

# Terms and conditions

## 0. Preamble

Please read these terms and conditions carefully before registering for a trial and/or a subscription for the Services offered on this website operated by ProCom GmbH of Luisenstraße 41, 52070 Aachen, Germany, company number HRB 1554 at District Court Aachen, and VAT number DE 121 687 115.

By registering for a trial and/or a subscription for the Services at a Clouver Webpage and clicking on the accept buttons, you the Customer agree to be legally bound by

- These terms and conditions,
- The Service Level Agreement,
- The Privacy Policy and
- The Website Terms of Use

These may be modified from time to time.

If you do not wish to be bound by these terms and conditions, Service Level Agreement, Privacy Policy and Website Terms of Use then you may not purchase our Services.

Any conflicting or deviating terms or conditions of the Customer are not applicable, as long as ProCom does not explicitly accept them in writing.

## 1. Definitions

In this Agreement, the following words shall have the following meanings:

**"Confidential Information"** Any and all information in whatsoever form relating to ProCom or the Customer, or the business, prospective business, finances, technical processes, computer software (both source code and object code), Intellectual Property Rights or finances of ProCom or the Customer (as the case may be), or compilations of two or more items of such information, whether or not each individual item is in itself confidential, which comes into a party's possession by virtue of its entry into this Agreement or provision of the Services, and which the party regards, or could reasonably be expected to regard, as confidential and any and all information which has been or may be derived or obtained from any such information;

**"ProCom"** means ProCom GmbH;

**„Clouver“** is the product name of the IoT/Industrie 4.0 platform of ProCom. The product name "Clouver" is protected by applicable copyright and trademark law.

**"Clouver Webpage"** is any one of the following website addresses: clouver.de, clouver.cn, clouver.hk

**"Fees"** are as set out in the pricing page of Clouver website where the Customer may order Services online;

**"Intellectual Property Rights"** All copyrights, patents, utility models, trade marks, service marks, registered designs, moral rights, design rights (whether registered or unregistered), technical information, know-how, database rights, semiconductor topography rights, business names and logos, computer data, generic rights, proprietary information rights and all other similar proprietary rights (and all applications and rights to apply for registration or protection of any of the foregoing) as may exist anywhere in the world;

**"Operating Rules"** Any ProCom rules or protocols, in whatever form recorded or set, that affect the Customer's access to or use of the Services, and made available by ProCom from time to time to the Customer;

**"Services"** The software application services of ProCom, ordered online by the Customer and set out in the confirmation invoice sent to the Customer which are made available to the Customer in

accordance with the Service Level Agreement (together with any Operating Rules) and including any computer software programs and, if appropriate, Updates thereto;

**"Term"** If the Customer does not unsubscribe prior to the expiry of the Trial Period, the term shall automatically start from the end of the Trial Period and shall continue for an unlimited period until either party terminates in accordance with the provisions of this Agreement;

**"Updates"** means any new or updated applications services or tools (including any computer software programs) made available by ProCom as part of the Services.

**"Customer"** means the company or the entrepreneur who completes the registration form for use of the Services at the Clouver website. An entrepreneur means a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession.

**"Trial Period"** means the free trial period starting on the date that the Customer registers for the free Services on Clouver's website and ending 30 days later upon the expiry of the free trial period. Each Customer is only entitled to one free trial period.

**"Service Level Agreement"** means the service level agreement that can be found at the Clouver website or any bespoke service level agreement set out as **Appendix 1** to this agreement, as the case may be.

**"Privacy Policy"** means the privacy policy that can be found at the Clouver website; the current Privacy Policy is attached as **Appendix 2**.

**"Website Terms of Use"** means the website terms of use that can be found at the Clouver website; the current Website Terms of Use is attached as **Appendix 3**.

## 2. Supply of Services

2.1 ProCom is entitled to refuse any order placed by a Customer. If an order is accepted, ProCom will confirm acceptance via email. Upon acceptance of the order the Customer engages ProCom and ProCom agrees to provide the Services in accordance with the terms of this Agreement.

2.2 ProCom agrees to provide the Services for the Trial Period and/or Term or sooner termination in accordance with the terms of this Agreement.

