

GENERAL TERMS AND CONDITIONS FOR THE PROVISION OF DIGITAL RESILIENCE, IT, BACKUP AND RELATED SERVICES

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1. Scope of Application

1.1

These General Terms and Conditions (“Terms”) govern the provision of IT services, digital resilience and business continuity advisory services and assessments, Backup as a Service (“BaaS”), brand monitoring, incident response and other related services (collectively, the “Services”) by **Danoux Olivier, operating under the AXOUND brand**, with registered offices at Chemin de Riantbosson 19, 1217 Meyrin, Switzerland (“AXOUND”), to the customer (“Customer”).

Only the Services expressly identified in the applicable Order Form are included in the Contract.

2. Scope of Services, Order Form and Implementation of the Services

2.1

AXOUND shall deliver Services as described in the order form (“Order Form”) entered into by the parties in accordance with this Section 2.

2.2

Services may include optimizing Customer IT infrastructures, digitalization of Customer processes, IT strategic support, digital resilience and business continuity assessments, configuration and management of backup environments, data restoration, automation and scripts, brand monitoring, detection and assessment of potentially fraudulent or infringing online assets, takedown assistance and incident response.

The precise scope, exclusions and deliverables applicable to each Service shall be those set out in the Order Form and, where applicable, the relevant Service Annex.

2.3

The Services are provided “as is” and “as available”, subject to these Terms and to the specific commitments expressly agreed in the Contract.

2.4

AXOUND shall provide a quote to the Customer based on an analysis of the Customer’s request for Services.

Such quote shall include, where applicable:

- a) a description of the Services;
- b) an estimation of the duration of the Services and key milestones, where relevant;
- c) rates, payment terms and additional charges;
- d) a description of post-delivery or recurring support, its term and options for extended support, where relevant; and
- e) the validity period of the quote.

2.5

If the Customer accepts the quote within its validity period, AXOUND shall issue a corresponding Order Form for the Customer to sign.

The Order Form and these Terms shall together constitute the contract (“Contract”) between AXOUND and the Customer, together with any applicable Service Annex, Service Level Agreement (“SLA”) and Data Processing Agreement (“DPA”).

2.6

AXOUND shall provide the Customer with documents and/or reports at each key milestone identified in the Order Form, where applicable.

2.7

Upon delivery of the Services, AXOUND shall provide such summary, report, technical documentation, configuration report or other deliverables as are expressly identified in the Order Form or applicable Service Annex.

2.8

AXOUND shall provide post-delivery or recurring support as per the terms of the Order Form.

2.9

Any modification to the Order Form must be mutually agreed upon in writing and signed or otherwise validly accepted in writing by both parties.

2.10

AXOUND may subcontract the provision of the Services, in whole or in part, to third parties.

Where a subcontractor processes personal data on behalf of the Customer, the appointment and use of such subcontractor shall be subject to applicable data protection law and, where applicable, the DPA.

AXOUND shall remain liable towards the Customer for the provision of the Services by its subcontractors, subject to the limitations and exclusions set out in Section 9 and to mandatory applicable law.

3. Services Availability and Support

3.1

AXOUND aims to provide reliable Services but does not guarantee uninterrupted or error-free operation.

Scheduled maintenance and updates may result in temporary service disruptions, and advance notice will be provided where reasonably feasible.

3.2

AXOUND shall use commercially reasonable efforts to investigate and correct defects affecting the Services.

Any response time, resolution time, availability commitment, Recovery Point Objective ("RPO"), Recovery Time Objective ("RTO"), recovery time or other service level shall apply as a binding contractual commitment only where expressly identified as such in the Order Form or an applicable SLA.

Unless expressly identified as a binding service level, any timeframe, objective or estimate communicated by AXOUND is indicative only.

3.3

Services may depend upon or include products, infrastructure, software, networks, cloud services, hosting services, storage services, authentication services, APIs, telecommunications, domain name services or other services provided by third parties.

AXOUND does not control such third-party services and, subject to Section 9 and mandatory applicable law, assumes no liability for their availability, performance, defects, modifications or failures to the extent such matters are outside AXOUND's reasonable control.

