

# CONDITIONS FOR THE PROVISION OF ARUBA CLOUD SERVICES

## General provisions

The provision of the Aruba Cloud Services is governed by the Agreement (hereinafter referred to as "Agreement"), which is entered into between the company, Aruba Spa, with registered office in Ponte San Pietro (BG), at Via San Clemente 53, VAT No. 01573850516 (hereinafter referred to as "Aruba" or "Supplier") and the individual or legal entity, or public or private body or association, identified as the customer in the order form (hereinafter referred to as "Customer"), jointly referred to as the "Parties". The Agreement comprises these supply terms and conditions (hereinafter referred to as "Terms and Conditions") and the other documents specified therein, which, for all legal intents and purposes, form an integral and substantive part thereof:

- 1) Conditions for the provision of Aruba Cloud Services
- 2) Order form
- 3) Technical specifications
- 4) Aruba Services User Policy
- 5) Price list
- 6) Service Level Agreement (hereinafter also referred to as "SLA")
- 7) Provisions for the registration of IT domain names, in the event of the order of a domain name with ccTLD it as set out in SECTION II of the Terms and Conditions

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## SECTION I - GENERAL TERMS AND CONDITIONS

### 1. Definitions

Where mentioned in the Agreement the terms below shall have the following meanings:

**24/7/365: acronym** used in these Terms and Conditions and in any case in the Agreement to indicate that, except for any cases of interruption/suspension provided for therein, Aruba guarantees the seamless provision and/or use of the Aruba Cloud Service, 24 hours a day, seven days a week and 365 days a year.

**API - Application Programming Interface:** the set of software instructions used by programmers to access the functions of the operating system and of the individual hardware components;

**Automatic top-up:** this option is available when paying by credit card or PayPal and may be freely activated by the Customer. It allows the Customer to top up automatically according to the selected amount when a minimum established Credit threshold is reached.

**Login details:** login and password sent by Aruba to the Customer following the signing of the Agreement.

**Credit:** Credit to be paid subject to the payment terms and conditions and due dates specified at [kb.arubacloud.com](http://kb.arubacloud.com)

**Confidential Information:** (i) information about the Supplier and deemed or classified by the latter as private and/or confidential, to which the Customer is privy for any reason related to the implementation of the Agreement and/or (ii) information relating to the Supplier which, by its nature, content, or the circumstances in which it is disclosed, would normally be regarded as such. In this regard, but not limited to this, Aruba's confidential information shall be understood to mean all the services, features, configurations, and technical

information on the Service, quotes, audit or security reports or product development plans.

**Virtual Infrastructure:** IT infrastructure as a Service (IaaS) created and allocated solely by the Customer on his/her/its own account or on account of third parties through the Service and used and/or managed by the Customer on his/her/its own account or on account of third parties or directly by the latter where authorised by the same Customer.

**Software Licences:** the authorisations granted by software product owners.

**Price List:** the documents published at [www.arubacloud.com](http://www.arubacloud.com) by selecting the "Products & solutions" menu within the section dedicated to the individual service.

**Order form :** a form which, once filled out by the Customer with all the required data and then sent by the latter to Aruba via the website, [www.arubacloud.com](http://www.arubacloud.com), in the section dedicated to the individual service or by other means subject to its signing, formalises the request to activate the chosen Aruba Cloud Service.

**Partner Option:** option applicable to VAT number holders which, when selected by the Customer in the Order form, also allows the marketing of the Services to third parties.

**Partner Panel:** the area in which a Partner can manage the Aruba Cloud Services, after signing the Agreement, accessed by using his/her/its Login Details through a secure application available online through which the latter can carry out all operations resulting therefrom or for fulfilment of the Agreement as enabled by Aruba.

**Control Panel:** the area in which the Customer can manage the Aruba Cloud Service by accessing with his/her/its login details at [www.arubacloud.com](http://www.arubacloud.com) in the section dedicated to the individual service.

**Cloud Platform:** set of systems and interfaces through which the Customer manages and interacts with the Aruba Cloud Service.

**Aruba Services User Policy - AUP:** the document drawn up by the Supplier and published on the page [www.arubacloud.com/company/general-conditions.aspx](http://www.arubacloud.com/company/general-conditions.aspx), which sets out the rules of conduct and usage restrictions for the Aruba Cloud Service that apply to all Customers.

**Top-up:** the operation to be carried out in the manner specified on the page [kb.arubacloud.com/en/computing/managing-your-credit/how-do-purchases-work-on-the-service-cloud-computing-service.aspx](http://kb.arubacloud.com/en/computing/managing-your-credit/how-do-purchases-work-on-the-service-cloud-computing-service.aspx) with which the Customer pays in advance a specific amount for the supply of the Aruba Cloud Service on a pay-per-use basis.

**Service Level Agreement:** the document drawn up by the Supplier and published on the page [www.arubacloud.com/company/general-conditions.aspx](http://www.arubacloud.com/company/general-conditions.aspx), subject to any other, separate and specific agreement between the parties, specifying the service levels and penalties borne by the Supplier in the event of failure to reach the established levels (hereinafter referred to as "SLA").

**Aruba Cloud Service(s)** (also referred to as "**Service(s)**"): the Services provided by Aruba, as specified and described on the pages [www.arubacloud.com](http://www.arubacloud.com) - "Products & Solutions" Menu - and/or [kb.arubacloud.com](http://kb.arubacloud.com) in the section dedicated to the individual service.

**Technical specifications:** the information published at [www.arubacloud.com](http://www.arubacloud.com) and [kb.arubacloud.com](http://kb.arubacloud.com), in the section dedicated to each Service, containing the technical features and any restrictions on the use thereof.

## 2. Purpose of the Agreement

The purpose of the Agreement is the provision of Aruba Cloud Services in accordance with the type, procedures, technical specifications, restrictions and financial terms and conditions in force when it is entered into, as shown on the website [www.arubacloud.com](http://www.arubacloud.com).

## 3. Signing of the Agreement

**3.1.** The Agreement shall be executed on the date of Aruba's due and actual receipt of the Order Form, to be completed and accepted by the Customer as to every respective part, together with payment of the amount due for the Service. The sending of the Order Form shall constitute full acceptance by the Customer of the Conditions and all other documents comprising the Contract. Activation of the Services shall be followed by notification by e-mail of the Login Details, sent to the e-mail address indicated by the Customer in the Order Form. In any event, it is hereby understood that use of the Services by the Customer shall constitute acceptance of all contractual terms and conditions.

It is understood that, by submitting the Order Form, the Customer acknowledges and agrees that he/she is entering into a contract whose sole valid and effective version is that in the Italian language, whereas the other versions provided by Aruba in any other foreign language are made available to the Customer only by way of courtesy.

## 4. Service Fee - payment terms and methods and price list

**4.1** Subject to any other agreement between the Parties and the provisions set forth in paragraph 5 hereunder, the Aruba Cloud Services shall be paid by the Customer through a Top-up. The amount owed by the Customer shall be deducted/subtracted therefrom, on a "pay-per-use" basis, in relation to the gradual use of the service and on the basis of the hourly rates applicable thereto or on a periodic (monthly or yearly) basis, all as set forth and described for each individual Service at [www.arubacloud.com](http://www.arubacloud.com) in the relevant section.

**4.2** The Customer may create, allocate, use and manage the virtual infrastructure, resources and/or licences according to the prices specified in the Price List in the Control Panel, starting from when, once the amount owed has been paid and collected by Aruba, the chosen service or services is/are activated from said Control Panel. Once the Top-up amount has been used up,

or if the remaining amount of the Top-up itself is insufficient to renew the Service or is insufficient and/or unavailable upon debiting in the case of an Automatic Top-up, the Service shall be terminated but may be resumed following the purchase of a new Top-up and reactivated by the User as specified at [kb.arubacloud.com/en/computing/managing-your-credit/service-reactivation-after-a-top-up.aspx](https://kb.arubacloud.com/en/computing/managing-your-credit/service-reactivation-after-a-top-up.aspx). The continuity of the Service is guaranteed by the prompt purchase of a subsequent Top-up before the amount paid to purchase the previous one has been used up and, in the case of an Automatic Top-up, by the availability of the amount necessary to use the service with the means of payment indicated by the Customer when Aruba asks the Customer's Bank to complete the payment to it of said amount. The remaining Top-Up amount can be viewed in the Panel at all times.

**4.3.** The Customer acknowledges and agrees that payment for the Top-up purchased shall be made in accordance with the methods published on the page [kb.arubacloud.com/en/computing/managing-your-credit/methods-of-payment-and-turnaround-time-for-processing-of-payment.aspx](https://kb.arubacloud.com/en/computing/managing-your-credit/methods-of-payment-and-turnaround-time-for-processing-of-payment.aspx) and that he/she/it shall be expressly and solely responsible for purchasing the Top-up, taking into account the average payment processing times specified on the page [kb.arubacloud.com/en/computing/managing-your-credit/methods-of-payment-and-turnaround-time-for-processing-of-payment.aspx](https://kb.arubacloud.com/en/computing/managing-your-credit/methods-of-payment-and-turnaround-time-for-processing-of-payment.aspx). As a result, he/she/it shall be expressly and solely responsible for purchasing a new Top-up in time to use the Service as needed and in any case before the amount paid for the current one has been used up, with a view to ensuring continuity of the Service.

