



# FRI-HOST

## **Model Contract Clauses to the Hosting Code of Conduct**

### **1. NOTICE AND TAKEDOWN PROCEDURE**

- 1.1 The Customer may only use the services of Fri-Host (hereinafter called the "Hosting Provider") in a lawful manner. The Customer warrants that, while using the Hosting Provider's services, the Customer shall not store or process any illegal content of the Customer or any third party nor make such content available to any third party. The term "illegal content" refers, in particular, to content that violates the rights of third parties, including but not limited to intellectual property rights generally (e.g., copyrights or trademark rights) or privacy rights, or meets the definition of one or more crimes (particularly in the areas of pornography, violent images, racism and libel) (such content referred to hereinafter as "Illegal Content").
- 1.2 The Hosting Provider supplies the Customer, as intermediary on the Internet, with an infrastructure that enables the Customer to store and process content and make it publicly available to third parties. The Hosting Provider is under no duty to monitor this content. The Customer is exclusively liable for monitoring the content delivered by him. However, the Customer acknowledges and agrees that the Hosting Provider may examine the hosted content if it receives a notification that any content hosted by the Hosting Provider is illegal (hereinafter called "Notice"), if requested to do this by a court or public authority, or if he could be held liable at law or otherwise. The Hosting Provider reserves the right to conduct checks even in the absence of any notice. The examination upon receipt of a notice is consistent with the Notice and Takedown Procedure defined in the Hosting Code of Conduct (hereinafter called "HCC") of Swico.
- 1.3 The Hosting Provider has the right to block the access to the Customer's website in whole or in part and to discontinue the hosting services if i) the relevant requirements of the Notice and Takedown Procedure (sections 6 and 7 of the HCC) are met or ii) the Hosting Provider is requested to do this by a court or public authority or could otherwise be held directly liable or face criminal charges, or iii) a spot check brings to light content that is highly likely to be illegal.
- 1.4 The Hosting Provider shall decide at its own discretion if it will also make a report to the CVCO (Cybercrime Coordination Unit Switzerland) in the case of criminal acts or to the relevant law enforcement agencies. In any case, the Hosting Provider has the right and the duty to disclose the Customer's identity to the courts, public authorities or other third parties based on an administrative or court order.
- 1.5 A description of the Notice and Takedown Procedure specified in the HCC is available on the Hosting Provider's website or on that of Swico. The Customer must inform himself of the Notice and Takedown Procedure. The Customer acknowledges and agrees that the Hosting Provider may terminate the Agreement with the Customer effective immediately if the Customer fails to follow the Hosting Provider's instructions per the Notice and Takedown Procedure as described in these General Terms and Conditions or in the HCC.

- 1.6 The Hosting Provider has the right to bill the Customer for the expense incurred by the Hosting Provider in the course of processing a notice. The Customer must reimburse the Hosting Provider for any other loss that the Hosting Provider incurs because of any claims asserted. The Hosting Provider may request that the Customer provide security as a precaution to cover this loss. If this security is not paid, the Hosting Provider may discontinue the services.