

# ONLINE SERVICES TERMS

## Terms & Conditions of Munich Re Service GmbH

### 1. SCOPE OF APPLICATION

These Online Services Terms (the "**Terms**") apply to Online Services provided by Munich Re Service GmbH.

### 2. DEFINITIONS

"**MR Service**" is Munich Re Service GmbH, having its registered office at Königinstr. 107, 80802 Munich, Germany; it is a 100% affiliate company of Munich Reinsurance Company, Munich.

"**Munich Reinsurance Company**" is Münchener Rückversicherungs-Gesellschaft Aktiengesellschaft in München, having its registered office at Königinstrasse 107, 80802 Munich, Germany.

"**Munich Re Group**" means affiliated companies of Munich Reinsurance Company within the meaning of §§ 15et seq. German Stock Corporation Act ("**Aktiengesetz**").

"**Online Services**" are web applications described in more detail in a separate description which is subject matter of the agreement between the parties.

"**In writing**" or "**written form**" includes both written and electronic communication, including email.

### 3. TYPE, SCOPE AND PERFORMANCE OF THE ONLINE SERVICES

- 3.1. Subject to the acceptance of and the compliance with these Terms, MR Service arranges the provision and the use the Online Services.
- 3.2. The Online Services are software-as-a-service ("**SaaS**") solutions, made available "as is". They continue to be subject to comprehensive testing and quality control.
- 3.3. MR Service may adjust and improve the contents of the Online Services at its discretion, particularly following conceptual, legal and technological developments.
- 3.4. In order to provide the Online Services, MR Service is entitled to make use of cloud services that are hosted in the European Union and offer maximum, state-of-the-art security.
- 3.5. In order to meet its contractual obligations, MR Service may at any time use qualified subcontractors when providing the Online Services, in particular Munich Re Group companies.
- 3.6. Access to the internet is not subject to these Terms. The client is solely responsible for the functioning and security of its internet access, including any transmission channels and its own computer(s) and IT landscape.

### 4. ACCESS TO THE ONLINE SERVICES

- 4.1. Access to the Online Services requires subscription to qualify as user.
- 4.2. Each user receives an access account for identification and authentication purposes in the Online Services. Users may only provide email addresses that they use individually for their access accounts.

- 4.3 The client and each user shall treat all access data confidentially. In particular, neither the client nor a user must grant third parties access to the Online Services.
- 4.4 MR Service shall be notified of any additional use of the Online Services exceeding the agreed limits of the subscription in case there is no automatic usage tracking in the Online Services. Any additional use may lead to an adjustment of the fees as per the licensing provisions.

## **5. FEES AND INVOICING**

- 5.1 Subscription fees are agreed upon separately. The same applies to any payments on account, commitment fees, additional services such as consulting and training, additional memory space in the Online Services, and any other costs to be reimbursed by the client.
- 5.2 Subscription fees are invoiced in accordance with applicable law net or plus VAT. Any other taxes, levies and customs duties, particularly those of the client's country of domicile, are to be borne by the client. The same applies to fees related to money transfers.
- 5.3 Subscription fees are invoiced annually in advance and due for payment thirty (30) days after receipt of the invoice by the client.

## **6. USE OF THE ONLINE SERVICES**

- 6.1 The client is granted a non-exclusive right to use the Online Services and their results in accordance with these Terms. The right of use may neither be sub-licensed nor transferred.
- 6.2 The client may use the Online Services for its own purposes only. The use is limited to the volume and purpose agreed for a subscription.
- 6.3 The client retains all rights, in particular its industrial property rights and copy rights, to the content (data or information) that the Client places to the Online Services. MR Service will treat all content that the client places on the Online Services confidentially in accordance with the confidentiality provision in these Online Services Terms.
- 6.4 All intellectual property rights associated with the Online Services, especially trademark and database rights, remain exclusively vested in the respective intellectual property holder within the Munich Re Group or as indicated in the Online Services.
- 6.5 If the Online Services are made available free of charge or against a testing fee for a limited period of time for testing purposes only, no content or results may be used for operational purposes.
- 6.6 The client must ensure that any content of the Online Services is not used by any third party for their purposes. Any form of trade with or commercialisation of content or results of the Online Services is prohibited unless agreed otherwise with MR Service. The client must not publish the results generated by the Online Services in a publicly accessible document, in the internet or in any media addressed to the public without MR Service's prior approval.
- 6.7 The client is not entitled to copy, to reverse engineer, to translate, to disassemble, decompile, or otherwise modify the Online Services or other provided materials, or to create works derived therefrom, where not expressly authorised by statute.
- 6.8 In addition, the client may not use the Online Services in a manner that
  - (i) violates applicable law,
  - (ii) endangers or circumvents the operation or security of the Online Services, or
  - (iii) leads to the Online Services being wholly or partly subjected to the licensing terms of an open-source software application.

