

Software License Agreement of Netcloud AG



1 Scope of the Agreement

1.1 This Software License Agreement governs the terms and conditions of use of software developed by Netcloud (hereinafter referred to as licensor) itself and made available to the customer (hereinafter referred to as licensee) for purchase or free of charge.

2 Ownership and Copyrights

- 2.1 All rights to the software are the exclusive property of the licensor. The software can only be used to the intended extent of the licensed applications.
- 2.2 As soon as the software contains components of different manufacturers, all copyrights remain with the creator of the respective component.
- 2.3 The licensee undertakes not to copy the software or make it available to third parties in any other form.
- 2.4 The licensee is furthermore not permitted to transfer or make the software available to third parties, either against payment or free of charge.
- 2.5 Licensee is not permitted to modify, implement or convert the software.
- 2.6 All copyrights, trademarks or other intellectual property rights in or to the software shall remain the sole property of licensor.

3 Scope of Services

- 3.1 Licensor grants licensee a non-transferable right to use the software, but only for licensee's own use. The payment of the license fee only covers the rights of use.
- 3.2 Further services such as training, troubleshooting, further development of the software, etc. are subject to a fee.

4 Support and Maintenance

- 4.1 The provision of support and maintenance services by the licensor is defined in the individual agreement.
- 4.2 If there is no support and maintenance agreement, the remedy of faults on behalf of the licensee shall be performed based on the applicable hourly rates.

5 Liability

- 5.1 According to the current state of the art, it is not possible to develop complex software in such a way that it is completely free of technical errors. The agreed quality is not the complete absence of errors in the program, but only that the software does not have any program errors that more than slightly impair its usability.
- 5.2 A warranty is excluded if the non-fulfilment was caused by a modification, alteration or addition to the software not made by the licensor, by improper use or damage to the software or by use of the software together with other programs or on devices, which are incompatible.
- 5.3 Licensor shall be liable to the extent of the respective contract value, up to an upper limit of one million Swiss francs, for direct damages incurred by licensee in the event of a gross software error on the part of the licensor, if the licensee can prove fault on the part of the licensor. Any further liability, in particular for slight negligence, for indirect or consequential damages, such as loss of profit, additional expenses or personnel costs of the licensee, unrealized savings, claims by third parties or loss of data as well as liability for auxiliary persons and damages from delayed performance, is expressly excluded to the extent permitted by law.

6 Place of Jurisdiction and Applicable Law

- 6.1 Place of jurisdiction is Winterthur.
- 6.2 The legal relationship is exclusively subject to Swiss law, excluding the Vienna Sales Convention (WKR).
- 6.3 Should parts of this license agreement or the contracts or supplements be null and void or become legally ineffective, the remaining parts and provisions shall continue to apply. The void or legally ineffective parts of the license agreement or individual contracts or supplements shall in this case be interpreted in such a way that the whole meaning remains intact.

7 Adjustments to the Software License Agreement

- 7.1 Licensor reserves the right to change this Software License Agreement at any time. Changes shall be effective upon publication on the licensor's website. The latest Software License Agreement can be viewed at any time on www.netcloud.ch/swen.

Netcloud AG, December 2018

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