

# TERMS AND CONDITIONS

Welcome to Segments.ai! As you have just clicked to our Terms and Conditions, please make a pause, grab a cup of coffee and carefully read through the following pages. It will take you approximately 40 minutes.

The following Terms and Conditions govern all use of our Software or any other service defined in each applicable Order Form (together or individually “Services”) operated by Segments.ai BV, established in Wagenweg 1/102, 3000 Leuven registered with the Crossroads Bank for Enterprises under N° 0742.718.508 (“Company”).

This document together with the attached Data Processing Agreement and each applicable Order Form (defined below) signed between Company and you (“Customer”) form the “Agreement”.

You acknowledge that you have read and understood the Agreement, and agree to be bound by them. If you do not agree with (or cannot comply with) the Agreement, you may not use our Services. However, please let us know by emailing us at [support@segments.ai](mailto:support@segments.ai) so we can try to find a solution. These Terms and Conditions apply to all visitors, non-paying users, paying customers and others who wish to access or use the Services (together or individually “Customer”). In case of any conflict between this document and any Order Form, the applicable Order Form shall control and prevail.

We would like to assure you that nothing in this Agreement requires the transfer of ownership of any of your data, and that data contributed to and by the Segments.ai community as Public Customer Data are made publicly available by us in accordance with these Terms and Conditions.

## DEFINITIONS

Affiliates:	Entities of the Customer that are controlled by or are under common control of the Customer.
Agreement:	The Terms and Conditions together with the attached Data Processing Agreement and each applicable Order Form signed between the Company and Customer.
Authorized Users:	Any employee or contractor of Customer, Affiliates or other users whom the Customer has expressly authorized to access and the Services on its behalf and under its responsibility, including but not limiting to collaborators of Customer’s datasets.
Company:	Segments.ai BV, established in Wagenweg 1/102, 3000 Leuven registered with the Crossroads Bank for Enterprises under N° 0742.718.508.
Confidential Information:	Any business, technical or financial information in relation to the Services which is not generally known or readily accessible to the public, in the sense that it is not as a body or in the precise configuration and assembly of its components generally known among or readily accessible to the persons active in the field, which is marked as “confidential” or which can reasonably be deemed confidential based on the circumstances of the disclosure and which is communicated by or on behalf of the Disclosing Party to the Receiving Party in connection with the Agreement, either orally, visually or in writing, in tangible form (including but not limited to documents, devices, electronic form or computer readable media) or intangible form, no matter on which medium.

Confidential Information includes but is not limited to

- (i) Concepts and ideas relating to the development and distribution of content in any medium or to the current, future and proposed products or services;
- (ii) Technical data, trade secrets, drawings, research results, product or service ideas, inventions (whether or not patentable), know-how, software code and programs (including modules, scripts, algorithms and features), software designs, computer programs (in particular source codes, even when disclosed after reverse engineering efforts), algorithms, data models, software source documents and any user or internal documentation
- (iii) Information regarding plans for research, development, new service offerings or products, marketing and selling, business plans, business forecasts, budgets and unpublished financial statements, licenses and distribution arrangements, prices and costs, suppliers and customers;
- (iv) Private Customer Data;
- (v) Existence of any business discussions, negotiations or agreements between the parties;
- (vi) Any information regarding the personal information, skills and compensation of employees, contractors or other agents of Customers or its subsidiaries or affiliates.

Furthermore, Confidential Information of Company includes but is not limited to non-public information regarding features, functionality and performance of the Service and Software.

Confidential Information shall include any copies, analyses, syntheses or abstracts made of it as well as any products, modules, samples, prototypes or parts that may contain or reveal Confidential Information.

Information disclosed by the Disclosing Party which the Receiving Party is able to prove, as evidenced by its written records,

- (i) was already in the possession of the Receiving Party at the time of disclosure; or
- (ii) is at the time of disclosure, or subsequently becomes, generally available to the public through no breach of this Agreement by the Receiving Party; or
- (iii) is lawfully obtained by the Receiving Party from a third party provided that third party is not, to the Receiving Party's best knowledge, in breach of any obligation of confidentiality to the Disclosing Party relating to that information; or
- (iv) is independently acquired or developed by or for the Receiving Party without violation of this Agreement,

shall not constitute as Confidential Information.