2.3 ProCom warrants that by performing the Services it will not knowingly infringe the rights of any third party (including but not limited to Intellectual Property Rights) in any jurisdiction or be in breach of any obligations it may have to a third party.

## 3. Licenses

3.1 Subject to the Customer's payment of the Fees (where applicable), the Customer is granted a non-exclusive and non-transferable licence to use the Services (including any associated software, Intellectual Property Rights and Confidential Information) during the Trial Period and/or Term. Such licence shall permit the Customer to make such copies of software or other information as are required for the Customer to receive the Services. Where open source software is used as part of the Services, such software use by the Customer will be subject to the terms of the open source licences.

3.2 All Intellectual Property Rights and title to the Services (save to the extent incorporating any Customer or third party owned item) shall remain with ProCom and/or its licensors and no interest or ownership of the Services, the Intellectual Property Rights or otherwise is conveyed to the Customer under this Agreement. No right to modify, adapt, or translate the Services or create derivative works from the Services is granted to the Customer. Nothing in this Agreement shall be construed to mean, by inference or otherwise, that the Customer has any right to obtain source code for the software comprised within the Services.

3.3 Disassembly, decompilation or reverse engineering and other source code derivation of the software comprised within the Services is prohibited. To the extent that the Customer is granted the right by law to decompile such software in order to obtain information necessary to render the Services

interoperable with other software (and upon written request by the Customer identifying relevant details of the Services with which interoperability is sought and the nature of the information needed), ProCom will provide access to relevant information. ProCom has the right to impose reasonable conditions including but not limited to the imposition of a reasonable fee for providing such access and information.

3.4 Unless otherwise specified in this Agreement, the Services are provided and may be used solely by the Customer as part of the Customer's business. The Customer may not

1. Lease, loan, resell or otherwise distribute the Services save as permitted in writing by ProCom;
2. Use the Services to provide ancillary services related to the Services; or
3. Except as permitted in this Agreement, permit access to or use of the Services by or on behalf of any third party.

3.5 The Customer warrants and represents that it shall maintain reasonable security measures (as may change over time) covering, without limitation, confidentiality, authenticity and integrity to ensure that the access to the Services granted under this Agreement is limited as set out under this Agreement.

## 4. Fees, Invoicing and Payment

4.1 In consideration of the provision of the Services by ProCom, the Customer shall pay ProCom the Fees. The Fee is the price in force at the date and time of ordering. All Fees are exclusive of VAT.

4.2 ProCom shall issue invoices to the Customer monthly for the use of the Services, or, upon the Customer's request, annually in advance of the respective year.

4.3 All invoices shall be rendered in Euros and shall be payable immediately in full by bank transfer. The Customer is responsible for paying all bank charges.

4.4 ProCom may suspend a Customer's account if any payment is outstanding for 14 days or more. If a Customer fails to pay any outstanding Fees within 30 days of the due date ProCom is entitled to terminate the Agreement according to clause 8.3 without notice.

4.5 The Customer is not entitled to any refund of Fees for partial use of the Services, termination or suspension of the Services or failure of ProCom to comply with the Service Level Agreement.

## 5. Warranties

5.1 ProCom warrants to the Customer that it has the right to license the Services and that the Services will operate to provide the facilities and functions implemented by ProCom. Defects in the Services will be corrected by ProCom free of charge and in a timely manner. To be able to do so the defect must be reproducible. In accordance with the warranty obligation ProCom can either make improvements or provide an alternative solution. Particularly, in order to comply with the warranty obligations, ProCom may provide the Customer with a newer version of the Services. The defect is considered corrected as soon as ProCom provides an alternative solution for the malfunction that allows the Customer to use the Services in accordance with the contract conditions.

Warranty claims become void in case the Services are not used in accordance with the contract conditions.

The foregoing warranties shall not

- a. Cover deficiencies or damages relating to any third party components not furnished by ProCom; or
- b. Any third party provided connectivity necessary for the provision or use of the Services.

5.2 In case a significant defect is not corrected in accordance with the conditions, stated by ProCom, the Customer has the right to request a reduction of the monthly fee for the Services. Likewise,

ProCom can offer a reduction of the monthly fee for the Services in case the defect correction cannot be conducted at a reasonable cost. If during the defect correction it becomes obvious that the problem occurred due to wrong operation or misuse on the Customer's side, ProCom can require a reasonable compensation for the applied effort.