**4.4** Each Top-up purchased by the Customer shall have its own ID number and, in this regard, the Supplier shall issue the corresponding invoice during the relevant month. The Customer expressly acknowledges and agrees that the invoice may be sent and/or made available to him/her in electronic format.

**4.5** In the case of the Partner Option and/or subject to any other separate and specific agreement between the parties, the Service may be paid on a "pay-per-use" or post-dated payment basis. In such cases, regardless of the chosen payment method, the first order for the provision of the Service must be at least EUR 500.00. The payment terms and conditions and methods agreed on shall be set out in the Order Form.

**4.6** For the Aruba Cloud Services, the prices in order to acquire and use the Resources are published on the page [www.arubacloud.com](https://www.arubacloud.com), in the section dedicated to each product, which can be accessed from the "Products & solutions" menu.

**4.7.1** The Customer acknowledges that his/her/its credit card details, if used for making the payment for the Service(s), shall

be stored by Aruba's Bank to allow him/her/it to perform therewith the payment of any other service provided by Aruba.

**4.7.2** The Customer hereby acknowledges and accepts that he/she/it may disable Automatic Top-Up at any time from the specific field of the Customer Area and in any case: 1) by deleting and/or removing, also from the Customer Area, the unique identification code of one or more Credit Cards and/or one or more PayPal accounts and/or ii) for so-called 'PayPal' payment, by disabling independently in his/her/its PayPal account the option allowing automatic payments to be made. Once Automatic Top-up is disabled, Top-up can only be carried out using the ordinary procedure set forth in paragraph 3.

The Customer hereby acknowledges and accepts, once and for all, that in the event of item ii) of this paragraph, the operation shall take place in an asynchronous mode.

## **5. Service activation and provision**

**5.1.** With the activation of the Service, the Customer can start creating and allocating his/her/its virtual Infrastructure for which he/she/it will be solely responsible and to which he/she/it alone will have exclusive access through any Control Panel or through special software for the Aruba Private Cloud Service.

**5.2** In the event of selection of the Partner Option, with the activation of the Service, a Partner Panel or a special software for the Aruba Private Cloud Service will be made available to the Customer, by means of which he/she, at his/her discretion and under his/her exclusive control, will be able to create an indefinite number of panels (so-called account panels) through which to create and allocate, on his/her own account or on account of third parties, or to have any authorised third parties directly create and allocate, one or more virtual Infrastructures that may be managed and used by the Customer on his/her own account or on account of third parties or by the latter, if authorised by the Customer, it being understood that the Customer shall remain solely and exclusively responsible for said infrastructure vis-à-vis Aruba.

**5.3** It remains expressly understood that, in relation to any and all Services, Aruba shall not be subject to any general monitoring obligation, and therefore it shall not control or monitor the conduct or the actions put in place by the Customer and/or any third party authorised by the said Customer through said infrastructure, or it shall not control or monitor the information and/or data and/or content introduced into the infrastructure by them; in any event, Aruba is and remains outside any and all activities that the Customer and/or any third party authorised by him/her carry out by accessing the respective virtual infrastructure remotely via the Internet using their login details. In any event, once the Customer has accessed the Service, he/she/it shall be the sole Data Controller, pursuant to Legislative Decree 196/2003 and European Regulation 679/2016, for any data entered and/or processed on the aforesaid infrastructure.

**5.4.** By way of a mere courtesy and therefore without undertaking any obligation vis-à-vis the Customer, Aruba reserves the right (except when the Customer has set the minimum available credit threshold alert) to send to the Customer an e-mail alert to notify him/her/it that the Top-up or Credit is about to be used up. If the Credit is used up before any service expiry date, the Customer may ensure the continuity of provision of said Service by topping up the Credit or part thereof by paying the corresponding amount to Aruba using one of the methods specified on the page [kb.arubacloud.com/en/computing/managing-your-credit/methods-of-payment-and-turnaround-time-for-processing-of-payment.aspx](https://kb.arubacloud.com/en/computing/managing-your-credit/methods-of-payment-and-turnaround-time-for-processing-of-payment.aspx) before the expiry date. If the credit has already been used up by the Service expiry date, the provision of the Service shall be suspended for the time periods specified at [kb.arubacloud.com/en/computing/managing-your-credit/what-happens-when-the-credit-runs-out.aspx](https://kb.arubacloud.com/en/computing/managing-your-credit/what-happens-when-the-credit-runs-out.aspx). Prior to the expiry of the aforesaid time period, it may be resumed starting from the registration on the Control Panel of the amount paid for the new Top-up and subject to manual reactivation of the Service to be carried out by the Customer as specified at [kb.arubacloud.com/en/computing/managing-your-credit/service-reactivation-after-a-top-up.aspx](https://kb.arubacloud.com/en/computing/managing-your-credit/service-reactivation-after-a-top-up.aspx). If, within the time limit specified for the suspension of the Service, the amount of a new Top-up in a sufficient sum to renew the service is not registered on the Control Panel, the Service shall be deactivated and any data, information and/or contents entered and/or processed by the Customer and/or any authorised third parties on the virtual Infrastructure shall be kept for the time period specified at [kb.arubacloud.com/en/computing/managing-your-credit/what-happens-when-the-credit-runs-out.aspx](https://kb.arubacloud.com/en/computing/managing-your-credit/what-happens-when-the-credit-runs-out.aspx) solely as a mere courtesy, without Aruba undertaking any obligation in this regard and hence excluding any liability thereof in the event of total or partial loss or damage. Once the aforesaid supplementary period has elapsed, in the event of lack of registration on the Control Panel of the amount of a new Top-up of a sufficient sum to renew the Service, any data and/or information and/or content entered and/or processed by the Customer and/or any third parties on the virtual Infrastructure created and allocated through the Service shall be permanently deleted and it will no longer be possible to retrieve them. In such a case, the Customer shall remain solely and exclusively responsible for any recovery of the data, information and/or contents entered and/or processed by the said Customer on the virtual Infrastructure concerned, subject to reactivation of the Service, if necessary, by entering into a new Agreement if Aruba has exercised the right of withdrawal set forth in Art. 12 of the Terms and Conditions or if one of the conditions set forth in Art. 13.3 of the Terms and Conditions has been met. This is without prejudice to any other agreements entered into between the parties.

## **6. Additional Services**

**6.1** The Customer may also purchase one or more of the Additional Services to the main Cloud Service. These additional services are those described in the Section relating to the individual main Service, which can be accessed from the "Products and Solutions" menu on page [www.arubacloud.com](https://www.arubacloud.com). The Customer hereby acknowledges and agrees that the Additional Services shall be provided in accordance with the methods, terms and technical and financial conditions and with the payment methods specified at said link, to which full reference is made therein and which the Customer declares having viewed and accepted.

**6.2** It remains understood that the aforesaid Additional Services, regardless of the time of their activation, shall have the same expiry date as the main Service to which they relate.

## **7. Aruba's obligations and limits of liability**

**7.1.** Aruba guarantees the Customer the provision and use of the Service 24/7/365 in accordance with the service levels laid down in the Service Level Agreement (SLA) and in the Technical Specifications.

**7.2.** Aruba's obligations and responsibilities vis-à-vis the Customer are those defined by the Agreement and therefore, in the event of any breach or default imputable to Aruba, it shall not be liable for an amount in excess of the limits laid down in the SLA. Any other indemnity or compensation to the Customer for direct or indirect damages of any nature and type shall henceforth be expressly excluded. The Customer hereby acknowledges and agrees that, in all cases in which the SLA is not applicable, Aruba shall be liable solely for an amount equal to the sum spent by the Customer over the last 12 months.

**7.3.** Aruba reserves the right to discontinue provision of the Service in order to carry out technical work designed to improve its functioning. Under such circumstances, the Customer shall be notified via e-mail with the advance notice referred to in the Service Level Agreement (SLA); said notification will also specify the time period within which the service shall be restored.

**7.4.** Unless expressly included and provided for under the Service purchased, Aruba shall not perform specific backups of the data and/or information and/or content processed by the Customer, on his/her own account or on account of third parties or by the latter, where authorised by the Customer, on the virtual infrastructure, with the exception of the backup of all the storage content that Aruba periodically performs, as its own precaution, for the purposes of the possible restoration of the Service; this does not however, release the Customer from performing a full backup of the data and/or information and/or content entered and/or processed by him/her on the virtual Infrastructure and from taking all the necessary security measures to protect them. In any event, Aruba shall offer no guarantees regarding the use of the Service with regard to the protection and storage of these data and/or information and/or



content, except for the Customer's activation of a specific ancillary service.

**7.5.** Aruba shall not be deemed in any way responsible for the use of the virtual Infrastructure made in relation to critical situations, including, but not limited to, specific risks for personal injury, environmental damage, specific risks in relation to mass transport services, the management of nuclear power and chemical plants and medical devices; in such cases, Aruba declares its willingness to evaluate and negotiate with the Customer a specific "mission critical" agreement with the respective SLAs.