Customer:	Visitors, non-paying users, paying customers and others who access or use the Services in accordance with the Agreement.
Customer Data:	Data (including but not limited to images) initially uploaded by Customer on the Company's platform with the intent of being processed by Company's Services, and data and meta-data generated by (or on behalf of) Customer, in relation to the initially uploaded data (including but not limited to labeled images) using the Company's services.
Effective Date:	Date of creation of Customer's account on the Segments.ai platform, unless agreed otherwise in the Order Form.
Equipment:	Any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like.
Fees:	Fees described in the Order Form for the Services and Professional Services.
Intellectual Property Rights (IP):	All intellectual property rights granted under the applicable laws, including but not limited to copyright, database rights, trade marks rights, patent rights, design rights, whether registered or not, including applications for such rights.
Order form:	Specific terms and conditions applicable between the Customer and the Company.
Payment Terms:	Payment terms including payment schedule and payment method.
Private Customer Data:	Customer Data which are accessible to Customer's Authorized Users but not to other Customers.
Professional Services:	Services performed by Company for Customer such as but not limited to: implementation, labeling, workforce training, model development, installation services or other consultancy services in connection with Services.
Public Customer Data:	Customer Data which are accessible to other Customers of the Company.
SaaS:	Software as a Service.
Services:	The availability of, access to and use of the Segments.ai software solution and accessory services via the website <a href="https://segments.ai/">https://segments.ai/</a> encompassing the provision of <ul style="list-style-type: none"><li>(i) A cloud solution to label images, manage labeling workflows and track labeling efficiency</li><li>(ii) Company's proprietary technology (including algorithms, models and interfaces) to speed up labeling for segmentation</li><li>(iii) An API to upload images and download labels</li></ul> unless otherwise agreed in the Order Form.
Service Capacity:	Any maximum tolerance for the Services to be used per month.

Support hours:	The hours of 9am and through 5pm CET, with the exclusion of public holidays in Belgium.
Term:	The initial term of the Agreement as specified in the Order Form, and thereafter automatically renewed by one (1) year unless otherwise stated in the Order Form
Third Party Offerings:	External service offered by third parties that Customer may need to obtain to access the Services such as but not limited to certain hardware, software applications or other external services.

## **1 SAAS SERVICES AND SUPPORT**

- 1.1 Company will use commercially reasonable efforts to provide Customer the Services. Company does not accept any obligation to achieve a particular result.
- 1.2 As part of the registration process, Customer will identify administrative usernames and passwords for Customer's required accounts of Authorized Users.
- 1.3 Company will provide Customer with reasonable technical support services in accordance with Company's standard practice during the Support Hours. Company will aim to respond to helpdesk tickets (whether initiated via mail to support@segments.ai or via any other communication channel used in any prior discussions between Company and Customer) within two (2) business days.
- 1.4 Company may at its sole discretion modify, update, upgrade or extend the Services (including, by way of example, adding features and functionality, or enhancing security or usability) and inform the Customer about these modifications.
- 1.5 Company may make changes to the Terms and Conditions. Unless otherwise stated, changes to the Terms and Conditions will be effective immediately with at least thirty (30) days' advance notice to the Customer via either e-mail or the platform for material adverse changes. Customer may stop using the Services and terminate the Agreement in accordance with Article 10.

## **2 PROFESSIONAL SERVICES**

- 2.1 The parties may agree to have Company perform certain Professional Services for Customer, by describing such Professional Services and any fees therefor on (i) an Order Form, or (ii) on a separate, mutually-executed Statement of Work ("SOW") which references this Agreement and will then be a part of this Agreement after acceptance by Company.
- 2.2 Upon payment of any applicable fees set forth in each Order Form or SOW, Company agrees to use reasonable commercial efforts to provide the Professional Services described therein for the term specified therein (if any).
- 2.3 If Company provides Professional Services beyond those agreed in an Order Form or SOW yet upon mutual consent (including, without limitation, in excess of any hours estimates set forth therein), Customer will pay Company the agreed consultation rates for the mission.

## **3 RESPONSIBILITIES**

- 3.1 Customer shall use the Services in compliance with the Agreement, with all third party rights and with all applicable laws, including without limitation the laws related to the protection of personal data and intellectual property.
- 3.2 Customer shall refrain from any activities that (without prejudice to Article 4.4):
  - (i) interfere with, modify, disrupt or disable features or functionality of the Services, including without limitation any such mechanism used to restrict or control the functionality, or defeat, avoid, bypass, remove, deactivate or otherwise circumvent any software protection or monitoring mechanisms of the Services;
  - (ii) use the Services or Software for timesharing or service bureau purposes or otherwise for the benefit of a third party and neither to permit other individuals or entities to create Internet "links" to the Services or "frame" or "mirror" the Services on any other server, or wireless or Internet-based device;
  - (iii) Allow access to the Services or any part thereof or use or seek to commercially exploit any of the foregoing for the benefit of any third party ;
- 3.3 Customer alone shall have the responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and intellectual property ownership or right to use of all Customer Data. It represents and warrants that:
  - (i) the use of Customer Data under this Agreement will not violate or infringe the rights of any third party;
  - (ii) the Customer Data, unless expressly authorized by Company in writing:
    - a. is not hateful, discriminatory, racist, libelous, defamatory, abusive, pornographic, or threatening;
    - b. does not advocate or encourage criminal conduct.
- 3.4 Company reserves the right to monitor Customer's use of the Services and compliance with the Agreement and, where relevant, the applicable law. In case of non-compliance, Company is entitled to request Customer to remedy the default, suspend or terminate the Agreement in accordance with Article 10.

