

Service Description

SWITCHdrive

Version 1.2
Effective Jan 1st, 2019

1 Definitions

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| <p>Files</p> | <p>Digital content (text documents, spreadsheet files, presentations, images, videos etc.) that with the assistance of the service can be shared between End Users or synchronised across multiple devices.</p> |
| <p>End Users</p> | <p>In this document, End Users are members of an Organisation or a Contract Partner (notably employees, researchers, lecturers, staff members and students) who use a SWITCH service directly or indirectly through an Organisation or a Contract Partner.</p> |
| <p>Extended SWITCH Community</p> | <p>Organisations that are closely related to the SWITCH Community, notably university policy organisations, academies, funding institutions, libraries and hospitals, as well as private research facilities and schools in the tertiary sector that are not part of the SWITCH Community.</p> |
| <p>Organisation</p> | <p>An organisation within the SWITCH Community or the Extended SWITCH Community.</p> |
| <p>Product</p> | <p>SWITCHdrive is based on the ownCloud Enterprise Edition software of ownCloud.org.</p> |
| <p>SWITCH Community</p> | <p>The Organisations in the field of education and research that are affiliated with SWITCH (in accordance with the Appendix to the Regulations on the Purchase of SWITCH Services, as amended from time to time).</p> |
| <p>Scale of Charges</p> | <p>Periodically adjusted schedule that applies to Organisations in the SWITCH Community for the purpose of purchasing SWITCH services.</p> |
| <p>Contract Partners</p> | <p>In this document, Contract Partners are persons who have concluded a contract with SWITCH for services, but are not Organisations as that term is defined above.</p> |

2 Overview and Purpose

SWITCHdrive enables End Users

- to align resp. synchronise Files across multiple devices
- to exchange Files with other End Users.

With its servers located exclusively in Switzerland, from the perspective of data security and data protection SWITCHdrive offers a sensible alternative to other known data exchange services, which operate their servers abroad.

The Organisations are represented on the Foundation Council of SWITCH. In this capacity, the Organisations decide on the technical and legal structure of the SWITCHdrive service.

SWITCHdrive is described on the website at <https://www.switch.ch/drive/>. The service may be found at <https://drive.switch.ch>.

3 Functionality and Components of the Service

3.1 Setup and Access

SWITCHdrive is made accessible to the End Users of an Organisation or a Contract Partner who have subscribed to the service. Registered End Users can create a SWITCHdrive account and thereby access storage space on the technical infrastructure.

In order to register, the End User creates a SWITCH edu-ID either automatically or manually and inputs one or more email addresses. The registered End User can only access the service using the login credentials of his/her SWITCH edu-ID user account. Registered End Users have full access to all of the functions available on SWITCHdrive. For instance, they can upload a File into a folder and by sending a link to this folder they can invite registered or unregistered End Users to download or alter the contents of the folder. The first names, surnames and abbreviations of the Organisations of potential recipients of invitations are suggested to the registered End User.

Unregistered End Users can also access the service through an invitation or a link received. Such End Users can, but are not required to, have SWITCHaai (AAI) authentication. Certain functions are only available to unregistered End Users on a limited basis, depending upon how the registered End User has configured certain settings before sending the invitation or link. Before uploading Files, registered End Users must be aware that a recipient of an invitation or link received is also able to forward such invitation or link to third parties.

3.2 End User Administration

End Users register for the service themselves. However, the Organisation to which they are a member must have subscribed to the service. When an End User leaves the Organisation, the End User loses the authorisation to continue to use SWITCHdrive as an active End User

of the Organisation. SWITCH periodically deletes the accounts of End Users who are no longer authorised as active End Users of an Organisation or who have not used the service for an extended period of time. SWITCH will contact the End Users of the service before erasing any data and provide them the opportunity to secure the stored data on another medium prior to erasure.

3.3 Access to the Servers

The servers on which all End User data are stored are located within the SWITCH infrastructure in Switzerland. From the networks of the Organisations that are connected to the SWITCHlan the servers can be accessed directly through SWITCHlan, which is also located in Switzerland. In all other cases, the service is accessed over the public internet.

4 Contact Information and SWITCHdrive Helpdesk

On the service website the End Users can access FAQ and online documentation along with an online form, which must be completed for support requests or specific enquiries about the service. Questions submitted through the online form will be answered by SWITCH.

The support website for the service (<https://help.switch.ch/drive>) lists the contact details of the IT service of the Organisation for any questions specific to the institution.

