

## CloudCTI Terms of Delivery

CloudCTI is a trade name used by Keylink BV, which has its registered office in Naarden – The Netherlands and is listed with the Chamber of Commerce in Almere – The Netherlands under number 1001 7496

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## Terms of Delivery

### 1. Offer and agreement

1.1. These Terms of Delivery apply to all offers and agreements in which CloudCTI offers or supplies the Customer with goods and/or services of any description whatsoever, even if the goods or services concerned are not described or further specified in the present terms. Departures from these Terms of Delivery are only possible if specifically agreed in writing in a document signed by both parties.

1.2. Unless expressly stated otherwise in the offer, all CloudCTI's offers are subject to contract, even if a period of validity is specified in the offer. CloudCTI reserves the right to make the conclusion of an agreement dependent on, amongst other matters, the Customer's creditworthiness. An agreement will be effected by means of the Customer creating a user account on CloudCTI's website. Any change or addition to an agreement must be agreed in writing.

1.3. The applicability of any other purchase conditions or other terms and conditions of the Customer is hereby specifically rejected.

1.4. If any provision of these Terms of Delivery is null and void or is voided, the other provisions of these Terms of Delivery will remain fully in effect. In such cases CloudCTI and the Customer will consult with each other to agree a new provision to replace the one which is null and void or is voided, while taking into account the purpose and meaning of the original provision.

1.5. CloudCTI reserves the right to amend these Terms of Delivery. CloudCTI will notify the Customer of the intended amendment at least three (3) months before the amendment takes effect. The amended terms will apply to all offers made by CloudCTI and all agreements between CloudCTI and the Customer from the date the amendment takes effect.

### 2. Fee

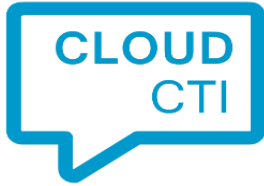
2.1. The Customer will be obliged to pay fees to CloudCTI in accordance with CloudCTI's stated rates for the provision of Services.

2.2. The fees referred to in article 2.1 will be determined separately for each of the Services and may include:

2.2.1. a one-off amount for establishing or changing the Service, back-up and restore charges, administrative charges and, insofar as applicable, the charge for the required facilities;

2.2.2. an amount and/or amounts due monthly for maintaining the Service and making it available and for providing one or more Services;

2.3. All the fees the Customer is obliged to pay will be specified in an invoice made out by CloudCTI. Statutory taxes and any other levies imposed by government will be payable on the fees referred to in article 2.



2.4. CloudCTI will be entitled to increase the applicable rates for the Services annually on the basis of the consumer price index for family consumption, as published by Statistics Netherlands (CBS). CloudCTI may also adjust the rates and their annual increase in accordance with future legislation and regulations relating to the European Monetary Union.

2.5. Without prejudice to the provisions of article 2.4, CloudCTI may increase the rates for the Services. Following the Agreement's conclusion, if CloudCTI increases the rates on grounds other than the index referred to in article 2.4, the Customer will be entitled to terminate the Agreement as of the date on which the change takes effect.

2.6. Unless proof to the contrary is provided, CloudCTI's data records on the fees owed, administration, commissioning of the Service, number of users, type of Service, established connections and provision of Services will be conclusive.

### **3. Payment**

3.1. The Customer will owe the fees referred to in article 2 from the date on which the Service is made available for use, taking into account a free trial period as stated in the User Agreement.

3.2. If the commissioning of the Service is prevented by circumstances attributable to the Customer, the Customer will owe the fee from the date on which the Service would have been made available for use, if the circumstances attributable to the Customer had not occurred.

3.3. Payment will be made monthly and always prior to commencement of the following one-month period of use.

3.4. The payment method for the fee will be stated on the relevant invoice.

3.5. If the Customer fails to pay the fee within the period stated in the user agreement or on the invoice, CloudCTI will notify the Customer that the payment has not been received and will grant the Customer a period of seven days within which the payment must be made. In the event of not making the payment within the aforementioned period of seven days, the Customer will be in default without any further notice of default being required.

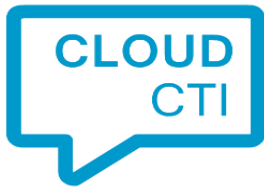
3.6. From the date of default, CloudCTI may charge the Customer an additional fee equal to the statutory interest on the amounts owed and the costs CloudCTI incurs to collect those amounts.

