

# GENERAL TERMS AND CONDITIONS OF SALE AND SERVICES

As of February 5<sup>th</sup>, 2025

These general terms and conditions of sale (the “General Terms”) set forth the terms and conditions under which Grafmaker SAS, a simplified joint stock company established under the laws of France with its registered office at 5 Rue Mstislav Rostropovitch, 75017 - Paris, registered with the Trade and Companies Registry of Paris under the number 810672113, provides the AutoRetouch services (“AutoRetouch Services”) to its subscribed clients (“Clients”).

**OUR SERVICES ARE AIMED EXCLUSIVELY AT AND ARE PROVIDED EXCLUSIVELY TO BUSINESS. WE DO NOT CONCLUDE ANY CONTRACTS WITH CONSUMERS.**

Under these General Terms, Grafmaker is doing business as “AutoRetouch”.

## 1. DEFINITIONS AND INTERPRETATION

Whenever used in the General Terms, including in the recitals, Appendices and/or titles, capitalized terms shall, unless the context specifies otherwise, have the meanings set forth below, without regard to whether they are used in the singular, plural, infinitive or conjugated form:

**Affiliate** means a) with respect to a legal entity (the “First Entity”) any legal entity that (i) controls such First Entity (ii) is controlled by such First Entity or (iii) is under the control of an entity that controls such First Entity, the notion of control being understood by reference to the provisions of Article L. 233-3 of the French Commercial Code and b) with respect to an individual, his or her descendants, preferred ascendants, preferred collaterals and spouse;

**Agreement** refers to these General Terms, the Order Form, the appendices, as well as the AutoRetouch Privacy Policy, as published on the AutoRetouch website, in their existing version as of the Effective Date and as they may be amended from time to time;

**API** means Application Programming Interface through which the Input Images may be uploaded and the Output Images delivered.

**Approved/Rejected Output Images** mean respectively, Output Images which is approved after a Quality Check and Output Images which is rejected after a Quality Check and goes through Manual Editing.

**AutoRetouch Services** means the AutoRetouch Services offering consisting of advanced AI-driven tools whose intended use is to edit and optimize images to meet brand requirements and streamline internal image post-production processes. The AutoRetouch Services may include a web-based software platform, application programming interface and associated software, and other related services.

**Classification** means the process by which either AutoRetouch or the Client assigns the Input Images to specific Workflows (as defined below). “Classification Services” refer to Classification performed by AutoRetouch as an additional service;

**Client** means the legal entity that enters into an Order Form under these General Terms;

**Commitment** means the financial commitment agreed upon by the Client in an Order Form, to the payment of which the Client is liable regardless of the Client’s actual usage of the AutoRetouch Services;

**Confidential Information** has the meaning given to it in the article “Confidentiality”;

**Effective Date** means the date on which the Client acquires one or more Subscription Plan(s) and on which this Agreement becomes valid and enforceable between the Parties;

**End User(s)** means the Client and any end user authorized by the Client to use the AutoRetouch Services under the Agreement. When the Client is an End User, the term “End User” applies to the Client, and vice versa;

**FTP Server** means a computer software consisting of a program that can upload Input Images and deliver Output Images.

**Input Image** means any photograph or image that the End User uploads to the AutoRetouch Services for processing;

**Manual Editing** means the functionality contained in the Pro and Enterprise Packs which provides for manual Output Images editing tasks.

**Non-Recurring Fees** means fees payable once at the outset of the subscription, such as the setup fees;



**Order Form means** any contractual document between the Parties relating to the ordering of AutoRetouch Services, executed within the framework of these Terms.

**Output Images means** any content (photographs and images) created by an End User from an input image (“Input Image”), processed and delivered through the AutoRetouch Services;

**SLA means** Service Level Agreement.

**Subscription Plan(s)** refer to the pack(s) to which the Client subscribes in order to access and use the AutoRetouch Services.

**Party means** AutoRetouch or the Client individually;

**Parties means** AutoRetouch and the Client collectively;

**Quality Check means** the functionality contained in the Pro and Enterprise Packs which provides for a human verification of the quality of the Output Images.

**Subscription Fees means** the fees corresponding to (i) the chosen Subscription Plan and (ii) additional services, such as Classification Services performed by AutoRetouch;

**Workflow means** the image processing workflow(s) created by AutoRetouch specifically for the Client, based on the Client’s brand guidelines.

## 2. ACCOUNT AND AUTHORIZED END USERS

Accessing and using the AutoRetouch Services requires the creation of an account (the “Account(s)”).

By creating one or more Account(s), the Client represents and warrants that any information provided in connection with the registration is and will remain true, accurate, and complete, and that it will maintain and update such information regularly.

The Client may authorize third parties to access and use the AutoRetouch Services through the Client Account(s), as its authorized End Users.

## 3. SUBSCRIPTION PLAN(S)

Access to and use of the AutoRetouch Services are subject to a subscription to one or more of the following Subscription Plan:

- Starter Pack,
- Pro Pack,
- Enterprise Pack.

The details of each Pack have been provided by AutoRetouch to the Client.

The price of the Client’s Subscription Plan will be calculated based on the chosen unit pricing of the Subscription Plan and the volume of monthly image credits (“Credit(s)”) the Client acquires.

The Client shall acquire the Subscription Plan(s) by executing an Order Form.

## 4. SUBSCRIPTION TERM AND RENEWAL

All AutoRetouch Subscription Plans are annual subscriptions, starting on the date of execution of the Order Form (“Subscription Term”).

Unless otherwise stated in an Order Form, (i) the subscriptions automatically renew for periods equal to the initial Subscription Term, unless the Client notifies AutoRetouch of its intention not to renew for the following year, in writing and thirty (30) calendar days before the end of the then-current Subscription Term in accordance with the termination procedure provided in article 15.3; and (ii) the price of the renewed Subscription Plan shall be the price in effect at the time of renewal, provided that it has been publicly communicated. Price changes are communicated at least 60 days before the price changes takes effect.

## 5. CLIENT ESSENTIAL OBLIGATIONS – RESPONSIBILITIES

- 5.1 Upon AutoRetouch's request, the Client shall provide AutoRetouch with the necessary brand information and guidelines so that AutoRetouch can create the relevant Workflows for the Client.
- 5.2 The Client shall ensure that it has the necessary rights, licenses, and permissions needed to provide and process the Input Images through the AutoRetouch Services and grant AutoRetouch the license rights defined in article 8.3.
- 5.3 The Client irrevocably undertakes to pay the total amount of the Commitment in accordance with article 6.
- 5.4 The Client shall use the AutoRetouch Services in accordance with the Agreement (in particular, article 8) and the applicable statutory provisions, laws and regulations and shall ensure that the End Users use the AutoRetouch Services in accordance with the Agreement and the applicable statutory provisions, laws and regulations.
- 5.5 The Client is responsible for using the AutoRetouch Services in accordance with its business strategy and requirements, pursuant to the conditions and restrictions under these General Terms.
- 5.6 As part of its duty to cooperate (article 23.4), the Client shall immediately notify AutoRetouch of (i) any obviously illegal Output Images generated by the AutoRetouch Services, (ii) any bug or error that may affect the AutoRetouch Services and ensure the availability of Client resources for troubleshooting, (iii) a risk or suspicion of risk for the compliance of data protection or data security which occurs within the scope of the AutoRetouch Services and (iv) a risk or a suspicion of a risk for the service provided by AutoRetouch.
- 5.7 The Client shall ensure that all passwords and any other login identifiers for the AutoRetouch Services are kept strictly confidential and not shared with unauthorized persons. The Client must immediately inform AutoRetouch of any security breach or unauthorized use of its Accounts.
- 5.8 The Client shall be responsible for the storage and backing up of its data, including but not limited to, Input Images and Output Images. The Client must perform regular backups of its data, including but not limited to, Input Images and Output Images.
- 5.9 The Client is responsible for assuring the suitability of the AutoRetouch Services for its business and use cases, based on the information provided by AutoRetouch.
- 5.10 The Client is responsible for creating the necessary environment (hardware, software, internet connection in adequate bandwidth and latency) for the use of the AutoRetouch Services.
- 5.11 The Client is responsible for its compliance with the rules governing its business sector and commercial activity, notably by adding any legal disclaimer/notice to the Output Images published, whenever necessary.
- 5.12 The Client is responsible for generating the Output Images, their exploitation and publishing. In particular, the Client must evaluate the Output Images for accuracy and appropriateness for its use case, including using human review as appropriate before exploiting the Output Images. As between the Client and AutoRetouch, Client shall be fully responsible for the Output Images and the consequences of submitting, posting, or otherwise making it available publicly.

