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Service Usage Agreement (ServUA)  
Version 1.0  
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# Service Usage Agreement (ServUA)

## Summary

1.	Scope of Application	2
2.	Subject Matter	2
3.	Components	2
4.	Intellectual Property Rights	3
5.	Right of Use	3
6.	Obligations	3
7.	Warranty and Liability	4
8.	Usage Fees	4
9.	Contract Duration and Termination	5
10.	Confidentiality and Data Protection	5
11.	Force Majeure	5
12.	Severability Clause	5
13.	Applicable Law and Jurisdiction	5
14.	Definitions	5

## 1. Scope of Application

This Service Usage Agreement ("ServUA") applies to the following Software-as-a-Service (SaaS) products, associated services, and combinations thereof (hereinafter referred to as "SaaS Services"):

- Alarm Central Services
- Software Development Services
- Momentum Eye
- Momentum PRO
- Project Services
- Support Services

- 1.1 The ServUA applies to the access and use of SaaS services provided by sureVIVE AG ("sureVIVE") by the service recipient ("You", "Your"), unless a separate Software Usage Agreement (SUA) has been duly executed in writing. In particular, the ServUA applies when ordering the SaaS services via online channels operated by sureVIVE (e.g., website, LinkedIn, and others), email, or telephone.
- 1.2 The ServUA applies both to the paid use of the SaaS services and to their free use within the scope of a "Free Trial."
- 1.3 The ServUA is a legally binding agreement, including the components set out in section 3.1, entered into between You and sureVIVE ("the Parties").
- 1.4 By accessing or using a SaaS service provided by sureVIVE, You agree to be legally bound by the ServUA as of the date of such access or use. If You are entering into this agreement on behalf of a legal entity, You agree to the ServUA on behalf of that entity and represent that You have the authority to do so.

## 2. Subject Matter

- 2.1 sureVIVE enables You to use its SaaS services through Your administrators, dispatchers, emergency personnel, and administrative staff for the purpose of preparing for, managing, and responding to emergency and crisis events.
- 2.2 The subject matter of this ServUA is to govern the rights of access and use by You and, where applicable, by authorized users of the legal entity You represent to the SaaS services provided by sureVIVE, under the conditions and in accordance with the provisions set out below.

## 3. Components

- 3.1 This agreement consists of the following components:

- Order in accordance with 1.2
- This ServUA
- Service Level Agreement ([SLA](#))
- Privacy Policy: <https://www.surevive.ch/privacypolicy>

In the event of a contradiction between this ServUA and the other components, the above order of precedence shall apply.

- 3.2 This ServUA, together with the order in accordance with section 1.2 and the documents mentioned in section 3.1, constitutes the complete agreement regarding the subject matter. It replaces all previous offers, marketing materials, negotiations, assurances, contracts, and any other written or oral side agreements between the parties concerning the subject matter.
- 3.3 You acknowledge that sureVIVE may modify the scope, features, and characteristics of the provided SaaS services during use. sureVIVE will inform You thirty (30) days in advance if the scope is significantly changed or if existing features and characteristics can no longer be used, or can only be used to a limited extent, in the future.

## 4. Intellectual Property Rights

- 4.1 Unless expressly agreed otherwise, all intellectual property rights (particularly copyright) to the SaaS services and the ownership of work results remain with sureVIVE.

## 5. Right of Use

- 5.1 sureVIVE grants You a non-exclusive and non-transferable right to use the SaaS services to the extent agreed upon in your order according to section 1.2, in accordance with the agreed usage duration.
- 5.2 The right of use applies only to the version of the products included in the SaaS services provided by sureVIVE and includes:
- License for the Web Application(s)
  - License for Mobile Apps (for iOS and Android)
  - Shared Use of Cloud or Virtualization Infrastructure
  - Provision of Integration APIs (Standard API Interface)
  - Components and scripts for corrective and adaptive maintenance
  - Provision of services required for the operation, support, and maintenance of the SaaS services, in accordance with the Service Level Agreement outlined in 3.1.
  - Provision of additional services, such as alarm center services, in accordance with your order as per 1.2 and the Service Level Agreement outlined in 3.1.
- 5.3 The usage right does not include
- Project management, integration, testing, and training.
  - Customization of the web application(s), mobile apps, or both.
  - Additional services and modules.
  - Use of communication services.
- 5.4 The right to use is limited to your internal business operations or those of the legal entity you represent. The SaaS services may not be used, directly or indirectly, for the benefit of third parties without explicit agreement.
- 5.5 It is prohibited to reproduce, distribute, or use for personal purposes confidential information or information provided through the SaaS services that is subject to the usage rights licensed under this agreement.
- 5.6 Project management, integration, testing, and training measures, or the customization of web applications, mobile apps, or both, are not included in the usage rights and will be offered separately if needed, potentially as part of the order according to section 1.2.
- 5.7 Extensions of the usage rights to additional services and modules or the use of communication services are possible and must be separately ordered by you.