- 3.5 Customer is responsible for all of Customer's activity in connection with the Services, including but not limited to uploading Customer Data onto the Services and interacting with other Customers. Customer is responsible for the use of the Services by any Authorized User acting on their behalf.
- 3.6 Customer shall be responsible for obtaining and maintaining Equipment. Customer shall also be responsible for maintaining the security of the Equipment, accounts and passwords (including but not limited to administrative and user passwords) of Customer and Authorized Users, files, and for all uses of Customer account.
- 3.7 Access to the Services may also require Customer to obtain Third Party Offerings, whether or not via Affiliates. Third Party Offerings are not under Company's control and Customer hereby acknowledges that Company is not responsible or liable for the operation, content, functions, accuracy, legality, appropriateness, or any other aspect of such Third Party Offerings. Any purchase or use of Third Party Offerings may be subject to third party terms. Customer shall comply with all third party terms and shall indemnify and hold Company harmless from all damages, costs, settlements, lawyers' fees and expenses arising from or related to Customer's breach of any third party terms. Customer acknowledges that any provision by Customer of Third Party Offerings, and any exchange of data between Customer and third-Party provider, is solely between Customer and the applicable third-Party provider.
- 3.8 Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer's use of Services.

#### **4 SEGMENTS.AI: INTELLECTUAL PROPERTY – LICENSE**

- 4.1 Company remains the sole owner of the IP rights related to its Services, its software and material (such as but not limited to the source codes of computer programs, interfaces, APIs documentation, names, logos, images,...).
- 4.2 As a principle, Customer is merely entitled to use the Services in accordance with the terms of the Agreement, without acquiring any license to Company's IP rights. However, subject to all terms of this Agreement (including the limitations set out in the Order form) and only with respect to any software or documentation related to the Services that is distributed or provided to Customer for use on Customer premises or devices, where applicable, Company grants Customer a worldwide, non-exclusive, non-transferable, non-sublicensable license to use such Software during the Term only in connection with the Services and for Customer's internal purposes. For the avoidance of doubt, Customer is not entitled to download or otherwise receive any copy of Company's software, unless agreed with Company, and under no circumstances is Customer entitled to have access to the source code or any other confidential information of Company.
- 4.3 Subject to the foregoing limitations, Customer may allow access to the Services to its Authorized Users. Customer will not use or make available the Services in a manner that may allow any person or entity other than its Authorized User to access or use the Services or otherwise permit unauthorized access to the Services. Customer shall be fully responsible for each Authorized User's use of the Services.
- 4.4 Customer, its Affiliates and Authorized Users will not, directly or indirectly (nor permit or induce), unless expressly authorized by Company in writing,
  - (i) reverse engineer, decompile, disassemble, translate or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how, proprietary information or algorithms relevant to the Services or Software, except to the extent that such restriction is prohibited by applicable law and to the extent that Customer accepts to respect Company's Confidential Information. Prior to any attempt of Customer to reverse engineer for the purpose of achieving interoperability, it accepts the obligation to request in writing Company's cooperation;
  - (ii) reproduce, modify, translate, or create derivative works based on the Services and Software or any underlying ideas, technology or any portion thereof (except to the extent expressly permitted by Company or authorized within the Services);
  - (iii) access the Services in order to build a similar or competitive product or service to Company's Services;
  - (iv) use the Services in a manner that violates any third party intellectual property, contractual or other proprietary rights;
  - (v) use the Services in a manner that gives the Customer access to mass downloads or bulk feeds of any Data beyond what is readily enabled and allowed by the Software;
  - (vi) remove or alter any proprietary notices or labels.
- 4.5 Customer can provide ideas, suggestions, requests, feedback, recommendations all of any nature to Company regarding the Services. Company is free to use and incorporate such feedback without payment of royalties or other consideration to Customer.

