

# TERMS AND CONDITIONS FOR SWISSTRAFFIC.ai

Dear Client, welcome to swisstraffic.ai. These terms and conditions govern all use of our SWISSTRAFFIC.ai and related services (hereinafter the “Terms”).

SWISSTRAFFIC.ai Service is offered to you subject to your acceptance of all of the terms and conditions contained herein without modification. When accepted by you, these Terms form a legally binding contract between you and Supplier. If you are entering into these Terms on behalf of an entity, such as your employer or the company you work for, you represent that you have the legal authority to bind that entity.

**PLEASE READ THESE TERMS CAREFULLY. BY REGISTERING FOR, ACCESSING AND/OR OTHERWISE USING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THESE TERMS. IF YOU HAVE NOT READ THESE TERMS, DO NOT UNDERSTAND THEM OR DO NOT AGREE TO BE BOUND BY THESE TERMS, DO NOT ACCESS OR OTHERWISE USE THE SERVICE.**

By using the Service provided by the Supplier, you declare that you have read, understood and agreed to the Terms in their entirety. No one can use the Service without agreeing to the Terms.

Supplier may, in its sole discretion, elect to suspend or terminate access to, or use of the Service to anyone who violates these Terms.

## 1. DEFINITIONS

1.1 Unless otherwise provided in these Terms, the meaning of capitalized words is as follows:

## 2. AUTHORITY TO ENTER INTO THESE TERMS WITH SUPPLIER

2.1 Any use of the Service is subject to acceptance of these Terms. The Terms are accepted by submitting a sign-up form for creation of User Account in the meaning of Paragraph 6.1.

2.2 The Service is only intended for use by Entrepreneurs or public administration for the purposes of their business or other professional or public administration activity. The Client hereby declares that he uses the Service as an Entrepreneur or public administration or on their behalf and solely for the purposes linked to this activity. **The Service is not intended for and shall not be used by a Consumer.**

2.3 To accept these Terms, the Client who is:

2.3.1 a natural person must have legal capacity to do so, must be at least 18 years of age and act as an Entrepreneur or on behalf of public administration in the meaning of previous Paragraph.

2.3.2 a legal person must be duly incorporated and in good standing.

## 3. RESTRICTIONS

3.1 All use of the Service is limited to common and lawful activity within the scope defined by these Terms and the nature of the Service. The Client is not allowed to use the Service or

any part or element thereof to commit a crime, administrative delict, breach any applicable law or entice or invite others to carry out such illegal actions. The Client is not allowed to misuse the Service.

3.2 The Client is particularly not allowed to use the Service, unless the prior consent has been expressly granted by the Supplier:

3.2.1 to sell, resell, lease, license, sublicense, distribute, provide, disclose, divulge, exploit or otherwise grant access or make the Service available in whole or in part to any third persons, except for use of the Result according to Article 8;

3.2.2 to use the Service or any part or element thereof by means of programs that send them automatic enquiries or requests;

3.2.3 in a scope, with means or for purposes other than those for which its functionality was created;

3.2.4 for production purposes;

3.2.5 if he or she is a competitor of the Supplier;

3.2.6 to monitor the availability, performance or functionality of the Service;

3.2.7 for other benchmarking or competitive purposes.

#### **4. OUR RESPONSIBILITIES**

4.1 The Supplier shall make the Service available to the Client in accordance with these Terms. The Service may be performed using equipment or facilities located worldwide, however any Personal Data shall be processed within the territory of the European Union.

4.2 The Supplier shall use commercially reasonable efforts to make the Service available 24/7, except for planned downtimes for maintenance and other reasons or any unavailability caused by circumstances beyond Supplier's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labour problem, Internet service provider failure or delay, or denial of service attack.

4.3 The Supplier will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Client Data, unless stated otherwise in these Terms.

#### **5. USE AND PROVISION OF THE SERVICE AND THE RESULTS**

5.1 SWISSTRAFFIC.ai is the cloud service which provides the Client with an advanced automated analysis of traffic data based on the Client's Video.

5.2 The Service is either:

5.2.1 **Unpaid:** for any Video up to the length of the Sample or for the Sample of any longer Video. The Client agrees, and guarantees that he or she is fully authorized to give such consent, that any Video up to the length of the Sample and the Sample can be used by the Supplier for internal purposes, such as DNN network training or improvement of Service provision. Publication of Videos and Results or images on the website, blogs, and social networks administered by the Supplier, advertisement, and marketing are possible only with

sole consent of the Client. The Supplier shall solely use the Sample in relation to the Service and shall not sell or otherwise transfer it to any third person for commercial purposes.