## 6. FEES AND PAYMENT

- 6.1 **Non-Recurring Fees.** Non-Recurring Fees include, but are not limited to, the setup fees, as defined in the Order Form. The Non-Recurring Fees shall be invoiced to the Client at the outset, upon signature of the Agreement.
- 6.2 **Recurring Fees.** The Subscription Plans are made available to the Client in consideration of the payment of subscription fees as calculated in the Order Form. Additional service fees may include but are not limited to Classification fees should AutoRetouch be in charge of Classification in accordance with article 7.2 below. These Recurring-Fees shall be invoiced in accordance with article 6.3 below.
- 6.3 **Invoicing Method.** The Client shall either be (i) invoiced upfront for the total amount of the Commitment, upon signature ("Upfront Invoicing") or, (ii) invoiced monthly based on the Client's actual usage and once at the end of the Subscription Term to reflect the difference between the Client's actual usage and the total amount of the Commitment, should the actual usage be lower ("Monthly Invoicing").
- 6.4 **Commitment.** The Recurring Fees defined in a given Order Form constitute the Client's total commitment ("Commitment"). Regardless of the Client's actual consumption of the AutoRetouch Services and the Credits, the Client is liable to the payment of the Commitment in full. If the Client unilaterally terminates the Agreement on grounds other than those provided under article 15.2, the Client remains liable to the payment of the amount provided in the Order Form in full.

## **6.5 Credit Consumption - No Refunds**

- 6.5.1 The Client may use the totality of its Credits throughout the Subscription Term. Any outstanding Credits at the end of the Subscription Term will be canceled and non-refundable.
- 6.5.2 If the Client consumes the entirety of its Credits before the end of the Subscription Term but still wants to use the AutoRetouch Services, the Client will have to renew its Subscription Plan for another year.
- 6.5.3 All the amounts paid and payable to AutoRetouch under the Agreement are non-refundable.

## **6.6 Payment Terms.**

- 6.6.1 Any invoice issued under the Agreement shall be paid within thirty (30) days from the date of the invoice.
- 6.6.2 In the event of delayed payments, the Client shall be liable to pay interest on the overdue amount. The interest rate applicable shall be the rate applied on the due date by the European Central Bank plus ten (10) percentage points. Interest on the overdue amount shall be calculated from the date the payment was due until the date it is received in full by the Supplier. This interest will be applicable automatically and without the need for a prior formal notice. In case of non-payment and without prejudice to any action for damages, AutoRetouch reserves the right, without any liability, to suspend the access to the AutoRetouch Services or to terminate the Agreement, if the Client fails to pay the invoice thirty (30) calendar days after the receipt of an unsuccessful notice to pay.
- 6.6.3 In the event the Client fails to pay any invoice after multiple attempts from AutoRetouch to collect payment from the Client, without prejudice to the default interests and any claim or recourse AutoRetouch may have against the Client, AutoRetouch shall have the discretionary choice to (i) terminate the Agreement in accordance with article 15.3 or (ii) suspend the AutoRetouch Services - the AutoRetouch Services shall be reactivated as soon as the full payment of the outstanding invoices are made in full.
- 6.6.4 Should AutoRetouch decide to suspend the AutoRetouch Services pursuant to the above, the Client acknowledges that the duration of the Agreement shall not be extended by the amount of time the AutoRetouch Services were suspended and that any amounts due under the Agreement remain payable in full, without any deduction prorated to the amount of time the Services were suspended. AutoRetouch will not be responsible for any loss, damage, costs, expenses or other claims of the Client, any End User or any third party resulting from the suspension of access to the AutoRetouch Services.
- 6.7 **Taxes.** All amounts due under this Agreement are payable in full, without deduction for taxes or duties of any kind. In the event the Client is required by law to make any deduction or withholding from any sum payable under this Agreement, the sum in respect of which the deduction or withholding is required to be made shall be increased to the extent necessary to ensure that AutoRetouch receives and retains a net sum equal to the amount it would have received in the event no such deduction or withholding had been required.

## **7. PERFORMANCE OF THE SERVICES**

- 7.1 **Workflow Creation.** Based on the Client's guidelines and instructions provided in accordance with article 5.1 hereinabove, AutoRetouch shall create the Client Workflows. The Client's subscription includes two (2) change requests per Subscription Term. Any additional request shall be charged in accordance with the then-current pricing.
- 7.2 **Classification.** By default, the Input Images need to be classified and assigned to the relevant Workflows by the Client. However, should the Client require AutoRetouch to provide Classification Services, they shall be provided as an additional service and charged in accordance with the then-current pricing.
- 7.3 **Output Images Delivery.** AutoRetouch shall use Commercially Reasonable Efforts to deliver the Output Images within the turnaround times defined below.
  - 7.1.1 Default delivery turnaround times shall apply under the following conditions: (i) Classification of Input Images is done by the Client, and (ii) Input Images and Output Images are uploaded and delivered without AutoRetouch's intervention, via the user interface at the Client's disposal or the API.

Under said conditions, default delivery turnaround times shall be:

- Starter Pack: up to 10.000 Input Images, Output Images shall be delivered within (1) hour from upload.
- Pro Pack: up to 2000 Input Images:
  - Approved Output Images shall be delivered within five (5) hours from upload,
  - Rejected Output Images shall be delivered within twelve (12) hours from upload.
- Enterprise Pack: up to 500 Input Images:
  - Approved Output Images shall be delivered within five (5) hours from upload,

- Rejected Output Images shall be delivered within twelve (12) hours from upload.

Beyond the Input Image limits set out herein, the Output Images delivery turnaround times defined above shall not apply. For specific requests, the Client shall contact AutoRetouch.

7.1.2 Custom delivery turnaround times shall apply to all Subscription Plans under the following conditions:

- if Classification Services are provided by AutoRetouch five (5) hours shall be added to the default delivery turnaround times defined in article 7.3.1,
- if the Input Images are uploaded on, and Output Images delivered through, an FTP Server, twelve (12) hours shall be added to the default delivery turnaround times defined in article 7.3.1,
- if the Input Images are uploaded and Output Images delivered through a Client Relationship Management System or a Digital Asset Management System twenty-four (24) hours shall be added to the default delivery turnaround times defined in article 7.3.1.