## 5 CUSTOMER DATA: OWNERSHIP – INTELLECTUAL PROPERTY – LICENSE – THIRD PARTY RIGHTS

- 5.1 Customer shall own and keep owning all right, title and interest in and to the Customer Data, including Intellectual Property Rights (where applicable).
- 5.2 The Customer Data may contain subject matter that is protected under Intellectual Property Rights. Customer represents and warrants that it has the necessary rights or licenses for any Customer Data to be processed by Customer and/or Company in the context of the Services (covering at least third party rights of IP and image rights).
- 5.3 Customer grants to Company a non-exclusive license to use, copy, store and adapt (for technical purposes) the Customer Data for the performance of the Agreement, subject to additional conditions depending on whether the Customer Data are Public or Private Customer Data.
- 5.4 Customer authorizes Company to use the Customer Data for the purpose of improving Company's models and Services (including but not limited to training algorithms, building statistical models and profiles), yet subject to confidentiality obligation set forth in Article 6 of these Terms and Conditions. Company shall have the right to collect, analyze, derive and generate data, meta-data and other information relating to the Customer Data and use the same for the provision, use and performance of various aspects of the Services and related systems and technologies. Company will be free (during and after the Term) to use such Customer Data and derivative data at its sole discretion and including for commercial purposes, to test, improve and operate the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings. Company may publicly disclose information about the use of the Services for commercial purposes, without disclosing the Customer Data as such (notwithstanding Article 5.5 regarding Public Customer Data). This license covers the worldwide territory and is free of charge.
- 5.5 Company reserves the right to monitor Customer's use of the Services in order to verify compliance with the Agreement and to block access to or the use of any Customer Data that violates the terms of the Agreement (in particular Article 5.3). In the event that Customer Data violate the applicable criminal law, Company reserves the right to denounce such use to the public prosecutor's office (parket van de Procureur des Konings / parquet du Procureur du Roi).
- 5.6 **Private Customer Data.** Customer may decide that the Customer Data remain private, meaning that the Customer Data shall only be accessible to Customer and its Authorized Users. Customer then grants to Company a non-exclusive, royalty-free, non-transferable and non-sublicensable license to use, copy, store, host and adapt (for technical purposes) the Customer Data for the purpose of performing the Agreement. This license covers the worldwide territory, for the Term of the Agreement and is free of charge. Unless such access or use is due to Company's gross misconduct or negligence, Company is not responsible to Customer for unauthorized access to or use of Private Customer Data or Services thereon.
- 5.7 **Public Customer Data.** Customer may decide that the Customer Data be public, meaning that the Customer Data will be accessible to Customer, its Authorized Users and any other user of Company's Services. Customer then grants to Company a non-exclusive, irrevocable, royalty-free license to use, copy, store, host, adapt (for technical purposes), disclose, share the Customer Data, make them accessible to the public and to Company's Customers in particular, for the purpose of performing the Agreement and for granting public access to the Public Customer Data, in order to provide the Services to other Customers and to the general public. Customer authorizes Company to combine the Public Customer Data with other data sets, use the Public Customer Data as such or in aggregate form and commercialise such data, at its sole discretion and for commercial purposes. Company is under no obligation to mention Customer as the source of the Public Customer Data. This license covers the worldwide territory, for perpetual duration and is free of charge.
- 5.8 **Public License for Public Customer Data.** Customer accepts that Public Customer Data are publicly accessible to other Customers of Company, to whom a non-exclusive, royalty-free license is granted to may use, analyse, improve, enrich the Public Customer Data, combine these with other data, add meta-data to, generate derivative data, disclose the Public Customer Data and the derivative data, free of charge and only for non-commercial purposes. This limited and conditional license to the public covers the worldwide territory, for perpetual duration and is free of charge. Members of the public are obliged to mention both Customer and Company as the source of the Public Customer Data.
- 5.9 To the extent that Customer Data contain personal data, Customer warrants that it will act as the controller of the processing activities and shall have the responsibility to comply with the applicable legislation on the protection of personal data that apply to the Customer Data which is under Customer's responsibility to verify.
- 5.10 Customer Data may be accessible outside of the European Economic Area (EEA). Segments.ai acts as a processor of personal data and processes personal data in compliance with the European data protection legislation, in particular Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data ('GDPR'). The processing of data by Company on behalf of Customer is governed by the Data Processing Agreement.

## **6 CONFIDENTIALITY**

- 6.1 Either Party may disclose (the “Disclosing Party”) Confidential Information to the other (the “Receiving Party”).
- 6.2 The Receiving Party will make its best effort
- (i) to take reasonable precautions, but in no instance less precautions than the Receiving Party takes with respect to its own Confidential Information, to protect such Confidential Information and to maintain the security, secrecy and integrity thereof;
  - (ii) to ensure that each of its employees, agents, contractors or sub-contractors who will have access to the Confidential Information or perform any Services has entered into a binding written agreement that is expressly for the benefit of the Disclosing Party and protects Disclosing Party’s rights and interest to at least the same degree as this section states,
  - (iii) to promptly notify the Disclosing Party of any misuse, misappropriation or unauthorized disclosure of Confidential Information of Discloser which may come to the Receiving Party’s attention,
  - (iv) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Confidential Information.
- 6.3 The Parties are bound by the confidentiality obligations for the Term of the Agreement and for 5 years after its expiry or termination.
- 6.4 The foregoing shall not apply with respect to any information that is required to be disclosed by court order or otherwise required by law, provided, however, that Receiving Party provides prompt written notice to the Disclosing Party and makes a reasonable effort to obtain a protective order to prevent any such required Proprietary Information from being disclosed and, in the event that such protective order is not received, is used only for the purposes for which the order was issued, and only to the extent required.
- 6.5 Each Party acknowledges that in the event of any breach or threatened breach of this Section by either Party, the other Party may suffer harm and not possess an adequate remedy at law. Accordingly, each Party shall have the right to seek injunctive or other equitable relief to restrain such breach or threatened breach.
- 6.6 This section does not apply to Public Customer Data, which per its definition does not constitute Confidential Information.

