

General Terms and Conditions (GTCs) for Software as a Service (SaaS) and Other Related Services in the Context of a Cloud Service

1. Scope of the GTCs

1.1 Scope and validity

These GTCs govern the conclusion, content and execution of contracts between the parties Swiss Learning Hub AG (hereinafter referred to as the "Provider") and the company or natural person (hereinafter referred to as the "Customer") for the limited use of Software as a Service as well as other related services in the sense of a cloud service. By using the SaaS product, the Customer agrees to be bound by the terms of these GTCs. Any terms and conditions of the Customer are not accepted by the Provider.

1.2 Contract

The Contract concluded between the Customer and the Provider online or in writing (individual contract), which refers to these GTCs, contains the details of the services to be provided by the Contracting Parties, in particular

- the detailed description of the SaaS Product provided as part of the Cloud Service with the learning media, learning documentation or other content, including a description of services;
- the time of commissioning;
- availability and hours of use, including maintenance windows, as well as business hours;
- the group of possible authorised users;
- the remuneration and the metric to be applied;
- the technical requirements for use (system requirements, etc.);
- the name of the documentation;
- any other regulations or documents.

1.3 Priority

In the event of contradictions between the individual contract and these GTCs, the provisions of the individual contract shall prevail.

2. Conditions of execution

2.1 Cloud Service of the Provider

The Provider shall provide the following Cloud Service to the Customer within the framework of the Contract for a fee or free of charge:

- The Provider undertakes to provide the Customer with the information specified in No. 2.2 to the agreed extent in accordance with No. 2.3 for use via a data network. For this purpose, the Provider stores the SaaS Product on a server platform to which the Customer can access via one of the data protection systems specified in No. 2.2 and thus use the software.
- The Provider undertakes to provide information in accordance with No. 2.4 for the provision of standard maintenance services for the SaaS Product subject to the Contract, including support services to support the Customer in the event of problems in regular use.
- The Provider also undertakes to store and secure the customer-specific data generated during use in accordance with No. 2.5.

The Provider shall be entitled to have all or individual services to which it is obliged under the Contract to be provided by subcontractors. The Customer may request information from the Provider at any time about the subcontractors used for the provision of the Cloud Service and their function. Unless otherwise

agreed, in particular with regard to availability, warranty and liability, the Provider shall be liable for the acts or omissions of its subcontractors as well as for its own acts or omissions.

Further services of the Provider, in particular services not expressly provided for or agreed upon in the agreed cloud service, such as training or development services, may be agreed separately by the Parties and shall be additionally remunerated by the Client.

2.2 SaaS Product

For the term of the Contract from the time agreed in the Contract, the Provider shall make available to the Customer for use the SaaS Product specified in the Contract with the functionalities of the current user documentation by transmission via a data network for a fee.

The use of the SaaS Product by the Customer is carried out remotely with mobile or fixed devices of the Customer.

Availability details, i.e. the technical usability of the SaaS Product and the data at the transfer point for use by the Customer with a client, are set forth in the Contract or are taken from the Provider's contract with the third-party provider.

The technical requirements for the Customer's use/network connection are described in the Contract or user documentation. The technical requirements specified therein, valid at the time of conclusion of the Contract, can be unilaterally adjusted by the Provider at any time; however, the Provider must observe a notice period of one (1) month.

2.3 Rights of use

The Customer is granted a non-exclusive, non-transferable, non-sublicensable right of use to the agreed SaaS Product for the duration of the Contract. The provisions of this para. 2.3 conclusively regulate the Customer's rights of use.

The right of use includes only the right to use the SaaS product remotely via a data line for the Customer's own purposes, during the usage times specified in the Contract and the scope specified therein.

If defined in the contract, the Customer may allow the users authorised by the Customer to use the SaaS product to the extent contractually agreed. To this end, the Provider shall bind the provisions specified in the Contract to the authorised users prior to use by the respective authorised user and shall provide the Provider with evidence of this binding effect upon first request. The Provider transmits the Customer's main access to the Customer. The Customer changes its authentication data immediately. The Customer is solely responsible for managing user profiles and authentication credentials of authorised users.

User profiles and authentication data must be kept secret by the Customer and protected against unauthorised access. The access data may not be used more than once or by several people at the same time.

Use in a way that contravenes the Contract or the law or use for unlawful purposes (including infringement of the intellectual property rights of third parties or use of unlawfully obtained or processed data) shall not be permitted under any circumstances. In particular, the Customer and the Customer's authorised users are prohibited from publishing or distributing on public platforms, in whole or in part, the learning media of the SaaS Product subject to this contract. The Customer shall indemnify the Provider against all costs, expenses and all liability incurred by the Provider as a result of use contrary to the Contract or the law. The Provider is also entitled to delete illegal data without further ado.