5.2.2 **Paid:** can be requested for any Video longer than the Sample and for special paid services which are available via SWISSTRAFFIC.ai platform. On the basis of the respective Sample the Client can decide whether he or she wishes to request the paid Service for the remaining part of the Result or not; if the Client requests the paid Service, the number of Credits shall be deducted from the User Account; the amount of credits deducted depends on the length of the video and/or the special tariff model depends on the fixed price of the special service ordered.

5.2.2.1 **Exception from the paid service:** videos that are processed and contributes to the COVID-19 initiative are processed free of charge. The free-of-charge processing under the SWISSTRAFFIC Covid-19 initiative applies to fully automatic service of “SWISSTRAFFIC.ai SCOUT” and “SWISSTRAFFIC.ai DRONE” platforms. It does not apply for the additional services – Georegistration and 100% guarantee service.

5.3 The steps to obtain the **Service** are following:

5.3.1 The Client completes an online sign-up form to create his or her User Account according to Article 6. The Client shall read these Terms that are available directly from the online sign-up form. By submitting the online sign-up form the Client agrees to these Terms. The Supplier will provide the Client with his log-in details and password.

5.3.2 The Client uploads the Video through the online form.

5.3.3 The full Video is subject to automated analysis processed by the Software, except when Client orders services requiring human intervention in the analysis process, which includes Georegistration and 100% guarantee of Results. The Result is readable via SWISSTRAFFIC.ai Viewer and contains the analysed Video.

5.3.4 The Client receives a link to the Sample and link to SWISSTRAFFIC.ai Viewer via his or her email address. The Client can also access the Sample and the Result directly from the User Account. The Sample is always provided under the conditions of the unpaid Service.

5.3.5 Based on the Client’s satisfaction with the Sample, the Client can request the paid Service for the remaining part of the Video that is longer than the Sample under the conditions of Paragraph 5.2.1. The build-in time calculator shall inform the Client on the number of Credits necessary for the full Result; the fixed price of special services is set in the price list and shall be added if ordered. In that case the full Result shall be made available to the Client from his or her User account or via email. The only exception is the 100% guarantee service where the Supplier firstly makes an estimate of the price. If the estimate differs, the Client shall be notified by e-mail and can decide about the next steps.

5.4 The Paragraphs 5.3.2 – 5.3.5. apply to any newly uploaded Video. The Client shall ensure that his or her operating environment meets the current system requirements of the Software. The Supplier accepts no liability for any loss of competency of the Customer’s operating environment to run the Software or view the Result.

## 6. USER ACCOUNT

6.1 The User Account can be created either:

6.1.1 when the Client completes the sign-up online form dedicated to creation of the User Account; or

6.1.1 automatically when the Client submits the online form in order to upload the Video and provides his or her contact details.

6.2 The Client shall submit only true, accurate, complete and current information in the online form for the purpose of creating the User Account and shall keep it up to date.

6.3 The Client shall keep provided log-in credentials safe and confidential and shall not communicate them to other persons. The Client, in order to prevent any breach into his or her User Account, is required to protect any device used in relation with the Service against misuse, set up secure login credentials, prevent any access of third parties to the credentials, protect the credentials, and prevent abuse of credentials.

6.4 If the Client is a legal person, it is deemed that any natural person who obtained or possesses Client's log-in credentials is authorized to act on his behalf when using the User Account.

6.5 The Client shall immediately notify any disclosure, loss, or unauthorized use of the log-in credentials to the Supplier.

6.6 The Client can terminate his or her User Account at any time. The Supplier shall permanently delete the User Account within [6] months upon the date of termination.

6.7 If the Client uses the User Account unlawfully or in contradiction to these Terms or legitimate interests of the Supplier or suspicion exists that he or she may do so, the Supplier is entitled, based on his sole impression and decision, to block or delete such User Account or any subsequent accounts created by the Client. In such case Credits on the User Account automatically expire, and the Client is not entitled to any compensation.

6.8 The Client is solely responsible for any damage or loss caused by violation of the provisions stated in this Article.

