

## IMPORTANT NOTICE

By accepting the My Swiss Keeper Solution General Terms & Conditions (**GTC**), you enter into a binding agreement with My Swiss Keeper SA (CHE-331.822.927), Route de Divonne 50A, 1260 Nyon, Switzerland (**MSK** or **us**).

Please read the GTC carefully. They contain important information on your rights and obligations when using the MSK solution (the **Solution**). These rights and obligations will depend on the role for which you participate in the Solution:

- **Keepers:** Keepers are partners of MSK and have received from us the right to invite their clients to join the Solution as Holders. Keepers can for instance be lawyers, accountants, family offices, trustees, or property management companies.
- **Holders:** holders are the clients, beneficiaries or principals of a Keeper who have been invited by such Keeper to use the Solution to share documents and communicate.
- **Authorized Users:** Keepers and Holders may sometime authorize related individuals to access the Solution on their behalf (for instance the employees of a family office, or the advisors of a Holder).

If you are accessing the Solution as a Holder (or as an Authorized User for a Holder), read the following carefully: Although you are using the Solution because you have been invited by your Keeper, the Solution is exclusively provided by us (MSK). Your Keeper is not a contractual party to your agreement for the use of the Solution, and may not be held responsible in case of defects or deficiencies affecting it.

We will charge the Keeper directly for your use of the Solution. Depending on your agreement with your Keeper, your Keeper may decide to cover such charges or to pass them over to you in all or in part.

The Solution allows you to share information with your Keeper, and your Keeper may also share information with you. To the extent that such information is privileged or otherwise protected by professional secrecy, you explicitly allow your Keeper to upload such privileged information on, and transfer it through, the Solution. For more information on how we share your information, see section 7 of our privacy notice. We are not responsible for how your Keeper uses the information you share on the Solution.

Security is in the DNA of the Solution. We apply strong encryption techniques to protect the information you or your Keeper store on the Solution.

## **My Swiss Keeper Solution | General Terms & Conditions**

These general terms and conditions v.2.0 (**GTC**) form together with the terms of any subscription confirmation referencing these GTC and any schedule thereto (**Schedule**) a legal agreement (**Agreement**) between My Swiss Keeper SA (CHE-331.822.927), Route de Divonne 50A, 1260 Nyon, Switzerland (**Provider**) and any user of the My Swiss Keeper Solution, a secured ecosystem dedicated to private data storage and confidential file-sharing (the **Solution**), whether an individual or a legal entity (**User**; and together with Provider, the **Parties**).

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### **1. Scope and Acceptance**

1.1. In General. These GTC govern User's rights and obligations with respect to the provision by Provider and the access and use by User of the Solution and the services made available through or in connection with it (together with the provision of the Solution, the **Services**), with the functionalities, modules and limitations applicable to the plan subscribed by User (**Subscription Plan**).

1.2. Categories of Users. The Solution may be used by the following categories of Users:

- a) **Keepers:** partners of Provider which are authorized to invite their clients, principals or other persons with whom they interact in a similar relationship (such as the beneficiaries of the trust for which they act as trustee, or the owners of the real estate they manage) to join the Solution as Holders to allow them to receive documents and messages;
- b) **Keeper Authorized Contributors:** employees and other individuals within the organization of a Keeper who are authorized by the Keeper to access the Solution in relation to one or several Holders;

c) **Holders:** any person who has subscribed to the Services after being authorized to use the Services by a Keeper or a Keeper Authorized Contributor;

d) **Holder Authorized Users:** individuals who have been authorized to use the Services by a Holder.

Unless otherwise specified, the provisions of these Terms and Conditions apply to all Users. Provider may apply technical limitations to the use of the Services by certain categories of Users.

1.3. **No Further Obligation.** Provider shall have no obligation to provide any service or software which are not expressly specified in these GTC.

1.4. **Acceptance.** By subscribing for, setting up an account or logging in for the use of the Solution, User expressly agrees to be bound by the terms hereof. For the avoidance of doubt, if User is a legal entity, any subscription for the use of the Services by any of User's employees, agents or representatives, on behalf of User, is deemed as acceptance of the terms of these GTC by User. If you are subscribing for the use of the Services or using them on behalf of a legal entity, you represent and warrant that you are duly authorized to do so.

1.5. **Additional Terms.** Specific Services may be subject to additional terms and conditions, in which case use of those Services will require acceptance of those.

## 2. Right to Access and Use

2.1. **In General.** Subject to User's compliance with all terms and conditions of these GTC, Provider, grants to User, during the Term, a revocable, non-exclusive and non-transferable right to access and use the Solution and the content displayed on the Solution by Provider (the **Content** and together with the Solution, the **Licensed Products**), strictly in accordance with these GTC and the documentation provided by Provider.