## 6. Obligations

- 6.1 You appoint one or more administrators, who will be granted administrator rights by sureVIVE, allowing them to activate users or, depending on the configuration, register them directly.
- 6.2 If the scope of use in your order pursuant to section 1.2 is limited to a maximum number of users, employees, groups, or any other performance metric, you are responsible for ensuring that this limit is not exceeded during use.
- 6.3 You shall ensure that users who leave the organization or violate the terms of use pursuant to Clause 6.5 no longer have access to the SaaS services.

- 6.4 "You shall take appropriate technical and organizational measures to protect the rights of sureVIVE. In particular, you are obliged to ensure that users select secure passwords for accessing the SaaS services and keep them confidential.
- 6.5 You are obliged to conclude appropriate terms of use with the users of the SaaS services and to fulfil your data protection information obligations.

## 7. Warranty and Liability

- 7.1 The current version of the SaaS services applies. These are continuously developed at the discretion of sureVIVE.
- 7.2 sureVIVE ensure that
- sureVIVE and any third parties involved have all the rights necessary to provide the SaaS services in accordance with this contract.
  - The contract-compliant use of the software, software components, and documents delivered in the course of fulfilling this contract does not infringe any third-party rights.
  - The software and software components delivered while fulfilling this contract do not have any material defects.
  - sureVIVE takes appropriate measures against viruses, trojans, and other anomalies, and ensures that no so-called backdoors are built into the software or software components that would allow access bypassing the access security.
- 7.3 A material defect occurs when the productive use of the SaaS services is impossible, and no workaround is available.
- 7.4 sureVIVE makes no warranty regarding the suitability of the software for a particular purpose or its profitability. With respect to the third-party software integrated into the software, sureVIVE warrants solely that it is authorized to integrate it into the software and distribute it with the software.
- 7.5 The SaaS services may only be used by users who possess the necessary technical expertise and experience required for their specific area of application. Users must be professionally qualified to correctly utilize the provided SaaS services and remain personally responsible for their actions or omissions.
- 7.6 Under no circumstances and legal conditions shall you, sureVIVE, or associated executives, employees, service providers, suppliers, or licensors be liable for lost profits, lost sales, loss of goodwill, data loss, business interruption, cover costs, replacement costs, any form of consequential or punitive damages, or compensation, or any other indirect losses or damages incurred by you or sureVIVE in connection with the provision of the SaaS services under this agreement. This disclaimer of liability applies regardless of whether you or sureVIVE were notified of the possibility of such damage or could have foreseen it.
- 7.7 sureVIVE is not liable for any defects in third-party software.

## 8. Usage Fees

- 8.1 You owe sureVIVE usage fees in accordance with the order according to section 1.2, which may include additional fees, such as for support services or extra services. The usage fees are exclusive of taxes, such as VAT and customs duties. Taxes and duties are to be paid by you.
- 8.2 The usage fee and any additional fees will be invoiced in accordance with the payment terms specified in the order according to section 1.2.
- 8.3 The fee may be adjusted once per year, and by no more than the Swiss Consumer Price Index (CPI) for durations of SaaS service usage longer than one year (Base December 2020 = 100 points). Price increases for the following year must be announced in writing by the end of September at the latest.
- 8.4 Within the payment period, you may raise objections to the invoice in writing and with justification. After this period, the invoice is deemed to be unconditionally accepted. Once this period has expired, you will be in default without further reminder. sureVIVE is entitled to charge default interest at a rate of 6% from the due date.
- 8.5 If you are in arrears with a payment, sureVIVE is entitled to terminate this contract without notice after the expiration of a final payment deadline, which has been communicated to you in writing. Any further claims for damages remain expressly reserved.
- 8.6 Changes to the services of the SaaS can be ordered in accordance with section 1.2.