3.7. In the event of default, CloudCTI will be entitled to discontinue the Services with immediate effect.

### **4. Liability of CloudCTI and indemnification**

4.1. CloudCTI accepts statutory obligations to pay compensation insofar as this is apparent from the present article 4.

4.2. Without prejudice to the provisions of article 4.3, CloudCTI's total liability owing to attributable failure in the performance of the agreement and on account of the agreement's termination will be limited to compensation for the direct loss, subject to a maximum of the net invoice amount of the supplied service or equipment which is the



subject of the claim or is directly linked to it. If the agreement is principally a continuing performance contract for a term of one year or longer, with fees which fall due periodically, the obligation to pay compensation will be limited to the total of the net fee amounts stipulated for the year in which the loss arose. However, the total compensation for direct loss will never exceed € 1,000 (one thousand euros) under any circumstances. Direct loss is deemed to mean exclusively:

4.2.1. the reasonable costs the Customer will have to incur to arrange for CloudCTI's performance to conform to the agreement. However, compensation for this loss will not be paid if the Customer has terminated the agreement;

4.2.2. reasonable costs incurred to determine the cause and extent of the loss, insofar as the determination concerns direct loss in the sense intended by the present terms;

4.2.3. reasonable costs incurred to prevent or limit the loss, insofar as these costs led to a limitation of the direct loss in the sense intended by these Terms of Delivery.

4.3. CloudCTI's total liability for loss on account of death or physical injury or for material damage to property will under no circumstances exceed € 10,000 (ten thousand euros) per incident, and a series of related incidents will count as a single incident.

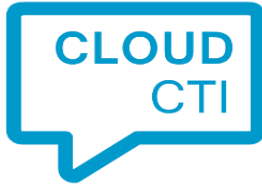
4.4. CloudCTI's liability is hereby excluded for indirect losses, including consequential losses, loss of profit, lost savings, and loss of money or securities, on account of the Customer or third parties making use of, or not being able to make use of, the service(s) or the software, and CloudCTI's liability is likewise excluded for direct losses other than those listed in article 4.2 (such as lost information, files or data).

4.5. Apart from in the cases referred to in articles 4.2 and 4.3, CloudCTI will not bear any liability to pay compensation, regardless of the grounds on which legal proceedings for compensation may be based.

4.6. CloudCTI's liability for losses suffered by the Customer on account of CloudCTI's attributable failure in the performance of the agreement will only arise if the Customer immediately gives CloudCTI proper notice of default in writing, stating a reasonable period to remedy the failure, and CloudCTI's attributable failure to perform its obligations also continues after that period. To enable CloudCTI to respond adequately, the notice of default must include as detailed a description as possible of the failure.

4.7. A claim for compensation cannot be considered unless the Customer has provided CloudCTI with written notice of the loss as soon as possible after discovering it, or after it could reasonably have been discovered, but at the latest within four weeks.

4.8. The Customer will indemnify CloudCTI against all claims brought by third parties on account of making use of, or not being able to make use of, the service(s) or software, owing to product liability as a result of a defect in a service, product or system, which the Customer supplied to a third party and which also consisted of service(s) or software supplied by CloudCTI, unless and insofar as the Customer proves that the claim was caused by the



service(s) or software supplied by CloudCTI and would also have occurred if the Customer had supplied the services(s) or software to the third parties concerned without any addition, change or processing.

4.9. The exclusions and limitations of liability, as stated in the present article 4, are likewise stipulated for and on behalf of CloudCTI's subordinates and any other party engaged by CloudCTI within the scope of providing Services, as well as for and on behalf of parties from which CloudCTI purchases services, goods and/or components which are supplied.

## **5. Force majeure**

5.1. Neither party will be bound to comply with any obligation if prevented from doing so by force majeure. Force majeure is also deemed to mean a non-attributable failure of CloudCTI's suppliers. If the force majeure situation has lasted longer than 90 (ninety) days, either party will be entitled to terminate the agreement by sending the other party written notice to that effect, by post, e-mail or via the website.

5.2. If the Customer has already received goods or services under the agreement's execution at the time the agreement is terminated in the manner described in article 5.1, the goods or services concerned and the associated payment obligations will not be subject to cancellation, unless CloudCTI is in default in respect of the goods or services concerned. Taking into account the provisions of the preceding sentence, amounts invoiced by CloudCTI prior to termination which relate to activities or deliveries already carried out under the agreement's execution will still be owed in full and will become immediately due and payable on the date of termination.