Where appropriate, AXOUND will use commercially reasonable efforts to assist the Customer in identifying or escalating an issue to the relevant third-party supplier.

3.4

AXOUND shall use commercially reasonable efforts to provide the Customer with support on general questions, configuration and training requests concerning the Services in accordance with the terms of the Order Form.

If the Order Form does not include such support, the Customer may submit a request and AXOUND may provide additional support subject to additional fees agreed upon with the Customer.

3.5

Unless otherwise provided in the Order Form or an applicable SLA, support may be provided through email, chat, telephone calls and/or videocalls from Monday to Friday, from 09:00 AM to 06:00 PM local time in Geneva, excluding public holidays applicable in the Canton of Geneva.

4. Customer Obligations

4.1

The Customer shall provide AXOUND with the necessary assistance, complete and accurate information, documents, tools and infrastructure access required to deliver the Services.

AXOUND may reasonably rely on the information, classifications, inventories, instructions, access rights and representations provided by the Customer without independently verifying their completeness or accuracy unless such verification expressly forms part of the Services.

The Customer shall promptly inform AXOUND of any change to its systems, infrastructure, tenants, accounts, repositories, data locations, credentials, licences, authentication mechanisms or other environment that may reasonably affect the scope, operation or effectiveness of the Services.

4.2

The Customer is responsible for maintaining the security of its accounts, credentials, access rights, authentication mechanisms and administrative accounts, except to the

extent responsibility for a specific element has expressly been entrusted to AXOUND under the Contract.

The Customer agrees to:

- a) use the Services in compliance with applicable laws and regulations;
- b) avoid any activity that disrupts, interferes with or damages the Services;
- c) not upload or store content that unlawfully infringes third-party rights or contains unlawful material; and
- d) ensure that it possesses all rights, permissions and authorisations necessary for the data, systems, domains, accounts, trademarks, content and other assets in respect of which it instructs AXOUND to perform Services.

4.3

The Customer shall reasonably follow the recommendations and guidelines provided by AXOUND concerning the use or operation of the Services.

Where the Customer decides not to implement a material recommendation or prerequisite identified by AXOUND, AXOUND shall not be liable for consequences resulting from that decision to the extent permitted by applicable law.

4.4

Where applicable, AXOUND may transfer and store Customer data in encrypted form.

The allocation, possession, backup, delivery and management of encryption or decryption keys shall be governed by the applicable Service configuration, Order Form or Service Annex.

Where a decryption key is provided to the Customer, the Customer agrees to store and use such key in accordance with AXOUND's security instructions.

4.5

AXOUND shall not be liable for any delay, reduced performance or non-performance to the extent caused by the Customer's failure to meet its obligations under this Section 4, including inaccurate or incomplete information or failure to notify AXOUND of relevant changes.

Payments properly due under the Contract remain payable.

5. Pricing and Payment

5.1

The Customer shall pay the fees as outlined in the Order Form.

Unless stated otherwise in the Order Form, fees are exclusive of VAT and other applicable taxes.

5.2

Services provided on a subscription basis are subject to recurring payments as specified in the Order Form.

5.3

Additional fees may apply for requests or extended services falling outside the scope of the Order Form.

5.4

Unless otherwise specified in the applicable order form, invoices are due upon receipt.

5.5

In accordance with article 104 of the Swiss Code of Obligations ("CO"), any delay in payment will give rise to default interest at 5% per annum starting from the due date, without prejudice to article 106 CO.

5.6

AXOUND reserves the right to suspend the Services in the event of late payment or non-payment, without prejudice to any other right and to its right to terminate the Contract.

Where reasonably feasible, AXOUND shall provide notice before suspending a recurring Service for non-payment.

6. Confidentiality

6.1

For the purpose of this Section 6, "Confidential Information" means any information disclosed or made available by one party to the other, including without limitation know-how, technical design and documentation, technical information, pricing information, work methods, software code, strategies, customer data, business,

financial or other affairs of the disclosing party that are confidential by their nature or circumstances.

Information shall not be considered Confidential Information where the receiving party can establish that such information:

- i) was publicly available when disclosed;
- ii) became public other than through a breach attributable to the receiving party;
- iii) was lawfully in the receiving party's possession without confidentiality restriction before disclosure;
- iv) was lawfully obtained from a third party entitled to disclose it; or
- v) was independently developed without use of the other party's Confidential Information.

