USER TERMS AND CONDITIONS SPOTZI - Effective date: February 1, 2021

These User Terms and Conditions apply to all agreements and accounts entered into before and after February 1, 2021. In the event of a conflict between any provision in these User Terms and Conditions ("Terms") and any provision in the Terms that applied prior to February 1, 2021, the provision in the Terms that applied BEFORE February 1, 2021 shall prevail. In the event of a change to an existing agreement, these User Terms and Conditions will automatically apply.

1.   GENERAL
1.1   These Terms are incorporated with respect to Spotzi's provision of certain services to YOU, hereby referred to as the CLIENT or YOU. All communications, including these Standard Terms of Use, govern the relationship between the Parties with respect to the provision of DATA, MAPPING TOOLS, DASHBOARDS, WEBSERVICE, API or other mutually agreed upon services by SPOTZI, hereby referred to as SERVICES.
1.2   In the event of a conflict between a provision in these Terms and a provision in the text of a written Agreement between Spotzi and CLIENT, the provision in the text of the written Agreement shall prevail.
1.3   If the agreement concerns a subscription, the agreement is entered into for a period of at least 12 months after the signing of the agreement unless otherwise agreed in writing. The subscription can be cancelled per month after the initial term with observance of a notice period of 1 calendar month. Any costs invoiced in advance will be credited in this case.

2.   USE
2.1   Unless otherwise agreed in writing, the CLIENT is permitted to:
    2.1.1   Use our SERVICES, derivatives or results based on our SERVICES by up to the number of permitted users (third parties or people within your organization) that are within your agreement with Spotzi.
    2.1.2   Our SERVICES, derivatives or results based on our SERVICES to be used by up to one (1) user if no maximum number of permitted users is specified in the agreement between YOU and Spotzi.
2.2   Unless otherwise agreed in writing, the CLIENT is **NOT** permitted to:
    2.2.1   To resell our SERVICES, derivatives or results based on our SERVICES or otherwise make them available to third parties other than as authorized in clause 2.1. Including but not limited to making publicly available on a website, social media, email or other communication channel.
    2.2.2   To access DATA if such DATA is blocked as a download in our SERVICES.
    2.2.3   To provide advice based on our SERVICES. Including but not limited to as a consulting firm or marketing firm to use our Dashboards and the results from our Dashboards and to incorporate them into advice.
    2.2.4   Store objectionable or pornographic data or other data that is not legally obtained or should not be legally used.
    2.2.5   Use our SERVICES for illegal or unauthorized purposes, nor may CLIENT violate applicable laws and regulations (including but not limited to laws regarding the protection and processing of personal data and copyright laws) when using them.
    2.2.6   Use our SERVICES to share comments or opinions that may be misleading or that may distort or improperly influence elections, to provide content that directly contradicts the guidelines of leading international health organizations and public health agencies, to develop advertisements and advertisements that are misleading, immoral or vulnerable, and to restrict an individual's freedoms.
2.3   Unless otherwise agreed, provision by Spotzi takes place on a non-exclusive basis, which implies that Spotzi is entitled to make the SERVICES available to third parties at any time.
2.4   A license to use our SERVICES is only made available to the legal entity paying for the use of this license. If another legal entity such as a parent, subsidiary or sister company wishes to use this license, a separate license must be purchased. If Spotzi believes that your organization consists of multiple departments, each with a different focus on clients, projects and services, Spotzi reserves the right to change the license terms.
2.5   If the conditions set out in clauses 2.1 to 2.3 are not met, Spotzi reserves the right to block access to our SERVICES without warning and to recover from CLIENT any damages incurred by Spotzi. This includes but is not limited to Image damage, Fines and costs incurred by Spotzi to block access. Any fees invoiced in advance will not be credited.

3.   YOUR ACCOUNT
3.1   When YOU create an account with Spotzi, YOU must at all times provide Spotzi with information that is accurate, complete and current. Failure to do so constitutes a violation of the Terms, which may result in immediate termination of your account.
3.2   CLIENT is responsible for protecting the password YOU use to access our SERVICES and for any activities or actions underu password, whether your password belongs to our SERVICES or to a third-party service. YOU also agree not to disclose your password to any third party. YOU must notify Spotzi immediately if YOU become aware of any security breach or unauthorized use of your account.

4.   INVOICING
4.1   If payment is made by direct debit and credit card and for any reason whatsoever this payment proves to be irrecoverable, the CLIENT shall be given 5 business days to make the payment. If payment is not received within 5 business days, the provision of our SERVICES shall be terminated immediately. This does not relieve the CLIENT of his obligation to pay the invoice. The CLIENT must also pay an administration fee of 25 Euros. The service will be restored when all payment obligations have been met.