2.2. **Users.** Except as stipulated otherwise in these GTC, User is expressly prohibited from using the Licensed Products on behalf or for the benefit of any third parties, or to sublicense the Licensed Products to any third party, without Provider's express prior written consent. User shall in addition comply with the following restrictions:

a) **For Keepers.** Keepers shall use the Licensed Products only for their own business purposes relating to the Holders they have invited to the Solution. If Keeper is a legal entity, its account shall only be used by its Keeper Authorized Contributors and Keeper shall take appropriate steps to ensure compliance with the GTC by such individuals. Keeper may not invite persons from outside its organizations to join as Keeper Authorized Contributors.

b) **For Keeper Authorized Contributors.** Keeper Authorized Contributors shall use the Licensed Products strictly on behalf of the Keeper to which they are affiliated or for their own business purposes in relation to their own clients enrolled as Holders.

c) **For Holders.** Holders shall use the Licensed Products for their own personal needs only. Holders may authorize Holder Authorized Users to access their documents and messages on their behalf, in which case Holders shall take appropriate steps to ensure compliance with the GTC by their Holder Authorized Users.

d) **For Holder Authorized Users.** Holder Authorized Users shall use the Licensed Products strictly in accordance with the instructions of the Holder to which they are affiliated.

2.3. **Metrics.** If the use of the Licensed Products is subject to specific restrictions (e.g. limited number of concurrent users or devices, named users, or other limitations), as specified in the Subscription Plan or the documentation provided by Provider, User must use the Licensed Products strictly in accordance with such restrictions.

2.4. **Limited Licenses.** If specified by Provider, and always subject to User's compliance with all other terms and conditions of these GTC, Provider may make the Licensed Products available under limited licences, subject to the following additional conditions and limitations:

a) **Free Access.** Provider may offer a free access to the Solution, but which have limited features, functionality, and volume tiers for the Licensed Products (**Free Plans**). Provider may modify the Free Plans at any time in its sole discretion or even discontinue them entirely without prior notice to User.

b) **Trial License:** The Licensed Products may be made available for free (or at a reduced rate, if so specified) for a limited period of time not exceeding 30 days – at which time the license shall automatically end unless the User purchase a full license – exclusively for the purpose of the Solution' evaluation in view of the acquisition of a full licence (the **Trial Licenses**).

c) **Beta Services.** From time to time, Provider may make *Beta Services* available to User at no additional charge. **Beta Services** are new or different Services, or functionality thereof, made available to users for testing and evaluation, such as pilot, limited release, early access, etc. and are clearly designated as beta or by a similar description. User may choose to use such Beta Services in its sole discretion. Beta Services are intended for evaluation purposes and not for production use, are not fully supported and may be subject to additional terms that may be

presented to User. Beta Services are provided on an “as-is” and “as available” basis without any warranty, support, maintenance, storage, service-level agreement or indemnity obligation of any kind and so, which are hereby disclaimed notwithstanding anything to the contrary in the Agreement. For the avoidance of doubt, all restrictions and User's obligations in the Agreement shall also apply to Beta Services. Provider may discontinue Beta Services at any time in its sole discretion and may never make them generally available.

- 2.5. **No Delivery.** The Solution is provided as a SaaS offering (Software as a Service); therefore, Provider shall only grant to User a right to access and use the Solution and shall not deliver any copy of the Solution.
- 2.6. **Developments.** If, in connection with the Services, Provider customizes, develops or makes available additional features for, respectively provides patches, bug-fixes, updates or upgrades to the Solution and/or Content (**Developments**), such Developments shall automatically become part of the Licensed Products, unless otherwise stipulated by Provider.
- 2.7. **Changes.** User acknowledges that Provider may implement modifications to the Solution or Content which may include modifications to the layout or functionalities of the Solution as Provider determines, and Provider will have the unfettered right to remove any Content from the Solution or change its functionalities at its sole discretion.

### 3. Account and Credentials

- 3.1. **Account.** In order to access and use the Solution, User shall have created a personal account (the **Account**) and be logged-in to such Account. To create an Account, User must:
- be an individual who is 18 years or of legal age in User's country of residence if such age exceeds 18;
  - have received from Provider or a Keeper initial credentials for registration of their Account;
  - For Keeper Authorized Contributors: be and remain (i) an employee, service provider, agent or representative of a Keeper and (ii) authorized by the Keeper to access and use the Solution;
  - if the Account is created for a legal entity, be duly authorized to do so;
  - provide the information required during registration;
  - not be subject to any sanctions, embargos or similar measures imposed by Switzerland or otherwise applicable to User; (iii) and

- meet any further obligations, as may be imposed by Provider from time to time.

User warrants that all information provided in the registration process or otherwise is true and accurate. User shall keep such information up to date at any time. Access to the Solution may be restricted or suspended during the period in which the Provider checks or reviews the information received.