## **7. CLIENT DATA**

7.1 The Client is solely responsible for the content of the Client Data, particularly for the content of any uploaded Video. The Client guarantees that he or she has obtained the Client Data lawfully and is fully authorized to process the Client Data (e.g. Video) or delegate processing of the Client Data (e.g. Video) in the scope necessary for provision of the Service and that the use of Client Data by the Supplier for the provision of the Service and/or in accordance with these Terms will not infringe any right of any third person.

7.2 The Client guarantees that he or she is fully authorized to process all Personal Data and other data included in the Video in the manner necessary to Service provision and to delegate such processing of Personal and other data to the Supplier.

7.3 The Client guarantees that in the case of use of the unpaid Service he or she is fully authorized to process all Personal Data and other data included in the Video to delegate such processing of Personal and other data to the Supplier in the manner that the Result can be freely used by the Supplier for various purposes as defined in Paragraph 5.2.

7.4 If the Client loses the authorization according to Paragraph 7.1., 7.2. or 7.3., he or she is obliged to immediately notify the Supplier.

7.5 The Client (as an indemnifying party) shall indemnify the Supplier, including its affiliates, directors, personnel and other cooperating persons, (as an indemnified party) against any and all losses and expenses (including, but not limited to costs of legal representation, out-of-court compensation, costs of court proceedings, damages, fines, settlements etc.) arising out of any administrative proceedings, dispute or lawsuit brought by the third party due to:

7.5.1 unlawful origin of the Client Data, lack of authorization to process the Client Data or delegate the processing in the meaning of Paragraph 7.1.;

7.5.2 lack of authorization to process the Personal Data and other data or delegate the processing in the meaning of Paragraph 7.2. and/or 7.3.;

7.5.3 misuse of the Service or any other non-compliance with another provision of these Terms.

7.6 Video shall be recorded with a camera, telephone or other device capable of recording a video material in the quality and format recommended by the rules available to the Client on User account and Supplier's websites.

7.7 The Client is not allowed to upload any content which is not, fully or partially, relevant for Service provision, i.e. does not contain solely traffic data. The Client is not allowed to upload excessive amount of data (hundreds of videos within a few hours), including content relevant for Service provision, that could overload the Software or endanger the Service in another way. The Supplier applies specific safety rules on how many gigabytes of data and hours of Video can be analysed via the Service within 24 hours. The Client shall be fully liable for any damage that could arise in case the obligations according to this Paragraph are breached.

## **8. RESULTS**

8.1 The Client understands and agrees that the provision of the Service is fully automated and is not subject to any further human control. The Client accepts and counts with the fact that the Supplier thus cannot guarantee any level of precision, accuracy, correctness or reliability of the Result.

8.1.1 the only exception is the special service 100% guarantee of Results.

8.2 The Result does not enable the Supplier to recognize, detect or identify any person or license plate number. The Supplier does not intend to collect or save any Personal Data which can serve for the purpose of identification of a natural person.

8.3 The Client can access the Result for 6 months via the User Account. After expiration of this period the Result shall be deleted.

8.4 The Client is entitled to use the Result only in the way which is not prohibited or restricted according to Article 3.

8.5 The Client is allowed to use the Result in the course of his lawful business or public activity, including further processing or analysing the Result. The Client is allowed to share the Result with third persons only in scope that is necessary for his or her business or public activity.

## **9. PRICE OF PAID SERVICE**

9.1 The Client can use the paid Service and purchase the Credits through the User Account. The Client can purchase Credits in the minimum amount of CHF 10. The Client shall spend Credits on the analysed video according to the length of the video or by paying for fixed price special services. The price list and the method of calculation of the price are available on this [link](#) from the User Account.

9.2 The prices in the price list do not include VAT. The Supplier represents that it is a payer of the VAT in Switzerland. The Supplier will charge the Client with the VAT together with the respective price, if applicable under the applicable law.

9.3 The Client shall pay for the Credit:

9.3.1 online by payment card or through PayPal;

9.3.2 on the basis of electronic invoice issued by the Supplier. The invoice is payable within 15 days from the date of its issuance.

9.4 The purchased Credits shall be assigned to the Client's User Account only after the payment has been received by the Supplier. Following each purchase of the Credits, the Supplier will issue an electronic invoice and send it to the Client's email address.

