

## COMPETELLA CLOUD SERVICES GENERAL TERMS AND CONDITIONS

Last modified: 2021-04-15

These General Terms and Conditions ("GTC") govern the End User's use of the Services provided by Competella.

### 1 Definitions

"Access Point" refers to the URL-s or website to which Competella has referred you for use of the Service.

"Agreement" refers to the Main Agreement including its appendices.

"Competella" refers to Competella AB with reg. no. 556781-5070.

"End User" refers to the person or entity using the Services and identified as such in the Agreement and that has assumed payment responsibility for the Services under the Agreement.

"End User Data" refers to data provided by the End User to the Services and created by the software as a result of End User's use thereof.

"Data Protection Legislation" refers to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC ("GDPR"), and such national legislation implementing the GDPR.

"GTC" means the terms and conditions set forth below including its appendices.

"Main Agreement" refers to the main agreement on provision of the Services which the End User has entered into with Competella"

"Party" refers to each Party to the Agreement separately and "Parties" refers to them jointly.

"Services" means the services as described in the Agreement.

"Services Fees" means the agreed fees for the Services.

"Third Party Product" means embedded and non-embedded products and professional services that are provided by third parties which interoperate with or are used in connection with the Services.

"Third Party Site" means third party websites linked from within the Services.

### 2 Nature and scope of the Agreement

2.1 Through the Agreement, End User is granted the right to use the Services specified in the Agreement to the extent and in accordance with the terms and conditions set forth in the Agreement.

### 3 End User's responsibilities

3.1 End User shall use the Services in accordance with the Agreement. The End User shall not use the Services for other's purposes, but shall only use the Services for the End User's own purposes.

3.2 End User shall review documents and issue decisions and otherwise provide the information necessary for Competella to perform its commitments in accordance with the Agreement.

3.3 End User shall be responsible for the access to and communication with the Access Point and shall secure that the End User holds the equipment and software required when using the Services, including necessary licenses for such software.

3.4 End User is responsible for defects, viruses, malware or other shortcomings in the End User's software or equipment which is necessary for the use of the Services.

3.5 End User is responsible for ensuring that only authorized users have access to the Services as it is made available to the End User and that log-in information and other information from Competella is handled in accordance with applicable confidentiality provisions. End User shall immediately notify Competella in the event an unauthorized person has accessed such information.

### 4 Subcontractors

4.1 Competella is entitled to appoint subcontractors for performance of the Services and for any obligation under this Agreement.

### 5 Use of the Services

5.1 Subject to the terms and conditions of the Agreement and payment of the Services Fees, the End User is granted a non-exclusive, non-assignable, non-sublicensable, limited term, world-wide right to use the Services.

5.2 Only the number of users as specified in the Agreement may use the Services. For the avoidance of doubt, such users may be either the End User's employees or consultants. If the End User wishes to increase the number of users, additional licenses must be requested from Competella.

5.3 In conjunction with use of the Services, the End User shall follow the instructions provided by Competella. Competella shall be entitled to modify such instructions, taking into consideration the applicable provisions of the Agreement regarding modification of the Services.

### 6 Disruptions in and suspension of the Services

6.1 Competella will use commercially reasonable efforts to make the Services available over the Internet in accordance with the service levels set out in the Agreement but cannot guarantee that the Services will be uninterrupted or error free. Competella is not responsible for the End User's access to and communication with the Access Point or that the End User holds the equipment and software required when using the Services, including necessary licenses for such software.

6.2 Competella shall be entitled to disrupt access to the Services, fully or partially, in order to enable maintenance, software updates, and other technical measures for the purpose of maintaining functionality and security. Competella shall notify the End User, if possible 48 hours in advance, prior to disruption of the Services.

6.3 Competella has the right to temporarily suspend the provision of the Services if the End User Data or the End User's access to the Services cause, or risk to cause, system failure or a serious security threat to the Services or Competella's other End Users. Competella shall notify the End User prior to suspending the Services and use its best efforts to allow the End User to cure the cause of the system failure or the security threat, e.g. by removing the damaging End User Data.

