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AI Contracts with OpenAI, Anthropic and Microsoft: 5 Clauses for Swiss SMEs

MANAGEMENT SUMMARY & CORE TAKEAWAY

Swiss SMEs should focus on five contract clauses before committing to OpenAI, Anthropic or Microsoft: data processing location and DPA, training exclusion, deletion periods, subcontractors and liability caps. Reviewing these gives you a clear path to revDSG compliance and manageable risk.

CONTEXT & EXECUTIVE RELEVANCE

Many Swiss SMEs use ChatGPT, Claude or Azure OpenAI Service without ever reading the underlying contract. That is understandable but risky: it is not the model that determines revDSG compliance, liability and data protection, but the small print. Reviewing five central clauses gives you clarity fast.

A valid Data Processing Agreement (DPA) is mandatory under Art. 9 revDSG whenever personal data is passed to an AI provider. With OpenAI, you must actively sign the DPA via the enterprise privacy page — it is not automatically included. Swiss customers contract with OpenAI Ireland Ltd.; data residency in the EU is available for some enterprise customers. Microsoft can keep customer data in Switzerland via the Switzerland North and West regions. Anthropic stores data in the US by default; EU residency is only available through Amazon Bedrock or Google Vertex AI.

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CORE ACTION ITEMS

01 Request the current DPA and Commercial Terms and confirm the contracting entity.

02 Check the data processing location: Switzerland, EU or US?

03 Get the training exclusion in writing.

04 Note the deletion periods for prompts and outputs.

SWISS COMPLIANCE & ARCHITECTURE GUIDELINES

- ☒ Full compliance with revised Swiss Data Protection Act (revDSG).
- ☒ Zero vendor lock-in on closed proprietary models.
- ☒ Seamless integration into Abacus, Bexio and M365 ecosystems.

Non-Binding Process Analysis

Let us review in 20 minutes where AI agents create immediate measurable efficiency in your workflows.

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