- 6.9 MR Service is entitled to temporarily block the client's access to the Online Services and/or temporarily deactivate the connection to the Online Services, if and when
- (i) use of the Online Services by the client is in breach of contract (e.g. unauthorised or improper use of the Online Service), or
  - (ii) other use (e.g. due to third-party hacking) threatens the operation or security of the Online Services.

In such a case, MR Service is to expressly inform the client a reasonable time in advance. Where the threat does not permit this, MR Service will inform the client as soon as possible after the blockage or deactivation. After the end of the threat or the breach of contract, MR Service to restore access and/or reactivate the connection without undue delay.

## **7. UNDERTAKINGS AND OBLIGATION TO HOLD HARMLESS**

- 7.1 MR Service warrants that it is entitled to grant the rights of use to the client to the extent agreed, and that the Online Services are free of third party rights, which could impede or exclude the agreed use.
- 7.2 Should a third party make a claim against the client in respect of alleged violations of copyright or intellectual property rights, MR Service will hold the client harmless against such claim and permit the continued use as agreed.
- 7.3 MR Service's obligation to hold harmless applies to all expenses incurred by the client due to or in connection with the third-party claim. The client is to coordinate the legal defence with MR Service.
- 7.4 As for the rest, statutory provisions shall remain unaffected.

## **8. CLIENT COOPERATION**

- 8.1 The client is responsible for carefully reviewing the contents uploaded to and the results of the Online Services. In particular, the client is solely responsible
- (i) for the correct use and correct entry of data into the Online Services,
  - (ii) for the review and plausibility of the results generated with the Online Services, and
  - (iii) for the legal and business decisions based thereupon.
- 8.2 The client is to follow the instructions by MR Service or a contracted IT provider when ascertaining, describing or reporting any malfunctions. Upon request by MR Service, the client is to use specific reporting formats and detail the error messages and issues as well as possible.
- 8.3 The client is to prevent unauthorised third-party access to the Online Services and require its staff to comply with this obligation. The client is also to implement appropriate IT security measures for this purpose.
- 8.4 Any unauthorised third-party access to the Online Services, for which the client is responsible, must be reported to MR Service without undue delay after discovery. The client undertakes to cooperate with MR Service as well as possible to prevent ensuing damage (especially, but not limited to, breakdown or interruption of the IT infrastructure or outflow of intellectual property). The client is liable for any damage caused in such cases.
- 8.5 The client is solely responsible for independently determining whether the Online Services' technical and organisational measures meet the client's requirements, including security provisions under the EU Data Protection Regulation (GDPR) or other applicable data protection laws and provisions. The client confirms and declares (taking into account the state of the art, the implementation costs, the type, extent, context and purpose of the processing of its personal data, and the risks for individuals) that the security processes and guidelines offer a level of security that is appropriate given the risk to the client's personal data.

## **9. DEFECTS**

- 9.1 MR Service ensures the running capability and contractually agreed quality of the Online Services. The Online Services are accordingly deemed defective if they do not fulfil the specified functions, return flawed results, uncontrollably interrupts its performance or otherwise do not function as intended, so that the use of the Online Services is prevented or significantly impaired.
- 9.2 The client is to report any defect in the Online Services to MR Service without undue delay after discovery. If such a report is made, MR Service is to provide a qualified response about the type and extent of the defect, as well as the estimated maximum repair time, within the agreed reaction time and depending on the class of defect defined therein.
- 9.3 MR Service is to remedy defects and other impairments to the use of the Online Services free of charge, within the maximum repair time agreed.
- 9.4 The client may not reduce any agreed fees due to immaterial defects.
- 9.5 The client does not have a right to terminate for deprivation of use if due contractual use cannot be deemed to have failed to be provided.
- 9.6 The client may neither exercise rights of retention nor offset any own counter-claims, with the exception of those that are undisputed, ready for decision or legally binding.