**7.6** Aruba shall not, in any case, accept any liability for any information, data or contents entered or transmitted and, in any case, processed by the Customer, on his/her/its own account or on account of third parties or by the latter, where authorised by the Customer, on the virtual Infrastructure and, in general, for the use made by the same of the aforementioned Infrastructure. It reserves the right to take any measures and actions to protect its rights and interests, including providing those concerned with useful data to allow identification of the Customer. In any event, Aruba shall not be held liable for any direct or indirect damage, of whatsoever nature, caused by the Customer to third parties who may have used the Service in any shape or form or for whatever reason.

## **8. Customer's obligations and rights**

**8.1** The Customer has the right to use the 24/7/365 Service in accordance with the Technical Specifications and the service levels guaranteed by the SLA and acknowledges that he/she/it shall be entitled solely and exclusively to the indemnity provided for therein in the event of breach thereof, thereby excluding any other indemnity or compensation for direct or indirect damage of whatsoever nature. The Client also acknowledges and agrees that he/she shall not have the right and in any event shall not be entitled to claim any indemnity or compensation for either direct or indirect damage against Aruba when one or more of the conditions under which the said SLA is not applicable are met. The Customer henceforth acknowledges and agrees, on his/her own account and on account of third parties who may have used the Service in any shape or form or for whatever reason, that in all cases in which the SLA is not applicable, Aruba shall be liable solely for an amount equal to the sum spent by the Customer over the last 12 months.

**8.2.1** In accordance with art. 46 of Presidential Decree 445/2000, as subsequently amended and supplemented, the Customer also guarantees that the data and information sent to the Suppliers for entering into the Contract are true, correct and allow for identification thereof, and agrees to inform the Suppliers of any changes therein, including the e-mail address shown in the Order Form. The Suppliers reserve the right to verify such data and/or information by also requesting any additional documentation that the Customer henceforth agrees

to submit. Should the Customer, on identification, also by the use of false documents, have concealed his/her true identity or falsely declared to be another party, or acted in such a way as to compromise the identification process, the Customer acknowledges and accepts that he/she will be held liable, including criminally, for the false declarations and/or the use of false documentation and shall also be considered solely liable for all damages that have been and may be suffered in future by the Suppliers and/or by third parties due to the inaccuracy and/or falsehood of the information communicated, assuming henceforth the obligation to hold harmless and release the Suppliers from any claim, action and/or request for indemnity or compensation for damage that may be brought against them by anyone.

**8.2.2** If any error is highlighted in the electronic invoice issued by Aruba, the Customer has an obligation to provide any missing data or make the necessary corrections, by following the process made available by Aruba and as described in full at [guide.hosting.aruba.it/pagamenti-e-fatturazione.aspx](https://guide.hosting.aruba.it/pagamenti-e-fatturazione.aspx).

Depending on the software used by the Service, the invoicing data updated by the Customer could also be replicated in the statistical records and/or in the Interested Party's data. Aruba may not therefore be deemed liable for any penalties, losses or damages resulting, directly or indirectly, from delays or errors in the updating of said data, liability for which rests wholly with the Customer.

**8.3.** The Customer declares having all the technical knowledge required to ensure the correct use, administration and management of the virtual Infrastructure and, in any case acknowledges and accepts that the processing of data and/or information and/or content that he/she has put in place and its subsequent dissemination on the Internet through the same infrastructure has been performed solely at the Customer's own risk and under his/her responsibility.

**8.4.** The Customer acknowledges that the Internet cannot be controlled by Aruba and that, due to the unusual structure of the network itself, no public or private entity and not even Aruba may guarantee and monitor the performance and functioning of the network or check the content of the information transmitted through it. For this reason, Aruba shall not be held liable for the transmission or receipt of illegal information of whatsoever nature.

**8.5.** The Customer, also in the name and on behalf of any third parties whom he/she may have authorised to use the Service, undertakes to use the Service solely for lawful purposes permitted by the provisions of law that apply from time to time, by customs and habits, by diligence rules and in any case, without violating any rights of any third parties, assuming all responsibility in this respect. The Customer declares that he/she/it is the sole and exclusive administrator of the Service and as such declares that he/she/it is solely responsible (i) for the management of data, information and/or contents processed by him/her/it on the virtual Infrastructure, its

security and its storage and for the fulfilment of any other activity deemed useful or necessary for ensuring the integrity thereof, and to this end making any reasonable effort to apply appropriate and adequate security measures, at his/her/its expense and under his/her/its responsibility;

(ii) for the content of the information, audio, texts, images, for the elements of form and data that is accessible and/or made available on the virtual Infrastructure and, for any reason, transmitted or placed online by the Customer;

(iii) for malfunctions of the Service as a result of any use that fails to comply with the Aruba Services User Policy; (iv) for the loss or disclosure of the login details;

(v) for the management of all access to its Control Panel (any connection, change to the Service or order via the Customer's Control Panel is deemed to have been performed by the said Customer); in this regard, the Customer assumes the obligation of changing the password for access to the Panel on a regular basis, and in any event at intervals not exceeding 3 (three) months.

**8.6.** The Customer agrees to notify Aruba, by opening a special support ticket on the page [assistenza.aruba.it/en](https://assistenza.aruba.it/en), of any changes in his/her/its personal and contact details, including the e-mail address specified at the order stage.

**8.7.** The Customer also undertakes to promptly inform Aruba of any unauthorised use of his/her account or any other security breach found.

**8.8.** The Customer declares, on his/her own account or on account of any third parties whom he/she may have authorised to use the Service, that he/she is in possession of all valid licences for the software that he/she may have entered and used on the virtual Infrastructure and to bear the associated costs.

**8.9.** As regards proof of all the operations carried out from the Control Panel, the Customer acknowledges and accepts, on his/her/its behalf and on behalf of any third parties whom he/she/it may have authorised to use the Service, for whatever reason, that only the Supplier's Logs kept in accordance with the law shall be deemed valid. The Customer is solely and exclusively responsible for any other operation performed by him/her or by third parties or directly by the latter, in the use, management and administration of the various virtual Infrastructures created and allocated through the Service; accordingly, with regards to these operations he/she undertakes to:

a) comply or ensure that third parties comply with the legislation in force from time to time applying thereto, including the data protection legislation (Legislative Decree 196/2003 and European Regulation no. 679/2016);

b) indemnify and hold Aruba harmless against any direct or indirect request or claim for damages, of any nature and type, brought by anyone in this regard;

**8.10** The Customer henceforth agrees to indemnify and hold Aruba harmless against any and all requests or claims by third

parties for damage caused to them by or through the use of the Service. The Customer shall bear all costs, damages and charges, including any legal costs, which could result from these liability actions and undertakes to inform Aruba if such action were to be instigated against him/her.

**8.11** The Customer agrees to declare and to ensure that any third parties whom he/she/it has allowed to use the Service, for whatever reason, comply with all the provisions set forth in the Agreement without exception, thereby also agreeing to indemnify and hold Aruba harmless against any requests and/or claims for damages brought by anyone on the grounds of any breach of the aforesaid provisions and in any event of the conduct of the Customer or the aforementioned third parties.

## 9. Support and Maintenance

**9.1** Technical support is exclusively offered within the times and in the manner indicated at [assistenza.aruba.it/en](https://assistenza.aruba.it/en). In any event, the Customer is required to promptly notify Aruba of any irregularities or malfunctions that he/she/it may find with the Service. Aruba will make every reasonable effort to deal with the issues reported by the Customer as soon as possible, in line with the times at which the support service is provided and indicated on the [assistenza.aruba.it/en](https://assistenza.aruba.it/en) website.

**9.2** Aruba may perform any "customised" actions and, in any case, actions designed to provide the necessary technical support to ensure smooth running of the Service. In such cases, the Customer authorises Aruba and/or any companies appointed by it to carry out the technical support/maintenance requested and/or deemed necessary; the Customer acknowledges and agrees that this support/maintenance shall be provided in accordance with variable schedules depending on the following criteria: a) the type of action requested; b) the arrival time of the request for action; c) the nature of the priority of the request for action. In order to allow the correct and timely implementation of the action requested, the Customer agrees to provide all the specifications and information requested by Aruba.

When the support/maintenance pursuant to this paragraph is purely of a technical nature, the Customer:

a) declares that he/she/it is aware that such support involves a high degree of risk for the functioning of the Service, or for the integrity of the data, information and/or contents entered and/or processed via the Service; and

b) acknowledges and agrees that, in providing the support/maintenance, Aruba accepts an obligation of means and not ends, and that under no circumstance will it be involved in the management or will it perform operations on data, information and/or contents processed and/or placed by him/her/it through the Services and/or at a remote location, thereby not being involved in and/or in any way determining the same;

c) hereby agrees to bear all the associated risks; and

d) hereby agrees, prior to undertaking the support/maintenance action, to create a full backup copy of the data, information and/or contents entered and/or processed via the Service.

**9.3** Aruba S.p.a. agrees to ensure a level of professionalism appropriate for performing the activities required in accordance with best practices and in any case with the required diligence for the time strictly necessary for the provision of the requested service, and at the same time without acquiring and/or storing information in the Customer's archives.

**9.4** Notwithstanding the above, the Customer hereby releases Aruba and/or the Companies controlled by it and their staff, as well as the external Companies appointed for support/maintenance and their staff from any liability for any direct or indirect damages of any nature or kind sustained or that may be sustained due to or because of the actions pursuant to this Art. 9.