**7.4 Revisions (Enterprise Pack).** The Enterprise Pack grants the Client one (1) revision per Output Image, free of charge, should the Output Image not satisfy the quality standard mutually validated by the Parties at the outset of the Agreement. The Client must reject the non-compliant Output Image within three (3) working days of delivery. Should the Client not reject the Output Image within the specified time period, the Output Image will be deemed accepted and may no longer be re-edited. AutoRetouch shall re-edit the Output Images only to the extent they do not comply with the applicable guidelines. AutoRetouch shall use Commercially Reasonable Efforts to swiftly re-edit the Output Images based on the volume of re-edits and the nature of the editing tasks requested. Under no circumstances shall the Client be relieved of any payment obligation associated with the AutoRetouch Services and the Output Images and/or be entitled to a refund of any Credits.

**7.5** The AutoRetouch Services are performed at the Client's sole risk and expense. In particular, the Client is responsible for the Input Images it submits to the AutoRetouch Services and the Output Images it generates through the AutoRetouch Services.

As a result:

- any Input Image (i.e. one image) submitted shall be processed by the AutoRetouch and charged to the Client, regardless of whether the image is submitted by mistake and/or in multiple copies or has already been processed by the AutoRetouch Services. AutoRetouch does not operate with external business logics and therefore will not flag multiple uploads of the same Input Image;
- any defective Input Image submitted or an Input Image submitted in a format which cannot be processed properly by the AutoRetouch Services shall be charged to the Client.

The Client further agrees not to submit any Input Images and generate Output Images that:

- may create a risk of harm, loss, physical or mental injury, emotional distress, death, disability, disfigurement, or physical or mental illness to you, to any other person, or to any animal;
- may create a risk of any other loss or damage to any person or property;
- seeks to harm or exploit children by exposing them to inappropriate content, asking for personally identifiable details or otherwise;
- may constitute or contribute to a crime or tort;
- contains any information or content that AutoRetouch deems to be unlawful, harmful, abusive, racially or ethnically offensive, defamatory, infringing, invasive of personal privacy or publicity rights, harassing, humiliating to other people (publicly or otherwise), libelous, threatening, profane, obscene, or otherwise objectionable;
- contains any information or content that is illegal (including, without limitation, the disclosure of insider information under securities law or of another party's trade secrets);
- contains any information or content that you do not have a right to make available under any law or under contractual or fiduciary relationships;
- contains any information or content that you know is not correct and current; or
- to the extent applicable, violates any school or other applicable policy, including those related to cheating or ethics.

**7.6 Media Storage.** The Input Images and the Output Images will be available to the Client via the AutoRetouch Services for three (3) months from upload and delivery respectively. AutoRetouch has no obligation to store or keep a backup of the Input Images and the Output Images beyond three (3) months.

## **8. OWNERSHIP AND INTELLECTUAL PROPERTY**

### **8.1 Ownership and Intellectual Property Rights in the AutoRetouch Services**

AutoRetouch retains all rights, title, and interest in and to the AutoRetouch Services.

The AutoRetouch Services, their Updates and all associated items, including the algorithms, technologies and artificial intelligence used by AutoRetouch, are original works of authorship protected by copyright and/or are protected as trade secrets.

AutoRetouch is the exclusive owner of any intellectual property rights and trade secrets related to the AutoRetouch Services, their Updates, all associated elements, algorithms and technologies used in the AutoRetouch Services, their features and any update or modification thereof.

Further, the Client acknowledges and agrees that AutoRetouch may collect data relating to the Client's and its End Users' usage of the AutoRetouch Services, including but not limited to their interaction with the AutoRetouch Services services analytics, and other information as indicated in the AutoRetouch Privacy Policy ("Usage Data") and collect, analyze, and use data derived from Output Images that has been aggregated/anonymized such that it does not identify the Client or any identifiable individual person ("Derivative Data" and, collectively with Usage Data, "Company Data"). All Company Data will be owned solely and exclusively by AutoRetouch and, for purposes of clarity, the Client hereby agrees that AutoRetouch may use the Company Data to analyze the usage and performance of the AutoRetouch Services and improve the user experience and performance of the AutoRetouch Services.

### **8.2 Rights Granted by AutoRetouch and Usage Restrictions**

#### **8.2.1 Rights Granted**

If any software, content or other materials owned or controlled by AutoRetouch is distributed or made available to the Client as part of its use of the AutoRetouch Services, AutoRetouch hereby grants the Client, a personal, non-assignable, non-sublicensable, non-transferrable, revocable, and non-exclusive right and license to access, use, and to permit its End Users to access and use, such software, content and materials provided as part of the AutoRetouch Services, in each case for the sole purpose of enabling the Client to use the AutoRetouch Services as permitted by the Agreement in accordance with the Agreement and for the Client's business purposes.

AutoRetouch makes documentation for the Services available ("Documentation") in electronic form. During the Subscription Term, AutoRetouch grants to Client a non-sublicensable, non-transferable, non-exclusive, limited license for Client and its End Users to use the Documentation to support Client's and its End Users' use of the AutoRetouch Services.

#### **8.2.2 Acceptable Use Policy**

The Client shall not:

- use the AutoRetouch Services in a way that violates these General Terms and/or applicable laws and regulations;
- use the AutoRetouch Services in a way that infringes, misappropriates or otherwise violates AutoRetouch's right or that of any third parties;
- send us any personal information of children under the age of 18 or the applicable age of digital consent or allow minors to use the AutoRetouch Services without consent from their parent or guardian;
- remove or alter any copyright, trademark, confidentiality or other proprietary notices, designations, or marks accessible through the AutoRetouch Services;
- access (or attempt to access) any non-public areas of the AutoRetouch Services;
- interfere with any access or use restrictions, or prevent (or attempt to prevent) another user from accessing or using the AutoRetouch Services, or disrupt AutoRetouch Services;
- use any robot, spider, or other automated means to access or scan the Website, Platform and/or the Services, frame or mirror any part of the AutoRetouch Services, or create a competitive business to the AutoRetouch Services;
- use any data mining or data gathering or extraction methods, or otherwise collect information about the AutoRetouch Services, and/or its visitors and/or users;
- collect or store personal information about any person or entity;
- send viruses, worms, malware, ransomware, junk email, spam, chain letters, phishing emails, unsolicited messages, promotions or advertisements of any kind and for any purpose;
- attempt to probe, scan, compromise or test the vulnerability of the AutoRetouch Services, system or network or breach any security or authentication;
- reverse engineer or decompile any (part) of the AutoRetouch Services, specifically in view of creating a similar

service;

- broadcast, distribute, resell, sublicense, rent, lease, offer for free or otherwise commercialize any the AutoRetouch Services, offering, product and/or feature;
- use the AutoRetouch Services for any illegal or unauthorized purpose;
- Access, upload or distribute offensive threatening or harmful content;
- use the Output Images to develop any artificial intelligence models that compete with AutoRetouch products and services;
- make any interfacing or integration with other services or software;
- adapt or modify the AutoRetouch Services.

8.2.3 To ensure that the behavior of some does not disadvantage the majority of our clients, the Client undertakes to use the AutoRetouch Services reasonably and not to overload AutoRetouch's servers.

