

# MEVISIO TERMS OF SERVICE

## 1. DEFINITIONS

Unless the context or circumstances clearly indicate otherwise, the following words and phrases shall have the meanings specified below:

- 1.1. "Agreement" means the Software as a Service agreement or quote to which this document is appended to;
- 1.2. "Applicable Laws" means the laws of any jurisdiction as they apply to Mevisio in providing the Services.
- 1.3. "Customer Data" means data or other information that is entered by Customer and stored in connection with the provision of the Services with the exception of configuration documents and Platform settings;
- 1.4. "Instructions" means documents, specifications, limitations including the User License Terms that each user shall confirm on the first login (a copy of the User License Terms is currently available at <https://mevisio.com/user-license-terms>), written instructions (especially the Platform Limits available to users with access to the configuration of the Platform) and other materials for the Platform as provided by Mevisio;
- 1.5. "Development Work" means any customization, configuration and development work provided by Mevisio related to the Platform as specified in the Agreement;
- 1.6. "Force Majeure Event" means a reason of any circumstance beyond the control of Mevisio or its subcontractors, which could not reasonably have been foreseen by Mevisio or its subcontractors prior to entering into the Agreement, including but not limited to war, fire, flood, pandemic, acts of governmental authority, technical infrastructure limitations, interruption in public transport, communications or general energy supply, or any other similar circumstance;
- 1.7. "Platform" means the digital platform "Mevisio" provided as a cloud Software as a Service (SaaS) under the Agreement;
- 1.8. "Services" means access to the Platform, any Development Work and the Support Services to be provided to the number of authorized users agreed between the Parties; and
- 1.9. "Support Services" means the support services related to the Platform as specified in the Agreement.
- 1.10. "Terms of Service" means the terms and conditions in this document.

## 2. MEVISIO'S OBLIGATIONS

- 2.1. As of the agreed date, the Services shall include a subscription to the number of agreed Platform licenses and specified Development Work.
- 2.2. Mevisio shall grant Customer a non-exclusive, non-transferable right to access and use the Services during the project period, solely for use by authorized users in accordance with the terms and conditions herein.
- 2.3. Mevisio shall manage upgrades of the Platform, cloud operations and run backups at least once a day.
- 2.4. Where Mevisio engages subcontractors to perform its obligations under the Agreement, Mevisio is liable for its subcontractors' work as if it had been performed by Mevisio itself.
- 2.5. Mevisio shall deliver the Services in a professional and timely manner subject to additional delivery requests by Customer and any exigent circumstances that may result in a reasonable delay in the delivery.
- 2.6. Mevisio reserves the right to carry out measures that may temporarily affect the availability of the Services if required for technical, maintenance, operational or safety reasons. Mevisio shall perform such measures promptly and in a manner that seeks to limit the disruption. Customer shall be informed as soon as possible if access to the Services is restricted.

## 3. CUSTOMER'S OBLIGATIONS AND USE OF THE SERVICES

- 3.1. Customer shall comply with requirements and restrictions specified in the Instructions provided by Mevisio from time to time for the use of the Services.
- 3.2. The Platform may only be used by the number of authorized users that Customer has paid for.

- 3.3. Customer may only use the Services for its own internal business activities and operations.
- 3.4. Customer shall report any claims for deficient delivery within two weeks after the Development Work has been delivered.
- 3.5. Customer is responsible for adding and removing authorized users to the Services.
- 3.6. Customer is at all times responsible for its authorized users' use of the Services.

#### **4. CHANGES TO THE SERVICES AND THE TERMS**

- 4.1. Mevisio may, without prior notification to Customer, make changes to the Services from time to time, provided such changes will not materially decrease the functionality or performance of the Services.
- 4.2. Mevisio may amend these Terms of Service, the User License Terms and the Platform Limits from time to time. Mevisio shall notify Customer of any amendments at least thirty (30) calendar days before the amended terms take effect. If the amendment to the terms entails a material disadvantage to Customer, the current applicable terms and conditions shall apply until the end of the current term of the Agreement.

#### **5. SERVICE LEVELS**

- 5.1. Mevisio shall provide the Services according to the agreed service levels stated in the Agreement.
- 5.2. In the event of faults in the Service, Mevisio will use commercially reasonable efforts to seek to remedy the fault as soon as possible. Mevisio is not liable for faults caused by circumstances for which Customer is liable or other circumstances beyond Mevisio's responsibility for the Service. If Mevisio is in breach of the agreed service levels, Customer shall be entitled to request penalties as set forth in the Agreement. Penalties are calculated on the fees attributable to the same period. Penalties requested by Customer shall be paid by a deduction of the amount on the next invoice from Mevisio, unless otherwise agreed.
- 5.3. Apart from penalties, Customer shall not be entitled to any damages or other compensation due to non-compliance with agreed service levels or other faults in the Service, other than in the event of Mevisio's intent or gross negligence.