6.4 Competella may at any time and without further notice, cut off or limit the access to the Services if urgent maintenance is required or in order to protect the Services from unauthorized attacks. Nevertheless, Competella shall, to the extent possible, notify the End User when these interruptions occur and when the Services are expected to be available again. If possible Competella shall make these notifications 48 hours in advance. The End User is not entitled to compensation for such limitation or lack of access.

6.5 Competella shall, in case the End User violates the Agreement or applicable law and if this may cause harm to Competella, be entitled to stop the End User from using the Services until the violation has been ceased and the damage is restored.

### 7 Changes to the Services

- 7.1 Competella has the right to make changes to the Services from time to time provided that the functionality of the Services is not materially altered.
- 8 Specific terms and conditions
- 8.1 Login information, such as username and password, are confidential and shall, if put into writing, be stored in a secure manner to prevent unauthorized access to the Services.
- 8.2 Competella is entitled to consider any use of the Services, with the End User's log-in credentials, as an authorized use by the End User, regardless of whether such use incurs costs to the End User, unless and until the End User notifies Competella, in writing, about suspected unauthorized use and ensure that the user credentials are blocked or altered. Thus, it is the responsibility of the End User to immediately notify Competella if the End User suspects that this may be the case and ensure that the End User's user information is blocked or changed.
- 9 End User Data
- 9.1 End User Data provided by the End User to the Services and created by the software as a result of End User's use thereof shall, without restrictions, be owned by the End User. Competella is entitled to use End User's data only to the extent required for Competella to fulfill its obligations in accordance with this Agreement. However, Competella has the right, without restriction, to use the information about processes' features, performance, capacity and other statistics or similar details based on the Services' processing of End User Data. Competella may also freely utilize data generated in the system log files to optimize and improve the Competella's services.
- 9.2 Transfer of the End User Data during and after the term of the Agreement which does not constitute part of the ordinary functionality of the cloud service shall be treated as a supplemental service falling outside of the provision of the Services.
- 9.3 The End User shall ensure that data which it transfers through the use of the Services does not entail the infringement of any third-party rights and does not violate applicable legislation. In the event of the End User's failure to fulfil this obligation, the End User shall hold Competella harmless, including in respect of indirect damage and loss.
- 9.4 Upon termination of the Agreement, End User will not have access to the Services and Competella will permanently delete End User Data except for such End User Data which Competella retains in accordance with these Terms and Conditions. Competella reserves the right to delete End User Data the day following the last day End User has access to the Services. In any event, Competella will, unless otherwise required by mandatory applicable law, delete End User Data within a reasonable time frame, taking into account Competella's back-up and administrative procedures. Thus, it is the sole obligation of End User to ensure that it possesses necessary back-up of the End User Data it wishes to retain when it no longer has access to the Services.
- 10 Statistics and anonymized data
- 10.1 Competella shall have the right to anonymize any and all data used in the Services. The anonymization procedure shall be sufficient to ensure that no data can be converted back to personal data.
- 10.2 Competella shall own the right and title to all such anonymized data without limitation in time and use for any purpose.
- 10.3 Competella shall have the right to use any and all data in the Services for statistical purposes.
- 11 Personal data
- 11.1 Competella will, within the framework of this agreement, process personal data on behalf of End User. When processing such personal data, Competella is the personal data processor in accordance with the Data Protection Legislation.
- 11.2 The Parties have agreed to, where applicable, apply the data processing agreement appended to the Main Agreement to regulate Competella's processing of personal data.
- 12 Fees and payments
- 12.1 The time of payment as well as the Services Fees are set forth in the Agreement.
- 12.2 All fees and charges are set out exclusive of value added tax and other additional taxes and charges.
- 12.3 Late payment shall carry interest, as specified in the country specific invoice, on the outstanding amount until full payment has been made. In addition, Competella has the right to, without prior notice, cease End User's access to the software until full payment has been made or terminate the Agreement with immediate effect.
- 12.4 The provision above does not entail any limitation on Competella's right to damages or remedies due to the End User's breach of contract.
- 13 Intellectual property rights
- 13.1 The ownership and any and all intellectual property rights to the Services, including changes, updates or modifications thereof, as well as data other than End User Data, shall be and remain exclusively vested with Competella and, as the case may be, its suppliers or licensors.
- 13.2 Except as expressly provided otherwise herein, no rights to intellectual property rights are granted by Competella to End User or vice versa under this Agreement. The End User is granted a non-exclusive, non-assignable, non-sublicensable, limited term, world-wide right to access and use the Services, solely for the End User's internal business operations under the End User owned operators and for the term of this Agreement. The End User shall not modify or create derivative works of the Services.
- 13.3 The ownership and intellectual property rights to results produced by Competella for the End User under this Agreement shall vest with Competella, unless otherwise agreed. For results not included in the Services, Competella grants to the End User a non-exclusive, worldwide, license to use such intellectual property rights in accordance with and during the term of this Agreement.
- 13.4 When a result or other deliverable to the End User under this Agreement includes or requires the use of a third party's standard software or open-source software, such third party's applicable standard license terms apply to the End User's use of such software. The Services comprise open-source licenses. Information about the open sources used, any modifications of the open sources and the open-source licenses can be found at:  
<https://www.competella.com/ContentPage/Index?n2page=1735>
- 14 Confidentiality
- 14.1 Any information about Competella's End User's business (including the business of its group companies, End Users or collaborating partners) of a nature that would normally be regarded as a business or professional secret is confidential information, such as End User Data, business and marketing plans, technology and technical information, product plans and designs, and business processes. For the avoidance of doubt, all information stated as confidential by either of the Parties, shall be regarded as a business or professional secret. Confidential information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the disclosing party, (ii) was known to the receiving party before receipt from the disclosing party, (iii) is received from a third party without breach of any obligation owed to the disclosing party, or (iv) a party is obliged to make available under law or according to stock exchange rules.
- 14.2 The receiving party shall (i) protect the confidential information using the same degree of care that it uses with its own confidential information of similar nature, but not less than reasonable care; (ii) not use any confidential