8.2.4 All rights and licenses granted herein are subject to the Client's and End Users' full compliance with all of the terms and conditions of the Agreement. The Client expressly acknowledges that the Agreement does not grant the Client, its Affiliates and End Users any of AutoRetouch's intellectual property rights or any trade secret relating to the AutoRetouch Services. The Client refrains from infringing any of AutoRetouch's intellectual property and trade secrets covered in this Agreement, in any way whatsoever. Any rights not expressly granted under the Agreement are reserved by AutoRetouch.

8.2.5 Articles 8.1 and 8.2 apply directly to the End Users of the AutoRetouch Services.

### **8.3 Ownership and Intellectual Property Rights in the Input Images and the Output Images**

8.3.1 AutoRetouch claims no ownership rights over the Input Images and Output Images. As between AutoRetouch on the one hand and the Client and any End User on the other hand, the Input Images, the Output Images and all associated intellectual property rights are the property of the Client.

8.3.2 The Client hereby grants AutoRetouch, for the duration of legal protection of the intellectual property rights it holds in the Input Images and the Output Images in all the relevant jurisdictions, the irrevocable, worldwide and royalty-free right to use, host, store, copy, reproduce, adapt, modify and make derivative works of the Input Images and the Output Images, and the likeness contained in the Input Image and Output Images in part or in full, and in any form, media, or technology, (i) in order to provide the AutoRetouch Services as described in the Agreement and Documentation, (ii) for the purpose of its external communication (such as marketing on its websites and other Internet/social media platforms, or publishing of its research on its own media or third party media, printed or online), provided that such use is appropriate for external communication purposes, does not infringe the client's IP rights and does not use the client's personal data processed on its behalf, and (iii) the improvement of its AI-driven products and services; this includes research and development, machine learning, and the creation of datasets for the development and training of artificial intelligence (AI) models, specifically in the fields of image processing and generative AI.

## **9. PUBLICITY RIGHTS**

The Client grants AutoRetouch the right to use the trade name and logo of its company, as well as a general description of its relationship with AutoRetouch, for commercial reference purposes on its websites, in press releases, and any other communication and marketing documents that it may share from time to time, on any medium and media.

This right is granted free of charge, worldwide, for the entire duration of the Agreement and for two (2) years after the end of the Agreement.

## **10. RESERVED RIGHTS**

The Parties reserve all rights not expressly granted in this Agreement.

## **11. AVAILABILITY, MAINTENANCE AND UPDATES**

**11.1 Availability SLA.** AutoRetouch will use Commercially Reasonable Efforts (i.e the same degree of priority and diligence with which AutoRetouch meets the support needs of its other similar clients) to ensure a 98% availability of the AutoRetouch Services throughout the calendar month.

The AutoRetouch Services shall be deemed "available" when they are accessible and usable.

Therefore, only business critical failures shall be considered against the availability SLA. Business critical failures are errors that (i) prevent access to the AutoRetouch Services, (ii) disables major functions of the AutoRetouch Services from being performed, or (iii) materially impacts the operations of the Client's business.

Minor errors that (i) do not significantly affect the functionality of the AutoRetouch Services, (ii) disable only certain non essential functions or (iii) do not materially impact the operations of the Client's business, shall not be considered against the availability SLA.

Times in which the AutoRetouch Services are not available due to technical problems beyond the control of AutoRetouch (i.e. force majeure) are excluded.

**11.2 Maintenance Services.** Whenever possible, AutoRetouch shall inform the Client of the necessary maintenance services and their duration with at least seventy-two (72) hours notice ("Scheduled Downtime"). Scheduled Downtime shall not count against the availability SLA.

**11.3 Updates.** AutoRetouch may, from time to time in its sole discretion, develop and provide updates to the AutoRetouch Services, which may include upgrades, bug fixes, patches and other error corrections and/or new features that AutoRetouch deems beneficial to the Client and/or reasonably necessary for the security and functioning of the Services (together "Updates").

The Client shall be informed of any Update that may interrupt the AutoRetouch Services. In any case, the necessary downtime for Updates shall not count against the availability SLA ("Update Downtime").

**11.4** The Client hereby acknowledges and agrees that the default and custom delivery turnaround times defined in article 7.3 shall not apply during the contractual downtimes defined herein:

- Force majeure event,
- 0-2% downtime,
- Scheduled Downtime,
- Update Downtime.

## **12. FEEDBACK**

During the course of this Agreement, AutoRetouch will request the Client and its End Users' input regarding the Services, including, without limitation, comments or suggestions in relation to the possible creation of new features/functionality, modification, correction, improvement or enhancement of the Services and all associated offerings, or input as to whether the Client believes AutoRetouch's development direction is consistent with their commercial business and needs, the technology and marketplace industries in general, and the like (collectively "Feedback").

If the Client and/or End User submits Feedback, the Client and/or End User grants AutoRetouch a non-exclusive, worldwide, royalty-free, irrevocable and transferable license to use, commercialize, import, reproduce, incorporate, publicly display, distribute, modify, or otherwise fully exploit the Feedback internally and externally, without any obligation or restriction based on intellectual property rights or otherwise.

## **13. DISCLAIMERS**

By accepting this Agreement and using the AutoRetouch Services, the Client understands and acknowledges that the AutoRetouch Services and all related components and information are provided on an "as is" basis without any warranties of any kind.

The Client's access to, downloading from and use of the AutoRetouch Services is at its sole risk. To the maximum extent permitted by applicable law, AutoRetouch does not make any warranty of any kind, whether express, implied, statutory or otherwise (including, without limitation, warranties of merchantability, fitness for a particular use, and noninfringement).

AutoRetouch does not warrant that the operation of the AutoRetouch Services will be uninterrupted, timely, secure, or error free.

## **14. REPRESENTATION AND WARRANTIES**

**14.1** Each Party represents and warrants the (i) it is duly organized and validly existing under the laws of its jurisdiction of incorporation or formation ; (ii) It has the capacity and right to enter into this Agreement, to perform its obligations hereunder, and to carry out the transactions contemplated herein; and (iii) the signatory of the Agreement is duly authorized to sign the Agreement.

**14.2** The Client represents and warrants that:

**14.2.1** it has received the necessary information in relation to the AutoRetouch Services (including but not limited to a product and service description) in order to ensure the suitability of the AutoRetouch Services to its business requirements and

needs.

- 14.2.2 it will use the AutoRetouch Services and the Output Images in accordance with their purpose, the Agreement and any applicable statutory provisions, laws and/or regulations and refrain from using the AutoRetouch Services and the Output Images in a way that would infringe AutoRetouch's rights or that of third parties.
- 14.2.3 it has all necessary rights, licenses, and permissions (including without limitation any necessary consents and authorizations from individual persons identified and licenses from third-parties whose content is included in Input Images) needed to provide the Input Images to AutoRetouch Services and generate the Output Images, so that they do not, and will not, violate third-party rights of any kind, including without limitation any rights of privacy; particularly, the Client warrants that the Input Images will not contain material which is subject to copyright or other proprietary right, unless it has the necessary permission or is otherwise legally entitled to use the Input, in particular to create the Output Images from such Input Images, and grant AutoRetouch the license described in article 8.3.
- 14.2.4 it is responsible for the conduct of its End Users and their compliance with this Agreement.