## **10. LIABILITY**

- 10.1 The client (including its representatives) bears sole responsibility for its use of the Online Services. This means that it will be held liable for any use of the Online Services made through its access account.
- 10.2 MR Service's liability is excluded
- (i) if the client uses the Online Services in breach of contract;
  - (ii) for legal and business decisions made by the client on the basis of any results generated by the Online Services;
  - (iii) for any third party content. MR Service may only provide access to and store such third party content through its Online Services for its clients.
  - (iv) for any damage caused by using Online Services provided free of charge for testing purposes.
- 10.3 However, no liability shall be limited or excluded
- (i) for claims resulting from injury to life, body or health,
  - (ii) for damage due to wilful intent or gross negligence on its part or that of its legal representatives or agents, as well as
  - (iii) for damage falling under a guarantee.
- 10.4 Furthermore, the liability of MR Service is limited to a maximum of 100% of the agreed annual fees per incident, and limited to a maximum of 200% of the average annual fees for the duration of the contract, for damages due to other negligent conduct on its part or that of its legal representatives or agents.
- 10.5 The above provisions apply accordingly to reimbursement of futile expenses, irrespective of the legal basis.
- 10.6 Liability under the German Product Liability Act ("*Produkthaftungsgesetz*") is not affected.

## 11. CONFIDENTIALITY

- 11.1 All information disclosed by one party to the other in the context of the contractual relationship is to be handled confidentially (“**Confidential Information**”). In particular, access information to the Online Services, business secrets, source code and IT architecture, the functionality of the Online Services and their internal logic, programmed Online Services’ content, know-how, documentation about interfaces and data formats, and information resulting from error messages, all constitute confidential information regardless of the medium in which they are contained and independently of the way they were transmitted.
- 11.2 The receiving Party is obligated to restrict the disclosure of Confidential Information to those employees and/or agents especially those of companies of the Munich Re Group who need the Confidential Information to fulfil the purpose of the contract, and who are all strictly obliged to confidentiality both during and after their employment or engagement. MR Service may, however, store contract information on IT systems to which employees of Munich Re AG may also have access to. These employees are, however, strictly obliged to confidentiality.
- 11.3 Information shall not be deemed confidential
- (i) if the receiving party is able to prove that it already lawfully possessed the information;
  - (ii) the information was lawfully provided by a third party who was not obliged to keep it confidential;
  - (iii) it independently developed the information; or
  - (iv) the information is already in the public domain or will enter the public domain through no breach of any statutory or contractual obligation.
- 11.4 The parties are entitled to disclose Confidential Information where required by a legal provision, or under a court or administrative order. In such cases, the party is to notify, where allowed by law, the respective other party in Writing prior to the intended disclosure, and to undertake any reasonable measures provided by law to keep the scale of the disclosure as small as possible.
- 11.5 Each party is to disclose Confidential Information to its consultants or advisors only if and to the extent necessary for the purposes of the contract or for enforcing legal rights. Prior to such disclosure, the consultants or advisors concerned must sign a confidentiality agreement that complies with the confidentiality requirements laid down in these Terms, unless the advisers are already subject to a statutory or other professional secrecy or confidentiality obligation.
- 11.6 The confidentiality obligation in these Terms continues to be fully effective even if the contract is terminated or otherwise ends, and applies for a period of five (5) years after the end of the term.

## 12. DATA PROTECTION AND SECURITY, REGULATIONS

- 12.1 MR Service ensures the security of the data entered by the client into the Online Services with respect to data protection law, in particular the GDPR. It will oblige employees and other agents it deploys to data protection pursuant to the requirements of data protection law, and provide evidence of this upon request.
- 12.2 Before starting to provide the Online Services, the parties shall review the data protection regulations in order to ascertain which regulations apply, involving the company Data Protection Officer if necessary. The client shall inform MR Service whether or not personal data could be affected by the Online Services, and if so, of the level of protection required for the data. If deemed necessary, the parties shall include Data Processing Terms in their contract.
- 12.3 The client is responsible for its compliance with all laws and regulations applicable to the Online Services and to take and maintain all necessary data protection and data security measures. It is the client’s responsibility to respond to potential enquiries by third parties required under laws and regulations relating to the use of the Online Services.

