Terms of Service

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Having its registered office at Lutmastraat 1 3, 1072 JL Amsterdam, the Netherlands.
Registered with the Chamber of Commerce under number 76248747

Effective date: 29 January 2020

Article 1. Definitions

Unless otherwise follows expressly from the context, the terms below are defined in these Terms of Service as follows:

1. **Stormly:** the other party to the Agreement with the Client and user of these Terms of Service.
2. **Client:** the natural person or legal entity that uses or wishes to use the Stormly Service and has concluded an Agreement with Stormly for this purpose, or negotiates about the conclusion thereof, and the other party to the Agreement.
3. **Agreement:** the contract for SaaS services between Stormly and the Client on the basis of which Stormly will provide Service to the Client against payment by the Client.
4. **Service:** the Service offered by Stormly via its Website or otherwise, including but not limited to reports, models and deployments, as well as all consultancy and implementation activities in this connection.
5. **User(s):** the individual person, company or organization that has visited or is using the Website or Service; that accesses or uses any part of the account; or that directs the use of the account in the performance of its functions. A User must be at least 18 years of age.
6. **End-User:** the individual person that is using Client's services.
7. **End-User Data:** data collected from End-Users.
8. **Content:** refers to content featured or displayed through the Website, including without limitation text, data, articles, images, photographs, graphics, software, applications, designs, features, and other materials that are available on the Website or otherwise available through the Service. "Content" also includes Services.
9. **User-Generated Content:** Content, written or otherwise, created or uploaded by our Users.
10. **Client Content:** Content that the Client created or owns.
11. **Parties:** Stormly and the Client jointly, and each individually as "Party".
12. **Website:** the Stormly website, which can be accessed at: https://www.stormly.com, including all data and API integration URL's (https://data.stormly.com, https://import.stormly.com, https://t.stormly.com, https://*.requests.stormly.com.
13. **Terms of Service:** the present Terms of Service for Stormly's Service.
14. **GDPR:** the General Data Protection Regulation
15. **In Writing/Written:** In these Terms of Service "in writing" includes communication by e-mail, fax or digitally (such as via an online interface), provided the identity of the sender and the integrity of the content is established sufficiently.

Article 2. Applicability

1. The present Terms of Service apply to the use of all Service offered by Stormly via its Website or otherwise.
2. Any general terms and conditions applied by the Client, by any name whatsoever, are expressly rejected. Deviations from and additions to these Terms of Service shall only be applicable if and insofar as they have expressly been accepted by Stormly in writing.
3. Should Stormly have permitted deviations from the present Terms of Service for a short or a longer period of time, tacitly or otherwise, such shall not affect its right to demand direct and strict compliance with these conditions as yet. The Client cannot derive any rights from the manner in which Stormly applies the present conditions.
4. The present conditions are equally applicable to all Agreements concluded with Stormly whose implementation involves third parties. Said third parties can invoke the present conditions directly against the Client, including any limitations of liability.
5. Should one or more provisions of the present Terms of Service or of any other Agreement concluded with Stormly be in breach of a mandatory statutory provision or any applicable legal provision the relevant provision shall lapse and be replaced by a new, legally permissible and comparable provision to be determined by Stormly.
6. The content of the Agreement shall prevail in case of a conflict between the content of an Agreement concluded between the Client and Stormly and the present terms conditions.
7. Stormly has the right at all times to change these Terms of Service. Stormly will notify the Client in writing of such changes at least 30 days before the changes enter into effect. In the event the changed content places the Client in a less favourable position, the Client will have the right to terminate the Agreement effective as from the date on which the changed conditions enter into effect.

Article 3. Subscription plans and trial

1. Stormly offers standardized paid plans and a custom plan, which is a custom made offer, prepared per request, based on the Client's specific needs or size of Client's company.
2. Every plan will include a free 30-day cancellation period. This cancellation period starts the day after concluding the Agreement. During this time, the Client can cancel the Agreement at any time without paying any fee. After 30 days, Client will be charged.
3. There will be a grace period of maximum 30 days after the subscription ends, during which Stormly will continue to record events on the Client's website. Client will have the option of renewing the subscription. If the Client doesn't renew the subscription within this period, Stormly will delete the data after the grace period.