No warranty is made regarding the results of usage of the Services or that the functionality of the Services will meet the requirements of the Customer or that the Services will operate uninterrupted or error free. The right to warranty claims towards ProCom belongs only to the direct Customer and cannot be transferred.

5.3 The Customer acknowledges that Services may not be used for high-risk applications where precise locations or features on maps are essential to the Customer, for example use of the Services by the emergency services.

5.4 The Customer acknowledges that Services may not be used as part of performance testing or stress testing without the explicit written permission of ProCom. It is not allowed to use Clouver to overload the Service with intent, whether for test purposes nor to check on performance limits of connected devices or Clouver itself. The customer must take measures to avoid accidental overload.

5.5 Clouver can be used to remote-control devices and machinery. The Customer is responsible for the safe and correct use of the remote-control facilities provided by Clouver. In particular, ProCom cannot be held responsible for any production outages, machine defects or accidents resulting from the unsafe use of Clouver services.

5.6 Clouver services are protected by passwords and other security measures. However, the customer is himself responsible for setting security guidelines to prevent unauthorized access to customer accounts and devices. In particular, ProCom cannot be held responsible for data breaches or machine misuse resulting from the use of unsafe passwords or lack of security implementation on the customer side or on the equipment and devices used by the customer.

## 6. Liability, Limitation of Liability

6.1 ProCom does not exclude or limit its liability to the Customer for damages caused intentionally or as a result of gross negligence on the part of ProCom, its legal representatives or executive staff and for damage intentionally caused by other vicarious agents in connection with the provision of the Services; for gross negligence on the part of other vicarious agents, liability shall be governed by the provisions on negligence set forth below in clause 6.5.

6.2 ProCom is liable without limitation for personal injury and death caused intentionally or as a result of gross negligence on the part of ProCom or its legal representatives or vicarious agents.

6.3 ProCom is liable for damages caused by the absence of guaranteed characteristics up to the amount covered by the purpose of the assurance and which was apparent to ProCom at the time of the issue of the assurance.

6.4 ProCom is liable for damages relating to product liability in accordance with the provisions of the Product Liability Act.

6.5 ProCom is liable for damages resulting from the breach of material contractual obligations by ProCom, its legal representatives or vicarious agents; material contractual obligations are the main obligations that form the basis of the agreement or an individual order, which were decisive to the conclusion of the agreement or submission of the individual order and the fulfillment of which the Customer is entitled to expect ("Cardinal Duties").

6.6 In the event of a breach of Cardinal Duties caused by the slight negligence of the ProCom, its legal representatives, employees, workers, or vicarious agents, the ProCom's liability for all damages and reimbursements, whether in contract, not in contract or otherwise and regardless of their legal status, shall be limited to the foreseeable damages typical of the respective Agreement.

6.7 In the event of a breach of Cardinal Duties according to clause 6.6 ProCom's liability for foreseeable damages may not exceed cumulatively in the aggregate 150% of the annual value of the Fees for the Service per calendar year per Customer.

6.8 Any further liability of ProCom is generally excluded.

6.9 ProCom's liability for damages in accordance with § 536a BGB (German Civil Code) is excluded.

6.10 For all claims against ProCom in contract, tort, or otherwise for damages (§ 249 BGB (German Civil Code)) or futile expenses the time bar comes into effect after a period of one year. That period begins at the point in time specified in § 199 (1) BGB (German Civil Code). The foregoing provisions in this section notwithstanding, the time bar comes into effect not later than five years after the claim arises. The provisions in sentences 1 to 3 in this section do not apply to liability for intent or gross negligence, liability for personal injury, or liability under the German Product Liability Act.

6.12 The Customer acknowledges and agrees that in entering into this Agreement, the Customer had recourse to its own skill and judgement and has not relied on any representations made by ProCom, any employees or agents of ProCom.

