to terminate the contract without further notice.

12. Minimum duration, termination of the contract

12.1. The contract shall take effect upon signature by both parties. Recurring n'cloud services will, however, be provided only once the customer's first payment has been credited to n'cloud's account.

12.2. Unless otherwise agreed, the minimum duration of the contract is one year from the date on which n'cloud receives the first payment. The notice period shall be 30 days prior to the end of the following month. If the contract is terminated before the expiry of the agreed minimum term or at a time not agreed, the customer waives any pro-rated reimbursement of the fees, which are then forfeited to n'cloud.

12.3. n'cloud or the customer may terminate the contract at any time without notice if:
12.3.1. a bankruptcy, insolvency, debt restructuring or similar proceedings are opened against the customer or if a petition for the same has been filed. Both parties are obliged to inform each other about the relevant facts immediately;
12.3.2. if n'cloud determines that the customer's IT systems are not sufficiently compatible with n'cloud services;
12.3.3. if products and services ordered by the customer from third parties are suspended;
12.3.4. for breach of any significant provisions of these terms or the contract, in addition to cases explicitly provided for herein.

12.4. Notice shall be made by registered letter.

12.5. After termination of the contract, the customer shall return without delay any n'cloud-owned items and documents in its possession by no later than 14 calendar days after termination of the contract, with all costs and risks for such return to be borne by the customer until such time as they are back in n'cloud's possession. If customers fail to comply with this obligation to return, they shall pay damages in the amount of the replacement value of the items and documents, unless higher damages can be proven.

12.6. If the contract is terminated early for reasons under the customer's control, n'cloud is entitled to claim damages equal to the amount of fees that would have been payable for the remaining contract period. The right to assert further claims remain reserved.

12.7. In case of n'cloud's insolvency, a legal liquidator will step in and coordinate the issue and transfer of customer data. Additionally the customer has also the opportunity at any time to download/copy all his data from the cloud.

13. Offsets, retention, assignment, transfer

13.1. n'cloud can offset its claims against the customer's counterclaims.

13.2. Customers agree to waive the assertion of any rights of retention against n'cloud.

13.3. All contractual rights and obligations, unless otherwise agreed, are neither transferable nor can they be assigned to third parties.

14. Limitation of liability and indemnification

14.1. n'cloud strives to provide access to n'cloud services 24 hours a day, 365 days a year, but is not liable for the temporary unavailability of the services, any delays in transmission, or other malfunctions. The n'cloud services may be temporarily unavailable or restricted for maintenance, adjustments or other purposes; these do not constitute grounds for any claims against n'cloud. Liability for service interruptions, malfunctions, and data loss is hereby excluded.

14.2. Even though n'cloud uses high security standards to protect customer data, the transmission of data over the internet is not completely secure. n'cloud can therefore not guarantee the complete security of any data stored or transmitted via n'cloud services or the internet against unauthorised access or use by third parties, or against viruses, trojans or other third-party intervention. Therefore, any data posted is at the customer's own risk.

14.3. For the backup-product provided, n'cloud takes liability for the storage and security of all customer data as regulated by law. All data is stored in at least two different data center in Switzerland and is protected against any unauthorised third-party access.

All stored customer data remains in the property of the customer at all times. n'cloud has no rights to use any of this data for its own purpose.

14.4. n'cloud is not liable if it is prevented from the timely and proper fulfilment of its obligations due to reasons beyond its control. In particular, any liability for damages caused by force majeure or customers' non-fulfilment of their obligations is expressly excluded.
n'cloud is not liable in the following cases:
14.4.1. for damage in case of malfunctions due to insufficient compatibility with or the use of outdated software versions in customer IT systems.
14.4.2. Damages caused by malfunctions in the infrastructure and other services provided by third parties, even if they are acting as subcontractors for n'cloud.
14.4.3. Electronic messages that are incorrectly transmitted or received or intercepted by third parties.

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14.4.4. Processing errors in the handling of business transactions online (e-commerce), particularly errors in the transmission of credit card information or other payment information.

14.5. Any liability of n'cloud and its agents for a specific technical or economic success, loss of profit, claims by third parties, as well as general liability for negligence is excluded as permitted by law.