6.2

Each party undertakes:

- i) to keep confidential all Confidential Information received from the other party;
- ii) not to disclose such Confidential Information except as permitted under the Contract or as reasonably necessary to employees, advisers, contractors or subcontractors subject to appropriate confidentiality obligations; and
- iii) to use such Confidential Information only for the purposes of exercising its rights and fulfilling its obligations under the Contract.

6.3

A party may disclose Confidential Information where required by applicable law, court order or competent authority, provided that, where legally permitted, it informs the other party and limits disclosure to what is required.

6.4

Each party shall promptly notify the other party if it becomes aware of an unauthorised disclosure of Confidential Information in connection with the Contract.

6.5

Each party shall remain responsible for breaches of the confidentiality obligations under the Contract by persons acting on its behalf, subject to the applicable limitations of liability.

7. Customer Data and Personal Data

7.1

AXOUND shall process personal data in accordance with applicable data protection law, including the Swiss Federal Act on Data Protection (“FADP”) and, where applicable, Regulation (EU) 2016/679 (“GDPR”).

Information concerning AXOUND’s processing of personal data for its own purposes is set out in its Privacy Policy available on AXOUND’s website.

7.2

AXOUND shall implement appropriate technical and organisational measures to protect personal data against unauthorised access, disclosure, loss, alteration or other unlawful processing, taking into account the nature of the processing and associated risks.

7.3

Where AXOUND processes personal data on behalf of the Customer as a processor, such processing shall be governed by an applicable DPA.

The DPA may regulate, where applicable, processing instructions, security measures, subprocessors, international transfers, assistance obligations, personal data breach notifications, return and deletion of data and other matters required under applicable data protection law.

7.4

The Customer remains responsible for ensuring that its collection and processing of personal data is lawful and that the instructions provided to AXOUND are lawful.

Where the Customer is subject to specific professional secrecy, confidentiality, regulatory or sector-specific obligations relevant to the Services, the Customer shall inform AXOUND before the relevant processing is performed.

8. Rights of Use and Intellectual Property

8.1

The Customer acknowledges that all components comprising the Services, including without limitation software, technologies, processes, algorithms, user interfaces, databases, designs, methods, methodologies, frameworks, templates, scoring systems, assessment methods, generic scripts, automation tools, monitoring methods, know-how and pre-existing materials (“Services Components”), are and remain the exclusive property of AXOUND and/or its licensors.

The Contract does not transfer ownership of the Services Components to the Customer.

Nothing in the Contract transfers to AXOUND ownership of Customer Data or intellectual property owned by the Customer prior to the Services.

8.2

AXOUND grants the Customer a non-exclusive, non-transferable, worldwide right to use the Services and deliverables provided to the Customer for its internal business purposes and within the purpose of the relevant Service.

Where the Service is not provided on a subscription basis, the Customer may continue to use the delivered reports and deliverables indefinitely unless otherwise stated in the Order Form.

Where the Service is provided on a subscription basis, access to and use of the subscription Service is granted for the duration of the applicable subscription.

Unless expressly agreed otherwise in the Order Form, delivery of a report, configuration, document or other output does not transfer ownership of the underlying Services Components used to produce it.

8.3

The Customer shall comply with third-party terms applicable to third-party products or services included in the Services.

9. Warranties and Liability

9.1

AXOUND shall perform the Services with reasonable professional skill and care, taking into account the nature and scope of the Services agreed in the Contract.

9.2

Warranties given by AXOUND are exhaustively set out in the Contract. AXOUND gives no other express or implied warranties.

Unless expressly identified in the Order Form or an applicable SLA as a binding contractual commitment, AXOUND's obligations constitute obligations to exercise reasonable professional care and commercially reasonable efforts and not obligations to achieve a particular result.