## 15. TERMINATION

- 15.1 **Termination for Convenience.** A Subscription Plan and this Agreement cannot be terminated for convenience.
- 15.2 **Termination for Cause.** Either Party may terminate the agreement upon notice to the other party if the other party materially breaches the Agreement and such breach is not remedied within fifteen (15) calendar days following written notice.
- 15.3 The Client is responsible for its End Users, including for any breaches of the Agreement caused by its End Users. AutoRetouch may terminate the Agreement immediately on notice to Client in the conditions mentioned above if AutoRetouch reasonably believes that the AutoRetouch Services are being used by Client or its End Users in violation of applicable law.
- 15.4 **Termination Procedure.** Termination and non-renewal shall be by express written request by contacting AutoRetouch's legal department at [legal@grand-shooting.com](mailto:legal@grand-shooting.com).

For non-renewal notices, the termination request will be considered on the day the Client contacts the legal team and termination shall be effective at the end of the then-current Subscription Term.

### 15.5 Consequences of Termination

The Accounts will be closed on the effective date of termination. The Client shall be responsible for retrieving all data and Output Images before the closure of the Accounts.

Termination or expiration will not affect any rights or obligations, including the payment of amounts due, which have accrued under this Agreement up to the date of termination or expiry.

As a matter of consequence, should AutoRetouch be compelled to terminate the Agreement on the basis of the Client's breach of the Agreement, the Commitment shall remain due and payable in full to AutoRetouch.

Upon termination or expiration of this Agreement, the provisions that are intended by their nature to survive termination or expiry will survive and continue in full force and effect in accordance with their terms, including confidentiality obligations, limitations of liability, and disclaimers.

## 16. FORCE MAJEURE

Neither Party shall have any liability for any failure or delay in performing its obligations under this Agreement resulting from a force majeure event and from any event beyond the reasonable control of that Party including, without limitation fire, flood, typhoon, earthquake, insurrection, war, terrorism, power failure, civil unrest, explosion, embargo, pandemic, national strike.

## 17. AUTORETOUCH RESPONSIBILITIES

AutoRetouch shall not be responsible towards the Client for:

- 17.1 any difficulties linked to the Internet network, and more generally, any technical disruption likely to occur on AutoRetouch Services and whose fault would not be attributable to AutoRetouch;
- 17.2 any difficulties or disruption likely to occur on the the AutoRetouch Services which are attributable to the Client and/the End Users use of theAutoRetouch Services;

- 17.3 the interruption of the AutoRetouch Services in accordance with with Agreement;
- 17.4 the Output Images hosted by the AutoRetouch Services and the use made of such Output Images by the Client and/or End Users. As between the Client and AutoRetouch, Client shall be fully responsible for the Output Images and the consequences of submitting, posting, or otherwise making it available publicly.

## 18. INDEMNIFICATION

- 18.1 **Indemnification.** The Client agrees to defend, indemnify and hold AutoRetouch, affiliates, licensors, and our and their respective employees, contractors, agents, officers and directors, harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorney fees) incurred by AutoRetouch, arising out of (i) the Client's and any End User's use of and access to the AutoRetouch Services, including any Input Image or Output Images or other content transmitted or received from Client or any End User; (ii) the violation of the Agreement, including without limitation any breach of Client's representations and warranties above; (iii) the Client's or any End User's violation of any third-party right, including without limitation any right of privacy or intellectual property rights; (iv) the Client's or any End User's violation of any applicable law, rule or regulation; (v) the Input Image or any content that is submitted via the Client's or any End User's account, including without limitation misleading, false, or inaccurate information; (vi) the Client's or any End User's gross negligence, fraud, or willful misconduct; or (vii) any other party's access and use of the AutoRetouch Services with the Client's or any End User's credentials or other appropriate security code.
- 18.2 In general and subject to Article 15, each Party shall indemnify, hold harmless, and, at the request of the other Party, defend the other Party, its Affiliates, subcontractors, service providers, agents, and employees against any claim or action (including attorney's fees) suffered or incurred as a result of or in connection with any material breach of the Agreement.
- 18.3 **Indemnification Procedure.** A party seeking indemnity will provide the indemnifying party with prompt written notice upon becoming aware of any claim, reasonable cooperation in the defense of or investigation of the claim, and allow the indemnifying party sole control of defense and settlement of the claim, provided that the party seeking indemnity is entitled to participate in its own defense at its sole expense. The indemnifying party cannot enter into any settlement or compromise of any claim without prior written consent of the other party, which will not be unreasonably withheld, except that the indemnifying party may without consent enter into any settlement of a claim that resolves the claim without liability to the other party, impairment to any of the other party's rights, or requiring the other party to make any admission of liability.

## 19. EXCLUSIONS AND LIMITATION OF LIABILITY

- 19.1 Unless expressly provided otherwise, neither Party shall be liable to the other Party for indirect, incidental, consequential, or special damages suffered by the other Party (including, without limitation, damages for loss of business, loss of revenue, loss of savings, loss of profits, or loss of data/content suffered by the other party), regardless of the form of action, whether contractual, warranty, strict liability, or tort, including, without limitation, negligence of any kind, whether active or passive, and whether the parties have or have not been aware of the possibility of such damages. Each party hereby releases the other Party (and its Affiliates, their officers, directors, employees, and respective agents) from any such claims.
- 19.2 No provision of this article shall limit the liability of either Party to the other Party for (i) intentional or willful misconduct (including gross negligence), (ii) bodily injury, death, or damage to tangible real property or tangible personal property, (iii) fraud or fraudulent misrepresentation, (iv) the Client's violation of Grafmaker's intellectual property rights, (v) breach of confidentiality obligations herein, or (vi) other cases to the extent such limitation or exclusion is not permitted by law.
- 19.3 Subject to the foregoing, Grafmaker's aggregate liability under the Agreement is limited to the amount of net revenue generated by the Partnership in the six (6) months preceding the claim.
- 19.4 If the Client violates its obligation to properly back up data, AutoRetouch's liability for loss of data shall be limited to the amount of the damage that would have occurred even if the Client had properly and regularly backed up the data.

## 20. CONFIDENTIALITY

The Agreement and any information relating to the negotiation, discussions and/or talks as well as any information, documents or data in particular commercial, technical, contractual and/or financial, communicated or disclosed, communicated or disclosed concerning AutoRetouch, the AutoRetouch Services and any nonpublic product, service, or technology developed by AutoRetouch, are confidential and constitute a trade secret (the "Confidential Information").

During the entire duration of the Agreement and for a period of one (1) year after the expiration or termination of the

Agreement, the Client agrees to (i) not disclose said Confidential Information to any third party unless prior written approval is obtained from AutoRetouch, and (ii) take necessary measures to prevent the disclosure or unauthorized use of Confidential Information.

## **21. DATA PROTECTION**

- 21.1** AutoRetouch is well aware of the fact that a careful handling of Client's personal data processed by AutoRetouch is of paramount importance. AutoRetouch complies with all applicable data protection laws and regulations and has implemented a solid data protection management system.
- 21.2** When an End User creates an account for the access and use of the AutoRetouch Services, AutoRetouch collects and processes the personal data provided during registration as a controller. AutoRetouch collects and processes this data in order to enable the usage of the AutoRetouch Services and to learn about the usage of the AutoRetouch Services and to improve and optimize the user experience. Details on data collection and processing can be found in the **AutoRetouch Privacy Policy**.
- 21.3** Personal data contained in Input Images and/or Output Images processed via the AutoRetouch Services are processed by AutoRetouch as a data processor on the Client's behalf and instructions. This data processing is regulated in the **AutoRetouch Data Processing Addendum**, attached to these General Terms as **Annex 1**. The Data Processing Addendum is an integral part of the Agreement.