14.6. Customers are responsible for transactions made or personal data processed via n'cloud services and for compliance with all applicable legal and regulatory provisions. Customers agree to indemnify n'cloud against any and all claims by authorities or third parties in this regard and to pay for any damages and costs (including legal costs) incurred and to handle all related litigation.

14.7. n'cloud assumes no liability for third-party products and any breach of property rights. Manufacturers of products and software are solely responsible for any infringement of third-party rights.

15. Privacy Policy

15.1. Customers have been informed of the nature, scope and purpose of data collection and processing required to provide n'cloud services.

15.2. n'cloud agrees to process customer data that comes into its possession only in compliance with Swiss data protection legislation.

15.3. n'cloud will collect customer data when orders are placed. This will be done either as part of contract negotiations through direct contact between customers and n'cloud or online via the corresponding web forms. In addition, depending on the service, various data about customers' IT infrastructure will be collected, such as hardware serial numbers, software licenses, network environments, login information, installation routines, IP addresses, etc. This data is collected exclusively to provide comprehensive customer service.

15.4. When any visitor visits the n'cloud homepage, the following information will be stored; it is used by only for statistical purposes and does not allow n'cloud to make any conclusions about visitors: the IP address, browser and version number, operating system and version, and, if known, the domain which took the visitor to www.ncloud.swiss (search engine, banner ad, etc.). n'cloud can use customers' IP addresses to ensure compliance with these terms and conditions or the security of n'cloud services, the n'cloud website, or that of other users.

15.5. Data usage: the data collected by n'cloud will only be used to fulfil the purposes of the contract. In addition, n'cloud is entitled to use the data to provide customers with information about other n'cloud products, current special features, or changes to n'cloud services, and to send them a copy of the n'cloud newsletter.

15.6. Because n'cloud uses third-party suppliers and subcontractors to provide at least part of its contractually agreed services (see section 2.6 above, for such services such as the rental of internet connections, hardware, software, licenses, domains, billing, accounts receivable management, etc.), it may be necessary that such third-party suppliers and subcontractors have access to customer data. n'cloud accompanies and surveys any third-party activities (e.g. installation of software, repair of servers) and ensures that third-parties have no access to customer data. Third-parties may only get access to data, if they are covered under an non-disclosure-agreement and access by them is formally permitted by the customer.

15.7. Customer data will never been transferred or published to third-parties, except this is being enforced by court or in case of address information for licensing purposes, whereas some of this information might has to be disclosed to companies outside of the Swiss territory.

15.8. Data security: n'cloud protects customer data in accordance with statutory requirements. Accordingly, n'cloud takes the appropriate technical and organizational measures to protect the data access, transport, storage and input. In addition, n'cloud has secured appropriate contractual guarantees with the third-party suppliers and subcontractors that will be given access to customer data to ensure adequate protection.

15.9. Information, changes on data processing. Customers are entitled to request information about their data and how it is processed by n'cloud.

16. Confidentiality

16.1. The parties mutually agree to keep as confidential all information not generally accessible to the public and any information that they receive about the other party in the course of this contractual relationship. They agree to take measures to protect against unauthorised access to the same by third parties and to require any subcontractors, specialists and other agents working on their behalf to the same level of confidentiality. In particular, the content of the contractual relationship and the data transmitted and stored by customers using n'cloud services are considered confidential.

16.2. n'cloud services include business and trade secrets of n'cloud. Customers agree in particular not to make n'cloud services available to third parties.

16.3. If n'cloud becomes aware of illegal or immoral acts or breaches of third-party rights, it is entitled to notify the authorities of customer identities, addresses and account content.

16.4. The confidentiality obligation shall continue indefinitely even after the termination of the contractual relationship between the parties. The use or disclosure of such information for any purpose other than to fulfil this contract is prohibited, even after the contract has terminated.

17. Jurisdiction and applicable law

17.1. The exclusive place of jurisdiction for any disputes between n'cloud and a customer are the courts holding jurisdiction over 5600 Lenzburg, Switzerland.

17.2. The contractual relations between the parties shall be governed exclusively by Swiss substantive law, to the exclusion of private international law and agreements (including the "Vienna Sales Convention").

17.3. If any provision of these terms and conditions is void or invalid, the remaining provisions shall continue to apply. In this case, the void or legally invalid provisions will be replaced by one that is legally valid and as close as legally possible to the economic impact of the invalid one.

Seengen, June 4th 2018
The Management