In particular:

a) AXOUND does not warrant that any Service, software, infrastructure or system will be continuously available, bug-free or error-free;

- b) AXOUND does not warrant that every security incident, interruption or loss can be prevented;
- c) the existence or successful completion of a backup operation does not guarantee that every item of data, application or system will be recoverable in every circumstance;
- d) no backup frequency, retention period, RPO, RTO, response time, resolution time, recovery time or availability percentage constitutes a guaranteed service level unless expressly identified as such in the Order Form or applicable SLA;
- e) an assessment, diagnostic, test or recommendation reflects the information and circumstances available when it is performed and does not guarantee future business continuity, security or recovery;
- f) brand monitoring and similar Services cannot guarantee detection of every fraudulent, infringing or suspicious domain, website, account, advertisement, content or activity and may generate false positives or false negatives;
- g) AXOUND cannot guarantee that a takedown, suspension, de-indexing or other action requested from a registrar, registry, hosting provider, platform, search engine, payment provider, authority or other third party will be accepted, completed or completed within a particular timeframe; and
- h) unless expressly agreed otherwise, incident response does not guarantee complete containment or eradication of an incident, attribution to a particular actor, or the production of forensic evidence suitable for judicial proceedings.

9.3

To the maximum extent permitted by applicable law, AXOUND shall not be liable for indirect, incidental, special or consequential economic loss, including loss of profits, revenue, business, opportunity, anticipated savings, goodwill or reputation or indirect business interruption loss.

Except in the event of wilful misconduct, gross negligence or any other liability which may not lawfully be excluded or limited, AXOUND's aggregate liability arising out of or in connection with the affected Service shall not exceed the fees actually paid by the Customer for such affected Service during the six (6) months immediately preceding the event giving rise to the liability.

Nothing in these Terms excludes or limits liability to the extent such exclusion or limitation is prohibited by mandatory applicable law.

9.4

Subject to mandatory applicable law, AXOUND shall not be liable to the extent loss or damage results from:

- a) improper or unauthorised use of the Services by the Customer;
- b) inaccurate, incomplete or outdated information, instructions or access supplied by the Customer;
- c) changes made by the Customer or a third party to systems, accounts, infrastructure, data locations, configurations or access mechanisms without appropriate coordination with AXOUND;
- d) failures, interruptions, modifications or unavailability of third-party infrastructure, networks, telecommunications, hosting, cloud, storage, DNS, registrars, authentication systems, APIs or other third-party services outside AXOUND's reasonable control;
- e) failure by the Customer to implement prerequisites or material recommendations communicated by AXOUND; or
- f) cyberattacks or other external events that could not reasonably have been prevented by AXOUND through performance of the Services agreed under the Contract.

The allocation of risks applicable to a specific Service may be further defined in the relevant Service Annex.

10. Indemnification

10.1

The Customer agrees, to the extent permitted by applicable law, to indemnify and hold harmless AXOUND from third-party claims, liabilities, damages, reasonable legal fees and costs to the extent arising from:

- a) unlawful or unauthorised use of the Services by the Customer;
- b) a material breach by the Customer of the Contract or applicable law;
- c) Customer Data, content, instructions or materials supplied by the Customer that unlawfully infringe third-party rights;
- d) an instruction by the Customer to take action in respect of a domain, website, account, content, trademark or other asset where the Customer does not own or is not duly authorised to enforce the rights relied upon; or
- e) other unlawful acts or omissions attributable to the Customer in connection with the Services.

This Section shall not apply to the extent that the relevant claim results from AXOUND's own breach, wilful misconduct, gross negligence or other liability that cannot lawfully be excluded.

11. Force Majeure

11.1

With the exception of payment obligations, neither party shall be held liable for non-performance or poor performance attributable to an event outside that party's reasonable control, including without limitation war, governmental measures, epidemics, pandemics, natural disasters, strikes, civil disorders, embargoes, acts of terrorism, floods, earthquakes, major telecommunications or Internet disruptions, or widespread failures of critical cloud, hosting, DNS or other infrastructure, provided that the affected event and its consequences could not reasonably have been prevented or overcome by the affected party.

11.2

The affected party shall notify the other party as soon as reasonably possible and take reasonable measures to limit the consequences and duration of the event.

Unless the parties agree otherwise, the affected obligations shall be suspended for the duration of the force majeure event.

11.3

If the force majeure event continues for more than thirty (30) calendar days following notification, either party may terminate the affected Contract in writing with immediate effect.

