infomaniak

Article 1 - Scope of application

1.1 The terms beginning with a capital letter have the meaning defined in the present Contract, or, failing that, by the definition given in the Infomaniak Lexicon available on the Infomaniak Site.

1.2 The Special Conditions apply without restriction or reservation to the Infomaniak Meet Service (hereinafter "kMeet") offered by Infomaniak. Whether the User of the Service is a Customer or an external User of Infomaniak or not, the present Terms and Conditions complete but shall prevail over the General Terms and Conditions of Use (hereinafter referred to as "GTCU") if a contradiction should appear between these documents.

1.3 In accordance with Infomaniak's GTUs and according to the methods described therein, the present Special Conditions may be modified in order to take into account any legal, jurisprudential or technical evolution.

Article 2 - Description and scope of the Service

2.1 Infomaniak provides a secure and free videoconferencing platform allowing the Customer or External User to organise online meetings.

2.2 The Service is provided as is and without assistance and no guarantee is given concerning the availability, performance, reliability or functionality of the Service.

Article 3 - Obligations and responsibilities of Infomaniak

3.1 Infomaniak undertakes to carry out all the tasks incumbent upon it in accordance with the present special conditions, with all due care and with the required degree of competence.

3.2 The Client or External User is informed that Infomaniak's intervention in the context of the subscription of a contract for the Service is limited to the provision of the material and network resources necessary for the proper functioning of the Service.

3.3 Infomaniak may, at any time, with or without prior notice, and without any obligation or liability to the Customer or External User or any other party, update or downgrade, change or modify, limit, suspend or terminate all or part of the Service, including, without limitation, any feature, functionality, integration or component thereof.

3.4 In any case, Infomaniak's liability cannot exceed the amount of 100 CHF.

3.5 If the User submits comments or suggestions on the Service, Infomaniak is entitled to use these comments or suggestions without obligation to the User.

Article 4 - Obligations and responsibilities of the Customer

4.1 The Customer or External User must have the power, authority and capacity necessary to enter into and perform the obligations set out in these Conditions.

4.2 The Customer or External User declares and guarantees that he/she owns or is authorised to use all the material, content, data and information (including his/her personal information and the personal information of third parties) that the Customer or External User submits to Infomaniak in the context of the use of the Service. The Customer or External User retains ownership of the content that he/she provides on the Service.

4.3 When the Customer or External User uses the Service on behalf of a third party, he/she declares and guarantees that he/she has the necessary power and capacity to represent and commit the third party with regard to the present Conditions. The Customer or External User is responsible for all claims resulting from a violation of the conditions by the third party and must indemnify Infomaniak in full for all claims resulting from the use of the Service by the third party.

4.4 The Customer or External User accepts that the Service may not be provided without interruptions, without errors or available at all times.

4.5 Furthermore, the Client or External User agrees that content transmitted, broadcast and communicated may be recorded, copied, received and/or stored by other Users or meeting participants and that such users may be able to export such content. Consequently, it is the responsibility of the Client or External User to ensure the good practices of other users to whom he/she transmits a conference link and/or the password to access a conference. (hereinafter referred to as "Agents"), the distribution or provision of content contrary to criminal or civil law (depictions of violence, so-called soft and hard pornography, incitement to disturb the public peace, infringement of freedom of religion and culture, racial discrimination, defamation, infringement of privacy, etc.) will result in the immediate termination of the contract with immediate effect, without prejudice to any possible damages which may be claimed by the Client or External User. In such situations, and if Infomaniak deems it necessary in good faith, Infomaniak reserves the right to notify all competent public authorities of any violation and to transmit all information at its disposal.

4.7 The Client or External User undertakes to defend, indemnify and hold harmless Infomaniak, as well as all persons involved in the provision of the Service with regard to all claims, demands, liabilities, costs and/or expenses resulting from an illegal use of the Service or its content. In the event of a claim, the Customer or External User has the right to prove to Infomaniak that the claims under the exemption did not occur to the extent required and/or that the Customer or External User is not responsible.

4.8 The Customer or External User respects Infomaniak's property rights in the website and software used to provide the Service (property rights include, but are not limited to, patents, trademarks, service marks, trade secrets, copyrights and other intellectual property rights).

4.9 Customer or External User acknowledges that the Service will not be uninterrupted, error-free or available 100% of the time.

Article 5 - Backup and Location of Data

5.1 All data transmitted by the Customer or External User to Infomaniak is stored and hosted exclusively in data centres located in Switzerland which are the property of Infomaniak.

Article 6 - Privacy policy

6.1 All the details of the Privacy Policy can be consulted on the page of the Site https://www.infomaniak.com/fr/cgv/politique-de-confidentialite.

6.2 All content distributed between the User, whether a Client or an external User or not, and its recipients is treated confidentially by Infomaniak. It is up to the User alone to know who he/she is sharing his/her videoconference link with. The person who receives a viewing link from the User can freely access the videoconference. It is therefore up to the User to be attentive on this point, especially on the consequences that sharing could represent for the latter.