## **6. Software**

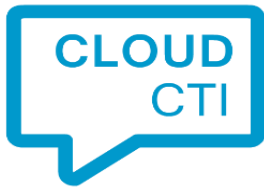
6.1. The Software provided to the Customer in aid of using the Service is the intellectual property of CloudCTI and is protected under the Dutch Copyright Act, international treaty provisions and the applicable laws of the country where the Software is used. The structure, organisation and code of the Software constitute the valuable trade secrets, and are confidential information, of CloudCTI. The Software's modification, adaptation, translation, reverse engineering, decompilation or disassembly, or any attempt to derive the Software's source code using any other method, is not permitted.

6.2. The Software must not be rented or leased to any third party or provided for use under licence to any third party. The rights to use the Software may only be transferred to another person/legal entity if the User Agreement is also transferred.

## **7. Duration, amendment and termination of the User Agreement**

7.1. The User Agreement commences on the date the Customer is registered for the Service, possibly taking into account a trial period at the option of the Customer and is entered into for a minimum term of one year, counting from the date on which the User Agreement becomes definite, as stipulated in article 7.2.

7.2. The User Agreement becomes definite on the date the initial payment is due according to this agreement. However, if the aforementioned initial payment is not made within the stipulated payment period, the User Agreement will be terminated automatically and CloudCTI will be entitled to discontinue the Service(s).



7.3. Following the expiry of the minimum term stated in article 7.1, the User Agreement will be extended automatically by a period of one year.

7.4. With due regard for the minimum term, the User Agreement may be terminated by either party in writing, subject to a period of notice of one calendar month.

7.5. In addition to the parties' rights under general law, the User Agreement may be terminated entirely or partially by either party with immediate effect, if:

7.5.1. the other party applies for, or is granted, a moratorium;

7.5.2. the other party is declared insolvent or a winding-up/bankruptcy petition is filed;

7.5.3. the Service or the Software fails to work according to the Customer's standards, owing to a change in the environment in which the Service or the Software is used, such as the interface with the Communication System, the Operating System or the Database Application.

7.6. The Customer may change the User Agreement at any time for the purpose of expanding the number of Services or the number of Workspaces. A trial period will not apply to the new services and payment for them will be owed from the date on which the next payment is due for the existing Services or Workspaces. The contract period will not be affected by any such change.

## **8. Authentication**

8.1. Authentication is required to use the Service(s). Authentication is part of the security architecture which provides facilities for identifying Customers with the aid of keys and/or passwords. CloudCTI provides the Customer with Authentication by means of an individual log-in name and an individual password.

8.2. The Customer will ensure that the log-in name and password are not stolen or misused.

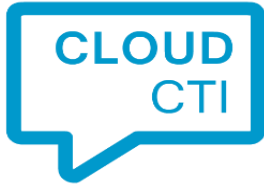
8.3. The Customer will inform CloudCTI immediately of any disclosure of a log-in name or password.

## **9. Availability and security**

9.1. CloudCTI will make every effort to keep Service(s) available outside Maintenance Periods.

9.2. Owing to the technical structure of the Internet, CloudCTI is unable to guarantee bandwidth between the Customer's computer system and any other computer system which forms part of the Internet.

9.3. CloudCTI will take appropriate technical and organisational measures in aid of the safety and security of the Service(s) and the data the Customer saves on CloudCTI's computer systems, such that the data concerned will only be accessible to CloudCTI's system administrators or the officers they have appointed. The Customer is aware that CloudCTI cannot reasonably provide protection against the safety risks which a connection to the Internet involves.



9.4. CloudCTI will comply with the applicable legislation on the protection of personal data and privacy.

9.5. If advisable for the proper operation of the Service, CloudCTI reserves the right to make alterations in/change access to the Service, the Host Name and/or the Access Code. CloudCTI will notify the Customer in good time of any such changes that directly affect the way the Customer accesses the Service(s).

## 10. Use of the Service

10.1. The Customer undertakes to perform and comply with the User Agreement with due regard for CloudCTI's interests. The Customer will not in any way prevent or delay the provision of Services.

10.2. The Customer will make every effort to ensure that the Service(s) and the software are not used improperly by the users of the Service or the software who come under the Customer's responsibility and/or by the Customer's customers. Improper use is deemed to mean in any case, but not exclusively: any violation of and/or change to the Service or software which could result in the Service or software or other services of CloudCTI being disrupted and/or impeded.