9.5 Based on Client's satisfaction with the Sample, the Client can decide whether he or she wishes to receive the Result; then the respective number of Credits will be deduced from his or her User Account according to the length of the Result or according to the price of special services ordered. If the Client does not want to receive the Result, the number of Credits will not decrease.

9.6 The Supplier can, on the basis of his sole consideration, grant free Credits to the Client. The Supplier is not bound by any conditions and its decision to do so is fully arbitrary. The gift Credits are not refundable under any conditions.

9.7 All Credits shall be spent for the Service within **6 months** from the day of the last purchase of Credits (i.e. any new purchase extends the validity of all Credits on the User Account by 6 months). If the Credits are not used within this time limit, they expire without any refund and shall be automatically subtracted from the User Account.

9.8 Unless otherwise stated in the Terms, the Credits are non-refundable. The money paid to purchase the Credits is non-refundable under any circumstance.

## **10. REGIONAL LIMITATION OF THE SERVICE PROVISION**

10.0 The provision of Service is regionally limited:

In Denmark, Sweden, Norway, Finland, Iceland, Netherlands, Belgium, Luxembourg: Service can be provided only with the consent of SWISSTRAFFIC;

10.2 If the Client wishes to use the Service in the countries listed in the previous Paragraph, he or she shall contact SWISSTRAFFIC in order to obtain their consent.

10.3 Unauthorized use of the Service from the countries listed in the previous Paragraph shall be subject to the blocking or deletion of User Account.

## **11. SPECIAL EVENT – SWISSTRAFFIC COVID-19 OPEN DATASET**

11.1 SWISSTRAFFIC Covid-19 is an initiative documenting changes in traffic behaviour due to the Covid-19 outbreak and the corresponding social distancing measures.

11.2 The Client can use the special Service under the SWISSTRAFFIC Covid-19 initiative, if the Client express their consent in the form and agrees to the following:

11.2.1 Supplier is entitled to further use of the raw video material as well as all the Results from the Service. Supplier can use the material for publication of Videos and Results or images on the website, blogs, and social networks administered by the Supplier, use it for advertisement and marketing purposes, without any back obligation toward the Client.

11.2.2 Supplier is entitled to use the Results of the Service under the SWISSTRAFFIC Covid-19 initiative.

11.2.3 The Service under the SWISSTRAFFIC Covid-19 initiative is provided free of charge, no Credits are deducted from the User Account. The free-of-charge Service is provided solely for the fully automatic Service, additional services such as Georegistration and 100% guarantee are excluded from this initiative (alternatively, these services can be purchased and will be charged as per valid Price List for the Service).

## **12. INTELLECTUAL PROPERTY RIGHTS**

12.1 The Software and other elements of the Service (such as computer programs, source codes, design, written material, graphics, visual images, trademarks, icons, photographs or videos, including the Result, which were not uploaded by the Client, and other material) is the property of Supplier and/or its partners and subsidiaries and is protected by copyright or other intellectual property rights. Use of the Service by the Client shall in no way give rise to any transfer of the ownership title to the above. Supplier and/or its partners and subsidiaries reserve all rights to the subject of their intellectual property, except for those expressly granted to the Client in the Terms. Any commercial or promotional distribution, publishing or exploitation of the Software and other elements of the Service is strictly prohibited without Supplier's prior written consent.

12.2. The Supplier hereby grants a non-exclusive, non-transferable license to the Client to use the Software and other elements of the Service protected by intellectual property rights in the minimum necessary scope for common use of the Service in order to obtain the Result. The Client shall not copy, distribute or publish any content arising from the Service, unless otherwise permitted by these Terms or applicable law.

12.3 Source codes of the Software shall not be provided to the Client. The Client is not allowed to copy, duplicate, distribute, modify, adapt, hack, create derivative works, perform reverse engineering, decompile, disassemble or try to gain the source code of Software in any other way. Furthermore, the Client is not entitled to translate, process, amend, adapt or modify the Software in any way or connect it with another software. The Client is not allowed attempt to break the Software security measures or to attack the Software in any other way.

12.4 The Client is not allowed to copy, reproduce, distribute, publish or share with a third person, disseminate or display in any way the Software or other elements of the Service protected by intellectual property rights without the permission of the Supplier or unless expressly allowed by these Terms.

12.5 The Client is not allowed to sub-license the Software or other elements of the Service protected by intellectual property rights to any third parties.