6.3 Infomaniak undertakes not to make any derivative or commercial use of the Service.

6.4 The User is solely responsible for the use of the Service and Infomaniak does not claim any right of ownership of the content transmitted by the User.

6.5 The User retains ownership of all intellectual property rights that he holds on his content. When he transmits, broadcasts, communicates, registers, receives and/or stores content to or via the Service, he grants Infomaniak a worldwide license to use, host, store, reproduce, modify, create derivative works (such as those resulting from translations, adaptations or other modifications that we make to make the User's content work best with the Service), communicate, publish, publicly perform, publicly display and distribute such content solely for the limited purpose of operating the Service as defined in this Agreement for the User and for no other purpose. The User must ensure that he/she has the necessary rights to grant Infomaniak this license for any content that the User submits to the Service.

6.6 If the User submits a name or photo to be associated with the use of the Service, Infomaniak is entitled to publish the name and photo of the User together with the use of the Service made by the latter. The User can choose to define these parameters so that his name and photo do not appear.

Article 7 - Complaint from a third party to Infoma...

7.1 In the case where a third party transmits to Infomaniak a complaint concerning the use of the Service by the Customer or the External User, Infomaniak will send, as soon as possible and as far

as possible, an email warning the Customer and will transmit a copy of the complaint sent by the third party.

7.2 Furthermore, Infomaniak will have the right to transmit the data it holds to the third party who considers himself to be injured, insofar as the information requested is intended to facilitate legal action in order to assert his legal rights.

7.3 Infomaniak also reserves the right to invoice the Customer for all the costs of intervention resulting from the actions of the Customer and which would have led, but not exhaustively, to a complaint or the initiation of proceedings against Infomaniak.

Article 8 - Agreement of proof

8.1 For the purposes of this Contract, the parties agree that writing in electronic form is accepted as evidence in the same way as writing on paper. It is agreed that the data from the information system of Infomaniak or its subcontractors, such as connection logs, Incident management reports or others, are fully opposable to the Customer or the External User and admissible including in the context of legal proceedings. Exchanges by email will be deemed to be received or sent by Infomaniak's SMTP servers. The date and time of Infomaniak's mail servers will be taken as proof between the Parties.

Article 9 - Disputes and litigation

9.1 Infomaniak and the Customer will try to settle amicably any dispute concerning the interpretation or execution of the present contract. Any claim must be addressed in accordance with the article "Communications between the Parties". Once all amicable means of redress have been exhausted, the Customer has the right to bring his claim against Infomaniak before the Courts.

9.2 In accordance with the provisions of the present Contract, in the event of a dispute or pre-litigation concerning a Service between the Customer and a third party, it is expressly agreed between Infomaniak and the Customer that the latter will remain solely responsible for the settlement of this dispute.

9.3 No stipulation of the Contract should be interpreted as having the effect of limiting Infomaniak's responsibility in the case of fraud or serious fault.

Article 10 - Force majeure

10.1 Force majeure is defined as an unforeseeable and/or unavoidable event beyond the control of Infomaniak.

10. 2 Infomaniak will not be held responsible if the execution of the Contract, or of any obligations incumbent on Infomaniak under this Contract, is prevented, limited or disturbed due to, but not limited to, fire, explosion, failure of transmission networks, breakdown of public services or telecommunications, collapse of installations, epidemic, flooding, earthquake, earthquake, flooding, earthquake, epidemic, pandemic, natural disaster, flood, power failure, war, embargo, law, injunction, request or demand of any government, strike, boycott, withdrawal of authorization of the telecommunication operator, or any other circumstance beyond the reasonable control of Infomaniak.

10. 3 Infomaniak, subject to prompt notification to the Customer, shall be relieved of the performance of its obligations to the extent of such impediment, limitation or disruption, and the Customer shall likewise be relieved of the performance of its obligations to the extent that the obligations of that party relate to the performance so impeded, 10.3 The Party so affected shall use its best efforts to avoid or remedy such causes of non-performance and both Parties shall proceed promptly once such causes have ceased or been removed.

10.4 The Party affected by an event of force majeure shall keep the other Party regularly informed of the prognosis for the removal or reinstatement of such event of force majeure.

Article 11 - Independence of provisions

11.1 If one of the provisions of the Contract should be declared illegal, null or inapplicable, this nullity will not affect the other clauses which will retain their full effect and scope. In this case, Infomaniak undertakes to replace the invalid or unenforceable clause with a valid clause that corresponds most closely to the spirit and the object, so that the common intention of the parties is preserved.

Article 12 - Place of jurisdiction and applicable ...

12.1 The customer undertakes to respect the Swiss and international laws in force.

12.2 Infomaniak will endeavour to respect the judgements of the authorities of the OECD member countries.

12.3 Any dispute relating to the present contract, its conclusion, its execution, its interpretation, failing an amicable solution, is subject to Swiss law, the exclusive place of jurisdiction being Geneva, subject to recourse to the Federal Court in Lausanne.

Review of 25/04/2023