## **7 PAYMENT OF FEES**

- 7.1 Customer can use the Services of Company in relation to Public Customer Data free of charge. Customer agrees to pay for the use of the Services of Company in relation to the Private Customer Data, in accordance with the rates that will be agreed between the Parties.
- 7.2 Unless otherwise agreed, subscription-based Services will start on the first day of subscription initially for the term as indicated in the Order Form, and shall be automatically renewed for additional periods of one (1) year unless either Party provides a thirty (30) days termination notice of the subscription in writing and unless otherwise stated in the Order Form.
- 7.3 Consequently, Customer will pay Company
- (i) the applicable Fees in accordance with the applicable Order Form; or
  - (ii) the price of the credit purchased on Company’s website (<https://segments.ai/>).
- 7.4 Unless specified otherwise, for Services contracted on a post-paid basis, Fees will be invoiced on a monthly basis on the first day of the next month, and Customer agrees to pay the Fees without any right of set-off or deduction.
- 7.5 Invoices will only be sent via mail to an e-mail address provided by Customer. Full payment for invoices issued must be received by Company thirty (30) days after the mailing date of the invoice. Invoices will contain sufficient and accurate records of the Services for which the Fees are applicable so that the Fees can pragmatically be verified by any Party.
- 7.6 In case the Order Form mentions Service Capacity, if Customer’s use of the Services exceeds the Service Capacity set forth on the Order Form or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage at the first day of the next month and Customer agrees to pay the additional fees in the manner provided herein.
- 7.7 Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Service Term or then current renewal term, upon thirty (30) days prior notice to Customer sent by email, Customer may terminate the Agreement during twenty (20) days following the receipt of the notice if Customer does not agree with the new charges and Fees.
- 7.8 If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date of the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Company’s customer support department.

- 7.9 Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service.
- 7.10 Customer shall be responsible for all taxes associated with Services other than Belgian taxes based on Company's net income.
- 7.11 Except where stated otherwise, all Fees paid to Company are non-refundable.

## **8 LIABILITY AND LIMITATION OF LIABILITY**

- 8.1 Company commits to an obligation to use all commercially reasonable efforts to provide the Services in accordance with the Agreement. It can however not accept any obligation to achieve a particular result.
- 8.2 Notwithstanding anything to the contrary, Company shall not be responsible or liable for any indirect, incidental, special, consequential or exemplary damages including but not limited to damages for loss of revenue, profits, goodwill, use, data or other intangible loss, loss of profits, damage to reputation,... resulting from the use or inability to use the Software or the performance of the Services.
- 8.3 In any case shall Company's global, cumulative liability be limited, to the extent permitted by law, to an amount equal to the Fees paid under this Agreement during the period of twelve (12) months preceding the event giving rise to the liability claim. For the avoidance of doubt, to the extent permitted by law, all liability is excluded for non-paying Customers.
- 8.4 Company shall not be responsible or liable with respect to any subject matter of this Agreement related thereto:
  - (i) For error or interruption of use or for loss or inaccuracy or corruption of data or cost of procurement of substitute goods, services or technology or loss of business or profits;
  - (ii) For any bugs, viruses, trojan horses or the like (regardless of the source of origination);
  - (iii) For any damages resulting from a use of a solution that is contrary to Company's instructions;
  - (iv) For any matter beyond Company's reasonable control; or
  - (v) For any amounts that, together with amounts associated with all other claims, exceed the Fees paid by Customer to Company for the Services under this Agreement in the 12 months prior to the act that gave rise to the liability, in each case, whether or not Company has been advised of damage possibilities.
- 8.5 The limitations or exclusions of liability are not applicable to Company's liability for fraud, willful misconduct or bodily injury of a person caused by Company's negligence or any other loss for which Company cannot lawfully exclude its liability. None of the limitations in this Section will apply to Customer's liability or indemnification obligations.

