

# TERMS AND CONDITIONS OF USE OF SKALAPP ONLINE SOFTWARE IN SOFTWARE-AS-A-SERVICE MODE

(hereinafter the “**Terms and Conditions**”)

## 1. **Introductory Provisions, Basic Definitions**

- 1.1. Subject of Terms and Conditions: Within the meaning of Section 1751 of Act No. 89/2012 (the “**Civil Code**”), these Terms and Conditions regulate the rights and duties of the Operator and User in connection with the use of the Application that the parties enter into on the basis of the Contract. The Terms and Conditions are an integral part of the Contract.
- 1.2. Definitions: The most important definitions that the User should be aware of are contained below in this article. Others are highlighted in the remainder of the Terms and Conditions.
- 1.3. The **Application** is an internet application operating in SaaS (software as a service) mode called Skalapp Online, operated at the website [online.skalapp.com](https://online.skalapp.com) and described in more detail at the Portal. Provision of the Application in SaaS mode means that the User gains access to the Application located on the Operator's servers as a service based on an annual subscription, which can be repeatedly extended. The Application is used to connect to the Devices. Its main functionalities are to enable the recording and analysis of data from the Devices and the associated price calculations, document generation and possibly data transfer via an API to other systems.
- 1.4. The **Portal** is the [www.skalapp.com](https://www.skalapp.com) website, which is used to offer and describe the Devices and the Application and to provide the Application. The Application's services are accessible at the Portal, on the Devices and, where applicable, by means of a mobile application (for iOS and Android operating systems), if the Operator decides to offer such mobile application in the future (as of the effective date of the Terms and Conditions, an application for the Android operating system is available).
- 1.5. The **Operator** is the business company VETRA International s.r.o., business ID number: 635 06 670, registered office: Pod Korábem 727, 345 06 Kdyně, registered in the Commercial Register maintained by the Regional Court in Plzeň under file ref. C 6555.
- 1.6. The **Subscription Fee** means the price paid in accordance with Article 8 for the option of using the Application and for the services provided by the Operator for one calendar year.
- 1.7. The **Contract** is a contractual relationship entered into in accordance with paragraph 2.3 of the Terms and Conditions between the Operator and the User, the content of which is governed by these Terms and Conditions and the subject of which is enabling the User to use the Application.

- 1.8. The **Parties** are the Operator and the User.
- 1.9. The **User** is you, a natural person or legal entity who, in accordance with Article 2.3 of these Terms and Conditions, enters into a Contract with us, as the Operator, and thus obtains the right to use the Application.
- 1.10. The **User Account** is a non-public part of the Application, which the User can enter by inputting the login details.
- 1.11. The **Devices** are weighing systems for wheel loaders and belt conveyors manufactured by the Operator that the User purchases or rents under a special contract.

## 2. **Basic Rights and Duties of Parties, Conclusion of Contract**

- 2.1. Basic Obligation of Operator: The Operator is the manufacturer of the Devices and the operator of the Application. The User is interested in acquiring the Application as a service for which it will periodically pay a Subscription Fee. For the duration of the Subscription Fee, the Operator will perform the following activities for the User:
  - 2.1.1. operate, via the internet and the Devices, the software necessary for the operation of the Application and allow the User to use the Application in software-as-a-service mode;
  - 2.1.2. provide the User with related services and support for the Application's operation (hereinafter the "**Maintenance Services**");
- 2.2. Other Services: Other additional services (e.g. training of the User's employees or customisation of the Application) are provided by the Operator only at the User's request sent to the contact details listed in paragraph 13.1 of the Terms and Conditions and on the basis of a separate contract.
- 2.3. Conclusion of Contract: The Contract is concluded as follows:
  - 2.3.1. The User sends the Operator an inquiry, usually via the contact form at the website [www.vetrainternational.cz/kontakt](http://www.vetrainternational.cz/kontakt) or [www.skalapp.com](http://www.skalapp.com) or via e-mail sent to the e-mail address [info@vetrainternational.cz](mailto:info@vetrainternational.cz) (hereinafter the "**Inquiry**").
  - 2.3.2. On the basis of the Inquiry, the Operator shall send the User, to the e-mail address specified in the Inquiry or otherwise communicated to the Operator, an offer of the Application's services (hereinafter the "**Offer**"), these Terms and Conditions (if the User could not familiarise itself with them before the contact form was sent), and, if applicable, an invoice for payment of the Subscription Fee.
  - 2.3.3. The Contract is concluded upon confirmation of the Offer by the User, which is usually done by the User sending an e-mail in which the User explicitly confirms the Offer, by payment of the Subscription Fee or by the actual start of use of the Application, if earlier than confirmation of the Offer or payment of the Subscription Fee.

