



General Terms and Conditions

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GENERAL TERMS AND CONDITIONS

DUCKSIFY SA, CHEMIN DE LA JOLIETTE 10, 1009 PULLY

VERSION 1.0, MAY 2022

SCOPE

These terms and conditions (“Terms”) govern the access to, and the use of the services (“Services”) provided by Ducksify SA, Chemin de la Joliette 10, 1009 Pully, Switzerland (“Ducksify”).

To access the Services, you (“Customer”) must agree to and abide by these Terms. These Terms incorporate by reference Ducksify’s privacy policy which can be found here <https://ducksify.com/pdf/ducksify-privacy-policy.pdf> (“Privacy Policy”), and explicitly mentioned provisions available on Ducksify’s website <https://ducksify.com> (“Website”). Acceptance of the Terms constitutes, together with order form and other documents referenced therein, a legally binding agreement (“Agreement”) between Ducksify and the Customer (“Parties”).

SERVICES & ACCESS TO SERVICES

Ducksify provides managed and on-demand services to help companies design, build, secure, and operate IT infrastructures ("Services"). A complete overview of provided Services, pricing list, available subscription plans, and specific instructions on how to use the Services can be found on the Website or websites relevant to the Services.

The Services will be accessible to the Customer in the then-current version and according to the Terms. To gain full access to the Services, the Customer may be required to register and create an account.

CUSTOMER'S RIGHTS & OBLIGATIONS

The Customer is responsible for the accuracy and completeness of the data and information provided by the Customer to Ducksify. The Customer is fully responsible for choosing a secure password in accordance with Ducksify's specifications and protecting their credentials, where applicable, and using the Services securely and in accordance with the Terms. The Customer must immediately inform Ducksify of any unauthorized use of the credentials. Ducksify is not liable for any damage or loss due to unauthorized account access resulting from the Customer's actions or omissions. The Customer must use the Services in compliance with legal and moral obligations applicable in the territory where the Customer is located.

The Customer may not circumvent or attempt to circumvent any security protection of the Services and may not use them in unlawful or fraudulent ways or for any unlawful or fraudulent purpose or effect. The Customer agrees it will not try to decompile, reverse engineer, modify, translate or disassemble any part or content of the Services or create derivative works based on the whole or any part of these, regardless if on its own or in cooperation with or on-demand by another company or individual.

The Customer informs Ducksify immediately of all circumstances within its sphere that might endanger or may be relevant to the providing the Services and all misuses or suspicions of misuse of the Services.

DUCKSIFY'S RIGHTS & OBLIGATIONS

Ducksify may amend the Terms from time to time at its sole discretion by publishing an updated version of the Terms on the Website. Ducksify will electronically notify the Customer of any material changes to the Terms. The Customer should check the Terms regularly and only use the Services upon acceptance of the changes to the Terms. The Customer's continued use of the Services following any amendments indicates acceptance of the changes to the Terms.

Ducksify may change the Services at any time at its discretion. Ducksify will notify the Customer of any material changes, i.e., changes significantly altering the nature and scope of the Services provided to the Customer according to the Agreement, at least 14 days ahead, unless impossible.

If the Customer disagrees with the notified material change to Service or Terms (including changes of the respective fees), it may terminate the Agreement with immediate effect within 1 month from Ducksify's notice of the respective change.

Ducksify takes all appropriate and reasonable precautions, within the scope of technical possibilities, against data loss and to prevent unauthorized third-party access to the Customer data. Ducksify backs up the data on a regular basis. For loss or corruption of Customer data, Ducksify works to ensure the successful and timely backup and restoration of that data.

Ducksify may subcontract third parties for all its obligations under the Agreement at its own expense unless explicitly agreed otherwise. Ducksify is fully liable to the Customer for its subcontractors and ensures that subcontractors are bound to the same or stricter confidentiality obligations than Ducksify.

FEES AND PAYMENTS

The Customer's access to the Services is subject to payment of fees, which are non-cancellable and non-refundable. If not otherwise agreed in the Agreement, fees, subscription plans, and possible payment methods are available on the Website, they are exclusive of VAT and payable in CHF, and Ducksify may change them at any time. The Customer will be notified at least 14 days ahead.

Subscription fees are payable by the last day of the previous subscription period. Subscription fees for plans without a specified term and all other fees are payable within the period indicated on the invoice; otherwise, within 30 days from the invoice being issued. The Parties may agree on other payment terms, which then supersede the standard terms. Late payments are subject to an interest rate of 5% per year.

Ducksify reserves the right to limit or suspend access to the Services, delete any or all the Customer's accounts or terminate the Agreement with immediate effect in case the Customer does not pay the applicable fees as agreed between the Parties or based upon Ducksify's reasonable determination of the occurrence or potential for the occurrence of illegal, unlawful or fraudulent use of the Services by the Customer. In case of a suspension, the Customer remains liable for all charges and fees incurred during the suspension period.

TERM & TERMINATION

Either party may terminate the Agreement in writing at any time, having effect at the end of each subscription period or in the case of open-ended agreements with 1 month termination period. Either party may terminate at any time in case of a material breach of these Terms by the other party.

Termination does not affect any rights, obligations, or liabilities of either party that have accrued before termination or are intended to continue to have an effect beyond termination.

Ducksify will delete the Customer's accounts, including all data, within a reasonable period after termination.