Keeper shall be responsible for ensuring that all its Keeper Authorized Contributors and Holders meet the above conditions.

- 3.2. **Users Credentials.** If Provider issues user credentials on a named user basis, such user credentials shall be used exclusively by the individual users for which they have been issued.
- 3.3. **Confidentiality.** User shall be fully responsible for the confidentiality of any user credentials issued by Provider and immediately inform Provider of any loss or unauthorized disclosure of such user credentials, which shall then be deactivated and replaced by Provider. Provider may charge an appropriate fee for the replacement of any user credentials. User shall further immediately notify Provider if any named user for whom Provider has issued user credentials quits User's organization.

### 4. Availability; Maintenance and Other Services

- 4.1. **Availability of Licensed Products.** Provider shall use reasonable endeavors to maintain the availability of the Licensed Products, but does not guarantee their full availability.
- 4.2. **Maintenance Services.** As part of the provision of the Licensed Products, Provider shall continuously seek to identify and attempt to resolve problems which may negatively affect the proper functioning and availability of the Licensed Products (the **Maintenance Services**). Provider will use its best efforts to deploy the Maintenance Services without interrupting the Solution and to intervene outside the hours 9 a.m.-12 p.m. 2 p.m.-6 p.m. CET on weekdays.

Although Provider will continuously improve the Licensed Products, User is not entitled to claim under the Maintenance Services any further development, adaptation or improvement of the Licensed Products, as well as additional services (which may, as the case may be, be provided under Section 7.4). Provider welcomes feedback and undertakes to take into consideration the evolution requests formulated by User, but does not commit on the realization of these requests.

Requests pertaining to technical issues affecting the Solution may be sent to Provider's support team by email at [contact@myswisskeeper.com](mailto:contact@myswisskeeper.com).

- 4.3. **Additional Services.** Provider may agree to provide additional Services, subject to the Parties entering into an ad hoc agreement (which shall,

unless specified otherwise, be governed by these GTC).

- 4.4. Diligence. Provider shall provide the Services to the best of its ability using all reasonable skill and care in accordance with standard professional practice. Provider shall be bound by an obligation of means (and not to deliver a specific result).

## 5. User's Obligations

- 5.1. Proper Use. User shall at all times comply with all laws and regulations applicable to the use of the Services, as well as the conditions and limitation of any license or other right granted, as set out in the Agreement or as otherwise specified in writing by Provider. In particular, User shall not, without the prior consent of Provider, and either during or after the Term:

- a) use the Services for any illegal purposes, or for any military or similar purposes; without limitations, Users are not authorized to use the Services to store or transfer any information pertaining to technologies or goods which are subject to international export controls rules;
- b) republish or redistribute any Content or material from the Services;
- c) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services or of their infrastructure;
- d) make any alteration to the Services, or insert any malicious software into the Solution or its infrastructure;
- e) access the Solution's code, attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Solution or its infrastructure
- f) access or use any part of the Services for the purpose of building a competitive product or service or copying their features or user interface;
- g) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make any part of the Services or of their infrastructure available to any third party other than another User duly authorized hereunder.

- 5.2. User's infrastructure. User shall procure and maintain at its costs an infrastructure that complies with the minimum requirements for the use of the Solution, as specified from time to time by Provider in the Solution's documentation.

- 5.3. Licenses and Authorization. User shall maintain all permits and licenses that are required for the use of the Services.

- 5.4. Verifications. The Licensed Products may contain tools allowing Provider to verify User's compliance with these GTC and Provider shall

have the right to temporarily or permanently suspend the access to the Services and Solution and/or deactivate any user credentials issued for the use thereof in case of none compliance with these GTC.

- 5.5. Failure to perform. In case of default by User to comply with its obligations set forth in these GTC, Provider shall be excused from the performance of its obligations under the Agreement to the extent affected by the default and assume no liability in relation therewith (without prejudice to Provider's other rights under this Agreement).

- 5.6. Suspension of Services. The continued use of the Services is subject to the conformance by User with its obligations, including the timely payment of all the Fees (as per Section 9 GTC). Provider may temporarily stop providing the Services or suspend any access to the Solution to User (i) immediately in case of breach of Sections 3.1, 5.1, 7, or 11 GTC by User or (ii) in case of any other failure to comply with the Agreement, 15 days after User's receipt of written notice of the failure.

Holders acknowledge that their access to the Services is dependent on the timely payment by their Keeper of the applicable Fees.

## 6. User Content

- 6.1. User Content. Users may provide documents, information and other data through their use of the Solution (**User Content**).

