



## Cloud Services Agreement

Use of the Cloud Services is subject to General Terms and Conditions. Unless otherwise stated in this Cloud Services Agreement, or otherwise agreed upon by the Parties, the General Terms and Conditions shall apply to all of Smartsign's cloud services.

### Scope of the Cloud Services:

See attached Product Definitions and the Product Confirmation provided to Customer.

Smartsign AB, reg. no. 556539-2353, (hereinafter referred to as "Smartsign"); and the customer stated and specified in the order confirmation from Smartsign (hereinafter referred to as the "Customer").

### Term of the Agreement:

The term for Agreement is stated in the Product Definition. If nothing is stated therein, the Agreement enters into force when Smartsign's Product Confirmation is provided and shall thereafter be valid for an initial term of 12 months, after which the Agreement automatically shall be renewed in terms of 12 months, unless either Party has terminated the Agreement by giving notice to the other Party 90 days before the expiry of each term.

This Agreement is entered into by the Customer and Smartsign. The Customer approves the terms hereof by ordering and using the Cloud Services.

# SMARTSIGN GENERAL TERMS AND CONDITIONS

## Cloud Services

Use of the Cloud Services is subject to these General Terms and Conditions. If you do not agree to the Agreement, you must stop using the Cloud Services.

### 1. Definitions

- |      |                            |   |
|------|----------------------------|---|
| 1.1  | "Agreement"                | shall mean the Cloud Services Agreement, and any appendices attached thereto as well as these Smartsign General Terms and Condition;  |
| 1.2  | "Cloud Services"           | shall mean the services provided to Customer under this Agreement as specified in the relevant Product Definition;  |
| 1.3  | "Confidential Information" | shall have the meaning set out in clause 15.1;  |
| 1.4  | "Customer"                 | shall mean the customer in accordance with the order confirmation for the Cloud Services Agreement;   |
| 1.5  | "Customer Data"            | shall have the meaning set out in clause 11.1;  |
| 1.6  | "Local Use"                | shall have the meaning set out in clause 2.3;   |
| 1.7  | "Party/-ies"               | shall mean either Smartsign or the Customer, or Smartsign and the Customer;   |
| 1.8  | "Product Definition"       | shall mean the specification of the Cloud Services and, if applicable, Service Levels for the Cloud Services attached to this Agreement by Customer's selection of scope of Cloud Services and Smartsign's provision of a Product Confirmation related thereto; |
| 1.9  | "Product Confirmation"     | shall mean Smartsign's confirmation enabling use of the Cloud Services following Smartsign's acceptance of the Customer's order   |
| 1.10 | "Service Level/-s"         | shall mean the service levels, if any, as specified in the applicable Product Definition;   |
| 1.11 | "Service Level Penalty"    | shall have the meaning set out in clause 8.2;   |

- 1.12 “Smartsign” shall mean Smartsign AB, its successors and assignees;
- 1.13 “Start Date” shall mean the date on which Customer is provided the Product Confirmation.

## **2. Scope of Cloud Services**

- 2.1 The Customer shall have access and be entitled to use the Cloud Services as specified in the Product Definition as of the Start Date. The Cloud Services may only be used within the agreed limitations as set out in the Product Specification or otherwise communicated by Smartsign. The scope of the Cloud Services and other terms for use of the Cloud Services are specified in the Product Definition. The service is conditioned upon Smartsign accepting the order from the Customer and providing a Product Confirmation to the Customer.
- 2.2 The Customer hereby gives Smartsign a general approval to use subcontractors for the provision of Cloud Services.
- 2.3 The Cloud Services are administered and produced on Smartsign’s premises and provided to the Customer via the Supplier’s system. The Cloud Services does not include on-site work at the Customer’s premises or similar, unless otherwise agreed by the Parties. The Agreement may include on-site installation rights for certain software (“Local Use”) if specified in the Product Definition. In such case, Smartsign is not responsible for installation or work at the premises of the Customer. Customer is solely responsible for all equipment required for Local Use.
- 2.4 The Customer may not sub-license, distribute, transfer, assign or otherwise permit a third party to, directly or indirectly, with or without remuneration, dispose of or otherwise use the Cloud Services.
- 2.5 Although Smartsign will undertake all reasonable efforts in order to minimize disturbances in the Cloud Services and/or Smartsign’s systems, the Customer is aware and accepts that the Cloud Services may be unavailable from time to time due to planned or unplanned shutdowns for necessary service and maintenance of the Cloud Services and/or Smartsign’s systems.
- 2.6 The Customer acknowledges that the maximum storage capacity and/or bandwidth for each user account is limited as set out in the Product Definition. Furthermore, Smartsign reserves the right to in its sole discretion, adjust the maximum storage limit of any user account, at any time without prior notice.
- 2.7 The Customer is solely responsible for any data or other content used or processed within the Cloud Services. The Customer is furthermore responsible