- information for any purpose outside the scope of this Agreement; (iii) except as otherwise authorized by the disclosing party in writing, limit access to confidential information to those of its employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the receiving party containing protections no less stringent than those herein. Upon notice to the disclosing party, to the extent notice is legally permitted, the receiving party may disclose confidential information if required by mandatory law, regulation or legal process.
- 14.3 Upon a written request from the disclosing party, the receiving party shall promptly return or destroy any confidential information, excluding End User Data which will be deleted in accordance with section 9.4.
- 14.4 Nevertheless, Competella shall have the right to collect, analyze and use data in accordance with section 9 and section 10 during and after the term of the Agreement.
- 15 Limited warranty
- 15.1 Competella warrants that the Services, under normal use and circumstances, will perform substantially and materially in conformance with the Agreement.
- 15.2 Except for the express warranty set forth in section 15.1 above, the Services are provided on an "as-is" basis and with all faults. To the furthest extent permitted under applicable law, Competella expressly disclaims and excludes from the Agreement all other conditions, terms and/or warranties of any kind with respect to the Services, whether express or implied, including without limitation any conditions, terms and/or warranties for merchantability of the Services and/or for the fitness of the Services for a particular purpose and/or the correspondence of the Services to any description and/or that the Services and API will be uninterrupted and/or error free and/or completely secure. End User acknowledges that there are risks inherent in Internet connectivity that could result in the loss of privacy, confidential information and property.
- 16 Limitation of liability and breach of contract
- 16.1 Except in the event of intent or gross negligence, Competella shall not be liable for loss of profits, business, contracts, revenue or anticipated savings or any other indirect or consequential costs, losses or damages.
- 16.2 In the event of major defects that seriously impede End User's use of the Services and that are attributable to Competella, Competella undertakes to use its best endeavors to rectify such defect without unreasonable delay. For the avoidance of doubt, defects in Third Party Products (e.g. Microsoft Azure) or Third Party Sites are not attributable to Competella. In the absence of intent or gross negligence by Competella, Competella otherwise assumes no responsibility for defects, interruptions or deficiencies in the Services. End User shall not be entitled to a reduction in payment, or repayment of fees paid, or to damages or other sanctions in the event of operational disruption or errors that impede data traffic or otherwise the use of the Services.
- 16.3 For the avoidance of doubt, Competella shall not be liable for defect, including failure to meet a service level, caused as a result of
- (a) the End User having provided erroneous, incomplete, corrupt or inadequate data to Competella or into the Services;
  - (b) negligence on the part of the End User, its staff or a third party on the End User's side; or
  - (c) Force Majeure.
- 16.4 Where a claim, suit or proceeding brought against Competella is based on the combination or use of the Services with other software, hardware or services not provided by Competella, where the Services would not otherwise themselves be infringing, End User shall indemnify, defend and hold harmless Competella from and against any damage, cost and expense, including reasonable attorney's fees incurred as a result of such claim, suit or proceeding.