5 Service Level / Support Services

The service is generally available for use 24 hours a day, seven days a week, except in case of breakdowns that adversely affect the service. During its normal business hours, SWITCH undertakes to initiate or execute, as applicable, measures to remedy service disruptions and malfunctions.

Normal business hours are on weekdays (Monday to Friday) from 8:00 a.m. to 5:00 p.m., excluding federal, cantonal and municipal holidays in Zurich, as well as the days between 24 December and 2 January, inclusively. Depending on the urgency of the matter, SWITCH may, at its own discretion, take measures to maintain good service quality outside these times as well, but is not obligated to do so.

6 Usage Data Collection

SWITCH collects data on the use of the service by the End Users, the Organisation or the Contract Partner. The data collected are imputed to the individual Organisations resp. Contract Partners and made available to them. In addition, SWITCH provides the Organisations with anonymised statistics regarding the usage of SWITCHdrive by their End Users.

7 Instructions for End Users and Administrators

7.1 End Users

The maximum storage capacity available to an End User (resp. his/her personal quota) is displayed in the user interface. The End User's data are stored redundantly on the infrastructure in order to avoid the risk of data loss due to defective hardware. Nevertheless, data loss cannot be entirely ruled out. In particular, data are not additionally secured by SWITCH alongside redundant storage (no backup). The End User is responsible for securing the data stored on the infrastructure.

7.2 Administrators

Administrators at the Organisations / Contract Partners can manage the storage capacity of an End User (i.e. his/her quota) and add or revoke credits (i.e. vouchers) for external staff.

8 Legal Terms of Use

8.1 Applicable Provisions

The following provisions, as amended from time to time, apply to the use of the service by the Organisations, the Contract Partners and the End Users:

- For Organisations in the SWITCH Community and for End Users who are members of an Organisation in the SWITCH Community:
 - the Regulations on the Purchase of SWITCH Services (hereinafter: Regulations)¹;
 - the Scale of Charges in effect from time to time
 - the GNU General Public License of ownCloud²
 - for Android users: End User License Agreement for Android of ownCloud³
 - for IOS users: End User License Agreement for IOS App of ownCloud⁴

In case of discrepancies, this Service Description shall take precedence over the Scale of Charges, which in turn shall take precedence over the Regulations.

- For Organisations in the Extended SWITCH Community, for End Users who are members of an Organisation in the Extended SWITCH Community, for Contract Partners, as well as for End Users who are members of a Contract Partner:
 - the General Terms and Conditions on the Purchase of SWITCH Services (hereinafter: General Terms and Conditions)⁵
 - the Service Agreement

¹ <https://www.switch.ch/de/about/disclaimer/service-regulations/>

² <https://www.gnu.org/licenses/gpl-2.0.html>

³ <https://owncloud.com/licenses/owncloud-android-application/>

⁴ <https://owncloud.com/licenses/owncloud-ios-application/>

⁵ <https://www.switch.ch/de/about/disclaimer/gtc/>

- the GNU General Public License of ownCloud⁶
- for Android users: End User License Agreement for Android of ownCloud⁷
- for IOS users: End User License Agreement for IOS App of ownCloud⁸

In case of discrepancies, this Service Description shall take precedence over the Service Agreement, which in turn shall take precedence over the General Terms and Conditions.

SWITCH may modify this Service Description at any time. Any modification of the Service Description shall be duly communicated to the Organisations, the Contract Partners and the End Users and, barring opposition, shall take effect within 30 days after the date of notice of the modification.

Opposition shall result in termination of the Service Agreement.

8.2 Copyright and other Intellectual Property Rights

Each End User and the Organisations resp. Contract Partners of which he/she is a member must defend at their own cost any third party claims against SWITCH alleging infringement of copyrights or other intellectual property rights and/or any other applicable laws in connection with End User Files, if so requested by SWITCH.

The End User and the Organisations resp. Contract Partners of which he/she is a member shall be jointly and severally liable for all costs, licence fees and/or compensation payments imposed on SWITCH by court order or under the terms of an out-of-court settlement, provided that they were informed by SWITCH in writing concerning the claim in question and were authorised by SWITCH to conduct and resolve such litigation in accordance with applicable procedural law, in particular through an in-court or out-of-court settlement.

8.3 Data Protection and Data Security

8.3.1 Data Processing by SWITCH

In terms of processing personal data, SWITCH shall abide by the Regulations or the General Terms and Conditions, as applicable and as amended from time to time.

The data storage facility of the personal data processed by SWITCH is located in Switzerland. The personal data will not be communicated to third parties.

In addition, SWITCH generates anonymised statistics for the Organisations and Contract Partners. The foregoing shall be without prejudice to cases of abuse.