for acquiring such Third Party Software which is not explicitly included in the delivery under this Agreement.

- 2.8 The Customer acknowledges that Smartsign reserves the right to access Customer Data on suspicion of breach of law or the Agreement or to administer and provide the Cloud Services in accordance with the Agreement.

### **3. Smartsign's obligations**

- 3.1 As of Start Date, Smartsign undertakes to provide the Cloud Services in accordance with the Agreement.
- 3.2 Smartsign shall, at its own expense and decision, update and upgrade the Cloud Services and any software explicitly included in the Product Confirmation, if Smartsign deems such update to be necessary for the provision and performance of the Cloud Services in accordance with the Agreement.
- 3.3 Smartsign undertakes to notify the Customer within reasonable time prior a planned shutdown of the Cloud Services and to within a reasonable extent protect the Customer Data from third party access.
- 3.4 If Smartsign engages a subcontractor to perform any of the contractual obligations under this Agreement, Smartsign shall be liable for such subcontractor's performance.

### **4. Customer's obligations**

- 4.1 The Customer agree to: (i) pay all fees in advance in accordance with the Agreement; (ii) make backup copies of the data entered into Smartsign's systems or the Cloud Services; (iii) ensure access to such software and equipment required to use the Cloud Services in accordance with Smartsign's instructions, (iv) at all times have access to proper communication services as instructed by Smartsign; (v) make sure that the data entered into Smartsign's systems is in the format agreed between the Parties and virus-free, and not in any other way capable of damaging or negatively affecting Smartsign's systems or the Cloud Services; (vi) immediately hand over any information or documentation regarding the Cloud Services which Smartsign requires; (vii) follow Smartsign's instructions for the use of the Cloud Services; (viii) reasonably assist Smartsign and take any necessary actions that are reasonably required in order for Smartsign to fulfil its obligations under the Agreement; and (ix) not to publish, or otherwise distribute, content or information through the Cloud Services that infringes or is in breach of third party rights, applicable laws or regulations, the Agreement or that may be considered as abusive or offensive.
- 4.2 The Product Confirmation and other instructions provided to the Customer by Smartsign in accordance with clause 5 (Start of Services) shall be kept in a secure manner by the Customer in accordance with clause 14 (Confidential Information) below. The Customer is responsible for that login information and other

instructions are only distributed to duly authorized users. The Customer undertakes to immediately notify Smartsign if an employment ceases for an employee holding login information or other instructions or if anyone else has or is suspected to have unauthorized access to login information or other instructions. The Customer is fully responsible for users' use of the Cloud Services.

- 4.3 The Customer is aware that the Cloud Services are only to be used in accordance with this Agreement and applicable law and the Customer undertakes to indemnify and hold Smartsign, its licensors and business partners, harmless from and against any and all cost, damages, liabilities, expenses (including reasonable attorney's fees) and claims from any third party regarding the Customer's use of the Cloud Services or the use of the Cloud Services in violation of this provision, including but not limited to, claims regarding infringement of third parties' intellectual property.

## **5. Start of Services**

- 5.1 Smartsign shall provide the Customer with the Cloud Services from the Start Date by providing the Customer with the Product Confirmation and other instructions available. The Start Date occurs upon Smartsign providing the Product Confirmation to the Customer without requiring any approval or acceptance from the Customer.