12.6 If Client provides the Supplier with any feedback in regard of the Service, the Supplier shall have the right to use such feedback at its discretion, including but not limited to the incorporation of suggested changes into the Service. In such case Client assigns, free of charge, the right to exercise the economic rights to the feedback to the Supplier. The Supplier may publish, modify, complete, process, translate, and combine/integrate the feedback with another work; the Supplier may present the feedback to the public under the Supplier's name.

### **13. DATA PROCESSING**

13.1 In case Supplier acts as a Personal Data processor within the meaning of the GDPR, especially when providing the Service (uploading and saving the Videos, analysing the Videos, providing and storing the Results) the processing of such Personal Data shall be governed by the Paragraphs 13.2.-13.14.

13.2 The parties acknowledge and agree, that:

13.2.1 Supplier is a processor of Personal Data;

13.2.2 Client is a controller or processor, as applicable, of Personal Data;

13.2.3 each party will comply with the obligations applicable to it under the applicable law with respect to the processing of Personal Data.

13.3 If Client is a processor, Client warrants to Supplier that Client's instructions and actions with respect to Personal Data, including its appointment of Supplier as another processor, have been authorized by the relevant controller.

13.4 By using the Service, Client instructs the Supplier to process Personal Data only in accordance with applicable law: (a) to provide the Service; (b) as further specified via Client's use of the Service; (c) as follows from the Terms; and (d) as further follows from any other written instructions given by Client and acknowledged by Supplier.

13.5 Processing of Personal Data shall be performed for the period, for which Client uses the Service plus the period until the deletion of Personal Data in accordance with the Terms.

13.6 Supplier shall process Personal Data through means of automated processing for the purpose of providing Service to the Client, unless Client orders the special services.

13.7 The Personal Data may include the data concerning persons, vehicles and any other information necessary for fulfilling the purpose of the Service.

13.8 Personal Data will concern the following categories of data subjects:

13.8.1 data subjects about whom Supplier collects Personal Data in its provision of Service; and/or

13.8.2 data subjects about whom Personal Data is transferred to Supplier in connection with Services by, at the direction of, or on behalf of Client.

13.9 If any third person, particularly a data subject or supervisory authority, requests any party to provide any information in relation to Personal Data processing under the Terms, or in this



relation makes any claim or exercises any right against any party, the party undertakes to inform the other party about such procedure without undue delay.

13.10 The Client is liable for fulfilling all obligations in relation to Personal Data processing, particularly for informing data subjects about Personal Data processing, obtaining consent with Personal Data processing if necessary, dealing with data subjects' requests relating to the exercise of their rights (such as right to information, access, rectification, erasure, process limitation, right to object etc.). The Client is further liable for fulfilling all notification obligations towards any supervisory authority relating to Personal Data processing, especially for notifying the supervisory authority on any personal data breach.

13.11 Client is solely responsible for reviewing the Terms and evaluating for himself or herself whether the security measures, and Supplier's commitments hereunder meet Client's needs, including with respect to any security obligations of Client under the applicable law.

13.12 Client acknowledges and agrees that (taking into account the state of the art, the costs of implementation and the nature, scope, context, purposes and differently probable and differently serious risks to individuals) the security measures implemented and maintained by Supplier as set out in the Terms provide a level of security appropriate to the risk in respect of the Personal Data.

13.13 For the duration of Personal Data processing, if Supplier receives any request from a data subject in relation to Personal Data, Supplier shall advise the data subject to submit its request to Client and Client will be responsible for responding to any such request.

13.14 For the purpose of the Personal Data protection Supplier undertakes, for the duration of processing Personal Data under the Terms, that it:

13.14.1 shall take appropriate steps to ensure compliance with the security measures by its employees, contractors and subprocessors to the extent applicable to their scope of performance, including ensuring that all persons authorized to process Personal Data have committed themselves to confidentiality or are under appropriate statutory obligation of confidentiality;

13.14.2 shall implement and maintain technical and organizational measures to protect Personal Data against any personal data breach described in respective Annex to the Terms;

13.14.3 shall not engage another processor without prior authorization of the Client, except for the cloud services providers ensuring data transfer between parties, Supplier's SW developers, and in case of engaging the abovementioned processors, Supplier shall ensure to obligate them to adhere to this Article;