**9.5** Aruba reserves the right to suspend or interrupt the provision of the Services in order to carry out technical maintenance. Under such circumstances, the Customer shall be notified via e-mail with an advance notice of 7 (seven) days; said notification will also specify the time period within which the service will be restored.

**9.6** The Customer hereby acknowledges and agrees that, in the event of the circumstance referred to in Art. 11.1, letter g) hereunder, the latter may arrange, through its own systems, to carry out automatic update/maintenance operations to the Service as deemed appropriate at its sole discretion; in this case the Customer hereby releases Aruba from any liability for any direct or indirect damages of any nature or kind sustained or that may be sustained due to or because of these operations, including, but not limited to, those resulting from interruption of the Service and/or lack of visibility of the website and/or data loss.

## 10. Term of the Agreement

The Contract shall govern the supply of Services to the Customer effective from the date of respective signing. The Agreement shall be effective until the expiration date of the last of the Cloud services purchased by the Customer, each Party being entitled to withdraw, this being notified to the other party in accordance with the procedures set forth in Art. 12 below. Upon termination of the Agreement, Aruba shall discontinue the Service and refund any amount paid to purchase the Top-up remaining unused on the effective date of the withdrawal.

Subject to the provisions of the other documents forming part of this Contract, the Customer hereby acknowledges and accepts that on the expiration date of each Service and, in any case, at the end of the Contract for whatever reason, the Parties shall automatically be released from the respective obligations; the Customer hereby acknowledges and accepts that it shall be his or her exclusive responsibility to obtain and store a copy of

the data, information and/or contents processed by way of the Service(s), it being understood that once the Contract has ended or the Service has expired, said data, information and/or contents may no longer be recoverable. In any event, the Customer hereby holds Aruba harmless, once and for all, from any and all liability for any loss or total or partial damage of data, information and/or contents entered and/or processed by said Customer by way of the Service(s). The Client shall be exclusively responsible for any restoration of the data, information and/or contents entered and/or processed by the same, following reactivation of the Service concerned, thereby executing a new Contract if necessary.

## 11. Suspension of the Service

**11.1** Without prejudice to the application of Art.12 below, at its discretion and without the exercise of said right being able to be challenged as a default or breach of the Agreement, Aruba reserves the right to suspend the Service, which may also be without notice, in the event that:

- a) the Customer fails to comply with or finds him/her/itself in breach of even one of the provisions contained in the Agreement, including those set forth in the Aruba Services User Policy;
- b) the Customer fails to respond, in full or in part, to Aruba's requests or in any event, his/her/its conduct is such as to raise the founded and reasonable fear that the Customer may be in breach of the Agreement or liable for one or more breaches of its provisions;
- c) there are valid grounds for believing that the Service is being used by unauthorised Third Parties;
- d) there are cases of force majeure or circumstances which, at the sole discretion of Aruba, require emergency actions to be performed or actions relating to the resolution of security issues, danger to the entire network and/or persons or property; in this case, the Service will be restored when Aruba, at its discretion, has determined that the reasons which caused its suspension/termination have been removed or eliminated;
- e) the Customer is involved, for whatever reason, in any court or out-of-court proceedings of a civil, criminal or administrative nature and in any case in which said dispute concerns actions and conduct put in place through the Service and/or the virtual Infrastructure; f) the suspension is requested by a Court.

In any case of suspension of the Service imputable to the Customer, Aruba's action for damage compensation, if any, shall remain without prejudice.

g) the Customer uses faulty or uncertified equipment and/or software, or there are malfunctions which may cause security issues and/or vulnerabilities of the Service, damage the integrity of the network and/or disrupt the Service and/or give rise to risks to the physical safety of people and property.

**11.2** During the suspension of the Service, the Customer may not have access to data, information and/or contents entered and/or processed by him/her/it on the virtual Infrastructure.

## **12. Withdrawal**

**12.1** The Customer, qualifying as a "consumer" pursuant to art. 3 of Legislative Decree 206/2005 (so-called "Consumer Code"), may exercise the right to withdraw in the manners and forms set forth in arts. 52 et seq. of the Consumer Code within 14 (fourteen) days from the date on which the Contract is signed without any penalty and without indicating the reasons thereof. Specifically, the Customer must expressly declare his/her/its wish to withdraw, using the form available at [www.arubacloud.com/company/general-conditions.aspx](http://www.arubacloud.com/company/general-conditions.aspx), or any other explicit declaration of his/her/its wish to withdraw from the agreement, by sending his/her/its notice of withdrawal, exclusively by registered letter with confirmation of receipt, to the contact details stated in Art. 17.8 below, or by certified e-mail (PEC) to the address [recessi@aruba.pec.it](mailto:recessi@aruba.pec.it) or by opening a support request on the site, [assistenza.aruba.it/en](http://assistenza.aruba.it/en). In the event of the right to withdraw being exercised, Aruba shall reimburse all payments received to the Customer, without undue delay and in any event within 14 days from the date on which the intention to withdraw from this agreement is communicated, with the same means of payment used by the Customer for payment, or using the means agreed with the Customer for which the latter shall not incur any cost as a consequence of the reimbursement.

**12.2** Notwithstanding the foregoing, whether or not defined as a "consumer" pursuant to Art. 3 of Legislative Decree 206/2005 (so-called "Consumer Code"), the Customer shall always have the right to withdraw from this Agreement at any time, without any penalty and without indicating the reasons thereof, by written notification sent by registered letter with confirmation of receipt to the address stated in Art. 17.8 below or certified e-mail (PEC) to the address [recessi@aruba.pec.it](mailto:recessi@aruba.pec.it) or by opening a request for support on the site, [assistenza.aruba.it/en](http://assistenza.aruba.it/en). Withdrawal shall be effective once 30 (thirty) days have elapsed from the date of Aruba's receipt of said notification;

**12.3.** Aruba reserves the right to withdraw from the Agreement at any time and without being required to state its reasons, by notifying the Customer in writing, with at least 15 (fifteen) days' notice, except in the case where events are determined by causes of force majeure, in which regard Aruba reserves the right to terminate this agreement with immediate effect. At the end of the period indicated above, the Agreement shall be understood to have ceased and/or to have been terminated and Aruba may deactivate the Service at any time without further notice and refund the Customer for the amount paid to purchase the Top-up which remained unused at the effective date of termination. In any event, any further liability on the part of Aruba for exercising the right of withdrawal and/or for loss of use of the Service by the Customer or the ensuing right

of the latter to demand any other reimbursement or compensation or damages of any type and kind shall remain expressly ruled out.

## **13. Express termination clause - rescission due to breach - termination**

**13.1** Without prejudice to the provisions set forth in other clauses of the Agreement, the latter shall be deemed to have been terminated with immediate effect if the Customer: - is in breach of the obligations set forth in Articles 8, 15 and 16 of this Section I of the Terms and Conditions as well as the provisions set forth in the documents to which reference is made therein; or, is in breach of the obligations set forth in Articles 3 and 5 of Section II of the Terms and Conditions; or - is in breach of the Aruba Services User Policy; or - engages in any illegal activity, by using the Service; - is registered in the list of protests, is declared insolvent, has been admitted or made subject to insolvency proceedings.

**13.2.** In addition, in the event of failure to comply with its obligations under the Agreement, Aruba reserves the right to send to the Customer, at any time, for all intents and purposes referred to in Art. 1454 of the Italian Civil Code, formal notice within 15 (fifteen) days of receipt of the registered mail letter.

**13.3.** Without prejudice to the provisions in the previous paragraphs 13.1. and 13.2., the Agreement shall be terminated automatically without Aruba being required to send the Customer any notice if, for an on-going period of twelve months, the latter; a) does not use the Service; or b) does not purchase a new Top-up after the amount paid for the previous one has been used up. Similarly, if the Customer has purchased the Domain Centre Service, the Agreement shall be terminated automatically without Aruba being required to send the Customer any notice upon actual removal of the domain name from the Register of the respective Authority, as specified at [kb.cloud.it/domainkb.cloud.it/domain-center.aspx](http://kb.cloud.it/domainkb.cloud.it/domain-center.aspx). If the Agreement is terminated upon the occurrence of the condition set forth under letter a), the amount of any unused Top-up shall be withheld by Aruba and permanently seized by it, in the absence of an express refund request from the Customer, to be duly formalised with Aruba within the time limit of 180 days from the date on which the aforesaid condition occurred.

**13.4.** As of the date of resolution and/or termination of the Agreement, which occurred in the cases provided for in this article, the Service shall be deactivated and Aruba may charge the Customer any additional costs incurred, in each case without prejudice to its right to seek compensation for any damage suffered. In any event of termination of the Agreement, the regulation laid down in the previous Art. 12.3 shall apply.

## **14. Amendments to the Agreement and/or to Aruba Policies**

**14.1.** The Customer acknowledges and agrees that the Service covered by the Agreement is characterised by constantly changing technology; for these reasons Aruba reserves the right



to improve the technical and economic features of the Service and the instruments related to it and to amend the terms of the Agreement at any time, even after its signature, without this giving rise to any obligations of any kind in respect of the Customer. The software licensing costs paid through Aruba to their respective licensees will be adjusted automatically in case of a price change on the part of the said licensee.