## **22. ETHICS AND ANTI BRIBERY**

- 22.1** Each Party commits to operate in an environment that respects, supports, and promotes corporate social responsibility (including with its own suppliers). Each Party therefore declares that in the course of its activity, it operates in an environment complying with standards of the International Labor Organization, with the OECD guidelines for multinational enterprises, and with the United Nations Global Compact.
- 22.2** Compliance with Anti-Corruption Laws. Each Party also declares that it operates in an environment free of all form of corruption, including extortion, bribery, influence peddling and that it complies with Part I of the ICC Rules on Combating Corruption 2011 and with the applicable anti-corruption laws and regulations, including those having an extraterritorial reach, such as Sapin II (France), the Foreign Corrupt Practices Act (United States of America), the UK Bribery Act (United Kingdom). Without limiting the foregoing, each Party represents and warrants that itself and/or its Affiliates shall not, directly or indirectly, offer, promise, solicit, authorize, pay, or accept any gift, benefit, undue pecuniary, or other advantage of any kind (or imply that they will) to or from any person in any way connected with its agreement with the other Party (and that it has taken reasonable measures to prevent its subcontractors, agents or any other third parties, from doing so) and which is intended to induce or encourage, or which has the effect of inducing or encouraging, to breach any duties or obligations of that person.
- 22.3** Sanctioned Countries. In the course of its activity and when performing this Agreement, each Party also declares that it complies with the restrictive measures regarding sanctioned countries as provided by the laws and regulations of the European Union and the United States (including the US Department of the Treasury's Office of Foreign Assets Control (OFAC)). As such, Each Party commits not to enter into contact with persons and/or entities subject to international sanctions and not to, directly or indirectly, trade with sanctioned countries (including by exporting or importing goods, AutoRetouch Services or other resources) to the extent such trade activity fall within the scope of the sanctions.

## **23. MISCELLANEOUS**

- 23.1 Notices.** All notices hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, or (ii) two (2) business days after sending by email. Emails to AutoRetouch shall be directed to our Legal Department [legal@grand-shooting.com](mailto:legal@grand-shooting.com), and e-mails to the Client shall be addressed to the administrative contact designated in the Order Form. Notices relating to a Party's indemnity obligations must be sent by registered mail and email.
- 23.2 No assignment.** The Client shall refrain, without the prior written consent of AutoRetouch from assigning, contributing or transferring, in any form whatsoever, all or part of the Agreement, in particular by way of assignment or lease management of its business, merger, demerger or partial contribution of assets.
- 23.3 Succession.** The Agreement binds in its entirety the heirs and assigns of the Parties.
- 23.4 Cooperation and Good Faith Obligations.** The Parties have an essential duty to cooperate at all times to ensure the mutually beneficial outcome of the Agreement. The Parties undertake to behave at all times towards each other as loyal

co-contractors and to perform their obligations and exercise their rights in good faith.

- 23.5 Severability.** If one or more of the provisions of the Agreement appear to be invalid or inapplicable to the Parties, they shall, as part of their obligation of good faith, replace them with others that correspond to the spirit and purpose of the Agreement, without affecting its economy. In the event of judicial annulment of one or more provisions of the Agreement for any reason whatsoever, the court shall substitute a clause of equivalent effect within the scope of its power of interpretation. In any event, the other provisions shall retain their full force and scope.
- 23.6 Non-Waiver.** The failure of either Party to enforce any provision of the Agreement shall not be construed as a waiver of its rights under such provision. Waiver by either Party of any provision of the Agreement shall be effective only when Notified. Waiver of a particular provision in a particular situation shall not constitute a general waiver of such provision, nor a waiver of other provisions in any other situation.
- 23.7 Amendments.** AutoRetouch may have to respond from time to time to material changes in the applicable law, the relevant market and business environment, technical developments or similar good reason by amending relevant terms of these General Terms with regard to the provision of the AutoRetouch Services in accordance with this paragraph, provided that the amendment does not have any impact on the contractual content that is material for the equivalency of the AutoRetouch Services and the corresponding remuneration. AutoRetouch will inform the Client about any amendment of these General Terms in electronic form in a timely manner before they take effect. If the Client does not expressly object in writing within 4 weeks after receipt of the amendment notice, the amendment will be deemed to be effected and from this point in time, the amended version of these General Terms is applicable and binding. AutoRetouch will draw attention to this consequence in the amendment notice.
- 23.8 Contractual Structure.** The General Terms and the corresponding Order Form constitute the contractual relationship between the Parties. If a provision of the Order Form conflicts with a provision of these General General Terms, the provision of the Order Form shall prevail over the General General Terms to the extent of such conflict.
- 23.9 Electronic Signature.** Each Party agrees that this Agreement and any other related documents to be delivered in connection herewith may be electronically signed, and that, any electronic signatures appearing on this Agreement or such other documents shall have the same force and effect as handwritten signatures for the purposes of validity, enforceability and admissibility. Electronic signatures include, but are not limited to, the use of specialized electronic signature platforms.
- 23.10 Applicable Law & Competent Jurisdiction.** The Agreement is governed exclusively by the substantive laws (excluding its conflict of laws rules and the UN Convention on Contracts for the International Sale of Goods) of France. The Parties agree that the place of fulfilment and, to the extent permitted by law, the exclusive place of jurisdiction shall be AutoRetouch's registered office.

## Annex 1: Data Processing Addendum

This Data Processing Addendum regulates data processing on behalf of the Client by Grafmaker SAS as the service provider. It is part of the Agreement on the provision of the AutoRetouch Services to the Client. It is incorporated into and shall be part of the Agreement between Client and AutoRetouch.

### SECTION I

#### Clause 1: Purpose and scope

- a) The purpose of this Data Processing Addendum is to ensure compliance with Art. 28(3) and (4) GDPR.
- b) The controllers and processors listed in Annex I have agreed to this Data Processing Addendum in order to ensure compliance with Art. 28(3) and (4) GDPR.
- c) This Data Processing Addendum applies to the processing of personal data as specified in Annex II.
- d) Annexes I and II are an integral part of the Data Processing Addendum.
- e) This Data Processing Addendum is without prejudice to obligations to which the controller is subject by virtue of GDPR.
- f) This Data Processing Addendum does not by itself ensure compliance with obligations related to international transfers in accordance with Chapter V of GDPR.

#### Clause 2: Interpretation

- a) Where this Data Processing Addendum uses the terms defined in Regulation (EU) 2016/679 or Regulation (EU) 2018/1725 respectively, those terms shall have the same meaning as in that Regulation.
- b) This Data Processing Addendum shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679 or Regulation (EU) 2018/1725 respectively.
- c) This Data Processing Addendum shall not be interpreted in a way that runs counter to the rights and obligations provided for in Regulation (EU) 2016/679 / Regulation (EU) 2018/1725 or in a way that prejudices the fundamental rights or freedoms of the data subjects.

#### Clause 3: Hierarchy

In the event of a contradiction between this Data Processing Addendum and the provisions of related agreements between the Parties existing at the time when this Data Processing Addendum is agreed or entered into thereafter, this Data Processing Addendum shall prevail.

