

## VXG PLATFORM AGREEMENT

This VXG PLATFORM AGREEMENT (including Schedule A, this "**Agreement**") is made by and between **VXG Inc.** ("**VXG**"), having offices at 77 Bloor St West, Suite 600, Toronto, Ontario, M5S 1M2, Canada and you or the entity you represent ( "**You**" or "**Licensee**"). Licensee and VXG may be individually referred to as a "**Party**" or collectively as the "**Parties**".

This Agreement takes effect when an "Accept" button or check box presented with a link to these terms is clicked ("**Effective Date**"). You represent to VXG that you are lawfully able to enter into contracts (e.g., you are not a minor) and, if you are entering into the Agreement for an entity (such as the company you work for), that you have legal authority to bind that entity.

VXG has developed and licenses the "**VXG Platform**", which is a collection of software components and documentation for building cloud video management solutions (including the Software, as defined below). Each VXG Platform License purchased under this Agreement is for a specified number of Authorized Channels. Licensee may support, in aggregate, up to that number of Authorized Channels using one or more cloud-based instances of the VXG Platform Server Software. Each such instance requires its own Managed Service subscription. Additional Authorized Channels and Managed Service subscriptions may be added to this Agreement from time to time. Time limited evaluation access to the VXG Platform may be available free of charge.

Now therefore, in consideration for the commitments set forth below, the adequacy of which consideration the Parties hereby acknowledge, the Parties agree as follows.

### **1. DEFINITIONS.**In this Agreement:

1.1 "**Affiliate**" means any entity that, directly or indirectly, through one or more intermediates, is controlled by, controls, or is under common control with a Party (with "**control**" meaning ownership of more than fifty percent (50%) of the voting stock of the entity or, in the case of a non-corporate entity, an equivalent interest);

1.2 "**Application**" means any value-added video management, recording, streaming and/or video processing service, application or product that uses the VXG Platform;

1.3 "**Authorized Channels**" means the number of video input channels authorized by VXG for the VXG Platform License that Licensee has purchased under this Agreement;

1.4 "**Client**" means the person to whom Licensee extends license or access rights as part of Licensee's Application. For clarity, Clients may also be End Users, or Clients may offer the capabilities of Licensee's Application based to their own independent End Users;

1.5 "**Derivative Work**" means any revision, modification, translation, expansion, extension, collection, condensation, or abridgement of Software made for use in association with Licensee's Application;

1.6 "**Documentation**" means any guides, manuals, developer documentation, release notes, instructions, policies, and reference materials that VXG makes available to Licensee for the VXG Platform, as such materials may be modified by VXG from time to time;

1.7 "**End User**" means the person who is the intended end user of Licensee's Application, including any underlying VXG Platform Server Software functionality;

1.8 "**Fees**" means the fees specified in Schedule A for : (i) for VXG Platform Licenses, (ii) for Managed Service subscriptions, and (ii) for any additional man-hours requested for Development Services or used in excess of applicable Service Limits. VXG does not charge additional fees for Updates, provided Licensee have paid all corresponding License and Managed Service fees;

1.9 "**Object Code**" means software code in compiled or executable binary form;

1.10 "**Service Limits**" means the number of man-hours associated with each Managed Service subscription that Licensee has purchased under this Agreement;

1.11 "**Services**" means: (i) VXG Platform management, maintenance and technical support services ("**Managed Services**"), and (ii) VXG Platform customization services ("**Development Services**");

1.12 "**SLA**" means VXG's Service Level Agreement for Managed Services, as detailed in Schedule A attached to and forming part of this Agreement;

1.13 "**Software**" means the computer software elements of the VXG Platform made available to Licensee by VXG for use under the terms of this Agreement, including: (i) the VXG Platform server software ("**VXG Platform Server Software**") (provided in Object Code form), (ii) any components of the VXG Platform intended for distribution to Clients and/or End Users ("**Redistributable Software**") (provided in Object Code and/or Source Code form), (iii) any Updates to (i) or (ii) released during