Article 4. Access to the Service

1. Stormly will grant the Client access to the agreed Service during the term of the Agreement. In order to use the Service, the Client needs to create an account with information including the Client's name, email address, company name, company size, Client's position within the company and provide a password.
2. The Service can only accessed by using devices, operating systems and browsers that are compatible with the offered Service.
3. The Client is required to keep secret the username and password that Client uses to access the Service. Stormly is not responsible for abuse of the username and password and Stormly has the right to assume that the party that logs in to the Service using the username and password of the Client is actually the Client. The Client is obliged to notify Stormly in the event the Client suspects that the username and password have come into the possession of unauthorised parties. Stormly has the right to implement effective measures if this is the case.
4. Stormly has the right to access Client's account in order to improve the usage of the Service.

Article 5. Performance of the Agreement

1. Stormly will endeavour to the best of its abilities and knowledge to provide the Service in accordance with the technical and functional specifications as stated by Stormly in its documentation. However, Stormly's obligation in this connection is always merely a best efforts obligation on the part of Stormly and not an obligation of result.
2. In the event the abovementioned result is not realised, such will not release the Client from its obligations towards Stormly with the exception of any obligations the Parties have linked expressly to the realisation of the intended result.
3. Insofar as the proper performance of the Agreement requires such, Stormly will have the right to have all or parts of the activities carried out by third parties. Such to be decided by Stormly. The applicability of Articles 7:404, 7:407(2) and 7:409 BW is excluded expressly.
4. Stormly has the right to adjust all or part of its services, including its Website and Service from time to time in order to improve functionality and/or to restore errors. If an adjustment leads to a considerable change in functionality, Stormly will endeavour to notify the Client thereof. In case of adjustments that are relevant to multiple Customers it will not be possible to decide against implementation of a certain adjustment only for the Client. Stormly is not obliged to provide any compensation for damage caused by such an adjustment.
5. Stormly reserves the right to add, remove or modify beta functionalities to the Service without prior notification of the Client and without being thus obliged to pay any compensation to the Client.

Article 6. Obligations of the Client

1. The Service offer tools (amongst others) for registering and tracking and for obtaining insight into third-party (end users) use of websites and apps. However, the Client is always responsible for obtaining the required third-party consent for tracking purposes on time and in the correct manner. Stormly is not liable for damage sustained by the Client or third parties if it becomes clear that the required third-party consent was not granted or was not granted on the right grounds.
2. In the event the Client fails to comply with its obligations under the Agreement, Stormly will have the right to suspend or limit provision of the Service or the performance of activities until the Client has complied with its obligations or has provided sound security in this connection. Stormly will not suspend or limit until it has announced this to the Client in writing, with the exception of cases in which Stormly cannot be expected within reason to provide prior, written notification.
3. Client is responsible for making sure to secure its use of the Service, including account authentication details, end-user data in transit to and from the Service and making sure to encrypt end-user data uploaded to the Service.

Article 7. Responsibility for Client Content and User-Generated Content

1. The Client may create or upload User-Generated Content while using the Service. The Client is solely responsible for the content of, and for any harm resulting from, any User-Generated Content that the Client posts, uploads, links to or otherwise makes available via the Service, regardless of the form of that Content. Stormly is not responsible for any public display or misuse of the Client's User-Generated Content.
2. Stormly doesn't pre-screen User-Generated Content, but Stormly has the right (though not the obligation) to refuse or remove any User-Generated Content that, in Stormly's sole discretion, violates any of Stormy's terms or policies.

3. The Client retains ownership of and responsibility for Client Content. If the Client posts anything the Client did not create himself or does not own the rights to, the Client agrees that the Client is responsible for any Client Content the Client posts; that the Client will only submit Content that the Client has the right to post; and that the Client will fully comply with any third party licenses relating to Content the Client posts.

4. Because the Client retains ownership of and responsibility for the Client Content, Stormly needs the Client to grant Stormly — and other Users — certain legal permissions that apply to the Client Content. If the Client uploads Content that already comes with a license granting Stormly the permissions Stormly needs to run the Service, no additional license is required. The Client understands that the Client will not receive any payment for any of the rights granted this article, unless expressly stated otherwise. The licenses the Client grants Stormly will end when the Client removes the Client Content from Stormly's servers, unless other Users have forked it.

5. Stormly needs the legal right to do things like host the Client Content, publish it, and share it. The Client grants Stormly and Stormly's legal successors the right to store, parse, and display the Client Content, and make incidental copies as necessary to render the Website and provide the Service. This includes the right to do things like copy the Client Content to Stormly's databases and make backups; show it to and share it with other Users; parse it into a search index or otherwise analyse it on Stormly's servers; and execute it, in case the Client Content is a program or code.