- 2.4. Agreement to Terms and Conditions: The User agrees to these Terms and Conditions and undertakes to abide by them. The Terms and Conditions bind the User from the moment the Contract is concluded. The User can familiarise itself with these Terms and Conditions as follows:
  - 2.4.1. in the footer of the [www.vetrainternational.cz](http://www.vetrainternational.cz) and [online.skalapp.com](http://online.skalapp.com) websites;
  - 2.4.2. when it first logs on to the Application.
- 2.5. Making Application Available: The Operator undertakes to make the Application available to the User within 3 working days of the date of conclusion of the Contract.
- 2.6. Subscription Fee Required: The User acknowledges that without the payment of the Subscription Fee, it is not entitled to use the Application and other intangible assets necessary for the Application's operation, and therefore the Subscription Fee is necessary for the Application's operation.
- 2.7. Handover of Devices: The User acknowledges that the mere handover of the Devices and the acquisition of ownership of the Devices on the basis of a separate contract does not give the Client the right to use the Application at the Portal or on the Devices. A Subscription Fee is required to use the Application.
- 2.8. The Contract shall take precedence over the Terms and Conditions and the content of the Portal: If the Contract contains a description of the Devices or Application different to these Terms and Conditions or the Portal, or any other variation from these Terms and Conditions, the provisions in the Contract shall prevail.
- 2.9. Cooperation: The Parties undertake to cooperate with each other and to provide each other with all information necessary for the proper performance of the Contract. The Parties are obliged to inform each other of all facts that are or may be important for the proper performance of the Contract.

### **3. Other Rights and Duties of Operator**

- 3.1. Application Security: The Operator shall ensure the security of the Application and the processed data against unauthorized interference by third parties. This security is ensured in particular by encrypting the data transmitted both between the Devices and the Application and between the Application and the User. The servers on which the Application is operated are located in secure data centres in the EU and/or the USA certified to SOC 2 Type II. Access to server administration is secured by a certificate. All passwords are stored as a one-way hash-encrypted algorithm.
- 3.2. Updates: The Operator is entitled to make modifications, updates or improvements to the Application without the User's prior consent to the extent and at such time as the Operator may determine.
- 3.3. Downtime: The Operator is entitled to interrupt the User's access to the Application (hereinafter "**Downtime**") for the purpose of maintenance of the equipment and software used to operate the Application. Downtime will occur between 17:00 and

08:00 CET always on the basis of prior information delivered to the User at least 2 working days before the scheduled Downtime by notification in the Application or sent to the User's e-mail address; without compliance with these conditions, the Operator may have Downtime only in case of an urgent need for maintenance.

#### **4. Other Rights and Duties of User**

4.1. Definition of Rights and Duties: The User is entitled and obliged to use the Application under the following conditions:

4.1.1. The Application may only be used for the purposes set out in these Terms and Conditions and arising from the Application's nature (i.e. in particular to enable the recording and analysis of data from the Devices and the associated price calculations, document generation and possible transfer of data via API to other systems), and not for any other purpose.

4.1.2. The Application may only be used to the extent agreed and in such a way that the use does not conflict with generally binding legal regulations.