## 7. Intellectual Property

7.1 ProCom, at its own expense, shall

1. Defend, or at its option, settle any claim or suit brought against the Customer by a third party on the basis of infringement of any Intellectual Property Rights by the Services (excluding any claim or suit deriving from any Customer provided item); and
2. Pay any final judgement entered against the Customer on such issue or any settlement thereof, provided that:
  1. The Customer notifies ProCom promptly of each such claim or suit;
  2. ProCom is given sole control of the defence and/or settlement; and the
  3. Customer fully co-operates and provides all reasonable assistance to ProCom in the defence or settlement.

7.2 If all or any part of the Services becomes, or in the opinion of ProCom may become, the subject of a claim or suit of infringement, ProCom at its own expense and sole discretion may:

1. Procure for the Customer the right to continue to use the Services or the affected part thereof; or
2. Replace the Services or affected part with other suitable non-infringing service(s); or
3. Modify the Services or affected part to make the same non-infringing.

7.3 ProCom shall have no obligations under this clause 7 to the extent that a claim is based on:

1. The combination, operation or use of the Services with other services or software not provided by ProCom, if such infringement would have been avoided in the absence of such combination, operation or use; or
2. Use of the Services in any manner inconsistent with this Agreement; or
3. The negligence or wilful misconduct of the Customer.

7.4 The Customer shall indemnify and hold ProCom and its suppliers or agents harmless from and against any cost, losses, liabilities and expenses, including reasonable legal costs arising from any claim relating to or resulting directly or indirectly from

1. Any claimed infringement or violation by the Customer of any Intellectual Property Rights with respect to the Customer's use of the Services outside the scope of this Agreement;
2. Any access to or use of the Services by a third party, and
3. Use by ProCom of any Customer provided item.

## 8. Termination

8.1 The Agreement is concluded for an indefinite period. It may be terminated by either party with three months' notice to the end of the month.

8.2 The right of each Party to terminate the Agreement for compelling reasons remains unaffected. A compelling reason for ProCom in particular exists if the Customer (i) has deliberately provided false contact data, (ii) has deliberately provided false or invalid e-mail addresses, (iii) has deliberately provided false bank account details, (iv) failed to pay under the agreed terms, (v) has transferred its User account to a third party or (vi) tolerates the usage by a third not previously authorized by ProCom. Except for the described above (i) to (vi) compelling reasons, are considered agreed for all other compelling reasons, that the immediate termination must be preceded by a written reminder to the defaulting party with a deadline of fifteen (15) working days.

8.3 Notwithstanding the provision in section 8.2, ProCom may terminate the Agreement without notice if the Customer is in arrears for two consecutive months with the payment of the Fees or a not inconsiderable part of the Fees or in a period of more than two months with the payment of the Fees in the amount that is not less than the Fees for two months.

8.4 Notice of termination must be given in writing. Transmission by fax is sufficient for this purpose.

8.5 Termination of this Agreement for whatever reason shall not affect the accrued rights of the parties arising in any way out of this Agreement as at the date of termination and, in particular but without limitation, the right to recover damages against the other. Clauses 4, 7, 8, 9, 10, 11 and 12 shall, for the avoidance of doubt, survive the expiration or sooner termination of this Agreement and shall remain in force and effect.

## 9. Obligations following termination of the Agreement

9.1 The Customer is responsible for keeping copies of its data used and stored within the Services on Clouver servers. The Customer is responsible for removing all Customer data prior to the termination or expiry of this Agreement.

9.5 For a period of up to 30 days after termination of this Agreement for whatever reason, the Customer shall be permitted to make a backup of its Customer data.

9.3 Notwithstanding the aforesaid, ProCom reserves the right to remove all Customer data 31 days after the expiry or termination of this Agreement without giving the Customer any prior notice of such deletion.

## 10. Confidential Information

10.1 Each party may use the Confidential Information of a disclosing party only for the purposes of this Agreement and must keep confidential all Confidential Information of each disclosing party except to the extent (if any) the recipient of any Confidential Information is required by law or by ruling of a court of competent jurisdiction to disclose the Confidential Information.

10.2 Either party may disclose the Confidential Information of the other party to those of its employees and agents who have a need to know the Confidential Information for the purposes of this Agreement but only if the employee or agent executes a confidentiality undertaking in a form approved by the other party.

10.3 Both parties agree to return all documents and other materials containing Confidential Information immediately upon completion of the Services.

