



## Licensing, Usage, and Operating Agreement

**1. Foundations:** These licensing, usage, and operating terms and conditions (the „Agreement“) apply to all MOUNT10 service versions of MOUNT10 AG (hereinafter MOUNT10 Suurstoffi 20, 6343 Rotkreuz, Switzerland. This Agreement also applies to contract extensions, even if it is not expressly agreed again. This Agreement governs the relationship between the customer and MOUNT10 AG. Any deviating agreements must be issued in writing. By accepting the contractual deed, the customer agrees to these terms and conditions. Any conflicting terms and conditions of the customer will not be acknowledged unless they have been acknowledged in writing.

**2. MOUNT10 contractual obligation:** MOUNT10 provides the customer with software and, possibly, hardware components, depending on the version of the service. MOUNT10 undertakes to store the electronic data that is transmitted from the customer's location securely on specially protected servers in SWISS FORT KNOX. MOUNT10 guarantees the basic usability of the delivered software and hardware components throughout the term of the Agreement and is responsible for providing regular, free updates to the software and hardware it supplies (without prior announcement). All software components and detailed technical manuals are available at any time at <https://kb.mount10.ch/kb> and form part of this Agreement. MOUNT10 shall, in particular, take all technical and organisational measures that are required by Swiss data protection legislation, accord with the state of the art, and are based on relevant international standards and norms (e.g., ISO 27001). MOUNT10 backs up the data transmitted by the customer in such a way that it can be restored again at any time and without any gaps. MOUNT10 undertakes to use all its expertise and experience to provide high-quality services. The content and scope of the individual services are dictated by the service agreement resulting from this Agreement. In addition, MOUNT10 (as well as any third parties) undertakes to maintain confidentiality. MOUNT10's facilities are located exclusively on Swiss territory and are subject to Swiss law.

**3. Contractual obligations of the customer:** The customer undertakes to always pay the service amount before the start of the service period (credit card payment) or thirty (30) days after invoicing, without any deductions or offsetting. They also undertake to download the required MOUNT10 software components and to install them on their IT infrastructure on their own responsibility, as well as integrate any hardware components. It is recommended that a backup of the entire database be created before each MOUNT10 installation and integration and for data backups independent of MOUNT10 to be periodically repeated. The customer is responsible for ensuring a connection to the Internet that is appropriate for the selected scope of services. The customer is responsible for determining their files to be backed up, as well as for the time of the respective backup process or data synchronisation, and ensures on their own responsibility that the data they require was able to be successfully stored on the server in SWISS FORT KNOX in accordance with the log file. The customer explicitly undertakes to ensure that no illegal content, or content that relates to matters open to charges under criminal, civil or public law (including data protection), is present in its data. It acknowledges that, in the event of criminal prosecution, MOUNT10 will fully cooperate with the authorities in accordance with the relevant statutory provisions. The customer undertakes to return the software and hardware components that have been delivered to them to MOUNT10 in full and in a usable condition after the end of the contract. The customer may assign parts of these obligations to MOUNT10 or third parties in certain service versions, provided that this is noted accordingly in the „Operational responsibilities“. Storage of the access data is the responsibility of the customer. The Customer acknowledges and agrees that data relating to products for which CyberSentriq (formerly Redstor) is used must not be pre-encrypted. Pre-encrypted data may result in a disproportionate increase in required storage capacity and are therefore excluded from the contractually agreed backup services.

**4. End customer data and encryption:** MOUNT10 provides servers for its basic services. The key is not located with them, and, so, no end customer data can be viewed (for C2C, see point 10). The customer data stored by the customer under this Agreement on any MOUNT10 media belongs solely and exclusively to the customer. At no time does MOUNT10 acquire any rights of ownership or intellectual property rights to this data. The customer may request the immediate surrender of all data at any time – even during the term of this Agreement – and, in the event of termination of the Agreement, demand a written declaration from MOUNT10 that no more customer data will be stored by MOUNT10 in any form and on any media (legal obligations to archive documents and data remain reserved). The service for basic services includes encryption of customer data to protect it from inspection by MOUNT10 and third parties. The customer is the owner of and is solely responsible for all MOUNT10 access data. MOUNT10 has no way of recovering lost access data (password, etc.) and recommends keeping all access data in physical form in two secure and independent locations (e.g., with a trustee, a bank and/or a lawyer). Furthermore, periodic functional checks of all access data is recommended. THE CUSTOMER ACKNOWLEDGES THAT THEIR CUSTOMER DATA CAN NO LONGER BE MADE READABLE WITHOUT THE ENCRYPTION KEY/PASSWORD, AND THAT LOSS OF THE ENCRYPTION KEY/PASSWORD WILL RESULT IN THE ULTIMATE LOSS OF ALL CUSTOMER DATA STORED BY MOUNT10! For the service offering for Veeam products, the responsibility for encryption lies with the customer (activation in the software). For S3 services, the customer is responsible for and undertakes to encrypt all data transmitted to MOUNT10 locally in advance. MOUNT10 ensures local redundancy of the data by means of erasure coding. S3@MOUNT10 serves as shared storage. Customers gain access to a reserved storage area (bucket) via an endpoint URL and an access key. Optionally, an „object locking“ feature can be activated for each bucket on request. If the data is stored in encrypted form, MOUNT10 grants the necessary protection of the data in accordance with the provisions of its TOM.