13.14.4 in the scope appropriate to the nature of processing and available information, Supplier shall be supportive of the Client with ensuring appropriate technical and organizational measures to secure the Personal Data, notifying personal data breach to any supervisory authority or data subject, assessing data protection impact and with prior consultations with the supervisory authority;

13.14.5 shall provide the Client with necessary information, which can be fairly demanded from Supplier, to fulfil the Client's obligation to react to the data subject's request to exercise its rights under the data protection legislation;

13.14.6 shall delete, upon the termination of the provision of the Service and in accordance with the Terms, Personal Data, including all existing copies, unless European Union or Member State law requires its storage;

13.14.7 shall provide the Client with all information necessary to demonstrate Supplier's compliance with the obligations stated in the Terms and allow for and contribute to audits, including inspections, conducted by the Client or another auditor mandated by the Client according to audit terms stipulated in respective Annex to the Terms.

13.15 In case of the transfer of data subjects' Personal Data between the parties, where both parties are independent controllers, especially when Supplier uses the Video or Result in accordance with the Paragraph 5.2. each party agrees to comply with the obligations relating to processing and transfer of Personal Data under the GDPR or other legal regulations in the field of Personal Data protection. Relationships between the parties as independent controllers shall be governed by the Paragraphs 13.16.-13.19.

13.16 The parties agree to collaborate and provide each other with co-operation in relation to the Personal Data processing they carry out and with information necessary for fulfilment of their obligations under the Terms. In particular, the parties shall inform each other if a third party, in particular a data subject or the supervisory authority, request from any of the parties any details relating to Personal Data processing under the Terms or raise any claim or exercise any right in relation to any of the parties in this respect. In such a case the relevant party shall inform the other party of the above without undue delay.

13.17 Each party is responsible for fulfilment of its duties in relation to the Personal Data processing that the party carries out, in particular for resolving requests of data subjects relating to the exercise of their rights (such as the right to information, access, rectification or erasure, right to restriction of processing, the right to object to the processing etc.). However, the Client undertakes to (i) inform data subjects of the processing of their Personal Data by the Supplier under the Paragraph 5.2. and (ii) obtain and prove to the Supplier on its request the consent to process data subjects' Personal Data by the Supplier under the Paragraph 5.2. Without informing the data subject on behalf of the Supplier and without data subject's consent or other alternative legal basis, the Client may not use the Service.

13.18 Each party is individually liable for the fulfilment of its information and notification obligations with respect to the Personal Data processed by the relevant party towards the competent supervisory authority, in particular for notification of personal data breaches.

13.19 Each party shall individually implement and maintain security measures to secure a sufficient level of Personal Data protection corresponding to the relevant risk.

## **14. COMPLAINTS**

14.1 The Supplier does not guarantee any level of precision, accuracy, correctness or reliability of the Result. No complaint can be made in relation to the quality of the Result or the Service provision.

14.1.1 the only exception is the special service 100% guarantee of Results, if technically feasible from the provided video

14.2 Shall the Sample of the unpaid Service be unavailable, impaired, the link to the Sample corrupt etc., the Client may solely request the unpaid Service again.

14.3 Shall the Result of the paid Service be completely unavailable, the link to the Result corrupt, or the file containing Result cannot be opened, the Client can solely request the refund of the number of Credits which were deduced from his or her User Account in order to process the Result.

14.4 The request for refund can be filed via Supplier's email address [info@swisstraffic.ai](mailto:info@swisstraffic.ai) . Such request shall contain:

14.4.1 specification of the Result by name of the uploaded Video file,

14.4.2 Client's email address, under which the Video has been uploaded to the Service,

14.4.3 description of the problem with Result.

14.5 The Supplier shall verify the request and claimed defect. If the request is well-founded, the Supplier will refund the appropriate amount of Credits to the Client's User Account.

14.6 No other claim than refund of Credits shall be accepted by the Supplier.

## **15. LIABILITY**

15.1 The Supplier shall not be liable for any direct or indirect damage caused to the Client as a consequence of the Service provision or use of the Result, even if the Client had previously warned Supplier that damage can be incurred, including but not limited to the loss of profits, special or accidental damage or damage. Supplier accepts no liability for the Client's non-material damage.

15.2 The Supplier shall not be liable for any direct or indirect loss or damage caused by inaccurate, imprecise, incorrect or unreliable Result in the meaning of Paragraph 8.1.