4.1.3. When using the Application, the User is obliged to behave in such a way that the use of the Application by the User does not cause any harm to the Operator or other users of the Application and does not violate legal regulations or third-party rights; in particular:

- The User is not entitled to allow third parties to use the Application, in particular, the User may not resell, rent or make the Application available to third parties. This restriction does not apply to the use of the Application by the User's employees or other natural persons cooperating with the User.
- The User is not entitled to copy or otherwise distribute the Application or any part thereof (especially the source code, database and graphic elements, including the user interface).
- The User is not authorised to reproduce, modify, process, translate, analyse, decompile, recompile, reverse engineer, combine with other works or otherwise interfere with the Application.
- The User must not circumvent or damage the protection of the Application against misuse.
- The User shall not attempt to gain unauthorised access to the Operator's servers, as well as to the user accounts of other users and prevent them from accessing the Application.
- When using the Application, the User shall not destroy, damage or limit the Application's functionality or disrupt its stability in relation to the Operator or other users by means of a virus, malware or other software.
- The User shall not use the Application in conflict with legal regulations or accepted practices.

- The User is not authorised to directly or indirectly pass off the Application as its own work or product.
  - The User is obliged to guard its login details for the User Account, not to disclose them to a person who is not authorised to use the Application and to take all steps to prevent the leakage of its login details. If the User discovers a leak or misuse of its login details, it is obliged to immediately notify the Operator.
- 4.1.4. The User may not use or copy the Application, including its source code, in any way to create new software that would compete with the Application.
- 4.1.5. The permissions and terms and conditions of use also apply to any future updates, additions, corrections and modifications to the Application, if such updates, additions, corrections and modifications are made by the Operator and made available to the User.
- 4.2. Information for User: The User acknowledges that:
- 4.2.1. the Application is provided in software-as-a-service mode and therefore the Client does not have any right to use the intellectual property rights (license rights) representing the Application. all proprietary rights to the Application are retained by the Operator and the User is only allowed to use the Application in accordance with Article 7;
- 4.2.2. an internet connection is required to use the Application;
- 4.2.3. the Application will be provided to the Client for use in the state (in particular in the version and with the functionalities) at the time the Contract is concluded. However, the Operator may unilaterally decide to provide the Client with a higher version of the Application (after introducing software updates, adding functionalities, etc.); however, this shall not limit or disrupt the functionalities contained in the Application at the time the Contract is concluded.
- 4.3. User's Responsibility for Its Own Content: The User is responsible for all information, materials or any other data that it enters into the Application or that arises from the use of the Application. The rights to this content remain with the User. The Operator shall not be liable for any defective content of such data or for the User's further use of such data.

## **5. SLA and Maintenance Services**

- 5.1. Availability Guarantee: The Operator guarantees the User the availability of the Application (i.e. its connection to the internet enabling the User to use all the Application's main functions) 97% of the time in each calendar month of the Contract. This time does not include the time reserved in accordance with the Downtime Conditions as set out in paragraph 3.2 of the Terms and Conditions.

5.2. Scope of Maintenance Services: The Maintenance Services include the following activities of the Operator consisting of online administration and support for the Application via remote access over the internet:

- resolving incidents in the Application's operation consisting of unplanned interruptions in the operation or limitation of the quality of the agreed or usual functionality of the Application due to reasons on the Operator's part (hereinafter the "**Incidents**");
- active monitoring of the Application in order to locate and prevent Incidents;
- backing up of the Application;
- operation of a support service designed in particular to report Incidents and provide user advice based on Users' queries (hereinafter the "**Hotline**");
- installing patches, hot-fixes, security patches and updates when needed;
- management and configuration of the WAN/LAN infrastructure and server used;
- deployment of new versions of the Application containing fixes and, at the Operator's discretion, new functionalities (hereinafter "**Upgrades**");

5.3. Level of Maintenance Services, Cooperation: The Operator is obliged to provide the Maintenance Services in such a way as to ensure the proper functioning of the Application in a manner that best suits the purpose of the Maintenance Service provided. The User undertakes to provide the Operator with all the assistance that may be required to enable the Operator to fulfil its obligation to provide the Maintenance Services in full.