4.2   If payment is made by invoice, and if payment (or part of the amount due) is not received within the payment term stated on the invoice, Spotzi reserves the right to terminate the delivery of our SERVICES immediately. This does not relieve CLIENT of its obligation to pay the invoice. Spotzi also reserves the right to charge a late payment fee of 1.5% per month or the highest amount allowed by law, whichever is lower.

4.3   If a monthly subscription is taken and payment is not made by direct debit or credit card, the costs for the monthly subscription will be invoiced at least per 12 months in advance unless otherwise agreed in writing.

4.4   All taxes due will be added to the price of our SERVICES and will be paid by CLIENT.

4.5   Spotzi reserves the right to modify the agreed prices and geographical distribution of our SERVICES. This includes but is not limited to adjusting the agreed prices annually for inflation and making price adjustments due to increased costs.

5.   GUARANTEE

5.1   Spotzi declares and guarantees that the SERVICES provided by Spotzi meet the usual quality and technical standards (including keeping the content up to date).

5.2   Spotzi warrants that it is fully entitled and qualified to enter into the Agreement as well as that it holds all rights in relation to the SERVICES provided by Spotzi and that no rights of third parties are infringed.

5.3   Spotzi does not guarantee the quality and completeness of data acquired through a **Geocoder, Webcrawlers or** third party services over which Spotzi has no control, including but not limited to third party APIs and government dashboards. If data obtained through a Geocoder, Webcrawlers or third-party services over which Spotzi has no control can no longer be delivered then both CLIENT and Spotzi have the right to terminate the agreement between Spotzi and CLIENT. Any amounts invoiced in advance will be credited.

6.   PRIVACY

6.1   Unless otherwise agreed, the data provided by Spotzi which is directly provided and/or accessed in our SERVICES is not traceable to a person. However, there is a possibility that the data provided by Spotzi may be linked to a person by the CLIENT (e.g. linking of an address or to a person by the CLIENT). As a result, there is a possibility that the data provided by Spotzi could become personal data. CLIENT shall ensure and is responsible for ensuring that the purpose and means of processing the personal data then created are clearly established. The CLIENT also needs to have a legal basis and the data should be processed in accordance with local PRIVACY REGULATIONS like the General Data Protection Regulation and PIPEDA hereby referred to as PRIVACY REGULATIONS. Spotzi shall never have any control over and responsibility for these personal data. Spotzi has no control over the purpose and means of the data processed by the CLIENT and does not make decisions on matters such as the use of personal data, the retention period of personal data processed by the CLIENT and the disclosure of personal data to third parties.

6.2   If Spotzi promptly processes personal data on behalf of the CLIENT, Spotzi undertakes as follows with respect to this data:

   6.2.1   Spotzi acts as a data processor within the meaning of PRIVACY REGULATIONS with respect to the personal data and undertakes towards the CLIENT to do all that a processor of personal data is obliged to do according to PRIVACY REGULATIONS;

   6.2.2   Spotzi is not entitled to process the personal data for purposes other than the execution of the Agreement and, if necessary, according to the instructions of the CLIENT;

   6.2.3   Except insofar as disclosure and/or transmission is the purpose, to keep the personal data confidential and not to pass it on to third parties (other than sub-processors who are bound by the same or equivalent obligations as in this clause) without the prior written consent of CLIENT.

   6.2.4   Not to process (or have processed) the personal data in countries outside the European Union if CLIENT is in the Europe Union unless expressly approved by CLIENT;

   6.2.5   Not to retain the personal data for longer than is reasonably necessary and to destroy such data upon termination of the Agreement, to the extent he is not required to retain it pursuant to a legal obligation to retain it;

   6.2.6   Spotzi shall take appropriate technical and organizational measures to secure the Personal Data against loss or against any form of careless, incompetent or unlawful processing including, but not limited to, the following:

      6.2.6.1   The servers and data storage systems used by Spotzi are secured from outside access;

      6.2.6.2   Spotzi employees are not permitted to store data on their own workstation or on any portable storage device;

      6.2.6.3   The data can only be accessed by employee from a location other than a Spotzi office location via a secure (VPN) connection;

      6.2.6.4   Delivery of the data to the CLIENT takes place via a service secured with username and password or by means of API key.

6.3   If the CLIENT wants to have the way Spotzi complies with the security measures inspected, the CLIENT can make a request to Spotzi to do so. The CLIENT and Spotzi will make arrangements jointly. The costs of an inspection shall be for the account of the CLIENT. The CLIENT shall provide Spotzi with a copy of the inspection report.

6.4   If requested, Spotzi can assist CLIENT in fulfilling the duty to answer requests to exercise rights of parties involved, to the extent possible.

