

General Terms and Conditions

DSwiss AG
October 2024
Version 1

Content

1. FIELD OF APPLICATION	3
2. THE AGREEMENT	3
3. DUTIES OF DSWISS	4
4. DUTIES OF THE CUSTOMER	5
5. SERVICES OF DSWISS	8
6. FEES AND BILLING	10
7. OWNERSHIP RIGHTS, PROPERTY RIGHTS AND RIGHTS OF USE	11
8. CONFIDENTIALITY	12
9. WARRANTIES, LIABILITY AND INDEMNIFICATION	14
10. DURATION AND TERMINATION.....	18
11. CHANGES OF SERVICES	19
12. FORCE MAJEURE	20
13. ENTICEMENT	20
14. FINAL PROVISIONS	21
ANNEX I: SERVICE LEVEL AGREEMENT	23



1. Field of Application

These terms govern the contractual relationship between DSwiss and the Customer concerning the provision of Services.

2. The Agreement

2.1 DSwiss provides its Services to the Customer solely based on the Agreement.

2.2 The legal relationship between the Customer and DSwiss concerning the Services is exclusively governed by a) these General Terms and Condition, b) the Service Level Agreement, c) the Definitions, d) the Service Orders, and e) the Data Processing Agreement. Previous agreements, correspondences between the Parties, declarations, negotiations, or arrangements are not part of this Agreement unless stated otherwise in a Service Order in writing.

2.3 In the event of contradiction between parts of this Agreement, the following order of priority shall apply: (1) the Service Orders; (2) the General Terms and Conditions; (3) the Service Level Agreement; (4) the Data Processing Agreement; and (5) the Definitions.

2.4 General Terms and Conditions provided by the Customer are not accepted by DSwiss and shall in no event be applicable to DSwiss.

2.5 Information in brochures, on websites or any other form of publication that is used by DSwiss are nonbinding and subject to alterations. The Customer hereby accepts that only offers in form of Service Orders provided by DSwiss directly are considered binding.

2.6 The Agreement between the Customer and DSwiss is concluded upon a binding signature by both Parties on the first Service Order.

2.7 The Customer agrees that Customer's End Users and DSwiss have no legal relationship based on this Agreement. This Agreement does not grant End Users the right to raise claims against DSwiss.



2.8 DSWISS RESERVES THE RIGHT TO AMEND THESE GENERAL TERMS AND CONDITIONS AT ANY TIME IN ITS OWN DISCRETION. THE CUSTOMER SHALL BE NOTIFIED IN WRITING IN THE EVENT OF AN AMENDMENT WITH AN OVERALL SUMMARY OF THE CHANGES AND EXPLANATIONS OF THE CHANGES MADE. CHANGES ARE DEEMED APPROVED BY THE CUSTOMER IF THE CUSTOMER FAILS TO PROVIDE DSWISS WITH A WRITTEN OBJECTION WITHIN THIRTY (30) DAYS OF THE DATE OF RECEIVAL OF THE NOTICE OF SUCH CHANGES. OBJECTIONS OF THE CUSTOMER MUST INCLUDE EVIDENCE OF SUBSTANTIAL IMPAIRMENTS TO BE DEEMED VALID. PROVIDED THAT SUBSTANTIAL IMPAIRMENTS ARE PROVED WITHIN THE THIRTY (30) DAY PERIOD, THE PARTIES SHALL BE BOUND TO THE CURRENT VERSION OF THE GENERAL TERMS AND CONDITIONS. THE PARTIES SHALL IN THIS CASE BE ENTITLED TO TERMINATE THE AGREEMENT WITH IMMEDIATE EFFECT AS PER THE DAY THE UPDATED GENERAL TERMS AND CONDITIONS BECOME EFFECTIVE. THE TERMINATION FOR CAUSE AS STATED IN SECTION 10.5 REMAINS RESERVED.

3. Duties of DSwiss

3.1 DSwiss shall provide Services described in Section 5 in accordance with the terms of the Agreement. Services shall be provided in a careful manner and with generally accessible knowledge of technology.

3.2 DSwiss shall provide the Services purchased by the Customer which are listed in the respective Service Order.

3.3 Unless otherwise provided in the Agreement, the place of performance is deemed to be where DSwiss has its registered office. Certain Services might be provided from the Subsidiary Company in Portugal.

3.4 DSwiss endeavors to observe the Agreed Start Date the Parties have agreed on in the respective Service Order. The Customer will be notified in a timely manner if circumstances arise within DSwiss' sphere where stipulated delivery dates might be jeopardized.



Notwithstanding any other provision of this Agreement, any claims from the Customer in connection with or arising out of delay, default, error or defect shall be excluded. If the delay has exceeded sixty (60) days, the Customer is entitled to either:

- a) withdraw from the respective Service Order and reclaim any Fees paid for the delayed Services in case the Services are Professional Services; or
- b) request a pro rata refund of the paid, but unused Fees that were paid for the delayed Services in case the Services are SaaS Services.

