

General Terms and Conditions eCaption Hosted Services, December 2014

OptiSpeech B.V. is registered in the Chamber of Commerce Amsterdam under number 60441666.

Article 1. Definitions

1. These general conditions are applicable to the eCaption Hosted Service between OptiSpeech B.V., hereinafter referred to as the **Supplier**, and the user hereinafter referred to as the **User**.
2. The eCaption Hosted Service is a service using computer software to process video, audio and text based material into subtitle data.

Article 2. Applicability

1. These terms and conditions are applicable to the provision of the eCaption Hosted Service including the web-based front-end editor.
2. The applicability of any sales conditions or other conditions of the User is expressly ruled out.
3. By using the eCaption Hosted Service, User automatically accept these Terms and Conditions.

Article 3 Provision of information and responsibilities of the User

1. The User is responsible for the use and application in his organization of the eCaption Hosted Service as well as for the control and security procedures and adequate system management. That includes data management of any provided and/or processed data.
2. It is the User's responsibility to assure that providing data to the eCaption Hosted Service will not violate any non-disclosure agreement between User and third parties, or violate any property rights of third parties.

Article 4 Quality of the generated data

1. The quality of the generated data relates to the quality of the source data (video, audio and data files). The quality may vary per individual data file and/or audio file.
2. Supplier is not responsible for the quality of the generated data or the final end-result.

Article 5 Processing time and downtimes

1. The processing time of the eCaption Hosted Service depends on the type of agreement and priority levels.
2. The eCaption Hosted Service has an availability of 99%.

Article 6 Credits, Payments and Payment terms

1. To make use of the eCaption Hosted Service, credits are required.
2. Credits can be acquired using the payment methods listed on the eCaption website.
3. All fees to acquire credits are excluding 21% VAT. VAT will be added to the fees upon payment.
4. For Users in EU countries, except the Netherlands, it is possible under specific conditions to purchase credits for a fee excluding VAT. To make use of this option, only an upfront payment via bank transfer is possible.
5. The User will receive an invoice of the payment in all cases via email.
6. Credits are non-transferable and cannot be refunded into money.
7. Credits will remain valid for 1 (one) year after purchase.

Article 7 Properties and rights

1. Property rights of provided data will always remain at the original owner.
2. Supplier will never sell, rent or share data provided by User to any third party.
3. By providing data to the eCaption Hosted Service, User agrees that this data may be used for analytics and system extension (training) purposes. Neither the source of this data, nor the content, nor the provider of this data will be traceable. All data will be destroyed after using it for analysis or training purposes.

Article 8 Investigations and complaints

1. Any complaints about deliverables (generated data), have to be reported by User in writing within 2 weeks after processing date. The complaint has to include an as detailed as possible description of the shortcoming, which enables the Supplier to react adequately.
2. In the event of a valid complaint, Supplier will refund the used credits to the User.

Article 9 Liability

1. Supplier can never be held liable for non compliance.
2. The liability of the Supplier for direct damage is limited to the used credits for that specific file.
3. If the processing of provided data fails due to a system malfunction, Supplier will refund the used credits for this file to the User.
4. If the processing of provided data fails due to the provision of incorrect data, or data that does not comply to the data specifications, there will be no refund. In such case it is recommended to contact Supplier to avoid additional data failures.
5. The liability of the Supplier for indirect damage, including consequential loss, lost profit, missed savings and damage as a result of company stagnation is ruled out.
6. At any time, a condition for the existence of any right to damages is that the User notify the Supplier of the damage in writing as soon as possible after its occurrence.

Article 10 indemnities

1. The User will indemnify the Supplier from all claims made by third parties as a result of the provision of data by the User.
2. For all data that User provides to Supplier, User guarantees that electronic files are free of viruses and defects.

Article 11 Force majeure (Act of God)

1. Neither party shall be liable to the other for any failure to perform any obligation under any Agreement which is due to an event beyond the control of such party including but not limited to any Act of God, terrorism, war, Political insurgence, insurrection, riot, civil unrest, act of civil or military authority, uprising earthquake, flood or any other natural or manmade eventuality outside of our control, which causes the termination of an agreement or contract entered into nor which could have been reasonably foreseen. This includes strikes in the company of the Supplier, illness and or inability to work.
2. Any Party affected by such event shall forthwith inform the other Party of the same and shall use all reasonable endeavors to comply with the terms and conditions of any Agreement contained herein.
3. Supplier also has the right to invoke on a Force Majeure in case this prevents further continuation of the activities or provision of deliverables, in case the Force Majeure occurs after Supplier had to accomplished her obligations.

Article 12 Confidentiality

1. Both parties have the obligation to non-disclose any confidential information that has been provided by parties or obtained from another source. Information is confidential in case this is made explicit or results from the nature of information.

Article 13 Intellectual Property and industrial property

1. Rights of intellectual or industrial property to software and provided information supplied by the Supplier will remain exclusively with the Supplier or his licensors.
2. Supplier has the right to re-use any knowledge gained under the execution of the activities for other purposes, as long as no confidential information will be shared with 3rd parties.

Article 14 Disputes

1. Any disputes arising due to an agreement entered into by the Supplier and the User will in the first instance be solved using mediation.
2. In case mediation will not solve the dispute, the dispute will be brought to court in Amsterdam.

Article 15 Applicable law

1. This Agreement shall be governed, interpreted and enforced according to the Dutch laws and jurisdiction. It is applicable to the substantive rules and the adjectival rules, notwithstanding the place of execution of these primary or secondary obligations.

Privacy Policy

OptiSpeech respects the privacy of all users of the webeditor.ecaption.eu site. We do not share, rent or sell any personal information about our users with third parties or nonaffiliated companies, unless we receive a subpoena or similar document requiring it to disclose personal information.

The personal information will only be used to provide the services the user has requested.