5.4. Application Non-functionality without Fault: The Operator shall not be liable for the Application's non-functionality or unavailability caused without fault on its part, in particular due to failures of third-party services that are integrated into the Application, power outages, data network failures, other failures caused by third parties, unauthorised interference with the Application by the User or the Application's use in breach of these Terms and Conditions, or due to Force Majeure. However, the Operator is obliged to make every effort to restore the Application's functionality and the User's access to it as soon as possible. Such non-functionality or unavailability without fault does not count towards the guarantee of availability within the meaning of para. 5.1 of the Terms and Conditions.

5.5. Price for Provision of Maintenance Services: The price for the provision of maintenance services is included in the Subscription Fee.

## **6. Specifications for Provision of Maintenance Services**

6.1. Incident Reporting: Incident reporting is done only through the Hotline, by calling +420379731698 or by e-mailing [info@vetrainternational.cz](mailto:info@vetrainternational.cz).

- 6.2. Hotline Availability: The Hotline is in operation from 08:00 to 17:00 CET every working day. The e-mail address is in operation around the clock.
- 6.3. Response Time: The Operator undertakes to respond to requests made via the Hotline without delay, within 2 working days at the latest, either directly to the User, by means of a notification in the Application or at the Portal to all Users (especially in the case of an Incident affecting more than one User).
- 6.4. Incident Resolution Time: In relation to Incidents that are exclusively of a software nature and that can be solved by remote access, the Operator shall localise an Incident in order to determine the cause of the interruption in the functioning or limitation of the quality of the Application's functionality and shall correct the cause of the Incident or otherwise restore the Application's functionality (including the use of a workaround solution):
- 6.4.1. in the case of critical Incidents, without delay, taking into account the nature of the Incident and the complexity of its resolution, no later than within 7 days after the date the Incident was reported by the User;
- 6.4.2. in the case of non-critical Incidents 15 days after the date the Incident was reported by the Customer.
- A critical Incident within the meaning of this provision is an Incident that completely prevents the use of the Application or at least most of its main functions. The Operator carries out a binding categorisation of Incidents and undertakes to inform the User about it within the response time.
- 6.5. Moment Incident Is Corrected: An incident is corrected by the Operator when the Operator:
- 6.5.1. makes the non-functioning Application operational or restores the Application's full functionality; or
- 6.5.2. locates and notifies the User that there is a defect for which the Operator is not responsible; or
- 6.5.3. demonstrates to the User that the cause of the Incident is not attributable to the Operator and that there has been no failure or limitation of the Application's functionality; or
- 6.5.4. provides the User with instructions on how to use the Application until the final resolution of the Incident so that the defect does not manifest itself or its effects are minimised.
- 6.6. Other Incidents: With respect to Incidents other than those listed in paragraph 6.4 of the Contract (i.e. Incidents other than Software Incidents resolvable by remote access), the Parties shall agree on a procedure for resolving an Incident with respect to its nature. The Parties will cooperate to resolve such Incident efficiently and promptly.

- 6.7. Running of Time Limits for Resolving Incidents: The time limits for resolving an Incident and responding to other requests made via the Hotline shall begin to run from the moment of delivery to the Operator, if the moment of delivery is during working hours from 08:00 to 17:00 CET every working day. If the moment of delivery is outside these working hours, the time limit starts at the beginning of the next working hours.
- 6.8. Extension of Time Limit for Resolving Incidents: The time limits for the resolution of an Incident are extended by the time required for the User to clarify the information about the Incident to the extent necessary for its analysis.
- 6.9. Restrictions on Application Availability when Providing Maintenance Services: The User acknowledges that the use of the Application during the provision of certain Maintenance Services via remote access to the Application via the Internet may cause limitations on the Application's functionality or even complete non-functionality of the Application. The User agrees not to use the Application while such Maintenance Services are being provided, if the User can be reasonably requested to do so. The Operator shall notify the User of the date of provision of Maintenance Services that may result in limitation of the Application's functionality without delay after the Operator becomes aware of the need for them in one of the ways specified in paragraph 6.3.