## **9 WARRANTY AND DISCLAIMER**

- 9.1 Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Professional Services in a professional manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-Party providers, or because of other causes beyond Company's reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.
- 9.2 However, Company does not warrant that the Services will be uninterrupted or error free, nor does it make any warranty as to the results that may be obtained from use of the Services or that it will meet Customer's requirements, goals or needs. The Services and Professional Services are provided "as is" and "as available" and Company disclaims all warranties, express or implied, including, but not limited to, implied warranties of title, noninfringement, merchantability and fitness for a particular purpose, and any warranties implied by any course of performance, usage of trade, or course of dealing, all of which are expressly disclaimed.
- 9.3 Customer acknowledges and agrees that Company is not responsible for
  - (i) The accuracy, reliability, timeliness or completeness of Customer Data or any other data or information accessed or provided through the Services,
  - (ii) The results that may be obtained from use of the Services, or
  - (iii) The functioning of the Services, where they are used in combination with third party services at the request of Customer or with services added by Customer.

## **10 TERM AND TERMINATION**

- 10.1 Subject to earlier termination as provided below, this Agreement shall commence on the Effective Date and at least the the Terms and Conditions and the Data Processing Agreement shall continue in full force and effect until Customer definitely closed or removed its account.

- 10.2 Unless otherwise indicated, each Order Form lasts for the initial Service Term as specified in the Order Form, and shall be automatically renewed for additional periods of one (1) year (collectively, the “Term”), unless either Party requests not to extend the Order Form at least thirty (30) days prior to the end of the then-current term.
- 10.3 In addition to any other remedies it may have, Company reserves the right to immediately and temporarily suspend access to the Services if the Customer materially breaches the terms of this Agreement, such as Customer’s responsibilities (Article 3), until such breach is cured.
- 10.4 Without limiting the foregoing, either Party may also terminate this Agreement, without prior court order, if the other Party materially breaches any of the terms of this Agreement and if the other Party fails to resolve the breaches within thirty (30) days’ notice (or without notice in the case of non-payment).
- 10.5 Customer is entitled to immediately terminate the Agreement, without compensation or indemnity, if the proposed changes to the Services or the terms of the Agreement are materially affecting the Services to the Customer.
- 10.6 Customer will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, the rights and licenses granted to Customer hereunder and under any and all associated Order Forms shall terminate.
- 10.7 Company will make all Customer Data available to Customer for electronic retrieval for a period of thirty (30) days, after this period if Customer wishes that Company makes the Customer Data available for a longer period the Parties will agree on a daily rate for the support.
- 10.8 Upon termination Receiving Party shall delete all Confidential Information disclosed by Disclosing Party. Company reserves the right to keep Confidential Information for the sole purpose of improving its Services and executing its Business. Company warrants that it will take appropriate and necessary measures to prevent the disclosure or any use of identifiable Confidential Information belonging to Customer.
- 10.9 All sections of this Agreement which by their nature should survive termination will survive termination in full force and effect, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

## **11 MISCELLANEOUS**

- 11.1 If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.
- 11.2 This Agreement is not assignable, transferable or sublicensable by Customer except with Company’s prior written consent. Company may transfer and assign any of its rights and obligations under this Agreement without consent.
- 11.3 This Agreement is the complete and exclusive statement of the mutual understanding of the parties. It supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement. All waivers and modifications of any rights, powers or remedies must be in writing signed by both parties, except as otherwise provided herein, which in any case cannot be a consequence of any failure or delay by any Party in exercising any right, power or remedy under this Agreement.
- 11.4 Company’s relationship with Customer is that of an independent provider. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing Party will be entitled to recover costs and attorneys’ fees. Either Party is not authorized to make any representation, contract or commitment on behalf of the other Party .
- 11.5 The Services are controlled by Company from its offices in Belgium. Company does not make any representation that the Services is appropriate for use in other jurisdictions. Customer’s use of or access to the Services will not be construed as Company’s purposefully benefiting from doing business in any other jurisdiction other than Belgium.
- 11.6 This Agreement shall be governed by the laws of the country of Belgium without regard to its conflict of law’s provisions. Any litigation concerning the validity, performance or interpretation will be brought before the courts of Leuven.
- 11.7 The Parties shall endeavour to settle all disputes relating to the performance of the Agreement amicably. Should they fail to reach an agreement, the Parties will first consider to settle the dispute under the rules of Mediation of Cepani (<https://www.cepani.be/>). In case no consent or solution can be found, the disputes arising out of or in connection with the Agreement will be brought before the French section of the Brussels Enterprise Court.
- 11.8 The parties shall work together in good faith to issue at least one mutually agreed upon press release during the Service Term, and Customer otherwise agrees to reasonably cooperate with Company to serve as a reference account upon request. Notwithstanding anything to the contrary, Company may use Customer’s name and logo to promote Customer as a Company’s client to the public and any third party.
- 11.9 Unless executed otherwise by Company, all invoices and notices under this Agreement will by default be communicated via e-mail.