10.4 The obligations of confidentiality under this Agreement do not extend to information that:

1. Was rightfully in the possession of the receiving party before the negotiations leading to this Agreement;
2. Is, or after the day this Agreement is signed becomes, public knowledge (otherwise than as a result of a breach of this Agreement); or
3. Is required by law to be disclosed.

## 11. Data Protection and Customer Data

11.1 Each party undertakes to comply with its obligations under relevant applicable data protection laws, principles and agreements.

11.2 To the extent that personal data is processed using the Services, the parties acknowledge that ProCom is a processor and the Customer is a controller and the parties shall comply with their respective statutory data protection obligations. ProCom agrees that it will only process personal data on behalf of, and in the name of, the Customer.

11.3 Customer shall ensure that the personal data, which it supplies or discloses to ProCom, has been obtained fairly and lawfully and that it will obtain all necessary approvals from persons whose data is being processed and registrations with authorities to permit ProCom to transfer personal data to third parties pursuant to its obligations under this Agreement.

11.4 ProCom confirms that it

1. Merely acts as a processor;
2. Will only process personal data in accordance with the instructions of the controller; and
3. Has taken, as well as its subcontractors, licensors and hosts, sufficient technical and organisational measures to safeguard personal data.

11.5 If a third party alleges infringement of its data protection rights, ProCom shall be entitled to take measures necessary to prevent the infringement of a third party's rights from continuing.

11.6 Any information that the Customer provides to ProCom including Customer data uploaded to Clouver servers, information provided during registration or information provided when ordering Services (such as the Customer's email address) will be used by ProCom in accordance with the terms of this Agreement and ProCom's Privacy Policy. The Customer acknowledges that if it uses public or demo accounts that all data it posts using the Services will be publicly visible to all Clouver users. The Customer grants ProCom the right to modify, copy or save such data as part of processing it for use with the Services. The Customer retains all rights of ownership in the Customer data.

## 12. Force Majeure

12.1 Except with respect to obligations to pay the Fees or other charges, "**Force Majeure**" means anything outside the reasonable control of a party, including but not limited to, acts of God, fire, storm, flood, earthquake, explosion, accident, acts of the public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, labour dispute, labour shortage, power shortage, including without limitation where ProCom ceases to be entitled to access the Internet for whatever reason, server crashes, deletion, corruption, loss or removal of data, transportation embargo, failure or delay in transportation, any act or omission (including laws, regulations, disapprovals or failures to approve) of any government or government agency.

12.2 If a party is wholly or partially precluded from complying with its obligations under this Agreement by Force Majeure, then that party's obligation to perform in accordance with this Agreement will be suspended for the duration of the Force Majeure.

12.3 As soon as practicable after an event of Force Majeure arises, the party affected by Force Majeure must notify the other party of the extent to which the notifying party is unable to perform its obligations under this Agreement.

## 13. Governing Law and Jurisdiction

13.1 This Agreement shall be governed and construed in accordance with German law. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.

13.2 If the Customer is a merchant, a legal entity under public law or a special fund under public law, ProCom's place of business for all claims arising from or on the basis of this contract shall be agreed upon as the exclusive place of jurisdiction. The same shall apply to persons who do not have a

general place of jurisdiction in Germany or to persons who have moved their domicile or habitual place of residence outside Germany after conclusion of the contract or whose domicile or habitual place of residence is not known at the time the action is filed.

13.3 ProCom shall have the right to bring a claim before a court at the Customers principal place of business or at its discretion before any other court being competent according to any national or international law.

## 15. Miscellaneous

15.1 Should a provision of this Agreement be invalid or become invalid then the legal effect of the other provisions shall be unaffected. A valid provision is deemed to have been agreed which comes closest to what the parties intended commercially and shall replace the invalid provision. The same shall apply to any omissions.

15.2 The Customer is not permitted to assign any of the rights, benefits or obligations arising from this Agreement.

15.3 All notices shall be given in writing (which includes email). All post and fax notices shall be deemed to have been duly given if sent by registered post or acknowledged fax to the address of ProCom stated at the beginning of this Agreement and if sent by email to "support@clouver.de" any Clouver Webpage . In relation to the Customer, all post and fax notices shall be deemed to have been duly given if sent by registered post or acknowledged fax to the address provided for invoices to be issued or an email address used by the Customer.