<sup>1</sup> For reasons of legibility, the masculine form is used throughout; however, all terms refer to all genders.

For the Proxmox services, the customer bears responsibility and undertakes to encrypt all data locally before transferring it to MOUNT10. The storage is located in SWISS FORT KNOX. Proxmox@MOUNT10 serves as shared storage. Provided that the data is stored in encrypted form, MOUNT10 ensures the necessary protection of the data in accordance with the provisions of its TOM. For the Proxmox services, the customer bears responsibility and undertakes to encrypt all data locally before transferring it to MOUNT10. Proxmox@MOUNT10 serves as shared storage. Provided that the data is stored in encrypted form, MOUNT10 ensures the necessary protection of the data in accordance with the provisions of its TOM.

**5. Contract start, term and transfer:** The Agreement enters into force upon electronic consent to these provisions being provided, or upon signature of the service offer in writing. The cancellation of binding contracts by the customer is only possible with the express written or electronic consent of MOUNT10 and with the customer assuming all costs and expenses and fully indemnifying MOUNT10. The term of the Agreement is generally one year, i.e., 365 days (the „Agreement Term“) – unless otherwise agreed. Once the Agreement Term has ended, it is tacitly extended for another year, in each case. The period of notice for termination is three months. Contract amendments relating to increases in services or users may take effect immediately upon agreement. Reductions in services or users shall take effect at the end of the applicable contractual term. The service scope initially agreed shall remain the minimum service scope at all times. Any subsequent downgrade shall not reduce the service scope below the service scope initially agreed. Accordingly, a downgrade is only permitted down to the level of the initially agreed service scope. Changes to the Agreement to increase the services/users can be made immediately. Reductions in the services/users take place at the end of the current term. Once the Agreement has ended, the data shall remain on MOUNT10's systems for 30 days (unless actively deleted by the customer). Once these 30 days have elapsed, the customer data will be deleted in full from all MOUNT10 systems. MOUNT10 reserves the right, in the event of a lacking service, to withdraw from the Agreement or to temporarily discontinue the service (with full indemnification), or to adhere to the Agreement while compensating for the resulting damage. Compensation for further damage remains reserved. All ancillary agreements, assurances and changes are only binding for MOUNT10 after it has given express written or electronic confirmation. MOUNT10 alone is entitled to transfer this contractual relationship and all other relationships with the customer to another contractual party. The customer is not entitled to a refund of any initial payments made after termination of the service. Changes to the terms and conditions (prices, adjustment of services and contractual documents, etc.) during the term of membership remain reserved. Changes and adjustments to the Agreement are also permitted in digital form, provided that they are made explicitly. In this case, the customer has the right to terminate the contract extraordinarily within 10 days of receiving the adjustment. Termination must be issued in writing (signed by hand or furnished with a qualified electronic signature), otherwise the change shall be deemed to have been approved by the customer one month after entry into force.

**6. Upgrade and Downgrade in Proxmox@MOUNT10:** An upgrade within Proxmox@MOUNT10 is possible at any time. A downgrade is only possible (as this cannot be implemented otherwise for technical reasons) if the data stored in the previous version are deleted. The data history of the previous version will therefore be permanently lost. The Customer undertakes to ensure appropriate data backup prior to performing any downgrade. The Provider expressly recommends performing a complete and multiple backup of all relevant data prior to any downgrade. To the extent permitted by applicable law, any liability of the Provider for data loss occurring in connection with a downgrade is excluded.

**7. Brochures and technical documents:** Brochures, catalogues and digital documents (such as general information on the Internet or by email) are not binding without another explicit agreement. Information provided in technical documents is only binding if it has been expressly affirmed.

**8. Definition of data, retention period and number of copies:** The backup capacity (data volume selected at the customer site for the backup process) of MOUNT10 is determined in accordance with the online selection/written agreement. MOUNT10 is fundamentally not an archive solution. However, all versions offer access to the pools of data successfully backed up by MOUNT10 for the last 30 to 60 days (current and previous month). Thereafter, the stock of data for the last day of each month is summarised in a month-end balance. The effective storage period of these end-of-month data stocks depends on the version/offer.