#### Clause 4: Docking clause

- a) Any entity that is not a Party to this Data Processing Addendum may, with the agreement of all the Parties, accede to this Data Processing Addendum at any time as a controller or a processor by completing the Annexes and signing Annex I.
- b) Once the Annexes in (a) are completed and signed, the acceding entity shall be treated as a Party to this Data Processing Addendum and have the rights and obligations of a controller or a processor, in accordance with its designation in Annex I.
- c) The acceding entity shall have no rights or obligations resulting from this Data Processing Addendum from the period prior to becoming a Party.

### SECTION II: OBLIGATIONS OF THE PARTIES

#### Clause 5: Description of processing(s)

The details of the processing operations, in particular the categories of personal data and the purposes of processing for which the personal data is processed on behalf of the controller, are specified in Annex II.

#### Clause 6: Obligations of the Parties

##### 7.1. Instructions

- a) The processor shall process personal data only on documented instructions from the controller, unless required to do so by Union or Member State law to which the processor is subject. In this case, the processor shall inform the controller of that legal requirement before processing, unless the law prohibits this on important grounds of public interest. Subsequent instructions may also be given by the controller throughout the duration of the processing of personal data. These instructions shall always be documented.
- b) The processor shall immediately inform the controller if, in the processor's opinion, instructions given by the controller infringe Regulation (EU) 2016/679 / Regulation (EU) 2018/1725 or the applicable Union or Member State data protection provisions.
- c) The processor may use data concerning the use of the software by the Customer in anonymized form for the purposes of optimizing the software, user experience and for security-relevant evaluations.
- d) The processor may use the data contained in the images for the improvement of its products and services, including, research and development purposes, machine learning purposes and creating datasets for the development and training of AI models in the fields of image processing and generative AI.

## **7.2. Purpose limitation**

The processor shall process the personal data only for the specific purpose(s) of the processing, as set out in Annex II, unless it receives further instructions from the controller.

## **7.3. Duration of the processing of personal data**

Processing by the processor shall only take place for the duration specified in Annex II.

## **7.4. Security of processing**

- a) The processor shall implement the necessary technical and organisational measures specified to ensure the security of the personal data. This includes protecting the data against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to the data (personal data breach). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purposes of processing and the risks involved for the data subjects.
- b) The processor shall grant access to the personal data undergoing processing to members of its personnel only to the extent strictly necessary for implementing, managing and monitoring of the contract. The processor shall ensure that persons authorised to process the personal data received have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- c) Upon request of the controller, the processor shall provide the controller with the list of technical and organizational measures in written form.

## **7.5. Sensitive data**

If the processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences ("sensitive data"), the processor shall apply specific restrictions and/or additional safeguards.

## **7.6. Documentation and compliance**

- a) The Parties shall be able to demonstrate compliance with these Clauses.
- b) The processor shall deal promptly and adequately with inquiries from the controller about the processing of data in accordance with these Clauses.
- c) The processor shall make available to the controller all information necessary to demonstrate compliance with the obligations that are set out in these Clauses and stem directly from Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725. At the controller's request, the processor shall also permit and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or an audit, the controller may take into account relevant certifications held by the processor.

- d) The controller may choose to conduct the audit by itself or mandate an independent auditor. Audits may also include inspections at the premises or physical facilities of the processor and shall, where appropriate, be carried out with reasonable notice.
- e) The Parties shall make the information referred to in this Clause, including the results of any audits, available to the competent supervisory authority/ies on request.

#### **7.7. Use of sub-processors**

The processor has the controller's general authorisation for the engagement of sub-processors from an agreed list. The processor shall specifically inform in writing the controller of any intended changes of that list through the addition or replacement of sub-processors at least 30 days in advance, thereby giving the controller sufficient time to be able to object to such changes prior to the engagement of the concerned sub-processor(s). The processor shall provide the controller with the information necessary to enable the controller to exercise the right to object.

- a) Where the processor engages a sub-processor for carrying out specific processing activities (on behalf of the controller), it shall do so by way of a contract which imposes on the sub-processor, in substance, the same data protection obligations as the ones imposed on the data processor in accordance with these Clauses. The processor shall ensure that the sub-processor complies with the obligations to which the processor is subject pursuant to these Clauses and to Regulation (EU) 2016/679 and/or Regulation (EU) 2018/1725.
- b) At the controller's request, the processor shall provide a copy of such a sub-processor agreement and any subsequent amendments to the controller. To the extent necessary to protect business secret or other confidential information, including personal data, the processor may redact the text of the agreement prior to sharing the copy.
- c) The processor shall remain fully responsible to the controller for the performance of the sub-processor's obligations in accordance with its contract with the processor. The processor shall notify the controller of any failure by the sub-processor to fulfil its contractual obligations.
- d) The processor shall agree a third party beneficiary clause with the sub-processor whereby - in the event the processor has factually disappeared, ceased to exist in law or has become insolvent - the controller shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

#### **7.8. International transfers**

- a) Any transfer of data to a third country or an international organisation by the processor shall be done only on the basis of documented instructions from the controller or in order to fulfil a specific requirement under Union or Member State law to which the processor is subject and shall take place in compliance with Chapter V of Regulation (EU) 2016/679 or Regulation (EU) 2018/1725.
- b) The controller agrees that where the processor engages a sub-processor in accordance with Clause 7.7. for carrying out specific processing activities (on behalf of the controller) and those processing activities involve a transfer of personal data within the meaning of Chapter V of Regulation (EU) 2016/679, the processor and the sub-processor can ensure compliance with Chapter V of Regulation (EU) 2016/679 by using standard contractual clauses adopted by the Commission in accordance with of Article 46(2) of Regulation (EU) 2016/679, provided the conditions for the use of those standard contractual clauses are met.

#### **7.9. Information of data subjects**

In accordance with applicable data protection laws the controller informs data subjects that their personal data will be processed for the purposes set forth in this Data Protection Addendum and informs them of their rights under Chapter 3 of the GDPR.

#### **Clause 8: Assistance to the controller**

- a) The processor shall promptly notify the controller of any request it has received from the data subject. It shall not respond to the request itself, unless authorised to do so by the controller.
- b) The processor shall assist the controller in fulfilling its obligations to respond to data subjects' requests to exercise their rights, taking into account the nature of the processing. In fulfilling its obligations in accordance with (a) and (b), the processor shall comply with the controller's instructions.

- c) In addition to the processor's obligation to assist the controller pursuant to Clause 8(b), the processor shall furthermore assist the controller in ensuring compliance with the following obligations, taking into account the nature of the data processing and the information available to the processor:
- 1) the obligation to carry out an assessment of the impact of the envisaged processing operations on the protection of personal data (a 'data protection impact assessment') where a type of processing is likely to result in a high risk to the rights and freedoms of natural persons;
  - 2) the obligation to consult the competent supervisory authority/ies prior to processing where a data protection impact assessment indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk;
  - 3) the obligation to ensure that personal data is accurate and up to date, by informing the controller without delay if the processor becomes aware that the personal data it is processing is inaccurate or has become outdated;
  - 4) the obligations in Art. 32 GDPR.

#### **Clause 9: Notification of personal data breach**

In the event of a personal data breach, the processor shall cooperate with and assist the controller for the controller to comply with its obligations under Art. 33 and 34 GDPR, taking into account the nature of processing and the information available to the processor.