15.4 This Agreement constitutes the whole agreement and understanding between the parties and supersedes all prior agreements, representations, negotiations and discussions between the parties relating to the subject matter thereof.



## APPENDIX 1

# Service Level Agreement

### Support Services

- Technical Support Services (hereafter known as Support) are defined as technical answers and advice pertaining to the usage on supported services.
- Support will be provided by a Clouver Technical Support Engineer (hereafter known as Engineer) via the Clouver Support System website, email or by telephone (at the engineer's discretion).
- Actions may need to be performed by the Customer under the direction of the Engineer.
- Support excludes hands-on consulting, project management, software development, formal training, device troubleshooting and connectivity troubleshooting. Requests beyond the scope of the Support definition may be referred to other departments of ProCom and would be the subject of a separate agreement, including the payment of additional fees. No additional fees will be charged without notifying and receiving agreement from the customer.
- Support may not be transferred or sold; Support must be provided by ProCom to company purchasing support.

### Resolution

- Resolution of a Support Request is attained via one of the following:
  1. Accomplishment of the goals or normalization of the symptoms described in the initial contact,
  2. Mutual agreement that these are unattainable through Support, due to code restrictions, feature limitations, or other reasons, or
  3. Customer not responding to a communication from ProCom in 5 calendar days.
- Engineer will employ reasonable efforts to perform the services requested and to communicate the reasons for workarounds and/or limitations in Support.
- Customer acknowledges that Engineer's ability to provide Support depends on the completeness and accuracy of information provided by the Customer. Customer additionally acknowledges that certain requests may not be supportable, whether due to software limitations, or other reasons; and that ProCom will recommend workarounds if possible, but cannot guarantee a resolution to every request.
- Customer acknowledges that the Engineer may require access to the Customer's data to execute the Support.

### Response Time, Hours, and Language

- Support is provided during business hours, from 8 a.m. to 5 p.m. (Monday through Thursday) and from 8 a.m. to 4 p.m. (Friday) CET.
- All support incidents filed through the ProCom Support System website have a guaranteed initial response period attached (see Support Levels below). The guaranteed initial response means that ProCom will respond and begin working on the incident within the time window of the incident, and aim to close it as rapidly as possible.
- Support will be provided in English or German language only.

### Availability

- The availability of the Services at the router output gateway to the Internet is annual average of 99,9%. The connection of the Customer's side is his own responsibility. It is not subject of the Services. The downtime is determined in complete minutes and is calculated out of the sum of the times of fault clearance per year. Exception thereof are the time periods that ProCom refers to as maintenance windows for optimizing and improvement of the Services, as well as time spent on fault clearance not caused by ProCom and breakdowns caused by force majeure.
- For downtime (planned and unplanned), the ProCom team will provide an announcement in the "Announcements" section of the help center and also provide the expected time when the system will be available back.

## Support Levels

Support channel	Business	Enterprise (available from 2019)
Community	X	X
Support site	X	X
Phone	-	X
Max Initial Response Time		
Critical Incidents	4 Business Hours	1 Hour
Major Incidents	2 Business Days	4 Business Hours
Minor Incidents	2 Business Days	2 Business Days

## Incident Levels

**'Critical Incidents'** are incidents that severely affect the Customer's service performance (in particular capacity, traffic, billing, charging, maintenance) on a production system and require immediate corrective action. Examples:

- Any loss of service that is comparable to the total loss of effective functional capability of an entire switching or transport system;
- Any reduction in capacity or traffic handling capability such that expected loads cannot be handled;
- Any loss of safety or emergency capability;
- Inoperative system (total outage, system drop to open boot prompt);
- System with considerable restrictions on the management of the system;
- Loss of any traffic, statistics or charging data;
- Considerable redundancy losses.

**'Major Incidents'** are incidents that also severely affect the Customer's service performance, however the urgency is less than with Critical Incidents because of a lesser immediate or impending effect on system performance, Customer and Customer's operation. Examples:

- Major system function is unavailable or degraded;
- Recurring software failures;
- Resource scheduling conflicts;
- Reduction in any capacity/traffic measurement function;

- Any loss of functional visibility and/or diagnostic capability;
- Short outages equivalent to system or subsystem outages, with accumulated duration of greater than two minutes in any 24-hour period, or that continue during longer periods;
- Degradation of the system's serviceability;
- Corruption of system or billing databases.