For Veeam products, the storage period can be set individually by the customer. MOUNT10 SOLO offers an exclusive storage period of 12 months. The COMBO Service, CLOUD 2 CLOUD and SWISS DATA BACKUP have a standard storage period of 10 years (120 monthly data stocks) – with an optional extension to an unlimited number of monthly data stocks. COMBO3 offers standard storage of 3 months, extendable to 12 months. MOUNT10 COMBO3 / COMBO / CLOUD 2 CLOUD and SWISS DATA BACKUP store the data in SWISS FORT KNOX, with a copy at a second location within SWISS FORT KNOX. The effectively allocated storage space on the hardware components is not relevant here (will not be charged separately). S3 and Proxmox services are only permitted for backup data that comes from software manufacturers and is S3-and Proxmox compatible.

**9. Transfer of customer data:** The customer acknowledges the encrypted transfer of their data via a public network infrastructure (the Internet). The customer bears the risk of any data loss or problems during transport. MOUNT10's responsibility for the data begins upon receipt of the data in SWISS FORT KNOX and ends upon surrender of the data from SWISS FORT KNOX. MOUNT10 undertakes to maintain the special statutory confidentiality obligations (banking and legal secrecy, medical secrecy, professional secrecy, official secrecy) and to ensure compliance with these from all its employees by means of corresponding written confidentiality declarations.

**10. Data protection and data processing:** MOUNT10 is obliged to maintain the strictest confidentiality and also agrees this with its employees and contractual partners. This obligation shall continue in full force and effect beyond termination of the Agreement. The customer hereby authorises MOUNT10 to provide any third parties with the necessary information to provide the contractual services, specific to the purposes in question. The customer has the right to inform themselves at any time about compliance with the applicable data protection regulations of MOUNT10. If they are legally obliged to carry out audits, this may be done by qualified third parties in return for compensation of MOUNT10's expenses at a level customary in the trade (the Parties shall agree on the details on a case-by-case basis).

**11. Order processing and special provision (only for C2C and S3):** MOUNT10 generally has no way of gaining insight into the customer's data. This eliminates the basis for order processing. With regard to the C2C service, the following applies: the web portal (<https://app.cloud2cloud.ch>) is operated by the software manufacturer CyberSentriq (formerly Redstor) and is located in the Microsoft Azure environment. MOUNT10 has no influence on the availability of the web portal (no influence on point 13. Warranty). The encryption key is generated on the basis of the password. The password is not stored at MOUNT10. MOUNT10 is subject to strict measures to protect end customer data from unauthorised access or use by unauthorised persons. This includes restriction of access by MOUNT10 employees and contractual partners. The end customer data is fundamentally encrypted and cannot

be viewed by MOUNT10. Excluded from this are the email addresses and the subject line of the emails and file names received and sent in OneDrive, which – as also at Microsoft – remain unencrypted for technical reasons. For Entra ID backup, additional data is stored unencrypted (see details at <https://helpdesk.redstor.com/support/solutions/articles/4000219824-1554-how-to-backup-and-recover-microsoft-entra-id#What-is-supported?>). The attractive conditions of the MOUNT10 C2C service can only be maintained if customers backup all Microsoft 365 users who are registered with Microsoft, or all Google Workspace users who are registered with Google, with MOUNT10 as well. It is therefore mandatory for customers and/or partners to implement this. Only backing up individual users from a number of Microsoft 365 users or Google Workspace users is a reason for termination. MOUNT10 expects an average data volume over a larger number of users, as the cost depends heavily on the amount of backup data stored. For the visible data, MOUNT10 assures the customer that it will fully comply with the data protection regulations of Art. 9 of the Data Protection Act (DSG). The same applies to S3 and Proxmox if the customer does not deploy encryption of the data, in breach of the Agreement. MOUNT10 undertakes to store or process the data securely as sensitive personal data. MOUNT10 undertakes to take all necessary measures of a technical and organisational nature to ensure data security and data protection. Further details can be found at <https://mount10.ch/tom>. Any breach of data security shall be reported to the liaison person appointed by the customer as soon as knowledge of it has been acquired. If the service partners change, MOUNT10 shall inform the customer in advance. The customer's consent shall be deemed to have been granted if the customer does not intervene in writing in response to the notification by MOUNT10 within 20 days. If the customer intervenes for objective reasons, MOUNT10 shall enable the customer to terminate the Agreement extraordinarily. The parties shall agree on the relevant details on a case-by-case basis.