6. Aforementioned license does not grant Stormly the right to sell the Client Content or otherwise distribute or use it outside of our provision of the Service.

7. Any Client Content the Client posts publicly, including comments, and contributions to other User-Generated Content, may be viewed by others. If the Client offers its Client Content to other Users free of charge or for sale, the Client grants each User or buyer a nonexclusive, worldwide license to use, display, and perform the Client Content through the Service. If the Client uploads Content the Client did not create or owns, the Client is responsible for ensuring that the Content the Client uploaded is licensed under terms that grant these permissions to other Users.

8. The Client retains all moral rights to the Client Content that the Client uploads, publishes, or submits to any part of the Service, including the rights of integrity and attribution. However, the Client waives these rights and agrees not to assert them against Stormly, to enable Stormly to reasonably exercise the rights granted in paragraph 4, but not otherwise.

9. To the extent this Agreement is not enforceable by applicable law, the Client grants Stormly the rights Stormly needs to use the Client Content without attribution and to make reasonable adaptations of the Client Content as necessary to render the Website and provide the Service.

Article 8. Intellectual property and copyrights

1. By concluding an Agreement with Stormly, the Client acquires a non-exclusive right of use concerning the Service agreed in the Agreement and made available by Stormly. This right of use is strictly personal and cannot be transferred to third parties; this right does not vest (as well) in companies or institutions affiliated with the Client.

2. Unless expressly agreed otherwise, the intellectual property rights (including copyrights) to the Service made available to the Client within the context of an Agreement continue to vest in Stormly and these are not transferred to the Client.

3. The Client does not have the right to copy or otherwise reproduce the Service or to publish it in any way whatsoever, other than in accordance with the provisions of the relevant Agreement pertaining thereto and unless stated otherwise.

4. The Client is not allowed to decompile, copy, modify, reproduce, sell, make available on loan, rent out, sell or transfer the software concerning the Service by way of security.

5. Stormly has the right if it considers this desirable to incorporate its company name and/or the brand name of the Service made available in the user interface (GUI) of the software services provided if it considers such desirable.

6. The Client is not allowed without Stormly's prior, written approval to use logos, brands, trade names or other intellectual property owned by Stormly in its communication (including advertisements and commercial communications) with third parties.

Article 9. Client and conduct restrictions

1. Companies using, operating on, or providing Blockchain technology are not allowed to use the Service.
2. Client shall not (attempt to):
   a. hack, reverse engineer or compromise any aspect of Stormly Technology and Service;
   b. to access data of any other Client of Stormly;
   c. harass, abuse, threaten, or incite violence towards any individual or group, including Stormly's employees, officers, and agents, or other Users;
   d. use Stormly's servers for any form of excessive automated bulk activity (for example, spamming), or relay any other form of unsolicited advertising or solicitation through Stormly's servers, such as get-rich-quick schemes;
   e. disrupt or tamper with Stormly's servers in ways that could harm Stormly's Website or Service, to place undue burden on Stormly's servers through automated means, or to access the Service in ways that exceed Client's authorization;
   f. impersonate any person or entity, including any of our employees or representatives, including through false association with Stormly, or by fraudulently misrepresenting Client's identity or site's purpose; or
   g. violate the privacy of any third party, such as by posting another person's personal information without consent.

Article 10. Processing activities

1. Stormly is considered to be the "Data Controller" within the meaning of the GDPR insofar as Stormly processes personal data concerning the Client in implementation of the Agreement.
2. If Stormly processes personal data concerning third parties, such as End Users, on behalf of the Client via the Service provided, Stormly will be considered to be the "Data Processor" within the meaning of the GDPR. The Parties will conclude a Data Processing Agreement with each other concerning this processing: Data Processing Agreement.