- 6.2. Ownership. As between the Parties, User Content is and shall remain the sole and exclusive property of User and nothing herein shall be construed or interpreted as a transfer of ownership of any User Content to Provider. User Content shall be deemed User's Confidential Information, as defined below.

- 6.3. Data Localization. Provider shall always store User Content exclusively on servers located in Switzerland.

- 6.4. Security and access by Provider. Provider uses strong encryption processes to protect the User Content. As a result, Provider has no access to the content or private encryption keys of Users as part of the normal operation of the Solution. The User Content of a Holder is private and only such Holder and the recipients duly authorized by such Holder have access to it. Provider will not exploit, sell or otherwise commercialize the User Content. Provider may only access User Content in response to a valid legal request (as per Section 11.4).

- 6.5. Warranty. User warrants that (i) it has valid grounds and, if required, it has obtained all authorizations and consents for the processing of any User Content within the frame of these GTC and (ii) User Content does not infringe on any law or regulation, these GTC, or any third party rights.

Provider may remove any User Content which it considers infringes this warranty.

6.6. Access by User. During the Term and for a period of 90 days thereafter, respectively 30 days for Trial Licenses, User has access to its User Content and may download or delete it directly. During any period of suspension of service as per Section and 5.6 GTC, User shall continue to have access to its User Content in read-only mode for a period not exceeding 60 days, respectively 30 days for Trial Licenses, following which access may be suspended until the non-conformance is remedied.

6.7. Deletion by Provider. Upon termination of the Agreement, Provider shall, within reasonable time following a written request by User, permanently delete any copies of such User Content still under its control. In any case, Provider shall be allowed to delete User Content (i) 90 days after termination or non-renewal of the Agreement or (ii) if an account has been inactive for 12 months or more.

## 7. Provider Intellectual Property

7.1. In General. As between Provider and User, Provider shall be and remain the sole owner of all rights, title and interest, registered or not, whether arising from Swiss or any other national or international legislation, in copyright, databases, trademark, domain names, designs and patents of invention, know-how, confidentiality and/or business secrets, and all other intellectual property or similar proprietary rights of whatever nature (**Intellectual Property Rights**) in and to the Solution, any Development, the Content, and other Services provided in connection therewith, except only for User Content. Nothing in these GTC shall operate any assignment or transfer of any Intellectual Property Rights to User.

7.2. Notice of Infringement. Should User become aware of any infringement or imminent risk of any infringement of any Intellectual Property Rights pertaining to the Services, User shall immediately inform Provider and provide all useful information on such infringement or risk of infringement. Provider shall have the exclusive power to decide on any action to be taken with respect to such infringement or risk of infringement. User shall, at its own costs, provide Provider with all reasonable assistance required by Provider to protect its Intellectual Property Rights, in accordance with its instructions.

7.3. Intellectual Property Rights Infringement. In the event that Provider is enjoined from providing the Services due to any third-party Intellectual Property Rights claims and such injunction is not dissolved within 30 days, or in the event that User is adjudged, in any final order of a court of competent jurisdiction from which no appeal is taken, to have infringed upon or misappropriated any third-party Intellectual Property Rights due to the use of the Services as permitted hereunder,

then Provider shall, at its expense: (a) obtain for User the right to continue using such Services; (b) replace or modify such Services so that they do not infringe upon or misappropriate such Intellectual Property Rights and are free to be used by User; or, (c) in the event that Provider is unable or determines, in its reasonable judgment, that it is commercially unreasonable to do either of the aforementioned, Provider may terminate the Agreement, with immediate effect, reimbursing User any prepaid Fees for the period during which the latter is thus unable to use the Services, as its sole and exclusive remedy.

7.4. Relief. User expressly acknowledges that any infringement of Provider's Intellectual Property Rights will cause irreparable harm to Provider, for which monetary damages alone would be inadequate, and that Provider may thus seek injunctive relief or any other remedy available at law in any jurisdiction, in case of such infringement.

## 8. Third-Party Content

8.1. In General. The Services may contain Content and/or software components incorporated into the Services or provided therewith, developed, distributed and/or licensed by third parties (**Third-Party Content**). Such Third-Party Content shall be licensed, and User shall use such Third-Party Content under, and strictly in accordance with, the applicable terms and conditions by the respective third-party. Provider shall use its best efforts to identify any Third-Party Content in the documentation of the Services.

8.2. OSS. Nothing in these GTC shall restrict, limit or otherwise affect any rights or obligations that User may have, or conditions to which User may be subject, under any applicable open source licenses to any open source software which may be incorporated in and/or provided together with the Services.

## 9. Financial Terms

9.1. Fees. As between the Parties, the fees for the use of the Solution and Services (the **Fees**) shall be paid by Keeper on behalf of its Keeper Contributor Users and their Holders.