INTELLECTUAL PROPERTY

Ducksify retains all rights, titles, and interests, including all copyrights, trademarks, know-how, and other intellectual property and other rights in the Services or any part of it. The use of the Services does not transfer any ownership of intellectual property rights between the Parties.

Where applicable, the Customer is granted a limited, revocable, non-exclusive, non-transferable, non-sublicensable right to access and use the Services in accordance with the Agreement. Any other use of the Services, including, without limitation, copying, distributing, displaying, reproducing, creating derivative works from, or commercialization of the available content or any part of it, is strictly prohibited without Ducksify's prior written consent. Systematic retrieval of content from the Services or the Website for any purpose without our prior written permission is strictly prohibited.

CONFIDENTIALITY

The Parties may disclose to each other (directly or via the use of the Services) confidential information. Confidential information includes, without limitation, any information which is marked as confidential or has otherwise been indicated as being confidential or could reasonably be deemed confidential and attributable to the Customer or Ducksify.

Publicly available or accessible information, information lawfully and unrestrictedly received or independently developed by the receiving Party, is not considered confidential.

Each Party undertakes to protect all confidential information that becomes accessible or known based on the Terms. This confidentiality obligation remains in force even after the termination of the Agreement. Ducksify and the Customer may further define their duties regarding confidentiality in a non-disclosure agreement, in which case the provisions of the non-disclosure agreement prevail.

DATA PROTECTION

Ducksify collects and processes only personal data provided by the Customer as necessary for the purposes of the Services and in line with its Privacy Policy, <https://ducksify.com/pdf/ducksify-privacy-policy.pdf>. Ducksify protects the collected personal data by means of appropriate technical and organizational measures and in accordance with the data protection legislation applicable in Switzerland and the European Union. Ducksify and the Customer may further define their duties regarding data protection in a data processing agreement, in which case the provisions of the data processing agreement prevail.

The Customer authorizes Ducksify to use, process, and store relevant data for the performance of the Services and to use anonymized data to improve its services or for analysis purposes.

The Services may utilize cookies related to functionality of the Services for anonymous analysis and the users' convenience. Users may disallow websites to save and read cookie data by deactivating the use of cookies in the users' browser at any time. In case of deactivation, users may no longer be able to use all features and functions of the Service.

WARRANTIES & LIABILITY

The Services, together with all content, data, information, and materials contained therein, are provided 'as is' and 'as available', without warranties or representations of any kind. Ducksify does not guarantee that the Services are error-free and will function without any interruption or disruption.

Ducksify regularly carries out maintenance or improvements to the Services and its infrastructure. The Customer acknowledges that this may result in temporary delays and interruptions from time to time. Where reasonably possible, Ducksify will inform the Customer about potential interruptions in advance. Any further warranty is excluded.

Ducksify makes no representations or warranties of any kind, either express or implied, that the Services co-branded pages, bridge pages, and related links will be error-free and uninterrupted during the term.

Parties' liability for direct damages is limited to the amount of the fees paid for the provision of the Services in the 12 months prior to the occurrence of the damaging event. Parties' liability for other damages should be limited to the maximal extent permitted by Swiss law. The limitations do not apply to losses or damages caused by willful misconduct or gross negligence or to the extent prohibited by applicable law.

The Customer agrees to fully indemnify Ducksify from and against any liabilities, costs, demands, causes of action, damages, and expenses arising in relation to any breach of Customer's obligations or any of the provisions of the Terms.

PARTIES' STATUS AND ADVERTISING

The Parties enter into the Agreement as independent contractors, and nothing in the Agreement is intended to create a joint venture or employment relationship between the Parties. Neither Party is entitled to enter into any contracts with third parties for and on behalf of the other Party.

Ducksify entitles the Customer to use the Ducksify's name, logo, and a brief description of the services provided for advertising purposes on the Customer's website and other marketing or investment materials. Any other use requires the prior consent of the other Party.

MISCELLANEOUS

Communication and Notices: Notices must be given in writing, including e-mail, in English or French and need to be communicated:

- To Ducksify's attention: via email to: finance@ducksify.com or as a registered letter to: Ducksify SA, Chemin de la Joliette 10, 1009 Pully, Switzerland.
- To Customer's attention: by publishing on the Website, and where explicitly agreed between the Parties via email to address provided for this purpose by Customer or associated with Customer's account. It is the Customer's responsibility to keep the provided email address current.

Integrity: Any deviation from the Terms not anticipated by the Terms requires an explicit reference to the altered clause of the Terms. General terms and conditions of the Customer are excluded unless they have been expressly accepted by Ducksify.

Links: The Services may contain third-party content or links to third-party websites. Ducksify does not assume any responsibility for and does not make any warranties or representations as to any third-party content or websites, including but not limited to the accuracy, subject matter, quality, or timeliness.

No assignment: The Customer must not assign any of its rights, obligations, or claims under the Agreement without Ducksify's previous written consent.

Severability: If any provision of the Terms or the Agreement is held to be illegal, invalid, or otherwise unenforceable, the other provisions will remain *mutatis mutandis* in full force and effect.

Governing Law and Jurisdiction: All legal relationships arising from this contractual relationship are governed exclusively by Swiss law, excluding its conflict of law provisions and the UN Convention on Contracts for the International Sale of Goods (CISG). The ordinary court at the seat of Ducksify has exclusive jurisdiction for all disputes arising from or in connection with the Terms.



Ducksify SA

Contact : contact@ducksify.com