# DATA PROCESSING AGREEMENT

Welcome to Segments.ai! As you have just clicked to our Terms and Conditions, please make a pause, grab a cup of coffee and carefully read through the following pages. It will take you approximately 40 minutes.

The following Terms and Conditions govern all use of our Software or any other service defined in each applicable Order Form (together or individually “Services”) operated by Segments.ai BV, established in Wagenweg 1/102, 3000 Leuven registered with the Crossroads Bank for Enterprises under N° 0742.718.508 (“Company”).

However unlikely, it may not be excluded that the Customer Data as defined in the Terms & Conditions contain personal data and that the processing of such data by Company on behalf of Customer causes data subjects to be covered under the Data Protection law. The following Data Processing Agreement describes the treatment of Personal Data that may be Processed by Company on behalf of Customer.

Together with the Terms & Conditions and with each applicable Order Form (defined in the Terms & Conditions) signed between Company and Customer, these form the “Agreement”.

## 1 SCOPE OF DATA PROCESSING

- 1.1 Under the Agreement, Company will provide the services as defined in Article 4 and in each applicable Order Form (hereinafter the “Services”).
- 1.2 Customer will endeavour to avoid the Processing of Personal Data in the Customer Data. In the event that Personal Data are present in the Customer Data, in the framework of the provision of Services, Company will Process the Personal Data as a Processor, acting on behalf of the Customer, acting as a Controller.
- 1.3 This Data Processing Agreement will be deemed to be an integral part of the Agreement. The Parties moreover agree that all provisions of this Data Processing Agreement shall remain in full force and effect and are completed by the Terms and Conditions (in particular Article 8 on liability).

## 2 DEFINITIONS

- 2.1 Following terms and expressions are to be defined as follows:
  - Controller, Data Subject, Processing, Personal Data, Processor  
shall have the meaning as defined in Article 4 of the GDPR.
  - Data Protection Law  
means the GDPR and the Belgian or other applicable legislations that might be applicable to the Processing of Personal Data.
  - GDPR  
means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).
- 2.2 All terms and expressions as used in this Data Processing Agreement and which have not been expressly defined herein, will have the same meaning as they have in the Agreement.

## 3 CONTROLLER AND PROCESSOR

- 3.1 Customer is and will remain at all times the Controller with respect to the Customer Data.
- 3.2 Company only acts as Processor and will not become the Controller with respect to the Customer Data.
- 3.3 Company commits to Processing the Customer Data on behalf of the Customer and in accordance with the provisions of this Data Processing Agreement, which constitute the documented instructions from the Customer. Parties agree that additional instructions from the Customer should be attached to this Data Processing Agreement in order to be valid between Parties.
- 3.4 In case any instruction of the Customer, in the opinion of Company, infringes Data Protection Law, Company will inform the Customer thereof immediately.
- 3.5 If Company is required to Process Customer Data by Union or Member State law to which it is subject, Company will inform the Controller of that requirement, unless that law prohibits such information.
- 3.6 Customer is required to provide sufficient legal basis with respect to the Processing of Personal Data, and, where applicable, enter into any required agreement with the necessary third parties (including Data Subjects).

## 4 SUBJECT-MATTER, PURPOSE AND DURATION OF THE CUSTOMER DATA PROCESSING

- 4.1 In order to be able to provide the Services, Company will Process Customer Data on behalf of the Customer.

- 4.2 The Customer Data will be Processed by Company for the purposes linked to the delivery of the Services as defined on each applicable Order Form, which may include the following:
  - (i) Labeling data
  - (ii) Anonymizing the images
  - (iii) Managing Authorized Users and workflows
- 4.3 Company will only Process Customer Data during the term of the Agreement. It will stop processing the Personal Data when the Customer deletes the Customer Data using the Services, at the latest at the termination of the Agreement.
- 4.4 At the moment of the termination of the Agreement, Company will delete or return all Personal Data and will delete existing copies of such Personal Data, unless the storage of original copies would be required for legal purposes. Company may anonymize Personal Data and becomes Controller for the anonymization of the Personal Data, for internal business, training and marketing purposes including but not limited to building statistical models and profiles. The anonymized Personal Data will not be considered Personal Data after anonymization.