Article 11. Term of the Agreement and cancellation

1. The payment is billed in advance of each billing cycle (every month). All the fees that are already charged will be non-refundable. Stormly will not refund the payment for any unused time.
2. At the end of the subscription period (every month), the plan will automatically renew for a subscription period equal to the prior subscription period unless the Client sends an email to contact@stormly.com from the Client's registered email address, with the Client's account details or the Client can cancel the subscription from the "Organization and Billing" page.
3. The Client can cancel the subscription at any time. When the Client cancels the subscription the Client will not be charged for the next billing cycle.
4. The Client can downgrade the subscription plan at any time. Downgrading the subscription plan may cause the loss of account content, features, data or capacity. Stormly will not take responsibility for any of these losses.
5. When the Client chooses a subscription plan with specific amounts such as, but not limited to, data retention, seats, deployments, subscriptions or data point limits, Stormly will not charge the Client beyond the agreed upon amounts, nor will Stormly upgrade the Clients subscription plan. Data and functionalities that exceed the subscription plan will not be recorded, or functionalities will not be available, unless the Client upgrades the subscription plan actively by purchasing a bigger subscription plan.
6. Client agrees to pay all fees applicable to the chosen plan, including any taxes in connection with the use of the Service.
7. Client agrees to pay the taxes in regards to the country where the Client's company is registered.
8. The Client will be charged based on the credit card provided during the purchase of the plan. Stormly has a right to revoke access or delete Client's account in case the payment fails due to the incorrect billing information.
9. Payments are handled by Stripe. We do not take responsibility for issues that arise due to the way Stripe handles payment, upgrades, downgrades or cancellations.
10. If payment is not received from Client's credit card issuer, Client agrees to pay all amounts due upon demand. The Client will pay all costs of collection, including attorney's fees and costs, on any outstanding balance. In certain instances, the issuer of Client's credit card may charge Client a foreign transaction fee or related charges, which Client will be responsible to pay.
11. The Client does not have the right to set off Stormly's claims against any counterclaims it has against Stormly. This also applies if the Client applies for a (provisional) suspension of payment or is declared bankrupt.

Article 12. Rate changes

Unless expressly agreed otherwise, Stormly has the right to increase the rates owed by the Client effective as from the start of every calendar year. In the event Stormly considers there are reasons to increase the rates by more than 10%, the Client will have the right to terminate the Agreement in writing or by terminating the account within 30 days after notification effective as from the moment at which the intended rate change enters into effect. The Client has the right to continue to use Service against the original rate until the moment at which the Agreement ends on the basis of termination.

Article 13. Maintenance, updates, Service failures

1. Stormly will endeavour to offer the Service without interruption 24 hours a day and seven days a week, but it does not offer any guarantees in this connection, unless agreed otherwise (such as by means of a Service Level Agreement (SLA) indicated as such). The provisions if this article apply to availability insofar as not otherwise provided for in such an SLA.
2. Stormly has the right to put its systems, including its Website, chat function or parts thereof out of operation temporarily for the purpose of maintenance, adjustment or improvement thereof. Stormly will attempt to let such taking out of operation take place as much as possible outside working hours. However, Stormly is never liable to compensate damage incurred in connection with such a putting out of operation.
3. Stormly will endeavour to inform the Client of the nature and expected duration of the interruption in the event the Service are not available as a result of breakdowns, maintenance or other causes.
4. Stormly does not guarantee for any Services downtime, equipment of servers, failures of Client's equipment, strikes, riots, insurrections, fires, floods, explosions, war, governmental actions, labor conditions, earthquakes, natural disasters, etc. For more details see the "Service Disruption Terms" document.

Article 14. Service Rights

Stormly reserves the right to either modify or discontinue, some or all, of its services, including any of the features, at any time with or without notice to the Client. Stormly will not be liable to Client or any third party should Stormly exercise such right. Stormly will not be liable to Client or any third-party for any costs made to integrate or implement Content received or purchased through the Service with Client's product or business, such as, but not limited to: the tracking endpoints, Report API, deployment API, Custom templates and insights. Any new features that augment or enhance the then-current Service on the Website shall also be subject to these Terms of Service.

