

# **General terms and conditions for the provision of IT services and backup as a service (BaaS)**

GTC version 2025-12-01

## **1. Scope of Application**

1.1 The present General Terms and Conditions (“Terms”) govern the provision of IT services and Backup as a Service (“BaaS”) (collectively “Services”) by DANOUX Olivier Switch solutioning, with registered offices at chemin de Riantbosson 19, 1217 Meyrin, Switzerland (“Switch solutioning”) to the customer (“Customer”).

## **2. Scope of Services, Order Form and Implementation of the Services**

2.1 Switch Solutioning shall deliver IT services and/or BaaS as described in the order form (“Order Form”) entered into by the parties as per the procedure outlined in this foregoing Section 2.

2.2 IT services may include optimizing Customer IT infrastructures, digitalization of Customer processes, and/or IT strategic support to the Customer. BaaS may include configuration of network-attached storage (NAS) and cloud buckets, automation of data transfers, backup management, data restoration, and/or customized transfer, automatic data synchronization and backup scripts.

2.3 The Services are provided “as is” and “as available”, subject to these Terms.

2.4 Switch Solutioning shall provide a quote to the Customer based on an analysis of the Customer’s request for IT services and/or BaaS. Such quote shall include:

- a) A description of the IT services and/or BaaS;
- b) An estimation of the duration of the services, with key milestones;
- c) Rates, payment terms and additional charges;
- d) A description of post-delivery support, its term and options for extended support if needed;
- e) The validity period of the quote.

2.5 If the Customer accepts the quote within its validity period, Switch Solutioning shall issue a corresponding Order Form for Customer to sign. The Order Form and the present Terms shall constitute together the contract (“Contract”) between Switch Solutioning and the Customer.

2.6 Switch Solutioning shall regularly provide the Customer with documents and/or reports at each key milestone of delivery of the Services as identified in the Order Form.

2.7 Upon the complete delivery of the Services, Switch Solutioning shall provide a summary of the work performed, technical documentation describing the features of the Services, and a configuration report thereof.

2.8 Switch Solutioning shall provide post-delivery support as per the terms of the Order Form.

2.9 Any modification to the Order Form must be mutually agreed upon in writing and signed by both parties.

2.10 Switch Solutioning may subcontract the provision of the Services, in whole or in part, to third parties without requiring prior approval from the Customer. Switch Solutioning shall remain liable towards the Customer for provision of the Services by its subcontractors.

### **3. Services Availability and Support**

3.1 Switch Solutioning aims to provide high availability for the Services but does not guarantee uninterrupted or error-free operation. Scheduled maintenance and updates may result in temporary service disruptions, and advance notice will be provided where feasible.

3.2 Switch Solutioning shall use commercially reasonable efforts to correct defects of Services within the timeframes below:

a) Blocking defect (defect which completely prevents the use of all core functionalities of the Services):

Response time: 4 business hours;

Resolution time: 1 business day;

b) Major defect (defect which prevents the use of one or more core functionalities of the Services):

Response time: 8 business hours;

Resolution time: 2 business days;

c) Minor defect (defect which is neither blocking nor major):

Response time: 2 business days;

Resolution time: 5 business days.

Switch Solutioning shall provide such support according to the terms defined in the Order Form.

3.3 Services may include third-party products provided by external suppliers. In case of defects of such third-party products, Switch Solutioning will refer the Customer to the applicable third-party supplier for assistance as per the terms of the Order Form. Switch Solutioning assumes no liability for the performance, defects, or failures of any third-party products.

3.4 Switch Solutioning shall use commercially reasonable efforts to provide the Customer with support on general questions, configuration and training requests the Customer may have concerning the Services. Such support shall be provided in accordance with the terms of the Order Form. If the Order Form does not include such support, the Customer may submit a written request and Switch Solutioning may provide support subject to additional fees, as mutually agreed upon in writing.

3.5 All support described in this Section 3 may be provided through email, chat, telephone calls and/or videocalls from Monday to Friday, from 09:00 AM to 06:00 PM Central European Time (CET), excluding public holidays in Switzerland. Such support shall be provided by Switch Solutioning's contact person as identified in the Order Form.

#### 4. Customer Obligations

4.1 The Customer shall provide Switch solutioning with the necessary assistance, documents, tools and infrastructure access required to enable Switch solutioning to deliver the Services. The Customer shall ensure that their environment is compatible with the implementation and proper functioning of the Services.

4.2 The Customer is responsible for maintaining the security of their account credentials and for all activities occurring under their account. The Customer agrees to:

- a) Use the Services in compliance with all applicable laws and regulations;
- b) Avoid engaging in any activity that disrupts, interferes with, or damages their account and/or the Services;
- c) Not upload or store any content that violates intellectual property rights or contains harmful or illegal material.

4.3 The Customer shall follow the recommendations and operational guidelines provided by Switch solutioning for the proper use of the Services.