⁶ <https://www.gnu.org/licenses/gpl-2.0.html>

⁷ <https://owncloud.com/licenses/owncloud-android-application/>

⁸ <https://owncloud.com/licenses/owncloud-ios-application/>

8.3.2 Access to Employee Data

As a rule, the Organisation / Contract Partner does not have access to the data that are uploaded, stored or exchanged by End Users through SWITCHdrive. However, in exceptional cases, SWITCH can provide access to specific data to the Organisation resp. the Contract Partner, provided that the Organisation resp. the Contract Partner can demonstrate an overriding interest. In addition, it must be demonstrated that the End User cannot be reached or refuses to grant the necessary consent. For this purpose, the Organisation must request the relevant form from SWITCH⁹ and return it to SWITCH duly completed.

In any case, the Organisation resp. Contract Partner must provide detailed and comprehensible evidence that it is entitled to access the relevant data. Where such evidence is not clear and unambiguous, or where an unacceptable liability risk remains for SWITCH for any other reason, SWITCH may refuse to provide such access.

8.3.3 Data Security

SWITCH protects personal data against unauthorised processing through appropriate technical and organisational measures. These measures include *inter alia*:

- access restrictions on the servers
- structural measures and restrictions on access to the server infrastructure
- data encryption during data transfer
- secure system configuration
- automated service monitoring
- regulations and directives
- contracts
- the planning, creation and allocation of tasks, competences and resources

8.4 Permitted Use of the Service

Any use of the service is permitted only insofar as it does not result in any violation of these terms of use, the rights of third parties or any applicable laws.

8.5 Unauthorised Use of the Service

Any unauthorised use of the service is subject to the provisions of the Regulations resp. the General Terms and Conditions, as applicable and as amended from time to time.

The Organisations / Contract Partners of which the infringing End Users of the service are members may be held responsible or fully liable, as the case may be, together with the End Users, for all losses incurred by SWITCH or any third party as a result of the unauthorised use of the service by its End Users.

Upon first request by SWITCH, the Organisation / Contract Partner of which the infringing End User is a member shall, at its own expense, defend against any and all claims brought

⁹ <https://portal.switch.ch> (Services / SWITCHdrive)

by third parties against SWITCH in connection with the unauthorised use of the service. The Organisation / Contract Partner of which the infringing End User is a member shall assume jointly and severally the costs, licence fees, and/or liability for damages imposed on SWITCH by court order or settlement, insofar as SWITCH has informed the affected Organisation / Contract Partner in writing as regards the claim brought and has authorised the Organisation / Contract Partner, in accordance with the applicable procedural law, to conduct and settle the legal dispute, including by way of an in-court or out-of-court settlement.

SWITCH reserves the right, in the event of a reasonable suspicion that the service has been used in a manner contrary to law or the contract, to immediately cancel the accounts concerned and/or to temporarily block or permanently exclude the registered End Users concerned, without prior notification to the affected End Users or Organisations / Contract Partners and without the respective End Users or Organisation / Contract Partners being entitled to any claims for compensation on account thereof.

In addition, in order to ensure orderly operation, SWITCH may request registered End Users at any time to create a new password for logging on to the service, even if there is no suspicion of unauthorised use.

The End Users and their Organisations / Contract Partners are obligated to support SWITCH in investigating incidents of unauthorised use, the elements constituting the crime, and other loss events.

SWITCH further reserves the right, in all cases where SWITCH is required by law or otherwise deems it appropriate to do so, to collaborate with the responsible government authorities and to provide them with all information necessary to prosecute the legal offences in question.

8.6 Warranty

SWITCH's warranty is subject to the provisions of the Regulations or the General Terms and Conditions, as applicable and as amended from time to time, in connection with the service level warranted in Chapter 5.

8.7 Liability

SWITCH's liability to the Organisations in the SWITCH Community shall be governed by the provisions of the Regulations, as amended from time to time. SWITCH shall not be liable in any way for the lawful use of the service.

SWITCH's liability to the Organisations in the Extended SWITCH Community and to the Contract Partners shall be governed by the provisions of the General Terms and Conditions, as amended from time to time. SWITCH shall not be liable in any way for the lawful use of the service.

SWITCH's liability to End Users and third parties who use its service other than under contract with SWITCH but with the consent of the Organisation or the Contract Partner is hereby waived except where prohibited by law.

The Organisations, Contract Partners and End Users shall be jointly and severally liable to SWITCH to the extent permitted by law for losses incurred by SWITCH as a result of the unauthorised use of the service, as well as for other indirect losses.