## **7. Right to Use Application**

- 7.1. Scope of Right to Use Application: The User hereby acknowledges and agrees that the Application is operated and provided in SaaS (software-as-a-service) mode. The User does not obtain a copy of the software itself licensed by the Operator, but uses only the Application's services running on the Operator's servers for the duration of the Contract for the agreed Subscription Fee. In this context, the Operator grants the User a non-exclusive right to use the Application, only for the purposes of proper use of the Application and the duration of the Contract.
- 7.2. Restrictions on Right to Use Application: The right to use the Application does not include, in particular, any modification, adaptation, publication, downloading or distribution of the Application or its source code, use of the Application by automated processes or robots or reproduction of the Application for the purpose of distribution, rental or lending.
- 7.3. License for Other Works of Authorship: If the Application includes other copyrighted works individually protected by copyright (e.g. texts, photographs, graphic works, front-end of the Application downloaded as a temporary reproduction to the User's device), the Operator grants the User a license to them, this being a non-exclusive license intended only for the purposes of proper use of the Application, lasting for the duration of the Contract, granted without quantitative and territorial limitations. The User is not entitled to transfer or assign the license or grant a sublicense to a third party without the Operator's consent. The same applies to databases protected by a special right of the database provider, if such database is part of the Application.



The use of these other works of authorship is further restricted by the Terms and Conditions, in particular by paragraph 4.1 of the Terms and Conditions.

- 7.4. Compensation for Interference with Third-party Rights: The Operator declares that the User's use of the Application will not infringe the copyright or any other third-party intellectual property rights. The Operator shall fully indemnify the User in the event that a third party brings a claim against the User related to such rights. Instead of compensating the User, the Operator is entitled to resolve this situation by directly resolving it with the third party (negotiating with the third party, settling, entering into a dispute instead of the User).

## **8. Subscription Fee and Payment Terms and Conditions**

- 8.1. Amount of Subscription Fee: The amount of the Subscription Fee will be determined by the Operator individually depending on a Request received from the User during the negotiation of the Contract pursuant to paragraph 2.3.
- 8.2. Due Date: The Subscription Fee is payable in advance for a period of one calendar year from the date of the Contract's conclusion, by transfer to the Operator's account indicated on the invoice. A subsequent Subscription Fee is due no later than the calendar day preceding the last day of the current Subscription Fee.
- 8.3. Failure to Pay Subscription Fee by Due Date: If the User is in arrears with the payment of the Subscription Fee, the User's access to the Application will be restricted or prevented at the Operator's discretion after the last day of the Subscription Fee period. The User will still be allowed to download data from the Application in this situation, but the User acknowledges that this data may be deleted 60 days after the date the Subscription Fee period ends.
- 8.4. Invoicing: For the purpose of invoicing the User for the Subscription Fee, the Operator shall issue a tax document and send it to the User's email address in accordance with Article 13.
- 8.5. VAT: Value added tax and other taxes will be charged in accordance with applicable legal regulations.
- 8.6. Moment of Payment of Subscription Fee: The Subscription Fee is deemed to be paid at the moment the Operator's account is credited.
- 8.7. Increase in Subscription Fee: The Operator is entitled to unilaterally notify the User of an increase in the Subscription Fee for the following period. It is obliged to inform the User of this no later than 14 days before the increase in the Subscription Fee.

## **9. Contractual Penalties**

- 9.1. Breach of User's Duties: If the User breaches the rules of use of the Application in accordance with paragraph 4.1 of the Terms and Conditions, the User undertakes to pay the Operator a contractual penalty of CZK 200,000 for each individual case of breach of the duty.