**14.2.** Should Aruba make any technical or price changes which are deemed to be detrimental or damaging in terms of performance and/or pricing, or make changes to any part of the contractual terms and conditions, the Customer shall be informed of such changes by e-mail or through publication on the website [www.arubacloud.com](http://www.arubacloud.com). Without prejudice to any provisions of Section II, the above-mentioned changes shall take effect 10 (ten) days after the date on which they are communicated. Within the same time period, the Customer may exercise the right to withdraw from the Agreement by means of a written notification to be sent in the manner and within the time limits set forth in Art. 12 above. If the Customer fails to exercise the right of withdrawal within the terms and in the manner indicated above, the amendments shall be deemed to have been known and definitively accepted by the same Customer. Notwithstanding the above, Aruba may change the technical features, systems or resources as a result of the normal technological evolution of hardware and software components, thereby guaranteeing the Customer the same functionality.

**14.3** Notwithstanding the foregoing, Aruba reserves the right to amend the Aruba Services User Policy at any time due to the requirements referred to in paragraph 1 above or in compliance with provisions of law; also in this case, the Customer may exercise the rights set forth in paragraph 2 above.

**14.4.** With reference to the Cloud Service and the APIs referred to in the Technical Specifications published on the page [www.arubacloud.com/cloud-computing/cloud-technology.aspx](http://www.arubacloud.com/cloud-computing/cloud-technology.aspx). Aruba declares and the Customer acknowledges and agrees that: a) such APIs are made available without any minimum guarantee regarding continuity; b) also notwithstanding the provisions set forth in this Article, it reserves the right to take action regarding such APIs, at any time and without notice, in order to modify them, delete them or suspend them and in any case to perform any other action on them that may be deemed necessary/useful/appropriate, at Aruba's sole discretion, in order to improve the functioning of the Service. Notwithstanding the provisions laid down in the previous lett. a) and b), the Customer:

- acknowledges and agrees, also as an exception to Art. 9 above, that Aruba shall not provide any specific technical support in relation to any operations that the Customer may deem necessary to perform on his/her/its Virtual Infrastructure, as a result of the actions undertaken by Aruba on the APIs; and

- releases Aruba from any liability, for this purpose declaring that he/she/it has no claims whatsoever against it for the effects and consequences, of any nature and kind, whether direct or indirect, that the actions undertaken by it on the APIs may have on the Virtual Infrastructure. This is without prejudice to the Customer's right to withdraw from the Agreement pursuant to Article 12 above.

## 15. Copyrights and licences

**15.1.** The Customer is required to use the Service in compliance with Aruba's intellectual and/or industrial property rights as laid down in the Aruba Services User Policy. Software packages, like any other copyright or other intellectual property right, are the exclusive property of Aruba and/or its assignors; therefore the Customer does not acquire any right or entitlement in this regard, and is only entitled to use them during the contractual period.

**15.2.** In the case of licences provided by third-party suppliers through Aruba, the Customer acknowledges, on his/her own account or on account of third parties whom he/she may have allowed to use the Service, that he/she has examined the terms and undertakes to use the software in accordance with the terms and conditions specified on the respective websites exclusively for his/her own personal use. The Customer undertakes to accept and comply with the terms of these licences. The Customer declares that he/she is aware that Licences apply between the Customer and the owner of the copyright on same with the exclusion of any liability on the part of Aruba.

**15.3** Unless the Customer chooses the Partner Option, the Customer shall be expressly prohibited from marketing the Service as an Aruba agent, reseller, dealer, distributor or licensee or in any other capacity and, in any event, from marketing it or using it as an Aruba service or from making use of Aruba's trademarks, images and/or promotional and advertising material and, in any event, more generally, of any intellectual and/or industrial property rights actually used or owned by same.

## 16. Information security

The Customer, acknowledging that the company Aruba has been awarded the ISO 27001:2013 certification and is in possession of other means and/or instruments deemed suitable for protecting information security (physical, logical, IT and organisational) in the most effective way, henceforth undertakes not to disclose or make howsoever available to third parties any confidential information known or handled in connection with the execution and/or application of the Agreement in the absence of Aruba's specific written consent.

## 16 bis. Discount coupons

a) For products/services included in campaigns advertised from time to time on the [www.arubacloud.com](http://www.arubacloud.com)

website, if the Customer meets the criteria specified and stated therein, he/she/it may benefit from a "Discount Coupon" (or "voucher") granted to it in accordance with the terms and conditions for the respective promotion.

**b)** The Customer also hereby acknowledges and accepts that, unless specified by Aruba for said specific promotion, the "discount coupon" referred to in paragraph a) above:

I) may only be used once within its period of validity and may not be combined with any other current promotions, if

not otherwise specified by Aruba; and

II) it is transferable to third parties; and

III) if not otherwise specified by Aruba, may not be used again in the event of cancellation, voiding or failure to fulfil the order for any reason and/or cause; and IV) its value shall not be refunded to the Customer by Aruba in the event of termination of the agreement for any reason and/or cause; and

V) regardless of the type, is not refundable or redeemable for cash; and

VI) therefore may not be used retroactively and may not be used for already recorded orders; and

VII) unless otherwise stated by Aruba, may not be used with reference to orders for the renewal of Services.

VIII) When the Discount Coupon expires, the provisions contained in article 5 of the Terms and Conditions above shall apply.

**c)** Notwithstanding the above, Aruba reserves the right, at its sole discretion, to modify, suspend or revoke at any time the option of using a "discount coupon", without the need for prior notice and/or notification.

#### **16 ter. Aruba Cloud Start-up Programme**

Notwithstanding the provisions of art. 16 bis above, with specific reference to the "Aruba Cloud Start-up" Programme, Aruba shall give to anyone who, at its sole discretion, meets the criteria mentioned at

[www.arubacloud.com/aruba-cloud-startup-](http://www.arubacloud.com/aruba-cloud-startup-program/introduction.aspx)

[program/introduction.aspx](http://www.arubacloud.com/aruba-cloud-startup-program/introduction.aspx) and has entered into an agreement with Aruba accepting discount coupons for using the Services, in accordance with the specifications, limits and requirements, and for the period described therein, within each relevant section of the programme mentioned above. In particular the Customer hereby acknowledges and accepts that Aruba also reserves the right to revoke the Discount Coupon at any time if:

a) it is used, at Aruba's sole discretion, for activities not strictly connected to the Start-up's so-called "core business"; or

c) the Customer engages in acts or actions that are contrary to ARUBA's interests and in any case conflict with or are not in keeping with the specific values and principles of the programme; or

d) the Customer does not use at least part of the Discount Coupons by the deadline for their use.

#### **17. Final provisions**

**17.1.** This Agreement shall supersede any previous agreement that may have been entered into between Aruba and the Customer that can be traced back for any reason under the same login details (login and password) regarding the Service and shall constitute the final and integral expression of the agreements entered into between the Parties on this subject. No amendment, footnote or clause howsoever added to this Agreement shall be valid and effective between the Parties unless specifically and expressly approved in writing by both parties. In the event of special agreements with the Customer, these must be formulated in writing and shall constitute an addendum to this agreement.

**17.2.** Under no circumstances may any breaches and/or Customer conduct that differs with respect to the Agreement be considered as exceptions to it or tacit acceptance thereof, even if these are not contested by Aruba. Aruba's failure, if any, to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of those rights or clauses.

**17.3.** Unless expressly indicated otherwise in the Agreement, all notifications to the Customer shall be carried out by Aruba indiscriminately by hand, via email, certified or not, by means of registered mail with return receipt, ordinary post, or by fax to the addresses indicated by the Customer at the order stage and, consequently, such notifications shall be considered known by the Customer. It shall not be possible to invoke any changes in any of the Customer's addresses and contact details including the email address stated at the order stage if these are not communicated to Aruba in accordance with the terms of the Agreement.

**17.4.** With the exception of the cases specifically set forth in the Agreement, any notifications that the Customer intends to send to Aruba relating to the Agreement, including support requests, shall be sent by means of a support ticket as shown on the page [assistenza.aruba.it/en](http://assistenza.aruba.it/en), except for the form established for notifications referred to in paragraph 7 below.

**17.5.** The Agreement entered into with the Customer shall be sent by email, kept in the Supplier's computer systems and shall be sent to the Customer upon request in the manner indicated in paragraph 4 above.

**17.6.** Any total or partial ineffectiveness and/or invalidity of one or more clauses of the Agreement shall not result in the invalidity of the others, which shall be deemed to be fully valid and effective.

**17.7.** For anything not expressly provided for in the Contract, the Parties make express reference, as far as possible, to the legal provisions currently in force.

**17.8.** Any complaints regarding the provision of the Service, including those regarding failure to comply with the SLA, shall be forwarded to: Aruba S.p.A. Loc. Palazzetto n. 4 52011 Bibbiena Stazione (Arezzo) by means of registered letter with acknowledgement of receipt, or forwarded via a ticket from the Aruba support department, within and no later than 7 (seven)

days from the time the occurrence of the subject of the complaint. Aruba will investigate the complaint and will provide a written answer within 10 (ten) days from receipt of the complaint. In the event of complaints due to particularly complex circumstances, which do not permit a full reply within the time limits referred to above, Aruba will notify the Customer within the afore-mentioned times on the progress of the case.