3.5 The Customer understands that DSwiss reserves the right to consult Subcontractors in its free discretion, provided that:

- a) DSwiss shall provide the Customer with a list of the at the time active Subcontractors upon Customer's request;
- b) DSwiss shall notify the Customer of new Subcontractors in writing; and
- c) new Subcontractors shall be bound to reasonable Non-Disclosure Agreements in case they access Confidential Information of the Customer.

If Subcontractors have access to Personal Data of the Customer, section 5 of the Data Processing Agreement shall apply.

4. Duties of the Customer

4.1 The Customer is solely responsible for obtaining and maintaining appropriate equipment as well as auxiliary services which are needed to connect to, access or otherwise use the Services of DSwiss, including, without limitation, computers, computer operating systems, internet access, and web browsers.

4.2 The Customer shall:

- a) cooperate with and support DSwiss in performing Services as well as provide any assistance or information that may reasonably be required by DSwiss, including in relation to diagnosis of any faults;
- b) perform the implementation and testing (for which the Customer is responsible timely; and
- c) report faults promptly to DSwiss; and



- d) keep backup copies of all data Customer has.

4.3 The Customer agrees to ensure that employees cooperating with DSwiss (e.g. software architects, product owners, security compliance officers) shall, regarding the timely fulfillment of the obligations by DSwiss:

- a) always have sufficient resources available;
- b) provide DSwiss with necessary information as soon as possible; and
- c) make necessary clarifications and decisions as soon as possible to ensure DSwiss' availability to deliver purchased Services within the Agreed Start Date.

4.4 The Customer alone shall be responsible for first level support of its End Users and shall respond promptly and professionally to all inquiries from End Users in connection with such requests. The Customer hereby agrees that DSwiss shall only be responsible for second and third level support.

4.4.1 First level support provides End Users of the Customer guidance with the available tools and resources that the Customer has at his disposal. This can be done within means of built in functionalities as well as self-service tools and API endpoints which are used to manage common tasks such as account management, configuration changes and/or integrations.

4.4.2 Second level support cases deal with more complex cases of first level support cases where the Customer cannot resolve the issue by himself and needs assistance from DSwiss himself

4.4.3 Third level support handles critical issues, such as software bugs, system failures, and performance issues that first and second level support cannot resolve. They may collaborate with product development teams to resolve defects or deploy patches and updates. Third level support also provides insight into architectural changes and advanced configuration issues.

4.5 The Customer undertakes to inform DSwiss immediately of any violations of the law regarding Services asserted by third parties (including authorities), but no later than 48 hours of the relevant incident.



4.6 The Customer agrees to use Services only for internal business operations.

4.7 The Customer is responsible for complying with applicable laws and all rights needed to upload documents. The Customer hereby agrees to neither violate applicable laws, including but not limited to Swiss Law nor any rights of third parties, including but not limited to personal rights.

4.8 Unless stated otherwise in the Service Order, the Customer is not allowed to:

- a) decipher, decompile, reverse engineer, disassemble, reproduce, copy, or otherwise try to access and discover the source code of any software; and/or
- b) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, share, or commercially exploit the Services provided and make them available to other parties that are not part of this Agreement; and/or
- c) use or attempt to use any Malicious Software to access, acquire or monitor any part of the Product; and/or
- d) use the Services and/or software, hardware, applications, and/or processes that could interfere, disrupt and or breach DSwiss' security, integrity, and/or policies; and/or
- e) modify, port, adapt, translate, or create derived work based on Services by DSwiss to evaluate functionality or performance for competitive purposes or development of similar Services; and/or
- f) refrain from performing actions which may impair the operability of the Services; and/or
- g) use the Services in a manner that is unlawful and/or harms DSwiss (including but not limited to the brand of DSwiss); and/or
- h) remove and proprietary notices or labels from the Services.

4.9 The Customer is responsible for, represents and warrants that Customer's End Users comply with Section 4.8 above.

4.10 The Customer agrees to refrain from using the Services for any illegal activities and ensures that its End Users do the same, which includes but is not limited to:

- a) unlawful activity; and/or
- b) libelous or obscene behavior; and/or
- c) discriminatory, abusive, or hateful activities; and/or
- d) criminal activity.



Furthermore, the Customer agrees to not engage in activities that support and/or promote political systems that are characterized by authoritarianism, oppression and/or human rights abuses.

4.11 The Customer agrees to be respectful towards DSwiss and DSwiss employees and refrains from behavior that could tarnish the relationship between the Parties. The Customer refrains from making discriminatory or hateful statements against employees of DSwiss, which include, but are not limited to, the employee's origin, race, gender, age, language, social status, religion, ideology, political views or physical, mental or psychological disabilities. DSwiss remains the right to terminate this Agreement for cause if the Customer violates this Section.

5. Services of DSwiss

DSwiss grants Customers the right to purchase and access Services of DSwiss, which are divided into SaaS Services and Professional Services.

5.1 SaaS Services

SaaS Services are categorized into Product Services and Support Services. DSwiss grants Customers SaaS Services on a subscription basis.