15.3 The Supplier shall not liable for any loss arising from the unlawful origin of the Video or lack of authorization to process the Video within the meaning of Paragraph 7.1. The Supplier is also not liable for any loss caused by breach of law in relation to Personal Data or other data in the meaning of Paragraphs 7.2. and 7.3.

15.4 The Supplier shall not liable for any inconvenience or damage that may occur due to malfunctions or flaws in the Service, such as mechanical failure, technical failures, failures in Software, system upgrades, flaws in operating systems, networks or telecommunications systems or due to Service being interrupted because of electrical power failures or interruptions or interference with telecommunications services.

15.5 The Supplier accepts no liability for unavailability or loss of data, data corruption or other damage in relation to the Video or Result, unavailability of the Software, loss of competency of the Customer's operating environment to operate any version of the Software or the Result.

15.6 The Supplier is not liable for force majeure events that may result in it being impossible to provide the Service, for instance, due to government decisions, natural disasters, strikes (including planned strikes) or lock-outs, revolts, riots, sabotage, terrorism or wars, or any other similar events that cannot be prevented or controlled through normal actions by the Supplier.

15.7 The Client hereby confirms that he or she is aware of and accepts the limitations to liability as specified in this Article.

15.8 Shall in any case Supplier be liable for any damage to the Client, the parties have agreed, and the Client explicitly accepts that Supplier shall only pay total damages up to 5 CHF. This limitation does not apply to death, bodily harm or damages caused intentionally.

## **16. BREACH OF TERMS**

16.1 If the Client is found to be in or, is suspected of being in, breach of the Terms and/or misuses the Service or Result in any way, the Supplier is entitled, based on his sole impression and decision, to immediately block the relevant User Account without notice, put a ban on the User Account temporarily or indefinitely and/or delete the User Account. The same applies if the Client behaves in an unlawful or improper manner. In such case the Credits automatically expire, and the Client is not entitled to any compensation.

16.2 A breach of the Terms particularly occurs if the Client:

16.2.1 sends or otherwise shares information that violates applicable law or the Terms, or could damage the goodwill and reputation of Supplier;

16.2.2 uploads the Video without authorization, lacks authorization to process the Personal Data and other data in the Video, or breaches other obligation specified in Paragraphs 7.1., 7.2. and 7.3. hereof;

16.2.3 uploads content irrelevant for the Service provision or uploads excessive amount of data contrary to Paragraph 7.7.;

16.2.4 uses the Result beyond the limits set in the Paragraph 8.5.

16.3 Should the suspicion arise that the Client is acting in an unlawful manner, the Supplier reserves the right to inform the relevant authorities any time.

## **17. TERMINATION OF PROVISION OF SERVICE**

17.1 The Client has a right to terminate the provision of the Service. If he or she no longer wishes to use the Service, he or she shall inform Supplier about this by terminating the User Account in the settings. The Supplier shall delete all uploaded Videos, Results, Client Data and User Account within 6 months after the termination is requested. The Supplier can however continue in the use of Videos and Results which were processed or provided in the scope of unpaid Service in the meaning of Paragraph 5.2.

17.2 Supplier has a right to terminate the provision of the Service for convenience with a notice period of 6 months commencing from the date when the notice of termination is sent to the Client's email address or User Account. Termination of the provision of the Service results in deleting all uploaded Videos, Results, Client Data and User Account.

17.3 If the remaining Credits on the User Account are not used before the termination, they expire without any refund.

## **18. CHANGES TO THE TERMS**

18.1 Supplier reserves the right, at its sole discretion, to change, modify, add, or remove portions of the Terms at any time by making the new Terms available on its websites and by informing the Client through his or her User Account and/or informing the Client via his or her email address. The resolution of any dispute that arises between the Client and Supplier will be governed by the Terms in effect at the time when such dispute arose. Shall the Client

not reject the change of Terms within 15 days following the announcement to the Client, the Client accepts the changed Terms. Shall the Client reject the changed Terms within the foregoing period, the rejection constitutes a termination of the Service with a 30 days termination period, during which the latest mutually agreed Terms shall apply.

## **19. FINAL PROVISIONS**

19.1 All rights and obligations arising out of the use or in connection with the Service and the Terms are governed by law of the Czech Republic, without its provisions on conflict of laws.