The costs of remote access by the Customer (in particular for the required end devices and the connection costs of the Customer) are borne by the Customer and the Customer is solely responsible for the availability of the data line.

The Customer agrees to comply with the system requirements contained in the Contract and user documentation at all times and to ensure that authorised users are familiar with the proper operation of the SaaS Product.

The rights of use of third-party software created by third parties granted to the Customer by the Provider are limited to the extent of those rights of use that the third party has granted to the Provider. The Customer is given the opportunity to inspect the licence conditions of the third-party manufacturer at the Provider at any time.

The rights of use only refer to the object code, but not to the source code. The Customer may not copy the SaaS Product or the structure of the database. The Customer shall take the necessary precautions to ensure that third parties do not have access to the SaaS product. In the event of unauthorised access by a third party to the SaaS platform and the product, the Customer must immediately report this to the Provider. It shall support the Provider in taking all permissible means to protect its interests.

The user documentation specified in the Contract is part of the granted right of use of the SaaS product and is made available by the Provider in electronic form. Insofar as the Provider makes it possible for the Provider to download the user documentation, the Customer and the users authorised by the Provider may download the documentation by means of a data line from the Provider's server and save, print it out and reproduce it in an appropriate number for the purposes of the Contract, while retaining existing intellectual property rights notices. It is not entitled to a printed version of the user documentation.

2.4 Maintenance

Unless otherwise agreed in the Contract, the Provider undertakes to provide the following standard maintenance services for the SaaS Product within the framework of the fee agreed for the Cloud Service:

- Support for the Customer in case of application problems regarding SaaS Product during the following business hours: Monday to Friday: 09:00 – 12:00, 13:30 – 16:30, excl. official federal, public holidays and public holidays of the canton and the city of Zurich;
- Receiving and reviewing Customer's error messages during business hours;
- Error and fault handling in case of malfunctions of the SaaS Product;
- Updating the user documentation and making the user documentation available in electronic form.

If the SaaS Product is third-party software, the elimination of errors and faults or adjustments to the SaaS Product or its documentation shall be limited to coordination with the software manufacturer and the installation of patches and updates or documentation provided by the software manufacturer.

Any further maintenance services that go beyond the standard maintenance services mentioned shall be invoiced to the Customer according to the applicable rates of the Provider, insofar as they are offered by the Provider.

The Provider is entitled to further develop and adapt the Cloud Service, but in particular the performance characteristics of the SaaS Product, in order to take into account technical progress, changed legal framework conditions or changed user requirements. The Provider shall communicate such updates to the

Cloud Service with reasonable notice (usually 7 days in advance), e.g. by posting a notice on the login page. If the use of the updated version of the Cloud Service is unreasonable for the Customer, the Contract may be terminated by the Customer in writing with a notice period of 20 days to the end of the month.

2.5 Data, data storage and backup

The Provider shall provide the Customer with storage capacity on the Provider's servers in accordance with the Contract for the storage of data in connection with the use of the SaaS Product.

The Provider shall enable the Customer and, if applicable, the authorised users to export their data stored on the Provider's server during the term of the Contract and within 30 days after termination of the Contract in a standardised procedure provided by the Provider. The Customer and the authorised users are obliged to ensure that they do not violate any third-party rights (intellectual property rights, rights of use, non-disclosure agreements) with the export of the data and the subsequent use.

The Provider does not assume any liability for the usability of downloaded data on other systems.

The Provider is entitled to delete the Customer's data stored by it 30 days after termination of the Contract, unless the Provider is obliged to store it under mandatory law.

The Provider shall take appropriate precautions against data loss in the event of failures of the cloud server and to prevent unauthorised access to the Customer's data by third parties. For this purpose, the Provider shall make regular backups (at least once a day), check the server platform for viruses and protect the Customer's access data stored on the server against unauthorised access by appropriate means.

2.6 Customer's duties to cooperate

The Customer is responsible for the provision and maintenance of the end devices required for the use of the SaaS Product, the data line for access to the SaaS Product (e.g. hardware and operating system, network devices, rental or internet connection, etc.) and ensures that their configuration and technical status comply with the current specifications of the Provider. When the Customer or the authorised users designated by it use the SaaS Product, they shall observe the specifications of the current user documentation and protect the access data from unauthorised access.

The Customer and the authorised users are responsible for the storage and processing of the data. They must also strictly adhere to the provisions of the Data Protection Act.