Article 15. Liability

1. While Stormly provides the Service at a professional level of skill as much as reasonably possible, Stormly does not make any specific promises about the Service. Stormly does not make any commitments about the availability, reliability, function, or ability to meet the Client's needs of the Service, or Content within the Service. The Service is provided "as is".
2. Stormly or any of its suppliers and distributors will not be responsible for lost profits, revenues or data, financial losses, downtime or indirect, special, consequential, exemplary or punitive damages, even if Stormly has been advised of the possibility of such damages. Stormly will not be liable to Client or any third party for any indirect or incidental damages.
3. Stormly doesn't guarantee that any information, such as but not limited to the Service, report results, models, insights or deployments are error-free.
4. Client will use the Service at its own risk and responsibility. When integrating Stormly with Client's own product(s) by using, but not limited to, the tracking libraries and end-points, deployment API, Insight API and reporting API, Stormly will not be responsible for incorrect results, loss in performance, malfunction or generally any negative impact on Client's product/business due to these integrations. Stormly is not responsible for any damage or loss caused by using the Services.
5. Stormly will not be responsible for patent infringement and any costs occurring from such event.
6. Although Stormly devotes maximum care to the Service it provides, including the information and functionality provided, it cannot guarantee the correctness and completeness thereof. Stormly does not guarantee that the Service will function without error or interruption and guarantees only the quality, functionality and availability of its Service as included in the Service Level Agreement (SLA) concluded with the Client.
7. Stormly allows Clients to publish, create and run (custom) plugins and code. These plugins and code can access Clients' data only. But there is always a possibility that there is a bug/security issue in Stormly's Services, which allows one Party to leak data from another Party on the platform. Stormly cannot be held liable whatsoever, in connection with a security incident or otherwise unauthorized access to Clients' data.
8. Stormly accepts no liability for damage resulting from security breaches caused by the use or implementation of the Service or the impact of the functionality on the Client's website as a result of the use or implementation of the Service.
9. Decisions made on the basis of information provided by the Service are for the Client's account and risk.
10. The limitation of the extent of liability described in this article does not apply in case of intent or wilful recklessness on the part of Stormly's managers (and managing employees).

Article 16. Indemnification

The Client indemnifies Stormly against all third-party claims, including claims on the basis of (an alleged) breach of third-party rights, including but not limited to persons whose personal data are processed by Stormly on the instructions of the Client. The Client will assist Stormly both in and out of court if Stormly is held liable in this connection. The Client will perform immediately all acts that may be expected of it in such cases. If the Client fails to implement adequate measures, Stormly will have the right to implement these itself without giving notice of default. All costs and damage on the part of Stormly and third parties that arise as a result thereof will be for the account and risk of the Client.

Article 17. Deleting the account and data

1. Client has the right to terminate the account and delete all data linked to the account at any time. Client can terminate the account by visiting the Client's account page or send an email to contact@stormly.com from the registered e-mail address. No refunds for unused time are given in case of termination.
2. Client's End-User Data is removed once the subscription ends, and the grace period has expired. Client's End-User Data is also removed when using specific data control tools.
3. Client's End-User Data is not removed where required by applicable law, or archived on backup systems, which are secured according as detailed in "Security Architecture Document", and prevented from any further processing, and eventually deleted in accordance with backup retention policies.

Article 18. Termination, restriction and suspension of the account

Stormly may terminate, restrict or suspend access to the Service, as well as restrict access to Client's account, immediately, without prior notice or liability, if Client breaches this Agreement or for any other reason.

Article 19. Confidentiality

1. Each Party must keep this Agreement and information it receives about the other Party and its business in connection with this Agreement ("Confidential Information") confidential and must not use or disclose that Confidential Information without the prior written consent of the other Party except to the extent that: (i) disclosure is required by law; or (ii) the relevant information is already in the public domain.
2. Stormly will not release Confidential Information about Client to a third party, unless it is requested by Client in writing.

Article 20. Applicable law

All Agreements concluded between Stormly and the Client are governed exclusively by Dutch law; also if the Client resides or is established abroad and irrespective of whether all or part of the Agreement is performed abroad.

Article 21. Disputes

All disputes of any kind, including those that are only considered such by one of the Parties, which may arise between the Parties pursuant to the Agreement or pursuant to Agreements that follow from it, will be settled by the competent court in Amsterdam. The above does not alter the Parties' possibility to agree in mutual consultation that a dispute will be settled by means of arbitration.

Article 22. Interpretation of the Terms of Service

In case of an interpretation of the content and purport of these Terms of Service and in case of a conflict between the content or interpretation of any translations of the present Terms of Service and the English version, the English version will always prevail.

FEATURES

Automatic Insights

Templates

Deployments

User Properties

Plug-ins

Intelligent Data

Analysis

Custom SQL

Marketplace

Insight API

SOLUTIONS BY ROLE

Product

Marketing

Sales

Development

Data Science

SOLUTIONS BY INDUSTRY

E-Commerce

Entertainment

Travel

All Industries

PRODUCT

Pricing

Start 30-day Trial

Log in

Try a demo

RESOURCES

Careers

Privacy Policy

Data Processing

Agreement

Terms of Service

Contact us

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