## 9. Contract Duration and Termination

- 9.1 This contract comes into effect at the beginning of the usage period of the SaaS services according to the order in section 1.2 and remains in effect until it is terminated in accordance with the termination conditions.
- 9.2 The term of this contract shall automatically extend for a usage period equivalent to the expiring term, unless this contract is terminated thirty (30) days before the expiration of the usage period.
- 9.3 The parties are entitled to terminate this contract without notice for good cause if one party repeatedly or materially breaches the contract, making the continuation of the contractual relationship unreasonable for the other party.
- 9.4 After the termination notice period has expired, access rights will be deleted by sureVIVE. You will be given the opportunity to download your data in advance and are obligated to do so by no later than the end of the termination notice period.

## 10. Confidentiality and Data Protection

- 10.1 Both parties are obligated to keep all confidential information secret and not to use it for any purpose other than the performance of this contract. The confidentiality obligation shall remain in effect after the termination of the contractual relationship as long as there is a legitimate interest in maintaining it.
- 10.2 Both parties shall ensure data protection and data security within their sphere of influence in accordance with legal requirements.
- 10.3 Information on how sureVIVE collects, uses, and discloses the data it collects from You can be found in the separately provided Privacy Policy in accordance with section 3.1.
- 10.4 If you wish to enter into a Data Processing Agreement (DPA) with sureVIVE, please contact us at [info@surevive.ch](mailto:info@surevive.ch). Please note that a DPA may not be available for every scope of SaaS services.

## 11. Force Majeure

- 11.1 Neither party shall be liable for delays in the performance of this contract or for failing to notify such a delay if the delay is due to force majeure beyond the control of either party. However, if the delay exceeds thirty (30) days from a date agreed upon by the parties, the party whose ability to perform has not been affected may terminate this contract.

## 12. Severability Clause

- 12.1 Should any provisions of this contract be invalid or legally unenforceable, the remaining provisions shall remain valid. However, the parties are obliged to replace the invalid or legally unenforceable provision with a valid and legally enforceable one that most closely reflects the intent and purpose of the original provision.

## 13. Applicable Law and Jurisdiction

- 13.1 All legal relations between the parties are subject to Swiss law.
- 13.2 The Vienna Convention on the International Sale of Goods does not apply.
- 13.3 The exclusive place of jurisdiction is Mendrisio, Switzerland.

## 14. Definitions

### Alarm center services

refer to services provided by sureVIVE in collaboration with third parties, consisting of a 24/7 alarm center that receives and triages emergency calls.

### **Development services**

refer to software services provided by sureVIVE aimed at the customization of web applications, mobile apps, or both for SaaS services.

### **Free Trial**

refers to a clearly defined period during which the service recipient can use the SaaS services free of charge for the purpose of testing their usage.

### **Communication services**

refer to third-party services that enable the transmission of information to emergency responders, such as push, SMS, or pager messages

### **Momentum Eye**

refers to the SaaS platform Momentum Eye and all of its modules and components, including the associated services

### **Momentum PRO**

refers to the SaaS platform Momentum PRO and all of its modules and components, including the associated services

### **Usage period**

refers to a clearly defined period during which the service recipient can use the provided SaaS services either free of charge or for a fee.

### **Project services**

refer to project management, integration, testing, and training services provided by sureVIVE in connection with the use of the SaaS services.

### **Contract**

refers to this Service Usage Agreement ("ServUA") as well as other components according to 3.1

### **Confidential Information**

refer to all information, data, and/or documents that have been provided to the other party, made accessible, or otherwise perceived by the other party in connection with this contractual relationship. This includes, in particular, manufacturing and business secrets as well as all other information, data, and/or documents related to the order, contract negotiations, contract contents, preparation for service delivery, and contract performance or the content of the other party's activities. It is not required for confidential information to be specifically marked as "confidential" or "secret."

### **Effective date**

refers to the date on which this contract is legally concluded

### **SaaS-Services**

refer to Software-as-a-Service (SaaS) products, associated services (e.g., alarm central services, project management services, and support services), and combinations thereof.

## Support Services

refer to the services to be provided by the licensor according to the Service Level Agreement (see **Errore. L'origine riferimento non è stata trovata.**)