**17.9.** The relations between Aruba and the Customer established in the Agreement may not be understood as agency, corporate, representation, collaboration or association contracts or other similar or equivalent contractual forms.

**17.10.** The Customer undertakes not to transfer the Agreement to third parties without Aruba's prior written permission.

### 18. Extended validity

This clause, the other clauses of these Terms and Conditions set out below as well as the provisions set forth in documents to which reference is made in these clauses shall continue to be valid and effective between the Parties even after termination or rescission for whatever reason due to or attributable to any party; of Section I:

1. Definitions
5. Service activation and provision
7. Aruba's obligations and limits of liability
8. Customer's obligations and rights
12. Withdrawal
13. Express termination clause - rescission due to breach - termination conditions
15. Copyright and licenses
16. Information security
20. Applicable law, jurisdiction and competent court

From Section II:

1. Definitions
4. Aruba's limits of liability
5. Customer's obligations and rights
6. Additional Services and Whois privacy

### 19. Processing of personal data

**19.1** The processing of the personal data disclosed by the Customer to Aruba for the purposes of the fulfilment of this Agreement and subsequent provision of the Service, shall comply with Legislative Decree 196/2003 and with European Regulation no. 679/2016, the privacy policy issued by Aruba when registering his/her/its personal information and in accordance with the consent to the processing of information provided at the time by the Customer.

**19.2** Aruba shall act as Data Controller only during data collection, processing and handling, as necessary for the provision of the Services, in accordance with the definitions of roles described in Legislative Decree 196/2003 and Regulation no. 679/2016.

**19.3** If the Customer has chosen the Partner Option, with reference to third-party data handled by him/her/it at the order stage and/or use of the Service, he/she/it guarantees to have provided it in advance, with the information pursuant to Art. 13 of Legislative Decree No. 196/2003 and to have obtained their consent for processing. In any event, it remains understood that, in relation to such data, the Customer shall act as Data Controller, assuming all the obligations and responsibilities associated with it and holding Aruba harmless against any dispute, claim or other demand that may come from third-party data subjects with reference to said data handling scenarios.

### 20. Appointment of the Data Processor

For the Services covered by this Contract, the Customer hereby appoints Aruba as Data Processor, with the detailed description of the tasks and duties assigned thereto in accordance with this role as follows.

This appointment as Data Processor and the related clauses have a duration equal to that of the Contract signed between the Data Controller and Aruba in relation to the chosen Service. The appointment and this document shall automatically cease to have effect in the event of termination, withdrawal or loss of effectiveness of the Contract, except when time is needed for the Data Controller to retrieve personal data as contractually agreed between the parties.

Likewise, in the event of tacit Contract renewal, the appointment as Personal Data Processor shall be deemed automatically renewed for a term equal to the contract duration.

#### I. Data processed by Aruba in the provision of the services covered by the Agreement

The Services provided by Aruba, in accordance with their Technical Specifications, allow the Data Controller to process the data in accordance with the timescales and procedures set forth and independently managed by them, without prejudice to the applicable regulations. The scope of Aruba's appointment relates solely to the processing of personal data entered and/or transmitted independently by the Data Controller through the chosen Service and/or within the scope thereof, and in any event in compliance with the purposes aimed at its correct delivery by Aruba and in accordance with the provisions of the applicable regulations in force at any particular time.

It is understood that, in the provision of the Services, pursuant to Legislative Decree 70/2003, Aruba is neither responsible for the information stored at the Data Controller's request, nor obligated to monitor the information it transmits or stores, nor does it have an obligation to actively seek facts or circumstances that indicate the presence of illicit activities.

#### II. Obligations and rights

As a result of this appointment, Aruba is authorized solely to process the personal data to the extent necessary for

performing the activities assigned to it. Aruba is entitled to undertake all activities necessary for ensuring fulfilment of the current relevant provisions as well as the task of organizing, managing and supervising all processing operations concerning personal data communicated to it by the Data Controllers for the purposes of performing the activities covered under the chosen Service. In compliance with the provisions of Regulation (EU) 2016/679 and the regulations concerning the processing of personal data, it is hereby specified that Aruba has the following obligations:

- a) to process the personal data entered and/or transmitted within the scope of performance of the Service covered by the Agreement, with the technical and security characteristics established based on the provisions therein, in the Manuals and in the Technical Specifications governing them and in the Codes of Conduct to which Aruba has adhered in relation to the chosen Service, which for the purposes hereof must be regarded as documentation containing the instructions for the processing of data accepted by the Data Controller. In the event that the Data Controller expresses particular needs that require different instructions from the ones described in the aforementioned documentation, they must demonstrate such need to Aruba and describe the measures that need to be guaranteed, which will be evaluated and, providing their implementation is feasible, quoted under a specific offer;
- b) to ensure that the persons authorised to process personal data have pledged confidentiality or have an adequate legal duty of confidentiality; such parties authorised for data processing, in relation to performance of the aforementioned activities, shall be specifically assigned to processing by Aruba, which shall provide them with the necessary instructions and inform them of the agreed and prescribed methods as well as of Regulation (EU) 2016/679;
- c) to adopt all the measures required pursuant to Article 32 of Regulation (EU) 2016/679; in particular, with regard to the provision of the chosen Service, Aruba shall implement the measures stated in the Agreement, in the Technical Specifications, in the Manuals related to the Service itself and in the Codes of Conduct to which it has adhered in relation to the chosen Service, as well as the procedures it has adopted in accordance with the ISO 27001 standard.
- d) to assist the Data Controller - taking into account the nature of the processing - (i) with appropriate technical and organizational measures, as far as possible, in order to respond to requests received for the exercising of the Data Subjects' rights; (ii) so as to ensure compliance with the obligations set out in Articles 32 to 36 of Regulation (EU) No. 2016/679, also taking into account the information available to the data processor;
- e) to cancel or return all the personal data to the Data Controller, upon their request, once the provision of the processing-related services has been completed, and to delete the existing copies;
- f) to make available to the Data Controller all the information necessary for demonstrating compliance with the obligations

relating to the appointment set forth in this document, so as to enable and facilitate revision and verification activities, subject to prior agreement in regard to timing and methods, and provided they do not conflict with the confidentiality obligations accepted by Aruba and/or with its policies. Costs of these verifications shall be borne by the Data Controller. Accordingly, Aruba shall process the data in compliance with the aforementioned instructions, the guidelines in the Manual governing the Service, any relevant attachments and the provisions of Regulation (EU) 2016/679, and in compliance with the security requirements established for provision of the individual services.

### III. Sub-processors

By signing this document, and without prejudice to what is expressly set forth in this regard in the further Sections of these contractual Terms and Conditions, the Data Controller authorises Aruba to use its own sub-processors, as well as third-party suppliers and Companies belonging to the Aruba Group for the provision of services (support, maintenance, provision of additional services, network providers and electronic communication services) related to the requested service; the Data Controller acknowledges and accepts that this may entail the processing of data by said third parties.

For the purposes of the appointment of a sub-processor, by means of a written contract, Aruba guarantees that:

- a) the sub-processor shall access the Data Controller's data only to the extent required to fulfil the obligations delegated to them in accordance with the Contract;
- b) the sub-processor shall assume the obligations pursuant to art. 28 of the GDPR;
- c) Aruba shall remain responsible with respect to the Data Controller for all the obligations accepted, including those relating to the activities entrusted to the sub-processor.

In order to provide the Data Controller with precise control over the aforementioned third parties, in addition to complying with the requirements concerning the entire category of such third parties, Aruba agrees to keep up to date the list of said third parties as well as the appropriate documentation giving rise to the obligations borne by said third parties in relation to the duties arising from the processing of the personal data specified herein, where they process data within the scope of the chosen Service.

Aruba undertakes to inform the Data Controller, where required, in the event of any changes made to these third parties.

### IV. Breaches

In the case of any events that involve a breach of the data processed by Aruba in relation to the provision of the Services, it shall notify the Data Controller in the manner and within the timescale pursuant to current applicable legislation.



## 21. Applicable law, jurisdiction and competent court

**21.1.** The Agreement shall be governed solely by Italian law thereby excluding any application of the United Nations Convention on Contracts for the international sale of goods. These terms and conditions have been drawn up and prepared in compliance and in accordance with the provisions set out in Legislative Decree 206/2005 (Consumer Code) and in Law 40/2007 (Urgent consumer protection measures, the promotion of competition, the development of economic activities and the setting up of new businesses); they are understood as being automatically amended, and/or adjusted to that provided in subsequent legal and/or regulatory provisions on the matter.

**21.2.** The Italian Judicial Authority will have sole jurisdiction for resolving and deciding any dispute concerning the interpretation and/or execution and/or application of the Agreement, except in cases where the Customer has acted and entered into the Agreement as a Consumer for purposes unrelated to his/her business or profession; in this case, the Judicial Authority of the State where the Consumer was domiciled at the time of entering into the Agreement will have jurisdiction, except in the case where the Consumer prefers to apply to the Italian Judicial Authority.