**'Minor Incidents'** are incidents that do not fall in the above categories of Critical or Major. Minor Incidents do not significantly impair the system performance. These problems are tolerable during system use. Examples:

- Failure in software component that is non critical;
- Failure of redundant component;
- Less significant failure of the deliverables such as processor restarts with no traffic impact;
- Some adverse impact on the network or a relevant subsystem of the network that affects call processing, traffic handling or subscriber service in some manner;
- Serious inefficiency of O&M (Operations and Maintenance) functionality;

## APPENDIX 2

### Privacy Policy

*We will not make your collected data available to other parties without your consent.*

We at ProCom GmbH want to thank you for visiting our website and for taking an interest in our company and our products. We take your data privacy very seriously and want you to feel comfortable when visiting our website. Sometimes you will be asked for personal data on our website. It is your decision whether you want to answer these questions or not. If you provide us with personal data, we will protect them in accordance with legal requirements.

Below you can find out what information and which data are recorded from our website and how such information and data are used.

### Data Controller

The data controller according to data privacy laws is

ProCom GmbH  
Luisenstrasse 41  
D-52070 Aachen  
Tel. +49 241 51804-0  
Fax +49 241 51804-30  
e-Mail: [contact@procom.de](mailto:contact@procom.de).

### What information do we collect and why?

When you access our website information of a general nature is recorded automatically; however, this information does not allow conclusions to be drawn about you personally. This information (server log files) comprises the operating system being used, the domain name of your Internet service provider and browser type. This information is required for technical reasons so that we can correctly provide the website content that you have requested; this information is essential for using the Internet. This anonymous information undergoes statistical evaluation by us in order to optimize our web presence. Other personal data is only recorded if you provide these details by choice, for example when filling out an inquiry or a registration form.

The following types of information are collected on the Clouver website and on the production systems:

- For resolving technical problems and improving user experience, IP addresses may be stored and cookies may be used.
- To provide you with access to the forum, if offered by Clouver, and to production systems, basic registration data (name, email address and password) is stored.
- We may store additional data that you voluntarily provide, for example, as part of forum profiles, forum posts, production system user data, information requests and support requests.
- To provide commercial services to you, we store basic corporate information (company name, address, contacts for invoicing).
- As part of our services, our production systems store data that you provide from your machine-to-machine devices, IT systems or through your users.

## IP addresses and cookies

When you visit a website on our systems, we automatically receive and record information from your browser, including your IP address, cookie information, browser attributes and the page you requested. Similar, emails sent to us contain IP addresses.

The information is used to diagnose technical problems reported by you or discovered by our engineering that are associated with the IP addresses controlled by a specific web company or ISP. It is also used to estimate the total number of users visiting various pages from specific countries or regions of the world. This helps us in improving our web appearance and our services, and to prevent possible fraudulent activities.

You may prevent cookies from being collected by disabling them in your web browser. However, if you reject all cookies, you may not be able to use services that require signing in.

## Basic registration data

Basic registration data is used for allowing you to sign on to our services. It may also be used to send you information on our products and services.

If you would like to remove your basic registration data from our systems, please [contact us](#). Note that after removal of the data, you will not be able to use parts of our service requiring this data for sign-on. You may also choose to only opt-out of informational emails.

## Voluntarily provided information

You may provide additional information in the forum profile or as part of forum posts, which you can edit yourself. Keep in mind that this information is public and may, for example, be accessible through Google or similar searches.

Information provided as part of information or support requests will be stored in our customer relationship management or ticketing system.

## Corporate and invoicing information

For being able to provide tenants for you on our systems, we store elementary corporate information such as name, website and contact data. In addition, for providing commercial services, we store invoicing information.

If you choose to terminate our services, you may request deletion of your corporate and invoicing information by [contacting us](#).