## **6. Changes and Additions**

- 6.1 Smartsign is entitled to make changes and amendments to the Cloud Services. Smartsign shall without delay notify the Customer if the change or amendment implies a change of the specification of the Cloud Services, the fees for the Cloud Services and/or delay of the Start Date (e.g. by publishing information on Smartsign's website). If the Customer does not accept the change or amendment notified by Smartsign, the Customer is entitled to terminate the Agreement no later than three (3) months after the change or amendment enter into force.

## **7. Price and payment**

- 7.1 The Customer shall pay all fees in advance for the time period set out in the Product Definition. In the event the Product Definition does not specify the remuneration, the Customer shall pay the price set out in Smartsign's from time to time applicable price list for the provision of the services.
- 7.2 Invoices which are not paid in advance are to be paid within 30 days from the invoice date.
- 7.3 Smartsign is entitled to interest on overdue payments in accordance with the Interest Act (1975:635) in the event of late payments by the Customer.

- 7.4 If the Customer is in delay with the payment of the fees indicated above, Smartsign is entitled to withhold its performance under the Agreement until full payment is made. Furthermore, clause 16 (Term of the Agreement and Termination) applies.
- 7.5 If, during the term of the Agreement, there are any changes in laws, regulations, decisions of authorities, decisions on new or changed taxes or public fees or if the practice of the courts in any respect affects the provision of the Cloud Services, Smartsign is entitled to raise the fee for the Cloud Services in order to cover Smartsign's increased costs.
- 7.6 If Smartsign is incurred with additional work or additional costs due to circumstances that the Customer is liable for, Smartsign is entitled to remuneration of such costs in accordance with Smartsign's from time to time applicable price list.
- 7.7 If the Agreement is automatically extended for a successive period, Smartsign has the right to adjust its prices in accordance with its from time to time applicable price list.

## **8. Deficiency in Service Levels**

- 8.1 If applicable, the Cloud Services shall be provided in accordance with the Service Levels stated in the Product Definition.
- 8.2 If the Cloud Services do not meet the agreed Service Levels, the Customer is entitled to a deduction of the fees for the Cloud Services in accordance with the Product Definition ("Service Level Penalty"). If the parties have agreed upon such Service Level Penalty, the Customer shall not be entitled to any other remedy due to delay in or non-delivered Cloud Services, unless intent or gross negligence is at hand. The Service Level Penalty is limited according to what is specified in the Product Definition.
- 8.3 If there is a defect in the Cloud Services that Smartsign is liable for and such Service is not subject to a specific Service Level, Smartsign undertakes to, as soon as the circumstances so require, considering the nature of the defect and any other circumstances, at its own expense rectify the defect.
- 8.4 If the parties have not specifically agreed upon such Service Level Penalty, the Customer shall be entitled to a reasonable deduction of the fees for the Cloud Services during the period the reduced Service Level remains.
- 8.5 Smartsign's obligations in accordance with clause 8 are only applicable if the Customer has met all the undertakings stated in clause 4 (Customer's Obligations) above. Further, Smartsign is not liable for deficient fulfilment of agreed requirements if the deficiency is directly or indirectly caused by: (i) the Customer or circumstances for which the Customer is responsible; (ii) interruption of communications services; (iii) planned shutdowns of the Cloud Services due to maintenance and support of the Cloud Services and/or

Smartsign's systems; or (iv) circumstances which Smartsign has not reasonably been able to avoid, including, but not limited to, force majeure in accordance with clause 14 (Force Majeure) below, viruses and other external attacks.

- 8.6 Smartsign's responsibility in accordance with clause 8 is applicable only if: (i) the Customer notifies Smartsign of the defect in the Cloud Services within thirty (30) days after the Customer became aware of or should have become aware of the defect; and (ii) the Customer provides Smartsign with the data necessary for Smartsign to analyze and reproduce the defect.
- 8.7 This clause 8 constitutes Smartsign's only obligations and the Customer's sole remedy in case of defects and delays in the Cloud Services.