Licensee's subscription to Managed Services, and (iv) any Managed Service or Development Service deliverables;

1.14 "**Source Code**" means human readable computer software code;

1.15 "**Term**" means:

(a) for subscription-based VXG Platform Licenses , the period from the Effective Date until the end of the applicable subscription period indicated in the corresponding invoice issued to Licensee by VXG, unless renewed in accordance with the provisions of Section 10.1 (*Term & Renewal*) below;

(b) for perpetual VXG Platform Licenses, the period from the Effective Date until termination of this Agreement in accordance with the provisions of Section 10 (*Term & Termination*) below;

(c) for Managed Services, the period from the Effective Date (or, in the case of any additional, renewed or replenished Managed Service subscriptions, the corresponding invoice date) until the earlier of: (i) the end of the applicable subscription period indicated in the corresponding invoice issued to Licensee by VXG, unless renewed in accordance with the provisions of Section 10.1 (Term & Renewal) below, or (ii) utilization of the man-hours associated with the applicable Service Limits, unless replenished in accordance with the provisions of Section 10.1.; and

(d)forVXG Platform evaluations, the thirty (30) day period from the Effective Date, unless extended or terminated earlier by VXG in its sole discretion ("**Evaluation Term**");

1.16 "**Update**" means any bug fix, patch, work-around or update release for the Software made available to Licensee by VXG for use under the terms of this Agreement;

1.17 "**Use**" means to: (i) to copy the Software as necessary to follow normal back-up practices, (ii) to create Derivative Works of any Software that VXG makes available to Licensee in Source Code form , and (iii) to reproduce, distribute and use the Software, and any Derivative Works, in accordance with the Documentation solely for the purposes of recording and streaming content using Licensee's Application to support, in aggregate, no more than the number of Authorized Channels;

1.18 "**VXG Platform License**" means the license option agreed to by the Parties in Schedule A, including the corresponding number of Authorized Channels indicated

therein, as such license (and number of Authorized Channels) may be amended from time to time by written agreement of the Parties;

1.19 "**Worldwide**" means any country of the world other than the Russian Federation, the Republics of Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyz, Moldova, Tajikistan, Turkmenistan and Uzbekistan, or any other country that is subject to export sanctions or restrictions under applicable export control laws; and

1.20 Other capitalized terms defined in any part of this Agreement will have their indicated meaning throughout this Agreement.

## **2. SOFTWARE AND SERVICES.**

2.1 **Evaluations** . If Licensee has elected to evaluate the VXG Platform, then, subject to the terms of this Agreement, VXG hereby grants to Licensee a non-exclusive, Worldwide, non-transferable and non-sublicensable limited license during the Evaluation Term to Use the Software solely for the purpose of internally assessing the suitability of its capabilities and performance for use in association with Licensee's intended Application. Evaluation versions of the Software may have performance limitations, such as a limited number of Authorized Channels, recording and playback time limits and, display watermarks.

### **2.2 Commercial Use .**

(a) **VXG Platform Server Software.** Subject to the terms of this Agreement (including payment of all applicable Fees), VXG hereby grants to Licensee for the Term of the VXG Platform License a non-exclusive, Worldwide, non-transferable license to Use the Software as reasonably required to implement on Licensee's (or its cloud-hosted service supplier's) platform one instance of the VXG Platform Server Software for each Managed Service subscription purchased by Licensee under this Agreement for the sole purpose of supporting Licensee's Application, and

(b) **Redistributable Software.** Subject to the terms of this Agreement (including payment of all applicable Fees), VXG hereby grants to Licensee for the Term of the VXG Platform License a non-exclusive, Worldwide, non-transferable license to Use the Software as reasonably required to reproduce, distribute and sublicense to End Users under the terms of an ALA (as defined in Section 3.4 below) the Use of the Redistributable Software for the sole purpose of supporting Licensee's Application.