#### 4.4 Customer Data and Restorations

Switch solutioning stores Customer data in encrypted form. When the Customer requests a restoration, Switch solutioning performs the restoration and provides the recovered data via a secure download link or another agreed delivery method. Restoration services are billed according to the rates in force, unless expressly included in the Customer's Order Form.

4.5 Switch solutioning shall not be liable for any delay or non-performance resulting from the Customer's failure to meet their obligations under this Section 4. All payments due under the Contract remain payable in such circumstances.

### 5. Pricing and Payment

5.1 The Customer shall pay the fees as outlined in the Order Form. Unless stated otherwise in the Order Form, fees are exclusive of VAT and other applicable taxes.

5.2 Services provided on a subscription basis are subject to recurring payments as specified in the Order Form.

5.3 Additional fees may apply for specific requests or extended services falling outside of the scope of the Order Form.

5.4 The Customer shall pay invoices within thirty (30) calendar days of the invoice date.

5.5 In accordance with article 104 of the Federal Act of 30 March 1911 on the Amendment of the Swiss Civil Code (Part 5: Code of Obligations) (“CO”), any delay in payment will give rise to the application of a default interest at 5% per annum, starting from the due date, without prejudice to the application of the provisions of article 106 CO.

5.6 Switch Solutioning reserves the right to suspend the Services in the event of late payment or non-payment, without prejudice to any other right, and without prejudice to its right to terminate the Contract.

## **6. Confidentiality**

6.1 For the purpose of the foregoing Section 6, “Confidential Information” means any information disclosed, or made available, by one party to the other, including (without limitation) all know-how, technical design and documentation, technical information, pricing information, work methods, software code, strategies, customer data, business, financial, or other affairs of the disclosing party and which said party may consider as confidential. Notwithstanding the foregoing, the following information shall not be considered as Confidential Information: i) information that was in the public domain or open to the public at the time it was transmitted or made available to the receiving party; or ii) information that became public or open to the public for reasons other than an action or omission attributable to the receiving party; or iii) information that was in the receiving party’s possession, without any limitation regarding its disclosure at the time; or iv) information that was transmitted to the receiving party, provided that such prior possession is supported by evidence; or v) information that was obtained in good faith by the receiving party and without any commitment relating to confidentiality from a third party entitled to disclose them.

6.2 Each party undertakes (i) to keep confidential all Confidential Information it receives from the other party, and in particular (ii) not to disclose the Confidential Information of the other party to any third party except as specifically provided in the Contract; and (iii) to use the Confidential Information of the other party only for the purpose of exercising its rights and fulfilling its obligations under the Contract.

6.3 Each party shall immediately notify the other party in writing if it becomes aware of any disclosure of Confidential Information in breach of the Contract.

6.4 Each party shall be liable towards the other party for any breach of confidentiality obligations under the Contract by its employees, agents, representatives or subcontractors.

## **7. Customer Data and Personal Data**

7.1 Switch Solutioning shall process any personal data it receives from the Customer as per its data protection policy available upon request, and in strict compliance with the Swiss Federal Act of 25 March 2020 on Data Protection (“FADP”).

7.2 Switch Solutioning shall maintain confidentiality of personal data received from the Customer. It shall implement appropriate technical and organizational measures to protect such personal data from unauthorized disclosure or access.

## **8. Rights of use of the Services**

8.1 The Customer acknowledges and agrees that all components comprising the Services, including but not limited to software, technologies, processes, algorithms, user interfaces, databases, designs (collectively referred to as the “Services Components”), are and remain the exclusive property of Switch Solutioning and/or its licensors. The Contract does not imply any assignment of intellectual property rights attached to all or part of the Services and/or Services Components, which remain the exclusive property of Switch Solutioning and/or its licensors.

8.2 Switch Solutioning grants to the Customer a non-exclusive, non-transferable, worldwide right to use the Services, for the Customer’s internal needs only and within the limits of the purpose of each of the Services. If the Services are not provided on a subscription basis, such right to use is granted indefinitely, subject to the Customer’s compliance of its obligations under the Contract. If the Services are provided on a subscription basis, such right to use is granted for the duration of the subscription to the Services concerned.

8.3 The Customer shall comply with any third-party supplier terms that are applicable to third-party products included in the Services.

## **9. Warranties and liability**

9.1 Switch Solutioning warrants that the Services shall be of good quality and at least meet the standards generally observed in the industry for the provision of similar services.

9.2 Warranties given by Switch Solutioning are exhaustively listed in the present Terms. Switch Solutioning gives no other express or implied warranties. In particular:

- a) Switch Solutioning does not warrant that the Services shall be bug or error-free.
- b) Switch Solutioning gives no warranty, express or implied, as to the results of the use of the Services by the Customer.