**21.3.** When, on the basis of paragraph 20.2 above, the jurisdiction of the courts to resolve and decide any dispute concerning the interpretation and/or execution and/or application of the Agreement is identified: a) by the Italian Judicial Authority, the Court where the defendant is domiciled or has their registered office will have exclusive territorial jurisdiction, except in cases where the Customer has acted and entered into the Agreement as a Consumer for purposes not related to his/her business or profession; in this case the Judicial Authority of the Court where the Customer was domiciled at the time of entering into the Agreement will have jurisdiction, if located in the territory of the Italian state, and failing that the Judicial Authority of the Court where the Supplier has its registered office will have sole jurisdiction; b) by the Judicial Authorities of a State other than the Italian state, the Judicial Authority of the Court where the Customer is domiciled will have exclusive territorial jurisdiction, if still located in the territory of the State where he/she was domiciled at the time of entering into the Agreement, and failing that, or if the Customer preferred to apply to the Italian Judicial Authority, the Court where the Supplier has its registered office will be exclusively competent.

## SECTION II - SPECIAL CONDITIONS FOR PROVISION OF THE "DOMAIN CENTRE" SERVICE

This section contains the special terms and conditions governing the provision of the Domain Centre Service if purchased by the Customer through the website

[www.arubacloud.com](http://www.arubacloud.com). It shall be understood that, for the purposes of this Section II, any reference to the Service shall be understood as a reference to the Domain Centre Service.

### 1. Definitions

**Provisions for the registration of .it domain names:** the document containing the contractual provisions prepared by the ccTLD.it Register, published at [www.arubacloud.com/company/general-conditions.aspx](http://www.arubacloud.com/company/general-conditions.aspx), which the Customer must accept and agree to comply with in the event of registering a domain name with ccTLD .it.

### 2. Term, renewal and transfer

**2.1** Subject to the provisions of Article 13.3 of Section I of the Terms and Conditions, the Service shall be provided for the period stated in the Order Form and shall be renewed in accordance with the frequency indicated therein.

**2.2** In the event that payment is made by any means other than Automatic Top-up, or in the other cases expressly set forth by Aruba, the Customer may renew the Service(s) for further one-year periods before the expiry date thereof - preferably at least 15 (fifteen) days before said date - by sending the respective request and making payment, in accordance with the procedures and time frames referred to in Article 4 of Section I of the Conditions, of the amount set out in the Price List in effect at the time of renewal. Subject to the foregoing, the Customer may renew the Service(s) in the same way even after expiry thereof, by recovering the registration of domain name(s) in accordance with the procedures set out in paragraph 3.11 below.

Once the renewal procedure has been completed as described above, the Service(s) shall be renewed for the time period requested, commencing from the expiry date even in the event that the renewal procedure is concluded after the normal expiry date.

**2.3** The Customer hereby expressly acknowledges and accepts that, unless otherwise notified by Aruba, the Agreement shall be understood to be automatically terminated in the event of non-payment of the amount due for renewal of the Service no later than 2 (two) days prior to the expiry date. This deadline shall be considered to be non-extendable and Aruba regards it as an essential provision in its interest, subject to the provisions in Articles 2.5, 2.6 and 2.7 below.

**2.4** Any renewals shall take place in the order of expiry relating to each domain name, subject to the Top-up or Credit being used up; therefore, if the Automatic Top-up option is enabled, the Customer shall be exclusively responsible for verifying that, at the time of renewal, the Top-up or Credit is sufficient to cover the costs required for said renewal operations, hereby releasing Aruba from any direct and indirect liability in this regard, including any request or claim by Third Parties.

**2.5** In the event that the Customer intends to transfer the domain name to another Provider/Maintainer before expiry of

the Domain Centre Service, it shall be deemed to have been terminated at the end of the transfer procedure. Any refund from Aruba to the Customer for the time period during which the latter did not make use of the Domain Centre Service shall be expressly excluded.

**2.6** If the Service is not renewed on the expiry date, and until the actual removal of the domain name from the Register of the respective Authority, the Customer hereby expressly authorises Aruba to link said domain name to a Web page containing advertising messages. In this case, the registration data held in the respective Authority's Whois register shall remain unchanged. The Customer declares that he/she/it has nothing to request or claim from Aruba regarding its actions as a result of said authorisation.

**2.7** Subject to the foregoing, the Customer hereby grants to Aruba, which hereby accepts it, an express mandate (without powers of representation) to keep the registration of the domain name active in Aruba's name, but on the Customer's behalf, even after it has expired and until otherwise requested by that Customer, in exchange for a simple refund of the money paid by Aruba to keep the registration of the domain name active. In this regard, Aruba is hereby granted all powers necessary for said purpose, including powers to change the data relating to the holder of the domain name and/or to use the AuthInfo code associated with said domain name. This mandate shall be deemed to have been correctly carried out even if the registration of the domain in question is maintained in the name of another company in the Aruba Group. The Customer does not owe anything to Aruba for fulfilling the mandate.

**2.8** Following the expiry date of the Service(s) and within the deadlines set by the individual respective Authorities, as indicated on the website [kb.arubacloud.com/en/domain-center](http://kb.arubacloud.com/en/domain-center), the Customer may recover the registration of the domain name or ask for it to be reassigned to him/her/it, in accordance with the procedures and the conditions stated therein by Aruba, thereby paying the fee for all the services that he/she/it wishes to activate and any further amounts necessary for recovery of the domain name from the respective Authority, as stated on the [www.cloud.it](http://www.cloud.it) website.

### 3. Aruba's limits of liability

**3.1** Aruba hereby accepts an obligation of means and not ends; therefore the success of the registration request is subject to acceptance by the Registration Authority responsible for the chosen domain extension.

**3.2** Domain names which appear to be available may not actually be so, since they may already be pending registration to Third Parties but not yet included in the respective Registration Authority's database. As such, the Customer hereby releases Aruba from any and all liability and/or claim for damage compensation due to such circumstances.

**3.3** Aruba may not be held responsible for errors concerning syntax and/or semantics contained in the data disclosed to it by the Customer.

**3.4** Aruba shall not be liable and may not be held accountable for the resolution of any disputes and/or objections arising regarding the assignment of a domain name, which shall be deemed to fall within the purview of the Courts and/or any other Authorities identified by the policy drawn up by the respective Registration Authority and subject to the related proceedings, the outcome of which may not in any way be imputed to Aruba, which is henceforth released from any and all liability in this regard. In addition, Aruba shall not be held liable for any changes made by the respective Authority to the registration procedures or the related Naming rules.

**3.5** The registration of a domain name does not mean the awarding of any rights for said name and Aruba is not required to know or check the existence of any rights (including, but not limited to, copyrights, authors' rights, trademarks, etc.) to the domain name whose registration or transfer is requested by the Customer, which hereby releases Aruba from any joint involvement and/or liability in this regard.

**3.6** The Customer acknowledges and accepts that, in the event of a dispute with Third Parties over the registered domain name, and/or the content of the website, Aruba reserves the right to terminate the Domain Centre Service and/or to disable access thereto by the Customer and/or to remove all or part of the disputed material, pending resolution of the dispute, it being understood that any reimbursement, compensation or liability of Aruba for failure to use the Domain Centre Service during the period of suspension and/or for removal of said material shall be expressly excluded.

### 4. Customer's obligations and rights

**4.1.1** The Customer is required to check, within 15 (fifteen) days from the date of activation of the Domain Centre Service, the accuracy of his/her/its data in the database of the respective Authority for the chosen extension; if, during that period, the Customer does not raise any objection as to the accuracy of his/her/its data, they will be deemed to be correct.

**4.1.2** The foregoing is without prejudice to the power of the Authority, in any event and at all times, to check that the data and contact information stated by the Customer for the registration of the domain name (Registrant Details) are correct, and that the requests for changes within the same context are legitimate (so-called *trade process*), also by requiring that the change be confirmed directly by the Customer and/or the parties by email and to suspend the domain name or cancel the change made to it, in the event of failure to respond by the given deadline.

**4.2** The Customer acknowledges and agrees that being granted a domain name does not confer any right to use such name and:

a) declares having the right to use and/or having the requested domain name legally available thereto and not to harm, by way of this registration request and/or with the domain name chosen, the rights and/or interests of third parties;

b) undertakes to use the Service solely for lawful purposes as permitted by the provisions of law applicable from time to time, by customs and habits, by diligence rules and in any case, without violating any rights of any third parties, thereby assuming all responsibility in this respect.