5.1.1 Product Services include standard Platform based solutions covering the secure exchange and storage of data. These solutions are called Product. Product Services include the work needed to give the Customer access to the Product for its intended use.

5.1.2 The Customer is entitled to purchase Product Services based on the Product Plans DSwiss offers. The Product Plan is set out in the Service Order.

5.1.3 Support Services include Knowledge based Services aiding the Customer in using purchased Product Services. The Support Services are purchased via the mechanism of Support Plans, which is set out in the Service Order.



5.1.4 Customers have the right to Upgrade the purchased Services at any time, provided that the previously purchased Plan allows a potential Upgrade. Upgrades shall always be based on an Upgrade Service Order, which will amend the then current Service Order and form an integral part thereto. Current Service Orders shall only be changed to the extent explicitly provided so in the Upgrade Service Order, with the Contract Terms of the then current Service Order remaining applicable on the Upgrade Service Order.

5.1.5 The Customer is only allowed to request a Downgrade at the end of the Initial Term or a Renewal Term, provided that the previously purchased Plan allows a Downgrade and that the Customer requests the Downgrade within the Notice Term as stated under Section 10.3. Downgrades always require a new Service Order, called Downgrade Service Order.

5.2 Professional Services

Professional Services are non-recurring, discretionary Platform or Knowledge based Services not covered by the regular scope of SaaS Services. Professional Services are categorized in Advanced Services and Select Services.

5.2.1 Advanced Services accelerate deliveries of new and/or enhanced features not published in the basic Plans of Product Services. They become integral part of Product Services with their implementation.

5.2.2 Advanced Services may also be Knowledge based Services offered by DSwiss (e.g. advisory, project management, user training, etc.) not covered by Support Services.

5.2.3 Select Services are customer-specific with no wider business purpose for DSwiss. Select Services can be:

- a) Platform based Services covering the enhancement or development of features that are not part of the Product for the foreseeable future; or
- b) customer-specific Knowledge based Services that differ from Knowledge based Services seen in Support and Advanced Services.

5.2.4 Professional Services will only be provided if the Parties have agreed upon these in the respective Service Order.



6. Fees and Billing

6.1 The Customer will be charged with Fees for SaaS Services (which include (i) Subscription Fees, (ii) Usage Fees, and (iii) Setup Fees) and for Professional Services (which include the Premium Fee).

6.2 Fees are to be paid by the Customer within the herein stipulated due dates.

6.3 Service Orders determine currencies in which Fees need to be paid. If no currency is stipulated in the Service Order, the Fees shall be paid in Swiss Francs (CHF).

6.4 Setup Fees are charged for the setup of the Services purchased by the Customer. These Fees are one-time based and billed in full in advance. Setup Fees are fixed and stipulated in the Service Order.

6.5 Usage Fees are flexible Fees measured on transactions processed on Products. Usage Fees will be invoiced monthly in arrears.

6.6 Subscription Fees are recurring Fees the Customer pays to use purchased Services. They are billed in advance in a cadence set forth by the Billing Frequency as stipulated in the Service Order.

6.7 Premium Fees are one-time based and paid to receive Professional Services as set forth under Section 5.2 and following. Premium Fees are billed in full in advance.

6.8 If the Service Order stipulates that Professional Services shall be invoiced on a time-and-material basis, the Customer shall be billed monthly in arrears. These invoices are accompanied by a documentation detailing expended time and utilized materials in conjunction with Services provisioned.

6.9 Unless stated otherwise in the Agreement, Customers will receive invoices via e-mail. The Payment Term is set at twenty (20) days net of fees after receipt of an invoice.

6.10 Billing Frequency, Payment Collection Method and Payment Method shall be agreed on by the Parties in the Service Order.



6.11 DSwiss reserves the right to charge the Customer with additional Fees in addition to the Fees stipulated in the Service Orders if Customer is at fault for DSwiss' delayed delivery of Services.

6.12 All Fees are exclusive of VAT or any other taxes. If taxes are applicable, it's the Customer's duty to pay the taxes.

6.13 DSwiss reserves the right to increase Fees by a maximum of five percent (5%) at the beginning of each calendar year. The Customer will be informed of price increases at least thirty (30) days in advance in writing. The new Fees will be applicable on the Customer's next invoice.

6.14 The Customer will automatically be in default if the Customer fails to make the payment within the specified period stated under Section 6.9. DSwiss reserves the right to charge the Customer default interest of ten percent (10%) p.a. in addition to a lump-sum-dunning charge of CHF 20 per Warning in the event of overdue payments.

6.15 DSwiss reserves the right to withhold the provision of Services fully or partly if the Customer has not paid all invoiced claims after invoice's due date. Such right of DSwiss requires at least one (1) written Warning to the Customer by DSwiss.

6.16 Shall circumstances in the sphere of a Party arise where the conclusion of a Service Order is not possible due to a case of urgency, the Customer will be billed for delivered Services on a time-and-material basis, whereas it is the duty of DSwiss to provide the Customer with a detailed documentation including the amount of time and the material that has been spent.