- 12.4 It may become expedient, for the purposes of invoicing the Online Service, to document and/or spot-check the volume of the client's use of the Online Services. In such a case, MR Service will expressly inform the client.
- 12.5 The customer is aware that the online service can only be used if the name, e-mail address of his employees and their usage data are processed in the process for the identification of authorized users and for the billing of usage. Without processing of this personal data, the use of the service is excluded. This data is always stored in Europe and processed there. Before using the online service, the customer is obliged to inform his employees about the processing of the above-mentioned data and the transfer to Europe as well as the regulations applicable to the employee according to GDPR. The customer alone is fully liable for possible claims by the customer's employees against MR or for damages due to violations of data protection law.

### **13. FORCE MAJEURE**

- 13.1 Neither Party shall be held liable for delays or failure to perform its obligations due to events of force majeure. Force Majeure events include, but are not limited to, war, civil unrest, natural disasters or fire, sabotage, epidemics, quarantine, government actions, monetary, trade, embargoes, lockouts, business disruption that are not attributable to MR Service, or similar.
- 13.2 External attacks on computer systems that cannot be protected against using currently available technology at economically reasonable cost and that considerably impair the system functionality are also considered as Force Majeure events.
- 13.3 In the case of a Force Majeure event, the affected contracting Party shall promptly notify the other Party and confirm this notification within five business days in writing, including a description of the causes giving rise to the Force Majeure event.

### **14. CORPORATE RESPONSIBILITY**

As part of the Munich Re Group, MR Service is subject to the UN's Global Compact Initiative, thus committing itself to protecting human rights, preventing forced, compulsory and child labour, promoting environmental protection, and combating corruption. As a prerequisite for cooperation, MR Service expects the client or partner to comply with the principles laid down in the UN's Global Compact.

### **15. TERM AND TERMINATION**

- 15.1 The Online Services are made available for operation on the day stipulated as the start of and for the duration of the agreed term.
- 15.2 Unless otherwise agreed, the contract is concluded for twelve (12) months and is automatically renewed by further periods of twelve (12) months, unless terminated by one of the parties by Written notice to the other party with one (1) months' notice to the end of the current term.
- 15.3 In addition, the contract may be terminated by either party for good cause without notice. There is deemed good cause particularly if MR Service is no longer able to execute the contract because the client refuses to consent to the use of other Munich Re Group companies, agents or sub-contractors.
- 15.4 Upon termination of the contract for whatever reason, all client connectivity to the Online Services will be terminated and any other services to the client based on these Terms will cease. The client is responsible for the transfer of its content before termination takes effect. The content saved by the client to the Online Services will be irrevocably deleted ninety (90) days after termination.

### **16. OBLIGATIONS ON TERMINATION OF THE CONTRACT**

- 16.1 Irrespective of the reason for termination, the parties undertake to cooperate to ensure that the contractual relationship is terminated in an orderly manner.

16.2 If the client requests MR Service to continue to provide services in this regard that it is not or no longer under a contractual obligation to render, Mr Service is to provide such services to the extent that its technical, organisational and personnel resources permit, at an appropriate price in line with the market.

## **17. MISCELLANEOUS**

17.1 The client's general terms and conditions of business do not apply.

17.2 Any amendments and addenda to the agreement between the parties are invalid unless made in writing. This also applies to a waiver of this requirement.

17.3 In the event that any individual provision or provisions of the contract should prove to be or become ineffective or unenforceable, this does not affect the validity of the remaining provisions of the contract. Any ineffective or unenforceable provision is to be replaced by a provision that comes closest to achieving the intended economic effect of the ineffective or unenforceable provision in a permissible manner. Any omission should be remedied by a provision that would have been agreed by the parties on the basis of their economic intention had they been aware of the omission.

17.4 The contractual relationship between the client and MR Service, the performance of the agreed Online Services and any claims arising therefrom are to be governed solely by German law to the exclusion of any rules of law designating another legal system as being applicable. The UN Convention on Contracts for the International Sale of Goods is excluded.

17.5 Munich is the place of performance and jurisdiction.

17.6 The Preamble and the Annexes to this Agreement are integral parts hereof. Should any of the provisions contradict one another, the provisions of the respective documents apply in the following order of precedence: (i) Online Services Licence Agreement, (ii) Online Services Product Description and Service Level.

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