**4.3** The Customer agrees and undertakes to observe the provisions found in the documents stated below, without reservations regarding their content, declaring that he/she/it has carefully viewed:

a) the rules on the proper use of network resources, contained in the "Netiquette" document, published on the website of the Italian Naming Authority ([www.nic.it/en](http://www.nic.it/en)) at [web-r1.nic.it/tutto-sul.it/netiquette](http://web-r1.nic.it/tutto-sul.it/netiquette);

b) The provisions contained in the Aruba Guide, on the website [assistenza.aruba.it/en](http://assistenza.aruba.it/en)

c) the provisions contained in the policies prepared by the Registration Authorities responsible for the chosen domain extension, published on the relevant official sites such as for domain names with the .it extension, the Rules and Guidelines on ccTLD.it, published at [www.nic.it/en](http://www.nic.it/en), for domain names with the .eu extension, those published at [eurid.eu/en](http://eurid.eu/en), for domain names with an extension other than .it and .eu, those published at [www.opensrs.com](http://www.opensrs.com), including, but not limited to, those published at [https://opensrs.com/wp-content/uploads/Tucows\\_ExhibitA.html](https://opensrs.com/wp-content/uploads/Tucows_ExhibitA.html);

d) the UDRP policy and the ICANN Transfer Policy available at <http://www.icann.org/en/dndr/udrp/policy.htm> and <https://www.icann.org/resources/pages/transfer-policy-2016-06-01-en> and the policy of the ccTLD ".it" Register, [www.nic.it/sites/default/files/documenti/2019/LGRIsoluzione\\_dispute\\_ENG\\_v3.2\\_ING.pdf](http://www.nic.it/sites/default/files/documenti/2019/LGRIsoluzione_dispute_ENG_v3.2_ING.pdf);

e) the documents provided by ICANN and published at the [www.icann.org](http://www.icann.org), including, but not limited to, those published at [www.icann.org/resources/pages/responsibilities-2014-03-14-en](http://www.icann.org/resources/pages/responsibilities-2014-03-14-en), [www.icann.org/resources/pages/benefits-2013-09-16-en](http://www.icann.org/resources/pages/benefits-2013-09-16-en) e [www.icann.org/resources/pages/educational-2012-02-25-en](http://www.icann.org/resources/pages/educational-2012-02-25-en).

**4.4** Notwithstanding the foregoing, if the Customer holds a ".gTLD" domain, he/she/it hereby authorises OpenSRS/Tucows, ICANN's accredited Registrar, to validate and approve the relevant request to change the registrant in the Customer's interests, appointing OpenSRS/Tucows as "Designated Agent", pursuant to and for the purposes of the ICANN "Transfer Policy", available at [www.icann.org/resources/pages/transfer-policy-2016-06-01-en](http://www.icann.org/resources/pages/transfer-policy-2016-06-01-en), as referred to in Art. 4.3 letter d) above.

## 5. Additional Services and Whois privacy

**5.1** The Customer may also purchase one or more of the Additional

Services stated at [www.arubacloud.com/domain-center/technology.aspx](http://www.arubacloud.com/domain-center/technology.aspx). The Customer acknowledges and agrees that the Additional Services shall be provided in accordance with the methods, terms and technical and pricing conditions specified at [www.arubacloud.com/domain-center/technology.aspx](http://www.arubacloud.com/domain-center/technology.aspx) to which full reference is hereby made and which the Customer declares having examined and accepted.

**5.2** It shall be understood that, regardless of the time of their activation, the aforesaid Additional Services shall have the same expiry date as the Domain Centre Service.

**5.3** The Customer hereby acknowledges and accepts that the registration of a domain name involves entering his/her/its personal data in a publicly accessible register kept at the Registration Authority responsible for the chosen extension, except in the event that the Customer:

a) has requested the blanking out of his/her/its personal data in accordance with the procedures indicated by the ".it" ccTLD Register at [www.nic.it/en](http://www.nic.it/en), for domain names with the .it extension;

b) has purchased the Optional "whois privacy" Service, in accordance with the procedures indicated and the terms and conditions stated at [www.arubacloud.com/domain-center/technology.aspx](http://www.arubacloud.com/domain-center/technology.aspx), and has blanked out his/her/its personal data on the whois register of the Registration Authority responsible for domain names with an extension other than .it or .eu,, provided that the extension chosen is from among those available for the above-mentioned service and indicated at [www.arubacloud.com/domain-center/technology.aspx](http://www.arubacloud.com/domain-center/technology.aspx). It shall be understood that Aruba in any event reserves the right to disclose such data, for the purpose of protecting its own rights and interests.

**5.4** In the event of failure to renew the Additional Service referred to in the previous paragraph 5.1, the Customer's personal data will be once again visible in the whois register of the respective Registration Authority.

## 6. Changes to the pricing conditions of the Service

Subject to the provisions of Article 14 of Section I of the Conditions, amendments to the pricing conditions of the Services governed by an Agreement already signed as of the date thereof shall apply effective from the first renewal of the Service immediately subsequent to the amendments.

## SECTION III - SPECIAL CONDITIONS FOR PROVISION OF THE JELASTIC CLOUD SERVICE

This section contains the special terms and conditions governing the provision of the Jelastic Cloud Service, if purchased by the Customer through the website [www.arubacloud.com](http://www.arubacloud.com), with the technical and pricing

characteristics reported in the Technical Specifications of the Service itself. The Jelastic Cloud Service is provided to the Customer by Aruba under a separate and independent agreement between the same and the company Jelastic S.L. and/or the companies controlled by the latter and/or associated with it.

It shall be understood that, for the purposes of this Section III, any reference to the Service shall be understood as a reference to the Jelastic Cloud Service. The Customer acknowledges and accepts that the provisions contained in Section I - General Provisions shall apply to the Jelastic Cloud Service in accordance with the provisions of this Section III.

### 1. Definitions

**Jelastic Account:** account created by the Customer to use the Jelastic Cloud Service;

**Jelastic platform:** platform made available by Jelastic and owned by the same, installed on Aruba data centres;

**Jelastic Cloud Service:** Aruba's Platform-as-a-Service and Container-as-a-service based on Jelastic Platform that allows the Customer to execute his/her/its code on configurable cloud environments in accordance with his/her/its needs and adaptable to every performance need.

### 2. Activation of the Service

**2.1** In order to use the Jelastic Cloud Service, the Customer must create a Jelastic Account by providing an email address, which will be the same as the username, and by setting a password independently upon activating the Jelastic account. The email address provided by the Customer for activation of the Jelastic Account is transmitted to the Jelastic Platform and through it notifications relating to the activation of the Jelastic Account and its management are sent to the Customer.

### 3. Aruba's obligations and limits of liability

**3.1** The Customer hereby acknowledges and accepts that with regard to the Jelastic Cloud Service, Aruba's obligations under the Agreement will be limited to the provision of level one assistance and maintenance in accordance with the level of responsibility and the scope assigned thereto as detailed in the Technical Specifications, without prejudice to the provisions of the previous art. 9 Section I - General Conditions. Aruba does not issue any guarantees regarding the Jelastic Platform.

**3.2** It is expressly understood that Aruba does not control or monitor the conduct or actions taken by the Customer through the Jelastic Platform nor does it control or monitor the information, data and/or contents entered into the Platform by the Customer or by its employees and/or associates; in any event, Aruba remains extraneous to the activities that the

Customer performs completely independently by accessing the Jelastic Platform. The Customer acknowledges and accepts that once he/she/it has accessed the Jelastic Platform, he/she/it shall be the only data controller, pursuant to Regulation (EU) 679/2016, for any personal data entered and/or processed via the Jelastic Platform for the entire duration of the Agreement and shall be responsible for providing Jelastic with the relevant instructions in this regard, in compliance with the provisions of Articles 28 and 29 of Regulation (EU) 679/2016, including the appointment of Jelastic itself as Data Processor.

### 4. Customer's obligations and rights

**4.1** By accessing the Jelastic Platform, the Customer independently manages the logical resources to create cloud environments. The Customer is the administrator of his/her/its cloud environments and is therefore responsible for the logical integrity of their configuration.

**4.2** The Customer declares that he/she/it possesses all valid licences for the software that he/she/it may have installed and used on the Jelastic Platform and that he/she/it shall bear the associated costs and responsibilities for their correct use.

**4.3** Notwithstanding the foregoing, the Customer acknowledges and accepts that Jelastic may modify the Jelastic Platform, or implement new versions at any time for any reason.

### 5. Deactivation of the Service prior to expiry

**5.1** The Customer acknowledges and accepts that Jelastic may at any time and without justification interrupt the supply of the Jelastic Platform or withdraw and/or terminate the agreement signed with Aruba. As such, from the time of activation of the Jelastic Account for access to the Jelastic Platform, the Customer releases Aruba from any responsibility for any failure to use the Jelastic Platform.

**5.2** If the circumstances referred to in Art. 5.1 above occur, Aruba shall notify the Customer of the withdrawal from the Agreement in accordance with the terms and conditions and procedures stated in Art. 12.3, Section I - General Conditions.

### 6. Sub-Data Processors

Supplementing and detailing further the provisions of Art. 20, par. III of Section I – General Conditions (Appointment as Data Processor), the Customer, in his/her/its capacity as Data Controller of the data entered and/or transmitted as part of the performance of the Service, acknowledges and accepts, hereby specifically authorising Aruba, that exclusively with the purchase of the Service referred to in this Section, Aruba shall also use Jelastic S.l. for maintenance and support regarding the Service itself. Said party therefore constitutes a "sub-processor"



for the processing of personal data entered into the Infrastructure by the Customer. Based on the type of activity requested from among those stated above and limited to the respective purposes, as strictly necessary, it may access said data from third countries located outside the European Union where Regulation (EU) 679/2016 (GDPR) is not applied and there is no adequacy decision pursuant to Art. 45 of the GDPR. In any case, in order to protect the rights of Data Subjects, standard data protection clauses have been adopted pursuant to Article 28, paragraph 7 and Article 46 of the GDPR, which constitute adequate safeguards in this area, compliance with which is guaranteed by Jelastec and its additional sub-processors.