7. Ownership Rights, Property Rights and Rights of Use

7.1 DSwiss is the sole and exclusive owner of all rights, titles, and interests in and to the Services (included but not limited to Professional Services, if any) and any information developed or collected by DSwiss in connection with its performance and operation of the Services (other than Customer's data), including but not limited to all data, ideas inventions, inferences, discoveries, developments, formats and processes, and all copyrights, patent rights and other intellectual property and proprietary rights therein and thereto.



7.2 Any rights not expressly granted to the Customer herein are reserved by DSwiss. All suggestions, enhancement requests, feedback, recommendations or other input provided by Customer or any other Party relating to Services shall be owned by DSwiss, and the Customer hereby does and shall make all assignments and take all reasonable acts to accomplish the foregoing ownership rights.

7.3 The Customer owns all data, information or material originated by the Customer that the Customer submits or provides during the registration and usage of the Services.

7.4 The Customer shall solely be responsible for the accuracy, quality, content and legality of Customer's data, the means by which Customer's data is acquired and the transfer of the Customer's data outside of the Services.

7.5 DSwiss acquires no right, title or interest in or to Customer's data under the Agreement except to the limited extent necessary to perform the Services for Customer which includes the internal use of Customer's data and the provision of Customer's data to Customer's End Users but excludes any provision of Customer's data to other third parties unless explicitly provided in Section 8.

7.6 Subject to the terms and conditions of the Agreement, DSwiss hereby grants to the Customer a non-transferable, non-sublicensable and non-exclusive right to access and use the licensed Services provided by DSwiss according to the Agreement and to authorize Customer's End Users as defined in the respective Service Order to use the licensed Services beginning with the Agreed Start Date of the respective Service Order for the term of the respective Service Order. The right for a termination for cause as set under Section 10.5 remains reserved.

7.7 Customer acknowledges that the Customer has no entitlement whatsoever to be provided with machine or source codes of the Products.

8. Confidentiality

8.1 Both Parties agree to maintain confidentiality regarding all non-public documents, information and items related to the Parties' businesses that become accessible within the scope of this Agreement.



8.2 Confidential Information shall include:

- a) with respect to DSwiss the Services, the principles (including, but not limited to, software development or design) upon which they are based, the manner by which the Product Services operate, and any improved software object functionality and performance derived from Customer's use of the Services;
- b) with respect to Customer, Customer's data provided under the Agreement; and
- c) with respect to both Parties, any information that relates to research, plans, services, clients, markets, developments, inventions, designs, drawings, engineering, marketing or finances of the disclosing Party.

8.3 Each Party will:

- a) protect the other Party's Confidential Information with the same standard of care it uses to protect its own Confidential Information, but in no event less than reasonable care; and
- b) not disclose the Confidential Information to third parties.

8.4 Each Party (and any End Users to whom it has disclosed Confidential Information) may use Confidential Information only to exercise rights and fulfil obligations under the Agreement, while using reasonable care to protect it.

8.5 The Parties agree to the following:

- a) The Parties shall not disclose Confidential Information to other parties, including third parties, except to the Parties' respective bodies, employees and external partners or affiliate companies, provided that:
 - (i) the recipients necessarily require the information for the purpose of this Agreement; and
 - (ii) the recipients are subject to a Confidentiality Agreement consistent with this Section;
- b) The Parties may disclose Confidential Information when required by law, court or governmental authority and only if:
 - (i) the Parties use reasonable efforts to notify the other Party, and



(ii) give the other Party the chance to challenge the disclosure to the extent possible.

8.6 The Parties agree that breaches of the confidentiality obligations in this Agreement may give reason for criminal and/or civil liability.

8.7 The Customer agrees that DSwiss will process the data of Customers in Switzerland or in a country within the European Union, as set forth in Section 3.3 of the Data Processing Agreement. If data is processed in a country outside of Switzerland and/or the European Union, Section 5 of the Data Processing Agreement shall apply. The Customer can access the Data Processing Agreement under www.dswiss.com/data-processing-agreement.

8.8 Both Parties must observe any applicable data protection laws as well as the Data Processing Agreement.

8.9 This section shall remain in effect even in the event of a termination, but no longer than three (3) years after the termination of this Agreement.

9. Warranties, Liability and Indemnification

9.1 DSwiss warrants that it has the necessary power and authorization to accept this Agreement, that the Agreement is valid, binding and enforceable against and by DSwiss, and DSwiss' acceptance of the Agreement will not violate any law, rule, regulation or any agreement binding DSwiss.

9.2 DSwiss warrants to make commercially reasonable efforts to provide Services in accordance with the descriptions of Services as set out in the respective Service Order, and to comply with the Service Level Agreement.

9.3 DSwiss warrants that Services will be performed with reasonable care, skill and ability and in accordance with applicable laws and regulations.

