

**1. Fundamentals:** This licence, usage and operation agreement applies to all MOUNT10 service versions of MOUNT10 AG (following MOUNT10), Haldenstrasse 5, CH-6340 Baar, Switzerland – including the offering of SWISS DATA BACKUP. The same terms also apply to prolongations of said agreement, even when this is not again expressly stated.

**2. Contractual obligations MOUNT10:** Based on the corresponding service version, MOUNT10 provides the customer with soft- and possibly hardware components. MOUNT10 is obliged to store the electronic data sent from the customer location on specially protected servers at SWISS FORT KNOX. MOUNT10 warrants the basic serviceability of the delivered soft- and hardware components during the entire duration of this service contract and is responsible for periodic updates (without notice) and at no further charges. MOUNT10 ensures the continuous usability for emergency data recovery procedures (in accordance with the separate terms, conditions, prices and technical possibilities of the document “Emergency-Procedures”. All software components as well as the related technical manuals are available online at any time and are integral part of this contract ([www.mount10.com/downloads](http://www.mount10.com/downloads) and [www.mount10.com/manuals](http://www.mount10.com/manuals)). MOUNT10 is taking the technical and organisational measures according to the Swiss Data Protection Law (especially art. 9 VDSG; SR 235.11) as well as to the latest technical knowledge and commonly used international norms and standards (e.g. ISO 27001). MOUNT10 is saving the customer data in a way that they can be retrieved at anytime (see article 8).

**3. Contractual obligations of customer:** The customer is obliged to pay the service fee in front of any given service period (by credit card) or within thirty (30) days of the date of the invoice – without any further deductions or set offs against own claims. The customer is required to download the needed software components and to install them at the own risk on the existing IT-infrastructure as well as to integrate possible hardware components. It is recommended to create an independent backup copy of the entire customer data prior to every MOUNT10 installation and / or integration. Such an (from MOUNT10) independent backup copy shall be repeated periodically. A connection to the Internet in relation to the chosen service extent is in the sole responsibility of the customer. Further the customer is responsible for the proper selection of the desired customer data, the corresponding time schedule of the backup and the verification of a successful backup process and arrival of the data on the server at SWISS FORT KNOX – according to the log files. The customer expressly undertakes to ensure that data does not include content that is prohibited under criminal, civil or public law. In the event of criminal proceedings, the customer acknowledges that MOUNT10 will cooperate with the authorities to the full extent of applicable statutory provisions. The customer is required to return the delivered soft- and hardware components to MOUNT10 after the end of this service contract in a usable state. Parts of these obligations can be transferred in certain service versions from the customer to MOUNT10 or further external parties as long as they are expressly marked in the “operational responsibilities”. The proper storage of all access data and passwords is the responsibility of the customer.

**4. Encryption of customer data:** The service comprises an encryption of the customer data as protection from unauthorized access of MOUNT10 and third parties. Owner and solely responsible for all MOUNT10 access data is the customer. MOUNT10 has no possibility to recover any lost access data (e.g. password...) and therefore suggests properly storing all access information in form of a hard copy at two secure and from each other independent locations (e.g. with a trustee, bank and / or attorney). Further a periodic function control of all access information is recommended. THE CUSTOMER IST TAKING NOTICE OF THE FACT THAT WITHOUT ENCRYPTIONKEY THE CUSTOMER DATA CAN NOT BE MADE LEGIBLE. A LOSS OF THE ENCRYPTIONKEY IS THEREFORE LEADING TO A COMPLETE LOSS OF ALL CUSTOMER DATA STORED WITH MOUNT10!

**5. Scope of delivery:** The scope of delivery corresponds to the electronically selected service plan or the defined service configuration in writing. The customer shall inspect the goods within 10 days of receipt and report any complaint immediately in writing. The delivery time of hardware components can take up to 6 weeks. All MOUNT10 service components (soft- and hardware) are subject to an operational warranty for the entire duration of the contract. Any damaged or faulty component has to be reported and to be sent to MOUNT10 instantly. A replacement will follow within a reasonable time. The availability of any replacement component at the customer location is generally possible – but limited to certified components by MOUNT10 only.