**12. Validity, prices and billing:** All offers from MOUNT10 are valid for 30 days, unless another period has been agreed, and are clearly recognisable as such. Our prices are strictly exclusive of value-added tax and are given in Swiss francs. All prices on price lists or brochures are non-binding (if not expressly noted) and can be adjusted by MOUNT10 at any time. Unused or only partially used services will not be reimbursed. The payment terms are recorded in the service configurator. MOUNT 10 shall invoice the customer for the agreed services in accordance with the offer, service description, and/or price lists („Total Remuneration“). The remuneration is due from the point of conclusion of the Agreement and must be paid before the start of the service, without deductions or offsetting, with a payment term of 30 days from the invoice date (the „Expiry Date“). A flat rate of CHF 50 may be charged for reminders and other debt collection services such as compulsory execution, etc.

**13. Ownership and copyrights:** MOUNT10 retains full ownership and/or other rights to the delivered software and hardware components at all times. The customer shall not receive any rights in rem (ownership, pledges or any right of retention) to the components delivered by MOUNT10 and waives such rights. The customer only receives the right to use the delivered software and hardware components during the term of the Agreement. Once the Agreement has ended, any authority on the part of the customer to use, transfer, copy or otherwise exploit the hardware or software shall lapse. The ownership, copyright, trademark and/or licensing rights to software and hardware components, signs, logos, websites and other documents and data of MOUNT10 remain exclusively with MOUNT10. The customer is not entitled to change the software, either in whole or in part, to copy it or reverse engineer it, to dismantle it into its components, to lease, sell or pledge it, or derive the source code from it in any other way, or to use the software as the basis for the creation of other software programs or derivative works or in any other way that could infringe the rights of MOUNT10 or third parties. However, the customer may make a copy of the software for backup and archiving purposes. All annotations, marks and signs of the original, including copyrights, trademarks and licensing rights, must be attached to the backup copies. MOUNT10 is entitled, either alone or together with the customer's staff, to use general ideas, concepts and procedures that have been developed or discovered in the course of the MOUNT10 service being devised for the CUSTOMER for the same or similar projects with third parties.

**14. Warranty:** MOUNT10 expressly guarantees a high service availability of at least 99.7% per year (based on 365 days x 24 hours; except for technology and Internet access at the customer site). This does not apply to planned maintenance. It guarantees that the hardware and software used are not subject to defects that nullify or significantly reduce the suitability for contractual use. MOUNT10 may, at its own discretion, remedy any defect that has been legitimately objected to by immediately eliminating, circumventing or redelivering the service. If MOUNT10 does not successfully complete the rectification of defects within a reasonable period of time, the customer shall set a grace period. Once this grace period has passed to no avail, the customer may demand an appropriate reduction in the remuneration in the event of minor defects, or may terminate the contract in the event of significant defects. Defects must be reported within 10 days of discovery. The warranty period is 4 weeks and also applies to hidden defects.

**15. Liability:** MOUNT10 excludes any and all liability as far as is legally possible and permissible (also applies to third parties). Since MOUNT10 has no access to the customer infrastructures, and the customer data is also fully encrypted, the monitoring and warning options of MOUNT10 are severely limited. The responsibility for a successful data backup and data processing therefore lies solely with the customer. In the event of force majeure, i.e., upon the occurrence of events beyond the control of the party concerned (such as, for example, official orders and measures, power shortages, industrial disputes, cases of natural disasters, epidemics and pandemics) that significantly impair or make impossible the performance of the service, the party concerned must notify the other party in writing as soon as possible of the nature of the event in question and its expected duration. In this case, the affected party is entitled to postpone the fulfilment of its service to the extent of the duration of the hindrance plus a reasonable start-up period; however, once the event in question ceases to pertain, the party in question must immediately resume provision of the service, or it shall be cancelled altogether. The Parties shall endeavour in good faith to reduce the impact of any event of force majeure as far as possible.

**16. Role of a sales partner:** MOUNT10 sales partners („Sales Partners“) are independent of MOUNT10 in their activities and are not authorised to represent or act for MOUNT10 in any form. Sales Partners are not party to this Agreement (this does not apply to SWISS DATA BACKUP). Sales Partners are external specialists who have been specially trained by MOUNT10 and are available to the customer as a first point of contact.

**17. Service extensions:** Service extensions can be ordered at any time via <https://portal.mount10.ch> (only MOUNT10 SOLO), the corresponding Sales Partner, by email ([support@mount10.ch](mailto:support@mount10.ch)), via myMOUNT10 (<https://my.mount10.ch>), or by telephone (+41 41 726 03 28).

**18. Severability clause:** Should any provision of this Agreement be or become invalid, this shall not affect the remaining provisions. In place of the ineffective provisions, replacement provisions shall apply that are equivalent or at least approximate to the purpose of the Agreement that the parties would have agreed on in order to achieve the same economic result if they had known that the provision was ineffective. The same applies

in the event that the provisions are incomplete.

**19. Jurisdiction and applicable law:** Swiss law is applicable, to the exclusion of any conflict of laws rules and the Vienna Sales Convention. The place of jurisdiction is the ordinary courts in the canton of Zug (Switzerland).