9.3 To the maximum extent permitted by law, Switch Solutioning shall not be liable for any indirect, incidental, special, or consequential damages arising from the use of the Services, including, without limitation, loss of data or profits. Switch Solutioning’s total liability under these Terms shall not exceed the fees paid by the Client in the six (6) months preceding the claim.

9.4 Switch Solutioning shall not be liable for the consequences of improper use of the Services by the Customer or events beyond the Switch Solutioning’s control, such as network failures or cyberattacks.

## **10. Indemnification**

10.1 The Customer agrees to indemnify, defend, and hold harmless Switch Solutioning from and against any and all claims, demands, lawsuits, liabilities, damages, judgments, settlements, fines, penalties, costs, and expenses (including, without limitation, reasonable attorneys’ fees and court costs) that arise out of or relate to:

- a) The Customer's use, misuse, or inability to use the Services;
- b) Any breach by the Customer of the Contract or applicable laws; and
- c) Any third-party claims arising from or related to the Customer's actions or omissions in connection with the Services.

## **11. Force majeure**

11.1 With the exception of payment obligations, neither of the parties shall be held liable in the event of non-performance or poor performance of one or more of its contractual obligations attributable to a case of force majeure (such as war, government regulations, epidemics, pandemics, natural disaster, strikes, civil disorders, embargoes, acts of terrorism, floods, earthquakes or other emergencies).

11.2 The party prevented by a case of force majeure must notify the other party as soon as the said case of force majeure occurs. It will take all measures to limit the consequences and duration of the case of force majeure. Unless the parties decide otherwise, the obligations of each party will be suspended from the date of this notification.

11.3 If the case of force majeure continues for more than thirty (30) calendar days following this notification, each party may freely terminate the Contract in writing with immediate effect.

## **12. Term and Termination**

12.1 The Contract enters into force as of the effective date identified in the Order Form. It remains in effect for the term specified therein and will automatically renew for successive periods as defined in the Order Form, unless terminated earlier by either party as per these Terms.

12.2 Either party may terminate the Contract for convenience upon thirty (30) calendar days' written notice. In the event of such termination for convenience, the Customer shall pay Switch Solutioning for all Services provided up to the effective date of termination.

12.3 Each party reserves the right to terminate the Contract for good cause upon written notice to the other party and with immediate effect. The following events (without limitation) shall be considered as good cause:

- a) Serious breach by a party of its obligations, which has not been cured within fourteen (14) calendar days upon receiving notification from the other party;
- b) Either party enters into liquidation, dissolution or bankruptcy.

12.4 Switch Solutioning will save Customer data for a period of thirty (30) days after the effective date of termination of the Contract. Should the Customer wish to obtain exports of Customer data during this period, the Customer may submit a written request to Switch Solutioning. The provision of this service will be at the Customer's expense. Upon receiving the request, Switch Solutioning will provide the Customer with an estimate of the associated costs for the data export. At the end of this thirty (30) day period, Switch Solutioning will permanently delete Customer data.

Notwithstanding the foregoing, Switch Solutioning shall retain Customer data to the extent necessary to comply with its legal obligations or to resolve any dispute related to the execution of

the Contract.

12.5 Upon termination of the Contract, Customer shall no longer have any rights to the Services provided on a subscription basis, nor to any technical support related to any Services.

### **13. Relationship of the parties**

13.1 The parties are independent entities and no provisions of the Contract shall be interpreted as an intent to establish, or the establishment of any employment relationship, agency, partnership, joint venture or association.

13.2 Neither party shall act as, or be deemed to be, agent for or partner of the other party for any purpose whatsoever.

### **14. Governing Law and Jurisdiction**

14.1 The Contract is governed by the laws of Switzerland, excluding its conflict of laws' provisions.

14.2 Any disputes arising out of or in connection with the Contract shall be subject to the exclusive jurisdiction of the courts of Geneva, Switzerland.

### **15. Miscellaneous**

15.1 If any provision of the Contract is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

15.2 The Contract constitutes the entire understanding between the parties and supersedes all prior agreements or understandings.

15.3 A party's failure to exercise any right or remedy under the Contract shall not be construed as a waiver of such right or remedy. Any such waiver will only be effective if it is expressed in writing and signed by said party.

15.4 Switch Solutioning reserves the right to modify these Terms at any time. Notice of changes will be provided at <https://switchsolutioning.com/General-terms-and-conditions/>. Continued use of the Services after the effective date of modifications constitutes acceptance of the updated Terms.

15.5 In case of discrepancy or contradiction between the present Terms and the Order Form, the present Terms shall prevail unless otherwise explicitly stated in the Order Form.

15.6 None of a party's rights, obligations or claims under or with respect to the Contract may be assigned, in whole or in part, by such party without the prior written consent of the other.

15.7 Any provisions of this Contract that, by their nature or context, are intended to survive its termination or expiration shall remain in full force and effect, including, but not limited to,

provisions related to confidentiality, warranties and liability, indemnification, governing law and jurisdiction.