The Customer and the authorised users shall ensure that they do not infringe any third-party rights when using the SaaS Product and the Cloud Service. The Customer shall immediately defend against claims by third parties due to infringements of intellectual property rights at its own expense and risk and shall inform the Provider in writing of the assertion of such claims.

Before transmitting data and information to the Provider, the Customer shall check them for viruses and use state-of-the-art virus protection programs.

In the event of serious violations of the terms of use of the Cloud Service (by the Customer itself or by authorised users) or the Customer's duties to cooperate, the Provider shall be entitled to block the Customer's access to the Cloud Service. In the event of an unauthorised transfer of use, the Client shall immediately provide the Provider with all information on the assertion of claims against the user upon request, in particular the user's name, address and e-mail address.

3. Remuneration / invoicing

The Customer undertakes to pay the remuneration for the Cloud Service agreed in the Contract. The Contract also sets out the applicable billing and payment modalities.

All invoices are to be paid net by the Customer within 30 days of the invoice date to the account specified by the Provider.

Invoices shall be considered accepted if there are no written objections thereto within the payment period.

The Provider shall be entitled to charge the statutory default interest on all outstanding payments after the expiry of the payment period without a reminder.

The Provider shall be entitled to unilaterally adjust the prices on which the remuneration is based in text form, subject to a notice period of four months, but no more than once per calendar year and by up to 5% compared to the price basis valid at the time.

4. Intellectual property

All intellectual property rights in the Cloud Service provided to the Customer under the Contract shall be vested in the Provider or software manufacturer. In particular, the Customer does not acquire any rights to the SaaS Product itself (including documentation), the developments and the know-how of the Provider.

5. Warranty/liability

5.1 Due diligence and warranty

The Provider is obliged to provide its services carefully and professionally.

The Provider guarantees that the SaaS Product meets the contractually agreed specifications during the term of the Contract. In the event of defects, which are notified to the Provider by the Customer in detail in text form immediately upon their discovery, the Provider shall take the appropriate measures necessary to remedy the defect within a reasonable period of time without any cost to the Customer, provided that the Provider is responsible for the defect and the Customer (as well as the authorised users or its agents) is not at fault.

The Provider cannot guarantee that the SaaS Product and its server platform are error-free, nor that they can be used without interruption. In particular, the Provider is entitled to suspend access for urgent maintenance work even outside the agreed maintenance windows. The above warranty only applies to the conditions of use recommended and/or agreed upon by the Provider. The proper operation of the SaaS Product in connection with third-party software is not guaranteed.

In the event of changes or interventions in the SaaS Product not made by or made by the Provider, in the event of incorrect operation or operating and/or use conditions that are not in accordance with the Contract, the warranty shall automatically expire.

If a third party disputes the ownership and/or rights of use of the SaaS Product that is made available for use by the Provider to the Customer on the basis of the contract, the Customer must immediately inform the Provider of the claim made by the third party. The Customer authorises the Provider to conduct and settle the legal dispute alone, in particular also by means of a settlement. The Customer shall support the Provider in this regard and follow its instructions.

In addition to these warranty and subsequent liability provisions, the corresponding provisions in accordance with the terms and conditions of third-party providers, which can be accessed under [Legal Documents](https://www.swisslearninghub.com/de/rechtliche-unterlagen/), shall apply to the Cloud Service <https://www.swisslearninghub.com/de/rechtliche-unterlagen/>.

This provision conclusively regulates the warranty granted by the Provider and any further warranty of the Provider is expressly excluded.

5.2 Liability

The Provider's liability for culpably caused personal injury is unlimited. Liability for direct property damage and financial damage culpably caused by the Provider in the performance of this Contract is limited to the sum of an annual fee for the Cloud Service that the Customer has to pay.

Any liability of the Provider for other or further claims and damages, in particular claims for compensation for indirect, indirect or consequential damages, loss of profit, loss of use, unrealised savings, loss of earnings, operation or production - regardless of their legal basis - is expressly excluded.

The Provider shall in no case be liable for the unlawful content of the data stored by the Provider or its misuse by the Customer.

This limitation of liability applies regardless of the legal basis for liability and also applies to vicarious agents. We reserve the right to further mandatory legal liability, e.g. for gross negligence or unlawful intent.

6. Duration of the Contract

6.1 Term and termination of the Contract

The Contract shall come into force upon conclusion by both Parties and run for a term regulated in the Contract, e.g. for the duration of the apprenticeship or internship in a company-based or school-based training (BOG or SOG) or for an indefinite period of time. If the Contract is concluded for an indefinite period of time, it can be terminated at any time with a notice period of 3 months to the end of each calendar year, subject to any agreed minimum contract period. The notice of termination must be communicated in text form.