19.2 Should any of the provisions of the Terms be or become invalid, void, ineffective or unenforceable, this fact shall not affect the rest of the Terms. The parties agree to replace any such invalid, ineffective, void or unenforceable provisions of the Terms a provision that is valid, effective, not considered void, enforceable and with the same business and legal meaning within 14 days of receiving a request from the other party.

19.3 The Terms shall be comprised solely of this document and its Annexes. Any emails or other communication between the parties and manifestations of will of the parties performed before the date of execution hereof shall be deemed irrelevant with respect to the text of the Terms. The parties explicitly stipulate that for the interpretation of the Terms, these materials shall not be taken into account.

19.4 The Parties agree that any dispute between them shall be settled amicably. If the parties fail to reach an amicable resolution to the dispute, any such dispute resulting out of or in connection with the Terms and/or use of the Service shall be finally decided by the courts of the Czech Republic.

19.5 Failure of either party to exercise or enforce any provision of or any of its rights under these Terms shall not be deemed a waiver of future enforcement of that or any other provision or right.

19.6 Supplier is entitled to place the business name, logo, trade mark or any other commercial identification of the Client on its website into the references section and use it in all its reference marketing materials. Supplier is also entitled to contact the Supplier for the purpose of providing telephone or email reference.

19.7 The parties agree that they shall not request or advise any of the existing clients, customers or suppliers of the other party to withdraw from, terminate, restrict or cancel their co-operation with the other party.

19.8 All communication between the parties shall be made in English, in particular electronically, with the use of the Software, User Account, email or other contacts available at the Supplier's website contact section. Written form is deemed to be adhered to also by sending an electronic message with simple electronic signature.

19.9 The Terms are issued by **SWISSTRAFFIC AG** and will remain valid from 29.01.2020.

## **ANNEX A**

### **SECURITY MEASURES**

As from the Terms effective date, Supplier will implement and maintain the security measures set out in this Annex. Supplier may update or modify such security measures from time to

time provided that such updates and modifications do not result in the degradation of the overall security of the processing.

**1. Risk-based principles.** Supplier shall periodically review the risk of information security, in connection with Personal Data and important activities of Client. The Supplier ensures the data security management.

**2. Organizational security.** Supplier shall implement measures to secure the Personal Data against the human failure, particularly:

- Adopting and maintaining internal regulation and documentation on the internal security;
- Periodical co-workers' training on the rules of dealing with Personal Data and the risk of information security;
- Ensuring that all employees, contractors, suppliers and other third persons with access to Personal Data have committed themselves to contractual liability.

**3. Technical measures.** Supplier shall implement appropriate technical measures to secure the Personal Data, particularly:

- Antivirus protection against malware;
- Network security solution, combining firewall, configuration of network features and other technologies;
- Tools to audit dealing with special categories of Personal Data, that are configured to automatically notify the incidents to a responsible person;
- Encryption of HDDs and external HDs;
- Data Loss Prevention (DLP) solution to enforce the rules of safe dealing with Personal Data and eliminating the risk of personal data breach;
- Important infrastructure and data backup.

**4. On-site security.** To secure the Personal Data stored in written form and the IT devices, Supplier shall particularly implement:

- Personal Data access processes and policies;
- Premises and on-site/digital repository security.

## **ANNEX B**

### **RULES FOR AUDITS**

**1.** Client must send any requests for the audit solely to the Supplier's email address [info@swisstraffic.ai](mailto:info@swisstraffic.ai) .

**2.** Following receipt by Supplier of a request for audit, Supplier and Client will discuss and agree in advance on: (i) the reasonable date(s) of and security and confidentiality controls applicable to any audit; and (ii) the reasonable commencing date, scope and duration of and security and confidentiality controls applicable to any audit.

**3.** Supplier may charge a fee (based on its reasonable costs) for any audit requested by the Client. Supplier shall provide Client with further details of any applicable fee, and the basis

of its calculation, in advance of any such audit. Client will be responsible for any fees charged by any auditor appointed by Client to execute any such audit.

**4.** Supplier may object in writing to an auditor appointed by Client to conduct any audit, if the auditor is, in Supplier's reasonable opinion, not suitably qualified or independent, a competitor of Supplier, or otherwise manifestly unsuitable. Any such objection by Supplier will require Client to appoint another auditor or conduct the audit itself.

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