#### **6. CUSTOMER DATA**

- 6.1. In the relationship between Customer and Mevisio, Customer is the holder of all rights in Customer Data.
- 6.2. Customer represents and warrants that it has all necessary rights to provide Customer Data to Mevisio for storage, processing and use under this Agreement. Customer shall indemnify and hold Mevisio and its directors, officers, subcontractors, and agents harmless from and against, any third-party claims which if true would constitute a breach of this provision by Customer.

#### **7. INTELLECTUAL PROPERTY RIGHTS**

- 7.1. Mevisio and/or Mevisio's licensors hold all rights, including intellectual property rights, to the Platform and any software included in the Platform. The Mevisio name and logo, and the product names associated with the Services are trademarks of Mevisio and/or third parties and may not be used without Mevisio's prior written consent. Nothing in this Agreement shall be interpreted as a transfer of such rights, or part thereof, to Customer.
- 7.2. Mevisio shall defend Customer, its directors, officers, and agents ("Customer Indemnified Parties") against any claim, demand, suit, or proceeding made or brought against Customer Indemnified Parties by a third party to the extent alleging that the Platform, or Customer Indemnified Parties' use of the Platform as permitted hereunder infringes or misappropriates the Intellectual Property Rights of a third party (each a "Claim Against Customer"), and shall indemnify Customer Indemnified Parties for any out-of-pocket damages, attorney fees, costs, judgments, and approved settlement payments, incurred in defending such a Claim Against Customer; provided that Customer:
  - (a) promptly gives Mevisio written notice of the Claim Against Customer (provided that any failure or delay

in doing so shall only mitigate Mevisio's obligations under this Section to the extent it actually prejudices Mevisio's ability to defend the applicable Claim Against Customer);

(b) gives Mevisio sole control of the defense and settlement of the Claim Against Customer (provided that Mevisio may not settle any Claim Against Customer unless the settlement unconditionally releases Customer of all liability); and

(c) provides to Mevisio all reasonable assistance, at Mevisio's expense. In the event of a Claim Against Customer, or if Mevisio reasonably believes the Platform may infringe or misappropriate, in addition to Mevisio's defense and indemnification obligations above, Mevisio may in its discretion and at no cost to Customer

(i) modify the Platform so that it is no longer infringing,

(ii) obtain a license for Customer's continued use of the Platform in accordance with this Agreement, or

(iii) terminate this Agreement for convenience upon thirty (30) days written notice and refund to Customer any prepaid fees covering the remainder of the then-current term.

7.3. Mevisio shall not be responsible to indemnify Customer in accordance with Section 7.2 to the extent the claim of infringement is based upon:

(i) use, operation or combination of the Platform with hardware, software, data, documentation or other equipment not provided by Mevisio; or

(ii) the Platform having been altered or used in a way not authorized by this Agreement and not previously approved in writing by Mevisio.

## **8. CONFIDENTIALITY**

8.1. Each Party undertakes not to disclose, without the other Party's consent, to a third party any information regarding the other Party's business that may be considered a trade or business secret or which according to law is subject to a duty of confidentiality. Unless otherwise follows from law, Customer Data, the content of the Agreement and specifications of the Platform shall always be regarded as confidential information.

8.2. The confidentiality obligation does not apply to information that the Party can demonstrate has become known to the Party other than through the Agreement or which is publicly known. Furthermore, the confidentiality obligation does not apply when a Party is required to disclose such information by law, court or government order or binding stock exchange regulations. Where a Party is required to disclose information in such a way, it shall notify the other Party prior to disclosure and to the extent possible ensure that the receiving third party processes the information as confidential information.

8.3. The confidentiality obligations set out above shall apply during the term of the Agreement and for a period of five (5) years thereafter.

## **9. PERSONAL DATA**

9.1. To the extent Customer will process any personal information through the use of the Services, Customer undertakes to comply with federal or state laws that are applicable to such processing from time to time.

9.2. The Parties acknowledge that Mevisio is subject to the EU General Data Protection Regulation. Thus, to the extent Mevisio shall process any personal data of any individuals on behalf of Customer under this Agreement, the Parties shall enter into necessary data processing agreements regulating such processing (as required under the GDPR).

## **10. DISCLAIMER; LIMITATION OF LIABILITY**

10.1. Except as expressly provided herein, neither party makes any warranties of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties, including any warranties of merchantability or fitness for a particular purpose, and warranties of title and non-infringement to the maximum extent permitted by applicable law. Mevisio does not represent or

warrant that use of the Services will be error-free, perfectly secure, or uninterrupted, or that the Services will meet any of Customer's requirements.

- 10.2. In no event shall either party have any liability to the other party for any lost profits, lost data, or revenues or for any indirect, special, incidental or consequential damage however caused, whether in contract, negligence or under any other theory of liability, and whether or not the party has been advised of the possibility of such damage. The foregoing disclaimer shall not apply to the extent prohibited by applicable mandatory law.
- 10.3. Except for a party's indemnification obligations, or gross negligence or willful misconduct, or payment of fees due, neither party's liability under this Agreement based on contract, negligence or any other theory of liability, will exceed a sum equal to fifteen (15) percent of the total fees paid under the Agreement during the 12 months immediately preceding the event that forms the basis for the claim for damages.