12. Term and Termination

12.1

The Contract enters into force on the effective date identified in the Order Form.

It remains in effect for the term specified therein and automatically renews for successive periods as defined in the Order Form unless terminated in accordance with the Contract.

12.2

Subject to any minimum initial term or specific termination conditions expressly stated in the Order Form, either party may terminate the Contract for convenience upon thirty (30) calendar days' written notice.

The Customer shall pay all amounts properly due up to the effective date of termination, including any amounts due under an agreed minimum term.

12.3

Either party may terminate the Contract for good cause by written notice with immediate effect.

Without limitation, good cause includes:

- a) a serious breach of contractual obligations that has not been cured within fourteen (14) calendar days after written notice, where such breach is capable of remedy; or
- b) the other party entering into liquidation, dissolution or bankruptcy.

12.4

Following termination, AXOUND shall, where technically applicable, make Customer Data under its control available for export for a period of thirty (30) days.

The Customer may request assistance with such export, which may be subject to additional fees. AXOUND shall provide an estimate where applicable.

After the applicable export period, AXOUND shall delete or render inaccessible Customer Data in accordance with the applicable Service configuration, backup retention periods and technical deletion cycles.

The Customer acknowledges that data contained in immutable backups, retention-locked storage or other technically constrained backup media may remain stored until expiry of the applicable retention period and may not be capable of immediate deletion.

AXOUND may retain information where and for as long as required to comply with legal obligations or to establish, exercise or defend legal claims.

Personal Data processed on behalf of the Customer shall additionally be handled in accordance with the applicable DPA.

12.5

Upon termination, the Customer shall no longer have rights to Services provided on a subscription basis or associated technical support, except for expressly agreed transition or export assistance.

13. Relationship of the Parties

13.1

The parties are independent entities and no provision of the Contract shall establish any employment relationship, agency, partnership, joint venture or association.

13.2

Neither party shall act as, or be deemed to be, agent or partner of the other except where expressly authorised in writing for a specific purpose.

14. Governing Law and Jurisdiction

14.1

The Contract is governed by the laws of Switzerland, excluding its conflict of laws provisions.

14.2

Any dispute arising out of or in connection with the Contract shall be subject to the exclusive jurisdiction of the courts of Geneva, Switzerland, subject to any mandatory jurisdiction applicable under Swiss law.

15. Miscellaneous

15.1

If any provision of the Contract is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

15.2

The Contract constitutes the entire agreement between the parties concerning its subject matter and supersedes prior agreements or understandings relating to that subject matter.

15.3

A party's failure to exercise any right or remedy under the Contract shall not constitute a waiver.

Any waiver shall only be effective if made in writing.

15.4

AXOUND may modify these Terms from time to time where reasonably required by changes in applicable law, regulation, technology or the Services.

The current version shall be made available on AXOUND's website.

For an existing subscription Contract, AXOUND shall provide reasonable advance notice of any material modification affecting the Customer's contractual rights or obligations.

Unless a shorter period is reasonably required by applicable law, security requirements or circumstances outside AXOUND's reasonable control, such material modification shall take effect no earlier than thirty (30) calendar days after notice.

Where a material modification substantially and adversely affects the Customer, the Customer may terminate the affected subscription Service before the modification takes effect, unless the modification is required by applicable law.

15.5

In the event of discrepancy or contradiction between contractual documents:

- a) the Order Form shall prevail with respect to the Customer-specific scope, commercial terms and specific conditions expressly agreed by the parties;
- b) an applicable Service Annex shall prevail with respect to the particular Service it governs;
- c) an applicable SLA shall prevail with respect to the specific service levels it governs;
- d) an applicable DPA shall prevail with respect to the processing and protection of personal data; and
- e) these Terms shall otherwise apply.

15.6

None of a party's rights, obligations or claims under the Contract may be assigned, in whole or in part, without the prior written consent of the other party, except where otherwise agreed in writing.

15.7

Provisions which by their nature or context are intended to survive termination or expiration shall remain in force, including provisions relating to accrued payments, confidentiality, intellectual property, Customer Data and Personal Data where applicable, warranties and liability, indemnification, governing law and jurisdiction.