9.2. Changes. Provider may from time to time modify the pricing of its services or the content of its subscription plans, e.g. by adding new services for additional Fees, or amending current plans, provided that if the change concern User's current Subscription Plan, Provider will notify User in advance and the increase in Fees shall only become effective upon the forthcoming Renewal Term of the Subscription Plan. If User's subscription model is no longer available, the subscription shall automatically be transformed into a subscription under the next closest subscription model existing as of the Renewed Term, as advised by Provider in its notice to User.

- 9.3. Legacy Services. From time to time Provider will cease to offer certain Subscription Plans. Provider shall use commercially reasonable efforts to support such legacy Subscription Plans until the end of the term during which the Subscription Plan is deprecated or as otherwise terminated. Notwithstanding the foregoing, Provider reserves the right to discontinue supporting legacy Subscription Plans at any time without prior notice.

## 10. Data Protection

- 10.1. Provider's privacy notice. Provider has issued a privacy notice, accessible at [www.myswisskeeper.com/privacy-notice-solution/](http://www.myswisskeeper.com/privacy-notice-solution/) (**Privacy Notice**), which describes how personal data is collected through the Solution and for what purposes. That privacy notice, as amended from time to time, forms an integral part of these GTC.

- 10.2. Sub processing. If the provision of the Services implies the processing by Provider of (i) any personal data upload by or on behalf of a Keeper, a Keeper Authorized Contributor, or their Holders (**Uploaded Personal Data**), in particular as part of User Content, Provider and User shall fully comply with their respective obligations under applicable data protection laws and regulations

a) Roles. In such cases, Provider shall process Uploaded Personal Data as data processor, exclusively for the purpose agreed in these GTC and only to the extent necessary to fulfill the obligations hereunder, in accordance with Keeper's instructions, which shall act as data controller. Provider may contact Users via email or otherwise to provide them with information relevant to their use of the Services, regardless of whether they have opted in to receiving marketing communications or notices.

b) Keeper's Obligations. Keeper shall ensure, that such Uploaded Personal Data has been collected and transferred to Provider in strict compliance with the applicable data protection or data privacy laws and regulations. In particular, Keeper shall:

- have, and maintain at all times, valid grounds for the processing of such personal data, including obtaining valid consent from the data subjects for the processing of their personal data, if such consent is required under the applicable data protection legislation;
- have adopted and implemented appropriate technical and organizational measures to protect such personal data; and
- provide adequate information to data subjects about the collection and processing of their personal data;

c) Responsibility. Keeper shall bear sole responsibility for the processing of Uploaded Personal Data, if any, within the frame of the Services. Keeper acknowledges and accepts that Provider shall deem any processing of any

Uploaded Personal Data within the frame of the Services, as permitted under the Agreement, as well as any instructions by User with respect to such processing activities as compliant with applicable data protection or data privacy laws and regulations.

d) Compliance Actions. Provider may forward to Keeper any request, investigation or other action by any supervisory authority and/or any third-parties (including data subjects), directed at Provider with respect to the processing of any Uploaded Personal Data, and Keeper shall be responsible for addressing them in accordance with the law (without prejudice to Provider's right to comply with its own obligations). If Provider is required to undertake any compliance action itself, e.g. responding to a request by any supervisory authority or third-party and/or cooperating in investigations, and/or to provide assistance to Keeper, Keeper shall fully indemnify Provider for its effort and costs, including reasonable attorney's fees, incurred in such context.

- 10.3. Usage Personal Data. If Provider processes any other personal data relating to Users, for instance login data (**Usage Personal Data**), Provider shall do so in accordance with data protection laws and its Privacy Notice, as sole data controller thereof. Requests, investigations, or actions relating to Usage Personal Data shall be addressed by Provider only.

## 11. Confidentiality

- 11.1. Definition. **Confidential Information** shall mean any information disclosed by either Party (as the context requires, the **Disclosing Party**) to the other (as the context requires, the **Receiving Party**), either directly or indirectly, in writing, orally, or by inspection of tangible objects that is designated as "confidential", "proprietary", or some similar designation or can reasonably be considered of confidential nature. Confidential Information includes the content of the Agreement, (but not the fact that the Parties are collaborating), all information about the Disclosing Party's business and operations, and more generally all information relating to or owned or controlled by the Disclosing Party of which the Receiving Party shall acquire knowledge in the performance of their agreement. The Solution, the Content and the Services shall be deemed Confidential Information and the property of Provider only, Provider acting as Disclosing Party in relation to such data. Confidential Information shall not, however, include any information which: (i) was made public without restriction prior to the time of disclosure by the Disclosing Party; (ii) becomes publicly known without restriction after disclosure by the Disclosing Party through no action or inaction of the Receiving Party; (iii) is already in the possession of the Receiving Party at the time of disclosure by the Disclosing Party as shown by the Receiving Party's files, records, and/or other

competent evidence immediately prior to the time of disclosure; (iv) is obtained by the Receiving Party from a third party without a breach of such third party's obligations of confidentiality; or (v) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, as shown by the Receiving Party's records.