- 16.5 Notwithstanding what is otherwise stated in the Agreement, Competella shall defend and indemnify End User from and against any damage, cost and expense, including reasonable attorney's fees, incurred as a result of any claim, suit or proceeding brought against End User based on a claim that the use of the Services provided by Competella under the Agreement constitutes an infringement of any third party intellectual property right, provided that Competella has been notified promptly in writing of such claim and given full authority, information and assistance to handle the claim or the defense of any suit, proceeding or settlement, and provided further that Competella shall have no obligations under this section 16.5 to the extent any claim is based on the combination or use of the Services with other software, hardware or services not provided by Competella, where the Services would not otherwise themselves be infringing. In the event that the Services in such suit or proceeding are held to constitute an infringement, or if in Competella's reasonable opinion the Services may constitute such infringement and/or its further use is enjoined, Competella shall, at its own expense and at its option, either (i) procure for End User the right to continue the use of the Services, (ii) replace the Services with non-infringing services of materially equivalent function and performance, or (iii) modify the Services so that they become non-infringing without materially detracting from function or performance. Should none of these measures be technically, commercially or economically reasonable to Competella, as determined by Competella, then either party may terminate the Agreement. Upon such termination, Competella shall refund the amount of fees paid in advance in respect of not yet used Services.
- 16.6 To the extent permitted under mandatory law and except in the event of intent or gross negligence, Competella's liability under the Agreement shall under all circumstances be limited to an amount that, together with amounts associated with all other claims from End User, corresponds to the lesser of (i) EUR 50 000 and (ii) the agreed fees actually paid by End User for the Services during the period of twelve (12) months immediately prior to the breach of contract that entitles End User to damages.
- 16.7 In the event of any erroneous complaint, the End User shall pay compensation to Competella for work performed and other costs in accordance with the norms for compensation customarily applied by Competella.
- 16.8 If the End User violates a provision of the Agreement, Competella is entitled, even without proof of intent or negligence, to receive damages for any loss or injury which it has suffered as a consequence of the breach of contract. If the End User's contractual breach is of a material nature, Competella shall also be entitled to terminate the agreement with immediate effect. Delayed payment of amounts exceeding 10 % of the annual Services Fees shall always be deemed to constitute a material breach of contract if the delay exceeds thirty (30) days.
- 16.9 Except for actions for non-payment or breach of a party's proprietary rights, claims under the Agreement must be made within a reasonable time, but no later than six (6) months from a Party's becoming aware of a damage, and always within twelve (12) months after the damaging event. After such date, the claim will be deemed waived.
- 17 Term and termination
- 17.1 The term and termination of the Agreement is specified in the agreement on provision of the Services which the End User has entered into with Competella. Notwithstanding such provisions in such agreement and without prejudice to other provisions in the Agreement, each Party shall be entitled to terminate the Agreement with immediate effect by written notice due to the other Party's material breach of its obligations under the Agreement.
- 17.2 Either Party shall be entitled to terminate the agreement with immediate effect by written notice in the event the other Party is placed into bankruptcy, commences composition negotiations, enters into liquidation, or might otherwise be deemed to have become insolvent.
- 18 Miscellaneous