## **11. FORCE MAJEURE**

- 11.1. To the extent the performance of Mevisio's obligations under the Agreement is prevented, hindered or delayed due to a Force Majeure Event, Mevisio shall be relieved from liability for such failure to perform its obligations during such period of time. Should the performance by Mevisio of an obligation under the Agreement be prevented by a Force Majeure Event for a period of more than three (3) months, Customer shall be entitled to terminate the Agreement subject to one (1) months' prior written notice.

## **12. TERMINATION OF THE AGREEMENT**

- 12.1. Each Party may, after a written notice to the other Party, terminate the Agreement with immediate effect if the other Party:
  - (i) has committed a material breach of the Agreement and has not rectified the breach within thirty (30) days after receipt of a written notice that is addressed to the Party in question and includes a request to remedy the breach and states that termination will result if it is not cured; or
  - (ii) enters into bankruptcy, is subject to insolvency proceedings, goes into liquidation, suspends payment of its debts or otherwise can be deemed as insolvent.

## **13. EFFECT OF TERMINATION**

- 13.1. Upon termination of the Agreement, a copy of Customer Data shall upon Customer's request be returned to Customer, or to a person designated by Customer, without any undue delay. Mevisio shall be entitled to remuneration for such work in accordance with Mevisio's current price list plus a markup of 25 per cent.
- 13.2. If Customer has not within sixty (60) days after the termination of the Agreement requested a copy of Customer Data, Mevisio shall destroy all copies of Customer Data in its possession.
- 13.3. Upon termination of the Agreement, regardless of reason, Customer shall cease all use of the Platform. Those provisions of this Agreement that by their nature should survive will survive any termination or expiration of this Agreement.

## **14. MISCELLANEOUS**

### **14.1. Notices**

Notice of termination and/or other notices shall be sent by courier, registered post or electronic message to the other Party's contact person at the address specified by such Party. The other Party shall be deemed to have received such notice:

- (i) at the time of delivery, if delivered by a courier;
- (ii) five (5) days after dispatch, if sent by registered post;
- (iii) at the time the electronic message arrived at the recipient's electronic address, if sent by electronic

message during regular business hour. If sent after regular business hours, the message shall be deemed received on the next business day.

**14.2. Entire agreement**

Except as specifically provided herein, the Parties confirm that the Agreement (including appendices) represents the entire understanding and constitutes the whole agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements (including but not limited to non-disclosure agreements), covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, agent, employee or representative of either of the Parties.

**14.3. Assignment**

No Party may assign, pledge or otherwise encumber this Agreement or any of its rights or obligations under this Agreement without the prior written consent of the other Party. However, Mevisio may assign this Agreement to a group company, or in the case of a merger, acquisition, or sale of substantially all the assets of Mevisio, without the prior written consent of Customer. Notwithstanding the foregoing, Mevisio may assign the right to accept payment under the Agreement without the prior written consent of Customer.

**14.4. Substitution**

If any provisions of the Agreement, or the application of it, should be declared or deemed void, invalid or unenforceable in whole or in part for any reason, the remaining provisions of the Agreement shall continue in full force and effect. The Parties shall seek to amend such void, invalid or unenforceable provisions and thereby the Agreement in order to give effect to, so far as it is possible, the spirit of the Agreement and to achieve the purposes intended by the Parties.

**15. GOVERNING LAW AND DISPUTE RESOLUTION**

The governing law and applicable forum for dispute resolution will depend on which Mevisio entity the Customer is entering the Agreement with, as follows:

**15.1. Governing Law and Dispute Resolution (Mevisio North America, Inc.).**

In case the Agreement is entered into with Mevisio North America, Inc., it shall be governed by the substantive laws of the state of New York, without regard to its conflict of law provisions. Any dispute, controversy or claim arising out of or in connection with the Agreement shall then be determined by arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules. The International Expedited Procedures of the International Centre for Dispute Resolution shall apply regardless of the amount in dispute. All disputes shall be heard by a single arbitrator, unless the claim amount exceeds 25,000 USD in which case the dispute shall be heard by a panel of three arbitrators. The place of arbitration shall be New York, NY USA. The language of the arbitration shall be English. Except as may be required by law, neither a party nor its representatives may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of (all/both) parties.

**15.2. Governing Law and Dispute Resolution (Mevisio AB et al).**

In case the Agreement is entered into with any other Mevisio entity than Mevisio North America, Inc. (including but not limited to Mevisio AB), it shall be governed by the substantive laws of Sweden, without regard to its conflict of law provisions. Any dispute, controversy or claim arising out of or in connection with the Agreement shall then be finally settled by arbitration in accordance with the Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce. The seat of arbitration shall be Stockholm and the language to be used in the arbitral proceedings shall, unless otherwise agreed between the Parties, be English.