9.4 If DSwiss fails to comply with the foregoing warranties and the Customer provides DSwiss with written notice of such breach, the Customer's sole remedy and DSwiss'



sole obligation shall be one of the following options, such option being selected by DSwiss in its sole discretion:

- a) to the extent practicable, DSwiss may fix the Services and correct any defect or error, provided that DSwiss agrees that such defect or error is correctable; or
- b) DSwiss may terminate the applicable Service Order and issue a refund to Customer in an amount equal to the Fees pre-paid by Customer (if any) for Services not received.

9.5 The Customer understands that the foregoing remedies are Customer's sole and exclusive remedies for breaches of warranties provided in this Agreement. Customer agrees that Customer shall have no remedy under this Section for claims made after the termination or expiration of this Agreement.

9.6 The Customer understands that Services may include software licensed by third parties. Third parties do not:

- a) provide any guarantees with respect to the Services; and
- b) assume any liability regarding the usage of the Services; or
- c) assume any obligations to provide support or information regarding the Services.

9.7 WITH THE EXCEPTION OF THE FOREGOING LIMITED WARRANTY, THE SERVICES CONNECTED THEREWITH ARE PROVIDED ON AN "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE" BASIS AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORTS IS WITH THE CUSTOMER. WITH THE EXCEPTION OF THE FOREGOING, DSWISS DOES NOT MAKE, EXPRESS, OR IMPLIED, AND DISCLAIMS ANY AND ALL WARRANTY CONNECTED WITH THE SERVICES.

9.8 DSWISS DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES:

- A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, ERROR-FREE ACCESS TO THE SERVICES OR USE THEREOF; AND/OR
- B) OF UNINTERRUPTED OR ERROR-FREE ACCESS OR USE OF THE SERVICES; AND/OR
- C) THAT THE OPERATION OR USE OF THE SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE; AND/OR



D) THAT THE SERVICES AND THE DATA GATHERED IN THE CONTEXT OF THE PRODUCT SERVICES WILL BE FLAWLESS, ACCEPTABLE OR MEET THE CUSTOMER'S REQUIREMENTS.

9.9 CUSTOMER UNDERSTANDS THAT DSWISS OR THIRD PARTIES DSWISS USES FOR THEIR SERVICES DO NOT CONTROL TRANSFERS OF DATA OVER COMMUNICATION FACILITIES, WHICH INCLUDES BUT IS NOT LIMITED TO THE INTERNET, AND THAT SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS ARISING OUT OF SUCH COMMUNICATION FACILITIES. DSWISS DOES NOT PROVIDE ANY WARRANTY FOR DELAYS, DELIVERY FAILURES, OR THE DAMAGE RESULTING FROM SUCH ISSUES.

9.10 The Customer warrants that the Customer has the necessary power and authorization to accept this Agreement, that the Agreement is valid, binding and enforceable against and by the Customer, the Customer's acceptance of the Agreement will not violate any law, rule, regulation or any agreement binding the Customer and that the Customer will observe all applicable laws and provisions of the Agreement.

9.11 The Customer further represents and warrants that:

- a) it will not directly or indirectly provide access to the Services to any person (including any natural person or government or private entity) that is located in or is a national of any embargoed or highly restricted country under the Swiss laws or the European laws; and
- b) it is not located in, under the control of, or a national or resident of any such country or on any such list.

9.12 UNLESS EXPLICITLY OTHERWISE PROVIDED IN THE AGREEMENT;

A) THE LIABILITY OF DSWISS UNDER OR IN CONNECTION WITH THE SERVICES AND/OR THE AGREEMENT SHALL BE LIMITED TO THE EXTENT POSSIBLE BY THE GOVERNING LAW; AND

B) DSWISS SHALL, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NOT BE LIABLE UNDER OR CONNECTED WITH THE AGREEMENT, STRICT LIABILITY OR ANY OTHER THEORY.

9.13 WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DSWISS SHALL NOT BE LIABLE FOR:



A) ERROR OR INTERRUPTION OF USE OF THE SERVICES, INACCURACY OR FLAWS OF DATA GATHERED OVER THE SERVICES OR OTHERWISE IN THE CONTEXT OF THE AGREEMENT; AND/OR

B) LOSS OF BUSINESS; AND/OR

C) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; AND/OR

D) PRODUCTS OR SERVICES OF THIRD PARTIES; AND/OR
E) FOR ANY MATTER BEYOND DSWISS' REASONABLE CONTROL.

9.14 DSWISS HAS NO POSSIBILITY TO GAIN INSIGHT IN DOCUMENTS UPLOADED BY THE CUSTOMER AND HAS NO POSSIBILITY TO RESET THE ACCOUNT FOR THE CUSTOMER. CUSTOMER IS RESPONSIBLE FOR THE DOCUMENTS UPLOADED AND AGREES THAT DSWISS WILL NOT BE LIABLE FOR UPLOADED DOCUMENTS.

9.16 THE CUSTOMER IS RESPONSIBLE, REPRESENTS AND WARRANTS THAT ITS ADMINISTRATORS AND CUSTOMERS DO NOT UPLOAD DOCUMENTS WHICH VIOLATE APPLICABLE LAWS, THIRD PARTY RIGHTS OR THIS AGREEMENT.