6.5   Spotzi will immediately inform CLIENT and provide a report if Spotzi knows or suspects that there has been unauthorized use, a security incident or a data breach involving personal data and cooperate with CLIENT to recover such data if necessary, inform parties involved and prevent further unauthorized use, dissemination or disclosure. Notification of the Data Privacy Authority remains the responsibility of CLIENT.

6.6   CLIENT shall indemnify Spotzi against claims and demands of third parties, including but not limited to regulators and shall hold Spotzi harmless for losses, damages and costs related to any failure of CLIENT to comply with the obligations of this clause and/or PRIVACY REGULATIONS

7.   SERVICE LEVEL AGREEMENT

7.1   Spotzi undertakes to provide SERVICES made available online (such as but not limited to our API and DASHBOARDS) without interruption and to minimize the number of interruptions. An interruption occurs when the provision of our SERVICES is interrupted for a period of time, subject to the provisions of this clause.

7.2   An interruption does not include:

    7.2.1   A minor deviation from the agreed technical specifications that does not interfere with the normal use of our SERVICES;

    7.2.2   An interruption of one hundred (100) seconds or less;

    7.2.3   An interruption in the delivery of our SERVICES related to maintenance;

    7.2.4   An interruption in the delivery of our SERVICES due to force majeure;

    7.2.5   An interruption in the delivery of our SERVICES that is directly due to a third-party fault, such as the CLIENT's network or internet connection.

7.3   The expected availability of our SERVICES is 99.9% per year. The availability of our SERVICES is defined as the percentage of total usage in one (1) year that no outages have occurred. Expected availability does not apply to the **Geocoder and Webcrawlers** or third party services over which Spotzi has no control, such as but not limited to third party APIs and government dashboards.

7.4   If Spotzi is unable to provide its SERVICES for a period longer than 10 working days, CLIENT has the right to terminate the Agreement with immediate effect. If the Agreement is terminated due to the failure, Spotzi will credit the fees already paid from the day the service was interrupted.

7.5   When scheduled maintenance is planned that will cause an interruption in the delivery of the SERVICES of more than six hundred (600) seconds, Spotzi will inform the CLIENT at least five (5) working days in advance. Spotzi will inform the CLIENT of the duration of the work involved. Maintenance shall be limited to corrective maintenance on the server side: maintenance, service availability, installation of updates and accessibility of the SERVICES as provided at the start of the Agreement. Maintenance arising from the CLIENT's wishes shall not form part of this Service Level Agreement.

7.6   To report interruptions or to request the status of interruptions that have already been dealt with, the CLIENT can contact Spotzi. YOU can contact Spotzi by phone on regular working days (except holidays), from 9:00 to 21:00 or by email with our support desk. The email address support@spotzi.com is available 24 hours a day.

7.7   The CLIENT shall notify Spotzi of an observed interruption by means of a notification by telephone or a notification by e-mail. An interruption reported by the CLIENT shall be registered by the helpdesk. The registration date is considered to be the date on which the interruption occurred.

7.8   Within a maximum of 8 hours (during working hours) of the failure being registered, Spotzi shall inform the CLIENT of the nature of the failure and the expected repair time.

7.9   The CLIENT reporting the interruption shall provide the information necessary to identify the SERVICES being interrupted. The CLIENT shall provide the necessary cooperation and shall be reachable by telephone for the first eight hours after registration of the interruption.

7.10   As soon as an interruption is resolved, Spotzi will notify the CLIENT by phone or email. The timing of this notification will be considered as the date when the interruption is considered resolved.

7.11   Spotzi shall endeavor to correct the interruption within a reasonable time.

7.12   Within one to 8 hours (during working hours) of registering the interruption, Spotzi will start working on restoring the interruption.

7.13   Within a maximum of 8 hours (during working hours) after the repair work has begun, the status will be reported to the CLIENT.

7.14   Neither party is obliged to comply with any obligation if prevented from doing so by a circumstance for which it is not to blame.

7.15   In the event of force majeure, the obligations arising from the contractual obligations shall be suspended in whole or in part for the duration of the force majeure. No compensation will be offered. Force majeure events are those over which Spotzi has no reasonable control. Force majeure events include strikes, late delivery by Spotzi, faulty or disruptive telephone and internet lines, flooding, fire, break-in, accident, contamination of ICT systems by unknown computer viruses that cannot be defined and identified by antivirus programs and firewalls, DDOS attacks.

8.   API

8.1   If CLIENT uses our API, there is a maximum number of WRITE and SQL statements per API call. This depends on the agreement that CLIENT has with Spotzi. It is the responsibility of CLIENT to be aware of these limitations.

8.2   If CLIENT exceeds the maximum number of WRITE and SQL statements per API call, the API does not stop working. However, data loss may occur. In this case, Spotzi is not liable for any data loss that might occur when CLIENT exceeds limits.