## **9. Intellectual Property Rights**

- 9.1 Smartsign and/or Smartsign's licensor retains ownership and holds all rights, including all intellectual property rights, to the Cloud Services and therein included software and materials, or other data, made available by Smartsign through the Cloud Services, including but not limited to patents, copyrights, design rights and trademarks. Nothing in this Agreement shall be interpreted as a transfer of such rights, or part thereof, to the Customer.
- 9.2 The Customer is responsible for ensuring that it has sufficient rights to use the data processed in the Cloud Services and to any Third Party Software or other equipment or material needed for the use of the Cloud Services.

## **10. Personal Data**

Upon usage of the Cloud Service and other systems provided by Smartsign under the Agreement, the Customer is deemed data controller responsible for the processing of personal data in accordance with the General Data Protection Regulation (EU) 2016/679) and applicable data protection legislation. To the extent Smartsign processes personal data on behalf of the Customer, the Parties shall enter into the Data Processing Agreement ("DPA") attached to this Agreement as Schedule [x].

## **11. Customer Data**

- 11.1 The Customer shall have all rights to, and be the owner of, information belonging to the Customer uploaded and stored in Smartsign's systems by the Customer via the Cloud Services ("Customer Data") and no rights or ownership of Customer Data, or part thereof, shall be transferred to Smartsign under this Agreement.
- 11.2 Unless otherwise provided for in the Agreement, Smartsign is entitled to remuneration for transfer of data to the Customer during the term of the Agreement in accordance with Smartsign's current price list at the time of the transfer.

## **12. Limitation of Liability**

- 12.1 In no event shall Smartsign be liable for indirect damages, including, but not limited to, the loss of profit, revenue, savings or goodwill, losses due to service outages or loss of data, computer failure or malfunction, the Customer's obligation to compensate a third party, or any other indirect or consequential damage of any kind arising out of or in connection with the Cloud Services.
- 12.2 Smartsign's aggregate and total liability under this Agreement in respect to one or more events or series of events (whether related or unrelated) shall under no circumstances exceed 50 % of 12 months fees for the Cloud Services.
- 12.3 The Customer shall, in order to not lose his right, make claims for damages no later than three (3) months after the Customer discovered or should have discovered the basis for the claim, but no later than six (6) months from the damage occurred.

## **13. Declaration of Rights**

- 13.1 The Party providing material is responsible for ensuring that the Party has obtained the necessary rights for the relevant use from the right holder.

## **14. Force Majeure**

- 14.1 If a Party's performance of an undertaking under the Agreement is prevented or effected due to circumstances beyond the control of such Party, including but not limited to: changes in legislation, labor disputes, mobilization or military call-up of larger scope, government regulations, restrictions on driving force, goods and energy, massive power failure, or failure or delay in deliveries from subcontractors due to circumstances that are specified here, this shall constitute a ground for relief of obligations and exemption from sanctions, provided that the Party that is unable to fulfill its obligations immediately notifies the other Party thereof. If the fulfillment of obligations is prevented more than six (6) months, either party may terminate the Agreement.

## **15. Confidential Information**

- 15.1 Each Party undertakes to not disclose information about the other Party's business that may be considered to be business or trade secrets or that is subject to confidentiality according to law ("Confidential Information"). Information stated to be confidential shall always be considered Confidential Information.
- 15.2 A Party is liable for his and his employee's respective compliance with the provisions stipulated herein and shall through confidentiality obligations or other appropriate measurements ensure that the Agreement's confidentiality is observed.



- 15.3 A Party's undertaking of confidentiality in accordance with clause 15 shall not apply to Confidential Information which (i) is already known by the recipient when received; (ii) is or has become public knowledge other than by breach of the confidentiality clause in this Agreement; (iii) the receiving party has received in a permissible way from a third party that is under no obligation of confidentiality in relation to the disclosing party; or (iv) the receiving party is obliged to make the information publicly available due to a court order, a decision by a public authority or as otherwise required by mandatory law.
- 15.4 The parties' undertakings of confidentiality under the Agreement shall be valid during the term of this Agreement and continue for a period of five (5) years after expiration or termination of the Agreement.