- 9.2. Breach of Duty of Confidentiality: A Party that breaches any duty to protect Confidential Information under Article 14 of the Terms and Conditions undertakes to pay the aggrieved Party a contractual penalty of CZK 200,000 for each individual case of breach of a duty.
- 9.3. Compensation for Detriment: The contractual penalties agreed in this article do not exclude or limit the Operator's right to compensation for detriment caused by the breach of the same contractual duty.
- 9.4. Due Date: The contractual penalties agreed in this article are payable within 14 days of the delivery of the Operator's call to the User.

## **10. Liability for Detriment**

- 10.1. Dealing with Incidents: In the event the Operator delays resolving an Incident for longer than the time for resolving such Incident in accordance with 6.4, the User is entitled to a discount on the Subscription Fee that the User is obliged to pay to the Operator in accordance with the Contract for the period of such delay, namely:
- 10.1.1. at a rate of 0.1% of the annual Subscription Fee for each day of delay in resolving critical Incidents;
- 10.1.2. at a rate of 0.05% of the annual Subscription Fee for each day of delay in resolving non-critical Incidents.
- 10.2. Limitation on Liability: The Operator's obligation to compensate the User for the damage that the Operator inadvertently causes to the User by breach of duty in the performance of this Contract, for the entire duration of the Contract and cumulatively for all cases of damage to the User, is limited to the total amount of the average annual Subscription Fee paid by the User during the term of the Contract. Beyond the scope of the limitation on the Operator's liability set out in this Article, the Operator shall not be liable to the User for any other pecuniary, non-pecuniary, direct, indirect, consequential, economic or other damages arising from the non-functionality, unavailability or use of the Application or its content, unless the Terms and Conditions provide otherwise.

## **11. Duration and Termination of Obligations under Contract**

- 11.1. Duration of Obligation: The obligation to provide Application services and related obligations is agreed for an indefinite period of time, unless the Parties agree otherwise in the Contract.
- 11.2. Withdrawal from Contract - User: The User is entitled to withdraw from the Contract in writing due to a material breach of the Contract by the Operator, which shall be deemed to be a delay of more than 30 days in remedying a critical Incident.
- 11.3. Withdrawal from Contract - Operator: The Operator is entitled to withdraw from the Contract in writing due to a material breach of the Contract by the User, which is considered a breach of the rules for use of the Application within the meaning of paragraph 4.1 of the Terms and Conditions, any interference with the Operator's

intellectual property rights, as well as any other violation of the rules of use of the Application or unauthorised interference by the User in the Application and its operation that causes damage to the Operator.

11.4. Withdrawal - Both Parties: Either Party shall be entitled to withdraw from the Contract with immediate effect:

11.4.1. if insolvency proceedings are initiated against the other Party and the insolvency court decides the Party is insolvent; the entitled Party may also withdraw from this Contract before the expiry of the 30-day period within the meaning of Section 253(2) of Act No. 182/2006 Coll., on insolvency and the methods of its resolution (the Insolvency Act), as amended;

11.4.2. if the other Party breaches the confidentiality duty set out in Article 14 of the Terms and Conditions.

11.5. Letter of Termination of Contract: Termination or withdrawal from the Contract must be in writing in paper form or sent by electronic message in accordance with Article 13.

11.6. Continuing Duties: The termination of the Contract (for any legal reason) shall not affect liability for damages, claims for contractual penalties, the duty to protect Confidential Information and other rights and duties under the Contract or these Terms and Conditions which by law, the Contract or by their nature are intended to survive termination.

11.7. Subscription Fee Refund: The Operator undertakes to refund to the User a proportionate part of the unused Subscription Fee in the event of withdrawal from the Contract by the User for the reasons set out in paragraphs 11.2 and 11.4.

## 12. Force Majeure

12.1. Extension of Time Limit for Performance of Duty: If a Party is prevented from performing an obligation by force majeure as defined in paragraph 12.3 of the Terms and Conditions (hereinafter "**Force Majeure**"), the time for compliance with this obligation shall be extended by the duration of the Force Majeure event and by the time reasonably required to comply with it.