9.   INTELLECTUAL PROPERTY

9.1   All Intellectual Property rights of Spotzi, including copyright, trademark, database and trade name rights, belong exclusively to Spotzi and/or its licensors. The right to use our SERVICES in no way implies the existence of any transfer of Intellectual Property Rights to CLIENT.

9.2   It is therefore not permitted to reproduce or publish the SERVICES in any way, in whole or in part, without the prior permission of Spotzi.

9.3   In order to make our SERVICES available, in whole or in part, to third parties, the CLIENT must obtain permission from Spotzi in advance. Spotzi shall determine the conditions under which permission is granted, and the CLIENT shall not be able to rely on any permission previously granted or granted to third parties. Such permission may be subject to fees.

9.4   If CLIENT infringes on Spotzi's rights, CLIENT shall be responsible for all damages suffered by Spotzi as a result, including legal fees.

10.   LIABILITY

10.1   YOU expressly agree that the use of the SERVICES is at your own risk. Spotzi pays constant care and attention to the content, composition, functioning and availability of the SERVICES. Nevertheless, Spotzi does not give any guarantees, nor does it assume any liability in relation to the completeness, correctness or reliability of the content of our SERVICES, or in relation to the functioning and availability of our SERVICES - subject to Article 7 - nor does Spotzi guarantee that the information contained in our SERVICES is suitable for the purpose for which it is consulted.

10.2   Nothing in these Terms or in any written agreement between YOU and Spotzi shall be deemed to create an association, partnership, joint venture or the relationship of principal/agent or employer/employee between Spotzi on the one hand and CLIENT on the other. Spotzi is an independent contractor and will perform all Services as such. Neither party has the authority to make financial commitments on behalf of the other, nor does either party have the authority to make financial commitments on behalf of the other without the express written consent of the other. Spotzi is responsible for paying expenses to its own employees and subcontractors. Neither party is responsible for the responsibilities, taxes or otherwise of the other party.

10.3   Through our SERVICES, CLIENT may gain access to third party services, products or links, hereby referred to as LINKS, over which Spotzi has no oversight or control. CLIENT acknowledges and agrees that Spotzi provides access to such links "as is" and "as available" without any warranty, representation or conditions of any kind and without any endorsement. Spotzi assumes no liability whatsoever arising from or related to CLIENT's use of optional third party services, products or links. Nor shall Spotzi be liable for any purchases made by CLIENT from such third party as a result of the services, products or links made available by Spotzi.

10.4   In no case shall Spotzi, our directors, officers, employees, affiliates, agents, contractors, interns, suppliers, service providers or licensors be liable for any injury, loss, claim, or any direct, indirect, incidental, punitive, special, or consequential damages of any kind, including, without limitation lost profits, lost revenue, lost savings, loss of data, replacement costs, or any similar damages, whether based in contract, tort (including negligence), strict liability or otherwise, arising from your use of any of the service or any products procured using the service, or for any other claim related in any way to your use of the service or any product, including, but not limited to, any errors or omissions in any content, or any loss or damage of any kind incurred as a result of the use of the service or any content (or product) posted, transmitted, or otherwise made available via the service, even if advised of their possibility. Because some states or jurisdictions do not allow the exclusion or the limitation of liability for consequential or incidental damages, in such states or jurisdictions, our liability shall be limited to the maximum extent permitted by law.

10.5   Any liability of Spotzi is limited to compensation for direct damages, up to a maximum of the total amount paid or owed by the CLIENT on an annual basis for the use of our SERVICES.

11.   APPLICABLE LAW

11.1   For CLIENTS in Canada and the United States, Spotzi's SERVICES shall be construed in accordance with and governed by the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to conflict of law provisions.

11.2   For CLIENTS in other parts of the world, Spotzi's SERVICES will be interpreted in accordance with and governed by the laws of the Netherlands applicable therein, without regard to conflict of law provisions.

12.   FINAL PROVISIONS

12.1   If any provision of these Conditions is invalid, the remaining provisions will continue to have full effect. In this case the Parties will replace the invalid provision by a valid provision in accordance with the purpose and tenor of the Agreement and Conditions, such that the new provision differs as little as possible from the invalid provision.

12.2   Spotzi reserves the right to modify or discontinue the SERVICES (or any part or content thereof) at any time without notice. We will not be liable to YOU or any third party for any modification, price change, suspension or discontinuation of our SERVICES.

12.3   Spotzi reserves the right to modify these Terms. The amended Terms will apply to all existing and future Agreements from the effective date, including those entered into prior to amendment. CLIENT's continued use of or access to our SERVICES after the posting of any changes shall constitute CLIENT's acceptance of those changes.