## **16. Term of Agreement and Termination**

- 16.1 This Agreement shall be in effect during the term stated in the Product Definition.
- 16.2 Each Party has the right to, through written notice to the other Party, terminate the Agreement in advance with immediate effect: (i) if the other Party has committed a material breach of the Agreement and has not rectified the same within thirty (30) days after receipt of a written notice thereof; or (ii) if the other Party is declared bankrupt, enters into liquidation, enters into reorganisation, suspends its payments or if it otherwise can be deemed to be insolvent.
- 16.3 In the event of termination as set out in clause 16.2 above the Customer shall not be entitled to recover any excess amount of the fees paid in advance or any other costs relating to time after the termination of the Agreement.
- 16.4 Upon termination or expiration of this Agreement, for any reason, the Customer must cease and desist from accessing and using the Cloud Services.

## **17. Winding up**

- 17.1 Upon termination of the Agreement, Smartsign shall, to a reasonable extent and at Customer's cost, assist the Customer in transferring the Customer Data to the Customer or to a third party supplier designated by the Customer, with the least possible disturbance for the Customer.
- 17.2 Smartsign shall have the right to compensation for work done in accordance with clause 17.1 above, based on Smartsign's price list for corresponding services at the time of the transfer.

## **18. Notifications**

- 18.1 Termination or other notifications shall be made by messenger, registered letter, fax or electronic message to the Parties' appointed e-mail address or other address.

- 18.2 The notification shall be deemed to have reached the recipient: (i) if delivered by messenger: at the time of delivery; (ii) if sent with registered mail: two (2) days after delivery by post; (iii) if sent by fax; by the receipt when the fax message has reached the fax of the recipient subject to the fact that the sending party also has sent the fax message by mail the same day; or (iv) if sent as electronic message; upon the receipt when the electronic mail has reached the electronic address of the recipient.

## **19. Miscellaneous**

- 19.1 In case of any inconsistency between these General Terms and Conditions and the Cloud Services Agreement, the Cloud Services Agreement shall prevail.
- 19.2 The Agreement, including Product Definition, forms the Parties' entire understanding of all the questions in the Agreement. All written or oral representations or warranties prior to the Agreement are replaced by the Agreement.
- 19.3 Any amendment or modification to the Agreement shall be issued in writing and signed by both Parties in order to be binding.
- 19.4 The Customer may not assign the Agreement to a third party without Smartsign's prior written approval. Smartsign is entitled to assign the Agreement and its rights and obligations therein to a third party.
- 19.5 Smartsign may use information about the Customer's use of the Cloud Services, and the Customer's units, including the IP address and software registration information, for the purposes of operation, maintaining and/or improve customers' access and use of the Service and identification and authentication of the Customer's use of the Cloud Services. Furthermore, for the purpose of developing, providing, operating, maintaining and/or improving its products and services, the Customer acknowledge and agree that Smartsign may use device information and cookies and other commonly used data gathering tools to collect, compile, analyze, copy and distribute statistical data, trends and usage information respecting use of the Cloud Services. In addition, Smartsign has the right to publicize information regarding the Customer's company name and use of the Cloud Services (e.g. on Smartsign's website and in promotional material).

## **20. Disputes and Governing Law**

- 20.1 The Agreement shall be governed by and construed in accordance with Swedish law, with exclusion of its conflict of law rules.
- 20.2 Any dispute, controversy or claim arising out of the Agreement shall be settled by the court where Smartsign has its legal domicile.
- 20.3 If any disagreements arise between the Parties regarding the Cloud Services under the Agreement the Parties may submit the matter to the decision of the

Swedish Association of Software Industry (SPI), a specially appointed committee for mediation. If the matter has been referred to the board by either Party, the Parties are precluded for a period of two (2) months from the referral to try the issue elsewhere. The costs of mediation shall be divided equally between the parties.

- 20.4 Smartsign shall, without prejudice to paragraph 20.3 above, at its own option be entitled to apply to general court or enforcement service for the recovering of overdue claims for remuneration for which the other party has not raised a written complaint within seven (7) days from the due date for the current claim.

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