The Customer's special right of termination in the case of No. 2.4 last paragraph is reserved.

The Customer may also effect extraordinary termination of the Contract at any time, with a notice period of 20 days to the end of a month, for good cause for which the Provider is responsible, provided that the cause has not been remedied by the Provider within a reasonable period of time (at least 30 days) after written notification by the Customer.

The Contract may be terminated by the Provider at any time in writing, with a notice period of 20 days to the end of a month, for good cause for which the Customer is responsible. Good cause exists in particular in the case of use contrary to the law or Contract or if the Customer fails to make payment in the event of default of payment even after setting a final, reasonable payment period with threat of termination.

6.2 Consequences of termination

At the time of the end of the Contract or after the end of the phase-out period, the Customer's access to the Cloud Service shall be discontinued. The Customer's data shall then be processed by the Provider in accordance with No. 2.5. Further post-contractual services of the Provider not provided for in the Contract shall only be owed if and to the extent that they are explicitly agreed between the Parties.

7. Miscellaneous provisions

7.1 Confidentiality and reference

Both Contracting Parties and their vicarious agents undertake to maintain the confidentiality of all documents and information that are not generally known and which relate to the business sphere of the other Party and become accessible to them during the preparation and execution of the Contract.

This obligation remains in force as long as there is a legitimate interest in it, even after the termination of the contractual relationship.

The Provider is entitled to use the name and logo of the Customer for reference purposes in marketing materials. Further reference information requires the prior consent of the Customer in text form.

7.2 Data protection

The Provider processes personal data received from the Customer in accordance with the Provider's privacy policy, which can be accessed at [Privacy policy](#) in the current version.

If, in the context of the contractual relationship, personal data is processed by the Provider on behalf of the Customer, the Parties shall conclude a separate agreement on order data processing.

7.3 Offsetting of receivables

The offsetting of any claims of the Customer with counter-claims of the Provider requires the prior written consent of the Provider.

7.4 Written form and amendment of the GTCs

The Contract as well as any amendments and additions must be defined in writing and signed by both Parties in order to be valid. This requirement of form can only be waived by written agreement. In addition to handwritten signatures, signatures in electronic form (e.g. with Skribble, DocuSign, etc.) shall also be recognised as written form.

If the Provider provides for an electronic contracting procedure for the conclusion of an individual contract (such as order confirmation by the Provider by e-mail at the request of a customer), this shall also fulfil the written form requirement.

The Provider is entitled to amend these Terms and Conditions at any time. If the adjustment has no or marginal effects (such as editorial adjustments or technical clarifications) on the Customer, the Customer shall be informed about the new GTCs in text form (e.g. by e-mail or via the Customer portal) and the new GTCs shall be made available to it in text form. The Customer shall be informed of any material changes in an appropriate manner (e.g. by e-mail or in the Customer portal) at least 30 days before they come into force. If no written objection is made by the Customer within this period, the amended GTCs shall be deemed to have been accepted. In the notification of the changes, the Provider shall expressly inform the Customer of the deadline and the legal consequences of a failure to object. In the event of a timely objection by the Customer, the previous GTCs shall continue to apply to the existing contractual relationship; in this case, the Provider reserves the right to terminate the Contract for extraordinary reasons.

7.5 Notices

Unless otherwise agreed, in order to exercise rights and obligations under the Contract, certain notices shall be sent in writing, by letter or e-mail, followed by a written confirmation, to the addresses of the Parties indicated on the title page of the Contract or in the Contract.

7.6 Partial nullity

Should individual provisions or parts of the Contract prove to be void or ineffective, this shall not affect the validity of the remainder of the Contract. In such a case, the Contracting Parties shall adapt the Contract in such a way that the purpose intended by the void or invalid part is achieved as far as possible.

7.7 Assignment and Transfer

The Contract may only be assigned or transferred to third parties after the prior written consent of the other Contracting

Party, whereby consent may not be unreasonably withheld. The Provider is entitled to transfer the Agreement or individual rights and obligations to another group company or to a buyer/legal successor in the context of a merger or sale of a company without such consent.

7.8 Applicable law

The Contract shall be governed exclusively by Swiss law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 and to the exclusion of conflict of laws.

7.9 Settlement of disputes and place of jurisdiction

Both Contracting Parties undertake to seek an amicable settlement in good faith in the event of differences of opinion in connection with the Contract.

If, despite the efforts of the Parties, no agreement can be reached amicably, the ordinary judge at the Provider's registered office shall be declared to have exclusive jurisdiction to decide all disputes arising out of or in connection with the Contract, subject to the Provider's right to prosecute the Customer at its registered office.

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