## Access of data by our engineering partner

We may use an engineering partner for providing parts of our customer service. Our engineering partner is bound by an NDA to keeping all data confidential and follows our security processes. If you request technical support from us, we assume your consent that both our engineering partner and us may see your data. You can delete and edit data stored in your tenant at any time by yourself.

## Other partners

For providing our service to you, we use selected third parties:

- Google Inc. ("Google") provides email and web analytics services. Web analytics data is collected in anonymous form ("anonymizeIP()"). You can opt-out [here](#).
- salesforce.com provides CRM services.
- MailChimp provides informational email services.

- Amazon Web Services LLC ("AWS") provides infrastructure services for our public cloud offering and this website.

Please review the privacy policies of these partners.

## Links to other websites

Please note that the website may contain links to other websites, either provided directly by us or by users on the forum. Such websites may not be controlled by us, hence we cannot provide any form of guarantee of privacy on behalf of these sites. Please exercise caution when following links and review the relevant privacy statements.

## Right to information rectification, blocking, deletion and revocation

Upon written request we will be happy to provide you with information on your personal data stored by us. Furthermore, you have the right to rectification, blocking and deletion of your personal data insofar as data storage is not stipulated for business transactions or for archiving. Should such a requirement exist, we will be happy to block these data at your request. However, in order to comply with a request to block data at any time, these data must be held in a blocking file.

You can change or revoke your consent for the future by informing us in writing.

Please use one of the above contact options for your request.

### **Data protection officer**

If you have any questions on data privacy, please contact us using one of the above contact options. You can also send any questions on data privacy to our Data Protection Office, Mr Stephan Kuchenbuch, VUV Beratungs- und Service GmbH | Theater street 55 | 52062 Aachen | Germany.

## Protect your passwords

Finally, please pick strong passwords for protecting your data and establish a password policy in your enterprise. We cannot claim responsibility for data that is lost due to weak passwords.

## APPENDIX 3

### Website Terms of Use

#### Copyright

The materials contained in this website and related websites are protected by applicable copyright and trade mark law. Unless explicitly stated differently on this website, permission is granted to temporarily download one copy of the materials on ProCom GmbH's website for personal, transitory viewing only. Any other use requires an explicit, written approval of ProCom GmbH.

We respect copyrights. Third party material on this website (such as device images and company logos) is used with permission of the copyright holder. Should you notice copyrighted materials on our site that are used without permission, we welcome a [notice](#).

#### Disclaimer

The materials on this website and related websites are provided "as is". ProCom GmbH makes no warranties, expressed or implied, and hereby disclaims and negates all other warranties, including without limitation, implied warranties or conditions of merchantability, fitness for a particular purpose, or non-infringement of intellectual property or other violation of rights. Further, ProCom GmbH does not warrant or make any representations concerning the accuracy, likely results, or reliability of the use of the materials on its Internet website or otherwise relating to such materials or on any sites linked to this site.

In no event shall ProCom GmbH or its suppliers be liable for any damages (including, without limitation, damages for loss of data or profit, or due to business interruption) arising out of the use or inability to use the materials on ProCom GmbH's Internet site and related sites, even if ProCom GmbH or a ProCom GmbH authorized representative has been notified orally or in writing of the possibility of such damage. Because some jurisdictions do not allow limitations on implied warranties, or limitations of liability for consequential or incidental damages, these limitations may not apply to you.

#### Links

ProCom GmbH has not reviewed all of the sites linked to its Internet website and is not responsible for the contents of any such linked site. The inclusion of any link does not imply endorsement by ProCom GmbH of the site. Links may have been provided by users on the ProCom forum. Use of any such linked website is at the user's own risk.

#### Forums acceptable use

You agree, through your use of the help center and the forums, that you will not post any material which is knowingly false and/or defamatory, inaccurate, abusive, vulgar, hateful, harassing, obscene, profane, sexually oriented, threatening, invasive of a person's privacy, or otherwise violative of any law. You agree not to post any copyrighted materials unless the copyright is owned by you or by ProCom GmbH. You agree, through your use of the forums, not to post advertising of any kind. ProCom GmbH reserves the right to delete such material.

#### Revisions and errata

ProCom GmbH may make changes to the materials contained on its website at any time without notice, including changes to these terms of use. ProCom GmbH does not, however, make any commitment to update the materials.