

Cloudpoint

General Terms and Conditions

regarding Services and Software

These general terms and conditions shall apply when Cloudpoint Oy (VAT ID FI23257036) (“Cloudpoint”) grants a license to a software product, online or cloud services (the “Services”) to a customer. The attached Data Processor Agreement, Appendix 1, shall apply if Cloudpoint shall process personal data on behalf of the customer during the performance of the Services. The customer agrees to comply with these general terms and condition of data use as specified below, and agrees that Appendix 1 shall apply between the parties, where applicable.

1. License

The customer’s right to use Services (for example with regard to time, area of use, number of users etc) is limited as indicated by the order made by the customer. Any labelling or copyright information may not be amended by the customer.

2. Fees, Payment

Except as otherwise specified, the fees from time to time published on cloudpoint.fi shall apply. All fees are exclusive of VAT. Invoices shall be paid no later than thirty (30) days from the invoice date.

3. Order, Order Confirmation

By ordering or using a Services at Cloudpoint, the Customer accepts these terms and conditions.

4. Special Conditions regarding Software

The Services may require that the customer enters into a separate contract with a third party, for which the customer is solely responsible. Cloudpoint accepts no liability regarding errors, lack of suitability or intellectual property rights in any services provided by a third party.

5. Liability

Cloudpoint does not guarantee that the Services is completely free from errors. The customer acknowledges that complete absence of errors rarely can be achieved in software. If an error occurs regarding a Services for which Cloudpoint accepts liability, Cloudpoint undertakes to remedy the damage. If Cloudpoint chooses not to remedy the damage or to carry out a redelivery, the customer is entitled to a reasonable price reduction. Cloudpoint shall not be liable for errors that are due to the customer’s hardware, software or IT environment. Cloudpoint shall in no event be liable for (i) indirect damage or consequential damages, such as loss of production, loss of profits or other similar indirect damages, or (ii) loss of data.

Cloudpoint’s aggregate liability towards the customer under this agreement shall not exceed the total amount paid by the customer for the Services during the last six (6) months. The customer may not claim any compensation unless a written complaint has been made in writing without delay, but no later than three (3) months after the error occurred.

6. Intellectual Property Rights

Subject to the limited rights expressly granted hereunder, Cloudpoint reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to the customer hereunder other than as expressly set forth herein. The customer is not entitled to make amendments to any product or Services belonging to Cloudpoint. For products owned by third parties, the terms and conditions applied by the respective third party at any time shall apply.

7. Infringement of Intellectual Property Rights

Cloudpoint guarantees that the Services provided by Cloudpoint (third party services not included), as far as Cloudpoint is aware, does not infringe the intellectual property rights of third parties. The customer shall promptly notify Cloudpoint in writing of any complaints from a third party regarding infringement of intellectual property rights. Cloudpoint shall have the right to, at its own expense, defend the customer against any claim, demand, suit, or proceeding made or brought against the customer by a third party alleging that the use of the Services as permitted hereunder infringes the intellectual property rights of a third party.

Cloudpoint shall, at its own expense, ensure the customer continued use of the Services or replace the disputed part of the Services with similar, acceptable Services.

The customer is not entitled to accept any liability or conclude agreements or settlements with any third party regarding claims of infringement of intellectual property rights, without having obtained the written consent of Cloudpoint, which shall not be unreasonably withheld.

If Cloudpoint is unable to ensure the customer the right to similar, acceptable services, each party shall have the right to, as the sole remedy in relation to such alleged infringement, cancel the agreement regarding the relevant Services, and Cloudpoint undertakes in such cases to reimburse the fees paid by the customer, with deduction for the benefit that the customer has had of the Services.

Cloudpoint shall indemnify the customer for any damages finally awarded against the customer due to an infringement of intellectual property rights, for which Cloudpoint is liable, arising out of the customer’s use of the Services. The customer is not entitled to any other compensation for loss or damage arising from intellectual property faults in the Services for which Cloudpoint is responsible.

This Section states the Cloudpoint’s sole liability to, and the customer’s exclusive remedy against, Cloudpoint for any type of claim described in this Section.

8. Term and termination

Except as otherwise specified for a certain Services, the agreement is valid until further notice and as long as the Services are used by the customer. Termination shall be made by written notice. Notwithstanding the above, each Party may terminate the agreement if the other Party:

- (i) materially breaches or violates the provisions of the agreement, and rectification, where possible, is not made within thirty (30) days after written notice thereof, or
- (ii) is declared bankrupt, files for liquidation, becomes subject to reorganisation or otherwise becomes insolvent.

Customer's right to use the Services during the notice period is conditioned by the customer's payment of the fees for the Services.

9. Cloudpoint as personal data controller

In connection with the customer's order of products and Services, Cloudpoint shall process any personal data that is obtained in accordance with the relevant personal data legislation.

10. Cloudpoint as data processor

If and to the extent personal data is processed by Cloudpoint on behalf of the customer during the performance of the Services, the customer is the data controller and Cloudpoint is the personal data assistance according to applicable law. In such case, the attached Data Processor Agreement, Appendix 1, shall apply between the parties.

11. Governing law and disputes

Any dispute, controversy or claim arising out of or relating to these Terms of Services, the breach thereof, or the subject matter thereof, shall be governed by the laws of Finnish and be settled exclusively by Finnish courts, with the Helsinki District Court as the court of first instance.

12. Limitation of liability

Cloudpoint may cancel, limit or delay delivery without liability towards the customer, if the delivery is impaired or made more costly due to circumstances beyond Cloudpoint's control, such as warlike events, uprising and commotion, interruption of data communication or other connections, export or import restrictions, legal regulation or other injunction on Finnish or abroad, strike, lockout, blockade or other work barrier, fire, explosion or other accident, or due to an error or delay in services provided by a subcontractor.