9.17 IF THE CUSTOMER VIOLATES SECTION 9.16, THE CUSTOMER AGREES TO INDEMNIFY DSWISS FOR ALL DAMAGES, CLAIMS, RECEIVABLES, COSTS AND LEGAL FEES THAT ARISE OUT OF SUCH VIOLATION.

9.18 THE CUSTOMER AGREES TO INDEMNIFY DSWISS AGAINST ANY AND ALL CLAIMS OF END USERS IF THESE CLAIMS ARISE OUT OF A BREACH OF THIS AGREEMENT BY THE CUSTOMER OR AN END USER.

9.19 DSwiss' Services may contain links to other websites, e.g. DSwiss' helpdesk, which may be hosted by third parties. These websites are not controlled by DSwiss. DSwiss is neither responsible nor liable for contents or security thereof.



10. Duration and Termination

10.1 The Agreement shall become effective at the Effective Date of the New Business Service Order, which is the date at which the New Business Service Order is signed by both Parties. The Agreement shall remain in effect until the termination or expiration of the last Service Order.

10.2 EACH SERVICE ORDER SHALL TAKE EFFECT AT THE EFFECTIVE DATE OF SUCH SERVICE ORDER AND SHALL REMAIN IN EFFECT FOR THE INITIAL TERM AND SUBSEQUENT RENEWAL TERMS. UNLESS STATED OTHERWISE IN THE SERVICE ORDER, THE INITIAL TERM SHALL BE TWELVE (12) MONTHS AFTER THE AGREED START DATE, AND THE RENEWAL TERM SHALL BE TWELVE (12) MONTHS AFTER THE INITIAL TERM OR THE PREVIOUS RENEWAL TERM ENDS.

10.3 Each Service Order may be terminated by each Party as per the end of the Initial Term or a Renewal Term with a Notice Term of at least ninety (90) days. In absence of such termination, the Initial Term and each Renewal Term shall automatically extend for additional Renewal Terms.

10.4 The Agreed Start Date shall be stipulated by the Parties in the applicable Service Order. If no specific Agreed Start Date has been stated, the Agreed Start Date shall fall together with the Effective Date of the Service Order.

10.5 Notwithstanding any other provision of this Agreement, each Party may terminate this Agreement with immediate effect:

- a) if bankruptcy or similar events occur to one Party;
- b) in case of ceasing of business, winding up or liquidation of a Party for the purposes of corporate reconstruction of the other Party;
- c) non-payment of one or more invoices under this Agreement by the Customer; or
- d) in case the other Party is in default regarding obligations under the Service Order and has not cured the default within thirty (30) days after receipt of a written notice by the other Party;

10.6 Provided that the termination is compliant with Section 10.5, DSwiss will provide the Customer with a pro-rata refund of all prepaid, but unused Fees at the time of the early termination.



10.7 The Parties agree that notices of termination shall be provided in writing to the other Party.

10.8 In the event of termination of this Agreement:

- a) Customers and Customer's End Users will lose their rights to access and use the Services immediately;
- b) all Fees will become due and payable immediately and suspensions or terminations shall not relieve the Customer of its payment obligation; and
- c) each Party is obliged to destroy all Confidential Information or, where applicable laws require the safekeeping of certain information, return the information to the respective Party and destroy it.

10.9 The Customer hereby acknowledges and agrees that DSwiss has no obligation to retain Customer's data and that Customer's data may be irretrievably deleted and destroyed within thirty (30) days after the termination or expiration of the Agreement or the respective Service Order. If agreed, DSwiss will return Customer's data to Customer.

10.10 The termination of this Agreement shall not relieve the Parties from obligations that arose prior to the termination. Unless otherwise agreed, all provisions that naturally survive the termination or expiry shall remain in effect.

10.11 Unless stated otherwise by the Parties, all e-mails regarding termination need to be sent to legal@dswiss.com.

11. Changes of Services

DSwiss reserves the right to make changes to its SaaS Services from time to time, and Customer herewith accepts such changes. These changes may be, but are not limited to, the deprecation of certain features or the implementation and availability of new features. Customers will be notified of changes regarding Services via e-mail.



12. Force Majeure

12.1 No Party shall be liable to the other Party if performance of any of its obligations hereunder is prevented, hindered, or delayed by the occurrence of circumstances beyond its control, which circumstances shall include, but shall not be limited to, any act of God, act of any government or other statutory undertaking, industrial dispute beyond the area of control of such Party, fire, explosion, accident and power failure, always provided that:

- a) they constitute a force majeure event, i.e., are beyond the control of the Party invoking it; and
- b) they are not the result of the failure of such Party to perform any of its obligations under the Agreement.

12.2 Following the occurrence of any such event the Party thereby affected shall notify the other Party in due time of such occurrence and such Party shall use its reasonable endeavors to overcome or to minimize the adverse effects thereof.