12.2. Withdrawal from Contract: If a duty whose timely performance is prevented by Force Majeure is not performed even within 60 calendar days after the duty should have been performed originally before the extension of time under paragraph 12.1 of the Terms and Conditions, either Party shall have the right to withdraw from the Contract.

12.3. Definition: For the purposes of the Contract, a Force Majeure event is an event that cumulatively has the following characteristics:

- it objectively prevents a Party from performing any of its duties under the Contract (the objective impossibility is causally related to the event);

- the event could not have been known or foreseen by the relevant Party with the exercise of professional care prior to the conclusion of the Contract;
- the event is beyond the Parties' control and no Party could have prevented the event.

Cases of Force Majeure include in particular:

- natural disasters (e.g. fires, explosions, earthquakes and floods);
- war, armed conflict (whether or not war has been declared), invasion, act of an enemy state, mobilisation, seizure of property or embargo;
- insurrection, revolution, military or violent seizure of power or civil war;
- global pandemic;
- riots, restraints, or acts or threats of terrorism.

12.4. Duty to Inform: In the event that either Party is unable to perform its duties as a result of a Force Majeure event, it shall notify the other Party promptly after it becomes aware of the occurrence of such Force Majeure event or could have become aware of it through the exercise of professional care. In such notification, the Party shall specify the nature of the Force Majeure, its onset, its expected duration and possible ways of averting the harm that could occur as a result of it.

12.5. Duty to Minimise Detriment: The Party prevented from fulfilling a duty by Force Majeure shall do everything in its power to avert or minimise the detriment to the other Party caused by its inability to fulfil its duty.

### **13. Communication**

13.1. Permissible Methods of Communication: Unless another specific method of communication is agreed between the Parties, any communication under the Contract shall be in accordance with this article. In the absence of a specific method of communication, personal delivery, delivery by registered mail, courier service or e-mail to the following e-mail addresses shall be deemed effective:

13.1.1. for sending to the Operator: [info@vetrainternational.cz](mailto:info@vetrainternational.cz);

13.1.2. for sending to the User: the User's e-mail address specified in the Application or in the Request in accordance with paragraph 2.3, unless the User has provided the Operator with another e-mail address for delivering communications.

13.2. Mail Delivery: Letter notices properly addressed shall be deemed to have been delivered:

- a) on the date of physical delivery of the notice, if the notice is sent by courier or postal service provider (except by registered post) or delivered by hand; or
- b) on the date of delivery as confirmed by a delivery receipt, if the notice is sent by registered mail and is actually delivered; or

- c) upon the expiry of a period of 5 days after the deposit of the notice at the relevant post office, if a notice sent through a postal service provider fails to be delivered or if receipt of the notice is refused.

13.3. Delivery of Electronic Message: A message sent by e-mail shall be deemed to have been delivered at the moment the message is sent by e-mail, unless the message's addressee proves the message has not come into its possession.

## 14. Confidentiality

14.1. Confidential Information: For the purposes of this article, the term confidential information shall be deemed to cover all information and facts concerning one Party which are not generally available in the commercial world and which have been disclosed by that Party to the other Party in connection with the performance of the Contract (hereinafter the "**Confidential Information**"). On the Operator's side, this includes, in particular, all information about the Application, its operation and its source code, the disclosure of which could harm the Operator.

14.2. Weighing Data: The Operator states that it does not transfer weighing data transmitted from the Devices to the Application to third parties or use it other than for monitoring the Application's functionality.