- 11.2. **Obligation of Confidentiality.** The Receiving Party shall not, and shall cause its employees, agents, subcontractors or representatives not to (a) disclose, sell, license, transfer, or otherwise make available to any person or entity any Confidential Information of the Disclosing Party, except to its employees, agents, subcontractors or representatives having a legitimate need to know such Confidential Information for the performance of the Receiving Party's obligations under the Agreement (and only to such extent), and/or (b) use, reproduce, or copy any Confidential Information of the Disclosing Party, except as necessary to perform its obligations hereunder.
- 11.3. **Ownership and Return.** All Confidential Information shall remain the Disclosing Party's property and all documents, electronic media, and other tangible items or portions thereof, which contain Confidential Information of the Disclosing Party will be delivered to the Disclosing Party promptly upon the Disclosing Party's written request.
- 11.4. **Compliance.** Nothing contained in the Agreement shall prevent Provider or User from complying with applicable laws. The Receiving Party may disclose Confidential Information of the Disclosing Party in connection with subpoenas, court orders, other legal processes, or as otherwise required by law, provided that the Receiving Party gives the Disclosing Party prompt written notice of such requirement (unless expressly prohibited in writing in such subpoena, court order, or other legal process) prior to such disclosure and takes reasonable steps to protect the Confidential Information from public disclosure, and provided further that any such disclosure is limited to the minimum extent necessary to comply with the legal requirement.
- 11.5. **Reliefs.** User acknowledges that breach of its obligation of confidentiality may give rise to irreparable harm to Provider, which might not be adequately compensated in the form of monetary damages. Accordingly, Provider may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, in contract or at law.

## 12. Limited Warranty

- 12.1. Provider is committed to the security of Users Content, and has in place physical, administrative and technical measures designed to keep secure User Content and to prevent unauthorized access to it. In particular, User Content is protected using

strong encryption processes in accordance with good industry practices. Although Provider takes appropriate steps to protect User Content, no IT infrastructure is completely secure and Provider does not warrant that User Content will be protected from unauthorized third-party access and theft. Provider undertakings regarding the availability of the Solution and the provision of ancillary Services are specified in section 4.

- 12.2. Provider provides no other warranties with respect to the Services (including for the avoidance of doubt any Development, the Solution and the Content), whether express, implied or statutory, including any warranties of merchantability, fitness for a particular purpose, quiet enjoyment and non-infringement of third-party rights, and the Services are provided AS IS and AS AVAILABLE. In addition, Provider does neither represent nor warrant that the Services will meet User's requirements, that it will ensure continued compatibility of the Services with any third-party products, even if they were compatible at any given moment, that the Services will always be available and remain available unchanged or that certain subscription models available at any given moment will remain available for renewal at the end of the applicable subscription period.

## 13. Limited Liability

- 13.1. **Principle.** Subject to the limitations specified below, Provider shall be liable to User for direct damages caused by Provider's gross negligence or willful act under the Agreement.
- 13.2. **Exclusions.** To the extent permitted under applicable law, Provider disclaims any liability for simple negligence as well as for any damages or losses, whether foreseen or foreseeable, or whether Provider has been advised of the risk thereof, related to the loss of use, interruption of business, loss of actual or anticipated profit, loss of revenue, loss of anticipated savings, loss of opportunity, loss of goodwill, loss of reputation, loss of, damage to or corruption of data, or any other indirect, special, incidental, exemplary, or consequential damages or losses of any kind, regardless of the form of action, whether in contract, tort, strict liability or otherwise.
- 13.3. **Use of the Services.** The use of the Services is entirely at User's own risk, and Provider expressly disclaims any liability regarding User's use thereof. Without limitation, Users are solely responsible for the content they share with other users through the Solution and the use that it made of such content by their recipients. It is the User's exclusive responsibility to ensure that such recipients will only use the information shared on the Solution for the purpose intended between them. Holders' expressly acknowledge that their Keeper (or the Keeper Authorized Contributors) may be subject to legislation requiring them to collaborate with governmental

entities and that Provider disclaims all liability in such circumstances.

- 13.4. Limited Amount. Without prejudice to the limitations above, Provider's total liability during any period of 12 months shall not exceed the amount of the Fees actually paid by or for User during the 12 months preceding the events giving rise to User's claims.
- 13.5. Auxiliaries. The exclusions and limitations under this Section 13 shall extend to Provider's directors, officers, employees, agents, representatives and auxiliaries.