12.3 Performance of the affected and related obligations shall be postponed for a period equal to the time lost by reason of the delay. If as a result of force majeure a Party is rendered definitely unable to perform, or if the period of force majeure has lasted longer than three (3) months or as soon as it is reasonably clear that it will last longer than three (3) months, the other Party may, with immediate effect, terminate the Agreement in writing.

13. Enticement

13.1 The Customer undertakes that, during the term of the Agreement and twenty-four (24) months thereafter, it shall without DSwiss' prior written consent:

- a) not hire directly or indirectly any employee of DSwiss; and
- b) not pay for any services provided by a third party that hired directly or indirectly any employee of DSwiss.



13.2 A violation of this Section 13 by the Customer shall entitle DSwiss to claim specific performance from the Customer. Moreover, the Customer undertakes to pay DSwiss an agreed penalty of one hundred thousand Swiss Francs (CHF 100'000) for each violation of this Section 13. Payment of the penalty shall not relieve the Customer from the obligation to observe the Agreement. Claims for damages exceeding the amount of the penalty to be paid by the Customer are reserved.

14. Final Provisions

14.1 Irrespective of any confidentiality, DSwiss is entitled to freely communicate that Customer is a customer of DSwiss via the internet (e.g. websites, digital media, digital brochures), in sales documents and presentations or elsewhere. DSwiss reserves the right to use the logo of Customer's company name in sales documents and presentations for potential customers.

14.2 Customer shall only be entitled to withhold payments or to set off payments against counterclaims if Customer's counterclaims are undisputed or have been adjudicated finally.

14.3 The written form requirement within the meaning of this Agreement is also satisfied by email unless stated otherwise.

14.4 Rights and obligations arising from the Agreement may only be transferred to third parties with the consent of the other Party. The same applies regarding the transfer of the entire Agreement to a third party, and to the entry of a third party into the Agreement. In the event of a transfer within entities of the Customer, the consent of the other Party is not required.

14.5 A Party's failure to exercise its rights under this Agreement or the failure to do so in a timely manner shall not result in the forfeit or loss of such rights.

14.6 If one or more provisions of this Agreement become null and void the remainder of the Agreement shall remain unaffected. Provisions that become null and void shall be replaced by provisions that come as close as possible to the economic purpose and the will of the invalid provisions.



14.7 This Agreement is subject to Swiss substantive law, to the exclusion of conflict-of-laws rules and international conventions.

14.8 The parties shall endeavor to settle any dispute, controversy or claim arising out of or in connection with the Agreement amicably. If they fail to reach a settlement within a term of six (6) months, the courts of Zurich shall have exclusive jurisdiction.



Annex I: Service Level Agreement

This Service Level Agreement governs the level of Service the Customer can expect from DSwiss. The following provisions shall outline the standards DSwiss has to meet and the metrics by which performances are measured.

1. Product Availability

1.1 The Product Availability is the accessibility and operational functionality of the Product for the Product's intended purpose. The Product Availability shall be measured during a Measuring Period of one calendar month for each applicable Product Plan as defined on the table below or otherwise defined in the applicable Service Order.

Essential	Premium	Enterprise
99%	99.3%	99.5%

1.2 The Product Availability explicitly excludes any Downtime caused by Maintenance Windows and/or Emergency Maintenance Windows.

1.3 Unavailability of the Product due to issues arising in the Customer's scope shall be excluded from the Downtime calculation. Such issues can be, but are not limited to:

- a) Customers infrastructure;
- b) third party services Customer uses;
- c) misconfiguration of the Product by the Customer;
- d) End User errors on Customer's side;
- e) security issues on Customer's side;
- f) resource limitations of Customer;
- g) Maintenance Windows on Customer's side.

The Customer hereby understands that Downtimes caused by these issues or Downtimes caused by similar events shall hereby be excluded from the Downtime



calculation which allows the Customer to request the Service Credits stipulated under section 3.

2. Support Availability

DSwiss grants to Customer Support regarding Services the Customer has purchased. The Customer can purchase Support Plans for a recurring Fee if wished. The Customer hereby agrees that if no Support Plan is purchased, the free "Bronze" Plan shall apply.

2.1 Support Availability consists of Response Times from Customer Support based on the Support Plan the Customer purchases. The Support Plan is part of the applicable Service Order. The support of DSwiss under this Service Level Agreement is limited to issues with applicable Products.

2.2 The Response Time measures how long it takes DSwiss to respond to a Customer Support Request raised via the support channels of DSwiss as defined in this Service Level Agreement and the applicable Support Plan during the Business Hours. Business Hours are stipulated as Weekdays from 9:00 to 17:00 pm Zurich time zone (CET), excluding public holidays in the city of Zurich. It starts at the time the Customer Support Request is made and ends at the time DSwiss has responded to the Customer Support Request. DSwiss is entitled to respond in the form of an email or a telephone call with the purpose to provide a solution or request further information. Automatic responses are not considered as a time stop of the Response Time. The Support Availability shall be measured based on the average Response Times of the Customer's Customer Support Requests in one calendar month. The maximum Response Time is defined in the Support Plan of the applicable Service Order. The Customer can choose between the Support Plans set out in the chart below.