**6. Start of contract, duration and transfer:** The service contract becomes valid with the electronic consent or the written acceptance by signature. Cancellation of binding contracts by the customer is possible only with express consent from MOUNT10, subject to the customer assuming all expenses and outlays and full indemnification of MOUNT10 by the customer. The contract duration is one year, i.e. 365 days if not specified differently. Without action the contract will prolong after the contractual period automatically for another year. The notice period for a cancellation of the contract is 3 months. At the end of the contract the customer data will remain for 30 days on the systems of MOUNT10. After this 30-day period all customer data will entirely be deleted from all systems of MOUNT10. In the event of a service deficiency, MOUNT10 reserves the right to withdraw from the contract with full indemnity, to suspend the services, or to adhere to the contract and make reparations for the resulting damage. Compensations in respect of further damages are reserved. Any subsidiary arrangements, assurances and amendments shall only be binding for MOUNT10 after they are confirmed in writing or electronically. The right to transfer this contractual relationship and any other relationship with the customer to another contractual party rests solely with MOUNT10 (except SWISS DATA BACKUP). The customer is not entitled to any reimbursements of initial service fees after termination of a service contract.

**7. Brochures and technical documents:** Brochures, catalogues and documents in digital form (e.g. details posted on the internet or via e-mail) are non-binding unless explicitly agreed otherwise. Claims stated in technical documents are binding only inasmuch as they are expressly warranted.

**8. Definition of data, data history and number of copies:** The backup capacity (selected data volume at the client location for the backup process) of MOUNT10 is defined by online selection / written contract. MOUNT10 is no archiving solution! All versions (except MINO) however offer retrieval opportunities to the backed up data from MOUNT10 of the past 30 to 60 days (current and preceding month). After that the dataset of the last day of every month is further kept in a month end file. The actual duration of this data history (month ends) is depending on the service version / offer. MOUNT10 SOLO offers an explicit data history of 12 month. By default, the service versions COMBO and SWISS DATA BACKUP are also equipped with a 12 month history – with an optional expansion to several years. For the service versions ECO and PRO the actual duration of data history has to be defined individually for every backup group. MOUNT10 MINO offers a data history of 7 to max. 14 datasets. With MOUNT10 SOLO / MINO / COMBO and SWISS DATA BACKUP the data is stored at SWISS FORT KNOX I with a copy to SWISS FORT KNOX II. The actual storage volume on the hardware component is not relevant (i.e. will not be charged). With MOUNT10 ECO and PRO however, there is a distinction between the backup-capacity and the effective storage volume on the dedicated hardware components of MOUNT10 (StoragePlatform, respectively MirrorServer). MOUNT10 is storing one data copy at SWISS FORT KNOX I. A copy to SWISS FORT KNOX II is available upon customer request as option with additional costs.

**9. Validity, pricing and settlement:** All MOUNT10 offerings are generally valid for 30 days (if no other timeline has been defined) and are clearly visual as offerings. All pricing is generally without VAT in Swiss Francs (CHF) or any other contractually defined foreign currency. The Swiss VAT will be levied to all customers from within Switzerland. All pricing information on price lists or product documentations is (if not explicitly mentioned) noncommittal and subject to change by MOUNT10 at any time. Customer explicitly declines any set off of obligations under this agreement against any claims of his. Unused as well as partly used but paid service fees will not be reimbursed. Payment conditions do vary amongst the different service versions and are outlined in the online portal / service configurator. For all international deliveries the initial cost will generally be invoiced to 50% at the time of signing the contract (payment is due before delivery) and 50% at the time of the actual delivery. The general payment terms are 30 days unless explicitly otherwise agreed in writing or electronically.

**10. Ownership and copyright:** MOUNT10 does own the full intellectual property and / or other rights on all delivered soft- and hardware components. The customer holds no in rem rights (ownership, collateral or retention right) on any from MOUNT10 delivered components. The customer solely receives the right of use for the delivered soft- and hardware components for the duration of the contract. At the end of the service contract any claim of the customer to use, transfer or copy the soft- and hardware components in any way will expire. Ownership, copyright, trademark and/or licensing rights to soft- and hardware components, signs, logos, website and other MOUNT10 documents and data remains exclusively with MOUNT10. The customer is prohibited from modifying, copying, or reverse engineering the software in whole or part, decompiling, leasing, selling, mortgaging, or deriving the source code via other means, or using the software as a basis for developing other software programs, derivative works, or any other activity with potential to infringe on the rights of MOUNT10, or third parties. The customer may create a single copy of the software for backup and archival purposes. Backup copies must bear all of the statements and symbols, inclusive of copyright, trademark and licensing rights from the original. MOUNT10 is entitled to further use general ideas, concepts and procedures which were discovered and engineered during a specific customer project by MOUNT10 alone or with personnel of the customer for future, third party projects of a similar scope. All customer data saved within MOUNT10 on any hard- or software components on the basis of this contract solely belongs to the customer. MOUNT10 does not have any ownership or immaterial rights on this data. The customer can claim his data at any time – also during an ongoing contract. Further, the customer has the right to request a written confirmation at the end of a service contract from MOUNT10 that all data has been entirely removed from the infrastructure.