- 18.1 The contents of this Agreement shall supersede all previous written or oral commitments and undertakings.
- 18.2 The division of these Terms and Conditions into separate articles and the insertion of headings shall not affect the interpretation of the Agreement.
- 18.3 If any provision of this Agreement or part thereof shall to any extent be or become invalid or unenforceable, the Parties shall agree on any necessary and reasonable adjustment of this Agreement in order to secure the vital interests of the Parties and the main objectives prevailing at the time of execution of this Agreement. Failing an agreement between the Parties on adjustments of this Agreement, such adjustments shall be made by the competent court in accordance with the dispute clause in this Agreement.
- 18.4 Neither Party may in whole or partly assign or pledge its rights and/or obligations under this Agreement to any third party without the prior written approval of the other Party. Competella shall be entitled, in whole or in part, to assign its rights and obligations under the Agreement without End User's prior consent (i) to a company within the same group of companies as Competella, or (ii) in connection with a sale of all, or substantially all, of Competella's assets to a third party, or (iii) to a third party in respect of collection of any payment obligation.
- 18.5 Only those amendments and additions to the Agreement that are made in writing and signed by the Parties are valid. However, as a consequence of change of law, regulation or competent authority's instruction affecting the performance of the Services, Competella has the right to amend these Terms and Conditions and such amended Terms and Conditions will thereafter govern and apply to the entire Agreement and in all respects replace and supersede any previously agreed terms and conditions between End User and Competella. End User shall be informed of such amendments by e-mail and End User shall be deemed to have received such notice within two (2) days of the notice being sent by e-mail. Where End User does not accept the amendment, End User shall be entitled to, within thirty (30) days) from the date the e-mail was sent, provided that the changes have a material adverse effect on End User, terminate the Agreement with immediate effect. Where the Agreement is not terminated by End User within the aforementioned time, End User shall be deemed to have accepted the new terms and conditions of the Agreement.
- 18.6 Without prejudice to what is otherwise expressly stated in the Agreement, no consent or waiver, express or implied, by either Party of any breach or default of the other Party in performing its obligations under this Agreement shall be deemed or construed to be a consent or waiver of any other breach or default by the other Party of the same or any other obligation hereunder. Any failure by one Party to complain of any act or failure to act of the other Party or to declare that other Party in default shall not constitute a waiver by the first Party of its rights under this Agreement. No waiver of any rights under this Agreement shall be effective unless in writing and signed by the Party purporting to give the same.
- 18.7 If a Party is prevented from fulfilling its commitments in accordance with this Agreement due to circumstance beyond that Party's control, such as natural disasters, labor disputes, riot, terrorism, amendment to government regulations, government intervention, and errors or delays in services from a sub-contractor for reasons of force majeure, this shall constitute grounds for an increase in the amount of time available for performing a task as well as relief from damages and any other sanctions. If, due to the circumstances mentioned above, performance of the affected delivery is, to a material extent, prevented for longer than three (3) months, the Party has the right to terminate the delivery in question in writing.
- 18.8 End User acknowledges and agrees that Third Party Sites and non-embedded Third Party Products are not under Competella's control and that, if provided, Third Party Sites and non-embedded Third Party Products are provided only as a convenience. The availability of any Third Party Site or non-embedded Third Party Product does not mean Competella endorses, supports or warrants such Third Party Site or non-embedded Third Party Product and Competella disclaims all liability with respect to any Third Party Sites or non-embedded Third Party Products that End User may use in connection with the Services.
- 18.9 The following terms shall survive the expiration or termination of the Agreement: Sections 9 (End User Data), 10 (Statistics and anonymized data), 11 (Personal data), 12 (Fees and payments), 13 (Intellectual property rights), 14 (Confidentiality), 15 (Limited warranty), 16 (Limitation of liability and breach of contract), 17 (Term and termination), 18 (Miscellaneous), 19 (Notices) and 20 (Governing law and disputes) as well as all other provisions of the Agreement that by their nature are intended to survive the expiration or termination of the Agreement.
- 19 Notices
- 19.1 All notices under this Agreement shall be in writing and shall be sent by courier, registered mail or e-mail to the Parties' addresses mentioned, or later amended, in the Agreement.
- 19.2 The notice shall be deemed to have been received by the recipient
- if delivered by courier: upon delivery,
  - if sent by registered mail: three (3) days after delivery for postal service, or
  - if sent by e-mail: upon delivery, if it has been confirmed by the recipient.
- 19.3 A change of address or other change of contact information shall be notified to the other Party in the manner prescribed in this provision.
- 20 Governing law and disputes
- 20.1 This Agreement shall be governed by, construed and enforced in accordance with the substantive laws of Sweden excluding its choice-of-law principles.
- 20.2 Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be solved by litigation. The litigation shall be initiated at Stockholm District Court (Sw. Stockholms tingsrätt). Competella shall, however, also be entitled to take legal action before the competent court having jurisdiction for the End User's registered office.
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