## **5 CATEGORIES OF PERSONAL DATA AND DATA SUBJECTS**

- 5.1 The Customer Data relates to the following Data Subjects:
  - (i) Any natural person who might be represented, incidentally, in the Customer Data
  - (ii) Authorized Users
- 5.2 The Processed Personal Data covers the following categories:
  - (i) Annotated Customer Data
  - (ii) Metrics from the usage of Company's Services and Software

## **6 ANONYMIZATION**

- 6.1 The Customer Data may be anonymized, i.e., Company will edit the data in such a manner that the Data Subject is no longer directly or indirectly identifiable. Customer will take the necessary measures to comply with the legal obligations resulting from the Data Protection Laws, including providing a legal basis and informing the Data Subjects.
- 6.2 Parties agree that Company may further Process such anonymous data without limitations, in accordance with the Agreement.

## **7 OBLIGATIONS OF THE PARTIES**

- 7.1 Company will use commercially reasonable efforts to implement appropriate technical and organizational measures to ensure that Processing is performed in accordance with Data Protection Law (in particular article 32 GDPR) and to ensure an appropriate level of security of the Customer Data. However, Company cannot guarantee any particular result in terms of security.
- 7.2 Company will inform Customer of a personal data breach as soon as reasonably possible and at the latest 36 hours after having become aware of such data breach. Company shall provide Customer with all relevant information to enable Customer, if necessary, to notify the supervisory authority of this breach and to communicate it to the data subjects. Customer alone will decide on the information notice and its modalities. Company assists Client in taking measures to address the Personal Data breach, including, where appropriate, measures to mitigate its possible adverse effects.
- 7.3 Where necessary and upon request, Company will assist the Customer with the execution of a data protection impact assessment and possible prior consultation with competent supervisory authorities with respect to the Processing in accordance with this Data Processing Agreement. The Parties shall agree on the terms of such intervention.
- 7.4 Company will assist Customer, upon specific request and to the extent possible, with the response to requests from Data Subjects exercising their rights under Data Protection Law.
- 7.5 Customer will ensure that the Customer Data can be lawfully Processed in accordance with Data Protection Law and in particular that the Data Subjects have been duly informed on the circumstances under which their Personal Data is Processed.
- 7.6 Company will make available to the Controller all information necessary to demonstrate its compliance with the obligations of article 28 GDPR.

## **8 PROCESSING UNDER THE AUTHORITY OF COMPANY**

- 8.1 Company guarantees that any person acting under their authority and having access to the Customer Data, only Processes this Customer Data in accordance with the provisions of this Data Processing Agreement and have in particular committed themselves to confidentiality.

- 8.2 Company may engage sub-processors with respect to the Processing of the Customer Data and will provide notice to the Controller of any intended changes concerning the addition or replacement of sub-processors. These sub-processors will be held to the same contractual obligations as set out in this DPA. Where the sub-processor fails to fulfil its data protection obligations, Company will remain fully liable towards the Customer for the performance of that sub-processor's obligations.
- 8.3 Company will inform the Customer of any intended changes concerning the addition or replacement of these sub-processors. Customer is presumed to agree to all changes unless it objects on well-founded ground and within 15 calendar days following the notification.

## **9 TRANSFER OF CUSTOMER DATA**

- 9.1 Company may transfer Personal Data to countries outside the European Economic Area provided that such transfer is explicitly authorized by Customer, unless required to do otherwise by law and unless otherwise stated in the Terms & Conditions.

## **10 LIMITATION OF LIABILITY**

- 10.1 Nothing in this Data Processing Agreement shall limit or exclude any liability, rights or remedies provided by law.
- 10.2 Unless agreed upon otherwise in writing by and between the Parties, Company's liability hereunder shall be limited to the compensation for any damages incurred by Customer solely caused by Company's gross negligence and intent. Furthermore, Customer shall in no event hold Company liable for any indirect, incidental and consequential damages incurred by Customer or for profits lost by the latter.

## **11 NOTIFICATION, NOTICES**

- 11.1 Notification and notices to be served under this Data Processing Agreement shall be in writing in English or accompanied by an accurate translation into English and shall be delivered or sent to
- (i) Company: e-mail address [support@segments.ai](mailto:support@segments.ai);
  - (ii) Customer: contact details as provided on the applicable Order Form or to such other address as it may have been notified in writing to the Company.

## **12 AUDIT**

- 12.1 The Customer has the right to perform (by a mandated auditor, which shall not be a competitor to Company and which shall be subject to a confidentiality agreement with Company) at its own cost maximum 1 audit per year in order to verify whether the provisions of this Data Processing Agreement and Data Protection Law are complied with.
- 12.2 Company will be informed in writing about the planned audit at the latest 4 weeks in advance. The audit shall take place on business days, between 09.00 AM CET and 05.00 PM CET.
- 12.3 Company will lend assistance to the audit and will make available all information reasonably relevant in this respect.
- 12.4 Company shall have the opportunity to contribute information to the audit and to be heard by the auditor, prior to the rendering of the audit report.
- 12.5 In case the auditor finds shortcomings, the Parties shall discuss the outcome and, if applicable, agree on remedies.