#### 14. Indemnification

- 14.1. Indemnification. User shall defend, hold harmless from, and indemnify Provider, its directors, officers, employees and auxiliaries, from and against all liability, loss, cost, damage or expense, including reasonable attorney's fees, resulting from (i) User's use of the Services other than as permitted under these GTC and strictly in accordance with any documentation provided for the Services; or (ii) Provider's use of any User Content as permitted hereunder.
- 14.2. Indemnification Procedures. In case of any claims or proceedings made against Provider, its directors, officers, employees or auxiliaries in relation to User's use of the Services or Provider's use of User Material, Provider shall (i) inform User without undue delay; and (ii) allow User to assist Provider in the defense and settlement of such claims or proceedings with a counsel of its choosing and at its own expense, if and as permitted under applicable procedural rules.

#### 15. Term and Termination; switching of Keeper

- 15.1. Entry into Force. The Agreement shall enter into force upon acceptance by User of these GTC pursuant to Section 1.4 above.
- 15.2. Term:
- a) In relation to Keepers, the Agreement shall remain in effect for the initial term indicated in the subscription confirmation form or by any other appropriate means by Provider, as applicable, and in the absence of a term specified, for an initial duration of 3 months, subject to non-renewal or termination in accordance with this Section 15 (the **Initial Term**). The Agreement shall be automatically renewed upon expiry of the Initial Term, or then current renewed term (each a **Renewed Term**, and together with the Initial Term, the **Term**), for consecutive Renewed Term of the same duration as the Initial Term, subject to prior written notice of non-renewal by either Party with a 30-day prior notice.
- b) In relation to all other Users, the GTC shall remain in effect for an unlimited Term until termination of the agreement between Provider and the relevant Keeper or cancelation of their personal account (either by them or the Keeper).

The specific conditions applicable to limited license pursuant to section 2.4 are reserved.

- 15.3. Renewal terms. For each Renewed Term, subscriptions shall continue under the same conditions as those applicable to the immediately preceding subscription period, except only for changes made pursuant to these GTC.
- 15.4. Termination for Cause. Each Party may terminate the Agreement with immediate effect, in case of any material breach by the other Party (including without limitation, any non-conformance to the conditions in section 3.1), provided that, if such breach may be cured, the non-breaching Party shall first give User 20 days' prior written notice to cure such breach at. Provider may further terminate the Agreement, in case of any infringement of third party rights or risk of infringement of such rights, through User's use of the Services.
- 15.5. Termination Due To Inactivity. Without limiting the foregoing, Provider shall be allowed to terminate the Agreement and cancel any subscription if (i) a User's account has been inactive for 12 months or more; or (ii) if a Keeper, at any point, has no Holder affiliated to the Solution through such Keeper's account.
- 15.6. Effects of Termination. Upon termination of the Agreement, and in addition to the consequences described elsewhere in the GTC:
- Provider shall stop providing and User shall stop using the Services;
  - all rights to use and access granted to User hereunder (inter alia under Section 2.1) shall cease. All access to the Solution and credentials shall be deactivated and suppressed;
  - User shall permanently delete any part of the Solution stored or installed on its IT systems, if any; and
  - all Fees already paid by User shall remain acquired to Provider and are not reimbursable to User. User shall immediately pay all outstanding amounts due to Provider.

The termination of the Agreement with a Keeper automatically terminates the Agreement between Provider and each of the Keeper's Holders and Keeper Authorized Contributors. Provider will retain the Holders' User Content for a period of 90 days as specified in section 6.6; Holder who wants to continue using the Solution through another Keeper of their choosing shall follow the process specified in section 15.715.715.7 below. All terms which are expressed or intended to survive, and any provisions of the Agreement necessary for its interpretation or enforcement will continue to apply regardless of the reason for termination or expiry of the Agreement.

- 15.7. Switching of Keeper. At any time during the Term of its Agreement and for a period not exceeding



90 days thereafter, the Holder may elect to transfer its relationship to a new Keeper.

To initiate the process, the Holder must send a request by email to [contact@myswisskeeper.com](mailto:contact@myswisskeeper.com) containing the name and contact details of the intended new Keeper and follow the process specified by Provider thereafter. The transfer is subject to acceptance by the intended new Keeper and, to the extent such intended new Keeper is not yet a Keeper registered as such on the Solution, its successful onboarding by Provider (at Provider's discretion).

The Holder acknowledges that (i) the transfer process may take several weeks (ii) it is the Holder's exclusive responsibility to plan the transfer sufficiently in advance to ensure that it is entirely completed no later than 90 days after the Term of its Agreement and (iii) its digital safe on the Solution will be blocked during the transfer period.