##### **9.1 Data breach concerning data processed by the controller**

In the event of a personal data breach concerning data processed by the controller, the processor shall assist the controller:

- a) in notifying the personal data breach to the competent supervisory authority/ies, without undue delay after the controller has become aware of it, where relevant/(unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons);
- b) in obtaining the following information which, pursuant to Art. 33 (3) GDPR, shall be stated in the controller's notification, and must at least include:
  - 1) the nature of the personal data including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
  - 2) the likely consequences of the personal data breach;
  - 3) the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.
- c) Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
- d) in complying, pursuant to [OPTION 1] Article 34 of Regulation (EU) 2016/679 / [OPTION 2] Article 35 of Regulation (EU) 2018/1725, with the obligation to communicate without undue delay the personal data breach to the data subject, when the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons.

##### **9.2 Data breach concerning data processed by the processor**

In the event of a personal data breach concerning data processed by the processor, the processor shall notify the controller without undue delay after the processor having become aware of the breach. Such notification shall contain, at least:

- a) a description of the nature of the breach (including, where possible, the categories and approximate number of data subjects and data records concerned);
- b) the details of a contact point where more information concerning the personal data breach can be obtained;
- c) its likely consequences and the measures taken or proposed to be taken to address the breach, including to mitigate its possible adverse effects.

Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

**SECTION III: FINAL PROVISIONS****Clause 10: Non-compliance with the Clauses and termination**

- a) Without prejudice to any provisions of GDPR, in the event that the processor is in breach of its obligations under these Clauses, the controller may instruct the processor to suspend the processing of personal data until the latter complies with these Clauses or the contract is terminated. The processor shall promptly inform the controller in case it is unable to comply with these Clauses, for whatever reason.
- b) The controller shall be entitled to terminate the contract insofar as it concerns processing of personal data in accordance with these Clauses if:
  - 1) the processing of personal data by the processor has been suspended by the controller pursuant to point (a) and if compliance with these Clauses is not restored within a reasonable time and in any event within one month following suspension;
  - 2) the processor is in substantial or persistent breach of these Clauses or its obligations under GDPR;
  - 3) the processor fails to comply with a binding decision of a competent court or the competent supervisory authority/ies regarding its obligations pursuant to these Clauses or to GDPR.
- c) The processor shall be entitled to terminate the contract insofar as it concerns processing of personal data under these Clauses where, after having informed the controller that its instructions infringe applicable legal requirements in accordance with Clause 7.1 (b), the controller insists on compliance with the instructions.

Following termination of the contract, the processor shall, at the choice of the controller, delete all personal data processed on behalf of the controller and certify to the controller that it has done so, or, return all the personal data to the controller and delete existing copies unless Union or Member State law requires storage of the personal data. Until the data is deleted or returned, the processor shall continue to ensure compliance with these Clauses.

**ANNEX I: LIST OF PARTIES**

Controller	
Name:	Client named in the Order Form
Address:	Client's address provided in the Order Form
Contact person's name, position and contact details:	Contact person details provided in the Order Form
name and contact details of the data protection officer (if any)	If applicable: DPO details provided in the Order Form

Processor	
Name:	Grafmaker SAS
Address:	5 Rue Mstislav Rostropovitch , 75017 Paris
Contact person's name, position and contact details:	Denis Delangle, CTO ddelangle@grand-shooting.com
Contact of the data protection officer (if any)	Denis Delangle ddelangle@grand-shooting.com

**ANNEX II: DESCRIPTION OF THE PROCESSING**

Categories of data subjects whose personal data is processed:
The personal data that might be processed in the context of the usage of the automated image processing concern: <ul style="list-style-type: none"><li>- pictures of data subjects uploaded to the AutoRetouch image processing software platform,</li><li>- data subject information including but not limited to Client representatives employees, contractors, partners, agents.</li></ul>
Categories of personal data processed:
<ul style="list-style-type: none"><li>- Images containing pictures of (identifiable) natural persons,</li><li>- Email address, phone number, first and last names, images.</li></ul>
Sensitive data processed (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.
The personal data processed on behalf of the Client might include special categories of data, if such special categories of data can be derived from the images uploaded to the AutoRetouch software (e.g. racial or ethnic origin).
Nature of the processing:
AutoRetouch provides its automated image processing platform to the Client as Software as a Service (SaaS).
Purpose(s) for which the personal data is processed on behalf of the controller
Performance of a commercial contract executed with Grafmaker SAS: automated image processing service.  Legitimate interest pursued by Grafmaker SAS: improvement of its AI-driven products and services; this includes research and development, machine learning, and the creation of datasets for the development and training of artificial intelligence (AI) models, specifically in the fields of image processing and generative AI.
Duration of the processing
Duration of the Agreement.  Duration necessary for the pursuit of the legitimate interest.  Duration required by law.

**ANNEX III: LIST OF SUB-PROCESSORS**

Name	Use	Location of servers	Links to Data Protection Documents
AWS	Infrastructure	Ireland	<a href="https://d1.awsstatic.com/legal/privacypolicy/AWS_Privacy_Notice_French_Translation_2022-03-08.pdf">https://d1.awsstatic.com/legal/privacypolicy/AWS_Privacy_Notice_French_Translation_2022-03-08.pdf</a> <a href="https://aws.amazon.com/agreement/">https://aws.amazon.com/agreement/</a>
Google Analytics 4	Audience measurement (unidentifiable data only)	United States	<a href="https://policies.google.com/privacy?hl=en">https://policies.google.com/privacy?hl=en</a>
Google Cloud Platform	Infrastructure	Frankfurt	<a href="https://cloud.google.com/terms/data-processing-addendum">https://cloud.google.com/terms/data-processing-addendum</a>
Google	E-Mail, Storage	United States	<a href="https://policies.google.com/privacy?hl=en">https://policies.google.com/privacy?hl=en</a>
Auth0	Authentication	Dublin, Frankfurt	<a href="https://auth0.com/docs/secure/data-privacy-and-compliance/gdpr">https://auth0.com/docs/secure/data-privacy-and-compliance/gdpr</a>
Datadog	Monitoring	United States (hosted by AWS)	<a href="https://www.datadoghq.com/legal/data-processing-addendum/">https://www.datadoghq.com/legal/data-processing-addendum/</a>
MongoDB Atlas	Database	Frankfurt (hosted by GCP)	<a href="https://www.mongodb.com/legal/data-processing-agreement">https://www.mongodb.com/legal/data-processing-agreement</a>
HubSpot	CRM	Germany	<a href="https://legal.hubspot.com/privacy-policy">https://legal.hubspot.com/privacy-policy</a>
Zendesk	Help desk	Worldwide (hosted by AWS)	<a href="https://www.zendesk.fr/company/data-processing-form/">https://www.zendesk.fr/company/data-processing-form/</a>
Notion	Documentation tool	United States (hosted by AWS)	<a href="https://www.notion.com/help/privacy">https://www.notion.com/help/privacy</a> <a href="https://www.notion.so/notion/Notion-s-List-of-Subprocessors-268fa5bcfa0f46b6bc29436b21676734">https://www.notion.so/notion/Notion-s-List-of-Subprocessors-268fa5bcfa0f46b6bc29436b21676734</a>
Atlassian (Jira)	Project management	Worldwide (hosted by AWS)	<a href="https://www.atlassian.com/legal/data-processing-addendum#scope-and-term">https://www.atlassian.com/legal/data-processing-addendum#scope-and-term</a>
Stripe	Payment System	United States (AWS)	<a href="https://stripe.com/fr/privacy">https://stripe.com/fr/privacy</a>
Clerk	User management	United States	<a href="https://clerk.com/legal/dpa">https://clerk.com/legal/dpa</a>