14.3. Rules for Handling Confidential Information: A Party to whom Confidential Information has been disclosed by the other Party agrees to act consistently with the following rules in order to maintain the confidentiality and protection of the Confidential Information:

14.3.1. Confidential Information must be handled in such a way as to prevent its disclosure to third parties, leakage or misuse, unless such disclosure is ordered by an administrative authority or is the result of a court order, of which the Party shall inform the relevant Party immediately upon becoming aware of the order;

14.3.2. Confidential Information may only be used in connection with the exercise of rights and performance of duties under the Contract;

14.3.3. Confidential Information may not be used for a Party's own financial or other benefit or for any benefit of a third party;

14.3.4. Confidential Information may not be used in a manner that is detrimental to the other Party.

14.4. Confidential Information Excluded from Protection: The duties set out in the preceding paragraph shall not apply to information which:

14.4.1. was known to the Party that received it from the other Party prior to its disclosure by the other Party, from a third party that (i) received such information not in breach of its legal duties and (ii) was entitled to disclose such information to the relevant Party;

14.4.2. was publicly known beyond any doubt before it was provided by one Party to the other;

14.4.3. was marked as non-confidential by the Party that provided the information or facts to the other Party.

14.5. Disclosure of Confidential Information to Advisers: A Party may disclose Confidential Information to its advisers if such disclosure is necessary for the performance of the Party's duties or the exercise of the Party's rights and if such adviser is him/herself bound by a duty of confidentiality (in particular attorneys, tax advisers and accountants).

14.6. Duration of Duty of Confidentiality: The duties set forth in this article shall continue for the duration of the Contract and for two years after termination of the Contract for any reason.

## **15. Processing of Personal Data**

15.1. Handling of Personal Data: In connection with the performance of the Contract, the Operator will handle the personal data of natural persons using the Application (especially names and e-mail addresses). Personal data will be processed. In relation to individual processing of personal data, the Operator will act as a controller within the meaning of Article 4(7) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter the "GDPR").

15.2. Transmission of Personal Data: The Operator declares that since it uses third-party services (cloud computing platforms, storage and others) during the operation of the Application, data and personal data may be transferred to these services. The Operator uses third-party services whose servers are located both in the EU and in the USA (provided that these services provide an equivalent standard of protection of personal data as exists in the EU).

15.3. Personal Data Processing Policy: The processing of personal data by the Operator is governed by the Personal Data Processing Policy, which is available at the website [www.skalapp.com](http://www.skalapp.com).

## **16. Final Provisions**

16.1. Changes to Terms and Conditions: The Operator may change or supplement the text of the Terms and Conditions. The Provider is obliged to notify the User of amendments to the Terms and Conditions by e-mail in accordance with Article 13 the Terms and Conditions at least 30 days before the amendment takes effect. The User is entitled to terminate the Contract in writing within 10 days of the delivery of notification of an amendment to the Terms and Conditions for this reason, while the notice period is 1 month and starts on the first day of the month following the month in which the termination of the Contract was delivered to the Operator. If the User

does not terminate the Contract within the specified period of time, the User is deemed to agree to the amendment to the Terms and Conditions. In the event of termination of the Contract due to an amendment to the Terms and Conditions, the refund provisions for the Subscription Fee under paragraph 11.7 shall apply as appropriate.

- 16.2. Amendments to Contract: The Contract or the legal relationship arising from it may only be amended in writing. A unilateral legal act that modifies or terminates the Contract or a legal relationship arising therefrom other than by fulfilling obligations under the Contract must be made in the form prescribed by law, but at least in plain written form.
- 16.3. Applicable Law: The Parties agree that the law applicable to the Contract or legal relations arising in connection with the Contract (including obligations to compensate for damages arising due to a breach of obligations under the Contract or to surrender unreasonable enrichment) is the law of the Czech Republic (with the exception of conflict of laws rules of private international law). The Parties exclude the application of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 16.4. Place of Legal Proceedings: The courts of the Czech Republic shall have jurisdiction to decide disputes relating to obligations under the Contract or relating to legal relations arising in connection with the Contract (including obligations to compensate for damages arising due to a breach of duties under the Contract or to surrender unreasonable enrichment). The court in whose district the Operator has its registered office shall have local jurisdiction. The Operator may also initiate legal proceedings (including a request for an injunction) in the courts of the country where the User is based. Other courts shall not have jurisdiction.

This current version of the Terms and Conditions is valid and effective as of 09.08.2022