10.3. The End User will only use the Service(s) or the software in accordance with the Fair Use Policy. This applies in particular, but not exclusively, to the total size of the files and/or data the End User saves on the systems of CloudCTI or its partners. If the End User derogates from this Fair Use Policy, CloudCTI will be entitled to discontinue the Service but not before consulting the Customer or the End User about the matter.

10.4. In making use of the Service(s) or software, the Customer will not infringe any third-party rights, act towards any third party improperly or contrary to public decency or public order and will not harm any third party. The Customer will, in particular:

10.4.1. respect the intellectual property rights of third parties;

10.4.2. not distribute data in breach of statutory provisions;

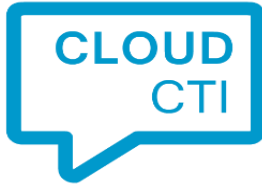
10.4.3. not access computer systems without being authorised to do so;

10.4.4. not change, delete, render unusable or add data to third-party data without the consent of the third party concerned;

10.4.5. not spread computer viruses or other computer programs or data with a view to damaging any third party's computer programs or data;

10.4.6. not use the Service in such a way as to impede telecommunications traffic.

10.5. On being requested to do so by CloudCTI, the Customer undertakes to provide CloudCTI with any data required by CloudCTI to maintain the proper operation of the Services.



10.6. Unless stipulated otherwise in the agreement, the remaining equipment, software and services required to access the Service, such as a router, TCP/IP software and peripheral equipment, must be provided by the Customer. Any equipment used must comply with the requirements stipulated for it by CloudCTI. On request, CloudCTI will arrange for the Customer to be provided with information on the requirements concerned.

10.7. In the event of intending to relocate, the Customer will inform CloudCTI as soon as possible of the new address to which the Service will have to be changed. CloudCTI will make every effort to arrange for the Service to be changed to the new address in good time. Any costs arising from the change to the Service will be payable by the Customer. If the Service is not available at the Customer's new address, the Customer will continue to owe the fees due under the agreement until the Agreement is terminated in accordance with article 7.

10.8. Without prejudice to its other rights, CloudCTI reserves the right to suspend its obligations to the Customer by, amongst other measures, denying the Customer access to the Service(s), with immediate effect, if this is justified by the Customer's actions or if the Customer acts in breach of the provisions of article 8.2. CloudCTI will never be obliged to pay compensation of any description on account of such a suspension. The Customer will indemnify CloudCTI against claims brought by third parties in connection with actions of the Customer which are in breach of the provisions of article 8.2.

## **11. Stipulations for Resellers**

11.1. If the Service or Software is supplied or sold to the Customer by a Reseller and this results in an invoicing relationship in connection with the Service or the Software, both the Reseller and the Customer will be bound by these Terms of Delivery. In such cases, the word 'Customer' in these Terms of Delivery should be read as 'Reseller' where applicable.

11.2. The Reseller will ensure that the Customer's obligations to CloudCTI are met.

## **12. Final provisions**

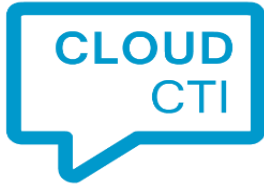
12.1. These Terms of Delivery, and the agreements based on them are governed by Dutch law. Unless the parties have agreed on arbitration or a binding opinion, any dispute arising between the parties in connection with an agreement based on these Terms of Delivery will in the first instance be submitted to the jurisdiction of the competent judicial authorities in Amsterdam.

12.2. The parties will attempt to settle a dispute out of court.

12.3. CloudCTI may transfer all or part of an agreement to another enterprise which is affiliated with CloudCTI, without the Customer's prior written consent being required. CloudCTI is also entitled to outsource all or part of the execution of the Service(s) to third parties.

12.4. The fact that CloudCTI has not exercised a right or made use of an available legal remedy will not imply any waiver of that right or forfeiture of that legal remedy. Any claims the parties have against each other concerning an agreement or an agreement's performance will be barred if they are not made the subject of legal proceedings within two years of the date on which the cause could reasonably have been known.





12.5. Electronic communication (by e-mail or via the website) between the parties is considered equivalent to written communication, insofar as legally permitted and possible and subject to an electronic document being provided with a personal identification code of the sender.