**11. Transfer of customer data:** The customer accepts the electronic transfer of the customer data (encrypted by MOUNT10) through a public network infrastructure (Internet). The customer is carrying the risk of a potential data loss during transport. The responsibility of MOUNT10 for the customer data starts with the arrival at SWISS FORT KNOX and lasts until the data is leaving SWISS FORT KNOX again. MOUNT10 guarantees the legal obligations of secrecy (professional secrecy for medical, legal and federal employees) and to ensure these obligations amongst all employees through secrecy statements in writing.

**12. Additional clauses for MOUNT10 PRO:** The installation of a StoragePlatform at the customer location requires an IT specific infrastructure, provided and ensured by the customer. Basic equipment is a 19" rack (possibly lockable), energy supply of 230 VAC / max. 650 watt (uninterrupted / UPS), a room temperature of max. 25°C (air cooling guaranteed) and a humidity of 30% to 70% rel. h. Further a dust free operation and adequate precautions against fire, water and unauthorized access have to be provided – adequate to the corresponding location. Proper insurance of the StoragePlatform at the customer's location is within the responsibility of the customer. A replacement of the MOUNT10 hardware due to an unqualified environment a faulty operation or a general disaster will be invoiced. The proper integration of the MOUNT10 StoragePlatform within the local network environment at the customer location is within the responsibility of the customer. A proper network protection (firewall, anti virus...) as well as regular updates of the Windows operating system of the StoragePlatform is also within the responsibility of the customer. It has to be ensured that the MOUNT10 system functionality will not be affected or blocked by internal update procedures. DUE TO THE FACT THAT MOUNT10 HAS NO ACCESS TO THE STORAGEPLATFORM AT THE CUSTOMER LOCATION, THE FULL RESPONSIBILITY FOR THE DELIVERED HARDWARE WILL BE WITH THE CUSTOMER. All basic and predefined settings from the time of delivery are specifically noted in the document "configuration and acceptance protocol" and signed by all parties.

**13. Warranty:** MOUNT10 warrants secure storage and safekeeping of the customer's data, and service availability of 99.7% per year (on base of 365 days x 24 hours; excluding technology and the internet connection at the customer location). It is ensured that the used hard- and software has no deficiencies, which would severely limit or abolish the functions according to the contract. MOUNT10 can substitute a deficit by its own decision through clearance, by-passing or new delivery in due time. If MOUNT10 does not do so within adequate time, the customer can set an additional respite. After this second period without success, the customer may claim a discount in light instances or cancel the contract in severe cases, combined with a compensation claim given that the legal requirements are given.

**14. Liability:** MOUNT10 explicitly excludes any and all possible liability as far as legally legit (also for third and / or auxiliary persons). Based on the fact that MOUNT10 has no access to the infrastructure of the customer and the condition that all customer data is encrypted – the monitoring and alert possibilities of MOUNT10 are strongly restricted. The responsibility for a successful data protection and backup is therefore solely with the customer.

**15. Function of external sales partner:** MOUNT10 sales partners (sales partner) are independent from MOUNT10 in their activities and not authorized to represent MOUNT10 in any form or to act on behalf. Sales partners are not contractual party of this agreement. Sales partners are external specialists, specifically trained by MOUNT10 and act as a first point of contact for the customer.

**16. Service extensions:** Service extensions can be ordered at any time through <https://serviceaccount.mount10.ch> (only MOUNT10 SOLO), the appropriate sales partner, by e-mail to [support@mount10.ch](mailto:support@mount10.ch) or by phone (+41 41 726 03 28).

**17. Partial invalidity:** Should any of the provisions of this contract be found to be void, the remainder of the provisions herein shall remain valid notwithstanding. The parties shall reach agreement on new, valid alternative provisions that match or at least approximate the business purpose of the said provisions had they been aware of their invalidity. Incomplete provisions shall be treated in the same manner.

**18. Applicable law and court of jurisdiction:** This legal relationship is subject to Swiss law; conflict of laws rules shall be excluded. The place of jurisdiction is the appropriate court in the canton of Zug (Switzerland).