## 16. Miscellaneous

- 16.1. Independent Contractors. The Parties acknowledge and agree that they shall be considered as independent contractors with no authority to contract for the other or in any way to bind or to commit the other or in a way to bind or to commit the other to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of the other. Under no circumstances shall either Party, or any of its staff, if any, hold itself out as or be considered an agent employee, joint venture, or partner of the other. Neither Party shall pay any contributions to social security, unemployment insurance, federal or state withholding taxes, any other applicable taxes whether federal, state, or local, or provide any other contributions or benefits which might be expected in an employer-employee relationship.
- 16.2. Subcontractors. Provider may use subcontractors for the provision of the Services. Provider's use of subcontractors shall not relieve Provider of any of its duties or obligations hereunder, which shall be imposed on subcontractors.
- 16.3. Continued Use. Provider may modify or terminate the Services, or temporarily or permanently modify or discontinue the Solution, or restrict access by any User, in situations where it has a legitimate reason to do so (as determined by Provider), for instance if so required for security reasons, or if there is any current or future government requirement or obligation in any country or jurisdiction that causes Provider to believe the Agreement may conflict with any requirement or obligation, or which may present a hardship for Provider to continue operating the Service without modification.
- 16.4. Force Majeure. Neither Party shall be liable for any delay or failure to perform its obligations hereunder due to causes beyond its reasonable control, such as natural catastrophes, war,

strikes, blackouts, Internet failure, virus outbreaks, or similar events. Any such excuse for delay shall last only as long as the event remains beyond the reasonable control of the delayed Party. However, the delayed Party shall use its best efforts to minimize the delays caused by any such event beyond its reasonable control. The delayed Party must notify the other Party promptly upon the occurrence of any such event, or performance by the delayed Party will not be considered excused pursuant to this Section, and inform the other Party of its plans to resume performance.

- 16.5. Amendment. Provider reserves the right to amend these GTC. In the event of material changes to these GTC, Provider will notify User by email, or by other reasonable means of these changes prior to their enactment. Continued use of the Service by User after reasonable notice will be considered acceptance of any new terms.
- 16.6. Hierarchy. In the event of a conflict or contradiction between the provisions of the GTC and those of any other contractual documents, the GTC shall take precedence, subject to express and specific deviations, deletions or additions contained in such other documents, citing the section(s) of these GTC it shall amend.
- 16.7. Severability. If any provision of the Agreement is held to be invalid or unenforceable for any reason, the Parties hereby agree to replace such provision with a valid and fully enforceable provision reflecting the original intent of the Parties to the fullest extent possible. In any event, all other provisions of the Agreement shall remain valid and enforceable to the fullest extent possible.
- 16.8. Electronic Form. The words "execution", "signature" and similar words in the Agreement shall be deemed to include unqualified electronic signatures (e.g. Docusign or any equivalent e-signature provider) which shall be of the same legal effect, validity or enforceability as a manually executed signature; while the term "in writing" shall include communications by email or other electronic forms.
- 16.9. No Waiver. The failure of either Party at any time to require performance by the other Party of its obligations hereunder shall in no way affect that Party's right to fully enforce the other Party's obligations thereafter.
- 16.10. Assignment. Neither Party shall assign and transfer any or all of its rights and obligations hereunder, in whole or in part, to any third party without the other Party's prior written consent; provided, however, that Provider may assign and transfer all of its rights and obligations hereunder to any third party acquiring all or substantially all of its business related to the Services and/or the Solution, without User's consent.

16.11. No Third Party Beneficiaries. Except pursuant to Section 14 GTC, this Agreement shall be binding and inure solely to the benefit of the Parties (and their respective lawful successors and assigns). Nothing in the Agreement is intended to or shall confer upon any third party any rights, benefits or remedies of any nature whatsoever under or by reason of these GTC.

## 17. **Governing Law and Jurisdiction**

17.1. Governing Law. The Agreement and/or any use of the Services shall be governed by and construed in accordance with Swiss substantive law, at the exclusion of its conflict of laws provisions.

17.2. Mediation. Any dispute, controversy or claim arising out of or in relation to the Solution, the Services or the Agreement, including the validity, invalidity, breach or termination thereof, shall first be submitted to mediation in accordance with the Swiss Rules of Mediation of the Swiss Arbitration Centre in force on the date when the request for mediation was submitted in accordance with these Rules. The seat of the mediation shall be at the place of the registered office of Provider. The mediation shall be conducted in English.

17.3. Jurisdiction. Any dispute or controversy or claim which has not been fully resolved by mediation within 60 days from the date when the mediator(s) has (have) been confirmed or appointed by Swiss Arbitration Centre shall be submitted to the exclusive jurisdiction of the competent ordinary courts at the place of the registered office of Provider. Notwithstanding the preceding, nothing in these GTC shall prevent Provider from seeking injunctive relief or any other remedy available at law in any jurisdiction in case of any infringement of its Intellectual Property Rights.

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[last updated: [date]]