Tier	Silver	Gold
Response Time	24 hours	16 hours



Support Channel	Tier		
	Silver	Gold	Platinum
Ticketing	Yes	Yes	Yes
Chat	Yes	Yes	Yes
Email	No	Yes	Yes
Phone	No	Yes	Yes
Emergency Phone	No	No	Yes

3. Remedies

3.1 DSwiss shall comply with the Product Availability and the Support Availability as agreed between the Parties in the applicable Service Order and this Service Level Agreement.

3.2 If DSwiss fails to comply with the Product Availability and/or the Support Availability as defined in the applicable Service Order and this Service Level Agreement, the Customer is allowed to request Service Credits. The Service Credits are set forth as percentages of Customer's monthly Subscription Fees and are capped at the total amount of the same monthly Fee the Customer pays for the Product Availability or the Support availability. Service Credits are calculated based on the parameters set out under sections 3.3 and 3.4 below. The Service Credits are only applicable to the Plan that was breached and are not interchangeable.



3.3 The Service Credits for breaches regarding the Product Availability are calculated as set forth on the table below.

Downtime	Plan		
	Essential	Premium	Enterprise
Up to 0.5%pt.	5%	10%	15%
0.51%pt.-1%pt.	30%	30%	40%
1.1%pt.-2%pt	50%	75%	100%
Over 2%pt.	100%	100%	100%

Example for illustration: The Customer has purchased the Premium Packaging of the Product with a guaranteed availability of 99.3%. The Services had a Downtime of 7 hours, which is equivalent to a Product Availability of 99.03%. This results in a 0.27%pt. excess Downtime, which allows the Customer to request 10% Service Credits.



3.4 The Service Credits for breaches regarding the Support Availability are calculated as set forth on the table below.

Time	Plan		
	Essential	Premium	Enterprise
Within 1 hour late	5%	5%	5%
Within 1-4 hours late	10%	10%	10%
More than 4 hours late	25%	25%	40%

3.5 The Service Credits will be credited to the Customer's next invoice, provided that the Customer raises the Service Credit Claim in writing to DSwiss and provides DSwiss with appropriate information regarding the non-compliance with the Product Availability and/or the Support Availability.

3.6 Service Credit Claims need to be requested by the Customer within fifteen (15) days after the end of the applicable Measuring Period in which DSwiss failed to meet the Product Availability and/or the Support Availability. Failure to do so will result in the loss of rights for the concerned Service Credits.

3.7 If in one (1) calendar year DSwiss fails to meet the Product Availability and/or the Support Availability for three (3) consecutive times, the Customer may terminate the concerned Service Order with immediate effect. The termination shall be submitted in writing within fifteen (15) days after the DSwiss' third failure to meet the Product Availability and/or the Support Availability. Failure to submit the termination within the herein stipulated notice period under this provision will result in a loss of rights for termination.



3.8 THE CUSTOMER ACKNOWLEDGES THAT THE REMEDIES IN THIS SERVICE LEVEL AGREEMENT SHALL BE THE SOLE AND EXCLUSIVE REMEDIES AVAILABLE TO THE CUSTOMER. ANY FURTHER LIABILITY OF DSWISS AND/OR ANY FURTHER REMEDIES OF CUSTOMER ARE HEREBY EXCLUDED AS FAR AS PERMISSIBLE BY APPLICABLE LAWS.

3.9 CUSTOMERS WITH THE BRONZE PLAN HEREBY ACKNOWLEDGE THAT THE IN THIS SERVICE LEVEL AGREEMENT MENTIONED REMEDIES ARE NOT APPLICABLE TO THE FREE BRONZE PLAN AND THAT THE CUSTOMER HAS PARTICULARLY NO RIGHT TO REQUEST FOR SERVICE CREDITS UNDER THE BRONZE PLAN. ANY FURTHER LIABILITY OF DSWISS AND/OR ANY FURTHER REMEDIES OF CUSTOMER ARE HEREBY EXCLUDED AS FAR AS PERMISSIBLE BY APPLICABLE LAWS.

4. Miscellaneous

4.1. The languages in which DSwiss provides Customer Support when answering to Customer Support Requests are English and German. To avoid misunderstandings and delays in responding to Customer Support Requests, Customers need to use one of the contractually agreed support languages. Deviations will likely result in delays which are not considered an infringement of this Service Level Agreement.

4.3 DSwiss may limit or deny Customer's access to Support Services if DSwiss determines, in its reasonable discretion, that the Customer is acting, or has acted, in a way that results or has resulted in misuse of support or abuse of DSwiss representatives and/or Services.

4.4 In addition to the foregoing provisions, Section 14 of the General Terms & Conditions shall, where applicable, also apply to the Service Level Agreement.





DSwiss AG
Badenerstrasse 329
8003 Zurich
Switzerland
+41 44 515 11 11
legal@dswiss.com
dswiss.com