2.3 **Affiliates/Subcontractors/Clients** . Subject to the terms of this Agreement, including Section 3.4 (Application License Agreement) and payment of all applicable Fees, Licensee may sublicense any of Licensee's rights under Section 2.2

(*Commercial Use*) to Licensee's Affiliates, subcontractors and/or Clients, provided that: (i) Licensee will always remain liable to VXG for any failure of Licensee's sublicensees to abide by the provisions of this Agreement as if such failure was Licensee's act or omission, (ii) Licensee will remain responsible for purchasing all Managed Service subscriptions required for sublicensed implementations of the VXG Platform Server Software, and (iii) the aggregate number of Authorized Channels used by Licensee, or authorized by Licensee (or its sublicensees) for use, must not exceed the number of Authorized Channels in Licensee's VXG Platform License.

## 2.4 **Services.**

(a) **Managed Services.** Subject to the Service Limits, VXG will remotely manage the VXG Platform Server Software on Licensee's behalf during the applicable Term, during VXG's regular business hours, and in accordance with the SLA. Licensee's sole remedy for any failure of the Managed Services to meet the SLA are listed in the Schedule A. Credits issued pursuant to the SLA will only be applied against the affected Managed Service subscription Fees. VXG is not required to issue refunds for or to make payments against such credits under any circumstances. VXG will have no responsibility or liability for any failure of the Services resulting from Licensee's (or its cloud-hosted service provider's) hosting, management, maintenance or support. Licensee may purchase additional Managed Service hours for existing subscriptions, or additional Managed Service subscriptions, at the rates specified in VXG's then-current pricing. Unused Managed Service credits expire at the end of each Managed Service subscription Term.

(b) **Development Services.** VXG will provide, during VXG's regular business hours, the number of hours of Development Services that Licensee purchases in advance, which are available at the then-current rates specified in VXG's then-current VXG Platform pricing schedules at [www.videoexpertsgroup.com](http://www.videoexpertsgroup.com). Upon written request VXG will provide Licensee with its estimate of the total Development Service hours required to complete the requested deliverables and its estimated completion date.

(c) VXG has no other obligation to provide any support, maintenance or development services to Licensee under this Agreement. Please contact VXG at [contact@videoexpertsgroup.com](mailto:contact@videoexpertsgroup.com) for information on optional VXG support and development service offerings.

## 3. **RESTRICTIONS, ACKNOWLEDGEMENTS AND RESPONSIBILITIES.**

3.1 **Software Restrictions** . All copies of the Software created or transferred pursuant to this Agreement are licensed, not sold, and Licensee receives no title to or ownership of any whole or partial copy of the Software itself. Furthermore, Licensee

receives no rights in or to the Software, or to any Managed Service or Development Service deliverables, other than those expressly granted in Section 2.2 above. Without limiting the generality of the foregoing, except as expressly authorized by this Agreement Licensee will not: (a) modify, translate, create derivative works from, distribute, publicly display, publicly perform, or sublicense the Software (b) use the Software in any way forbidden by Section 3.6 (*Other Restrictions*) below; (c) reverse engineer the Software, or decompile, disassemble, or otherwise attempt to derive any of the Software's Source Code (except to the extent such prohibition is contrary to applicable law that cannot be excluded by the agreement of the Parties); or (d) attempt to circumvent or disable time limit, Authorized Channel limitation, or other restriction or entitlement mechanism that is present or embedded in the Software.

**3.2 Changes to Software** . VXG may add, reduce, eliminate, or revise Software features or functionality at any time. Where any such change will cause a material detrimental impact on Licensee, VXG will take commercially reasonable efforts to provide Licensee with sixty (60) days prior written notice (email will constitute adequate notice). VXG reserves the right to discontinue ongoing support for Software, on six (6) months prior written notice (email will constitute adequate notice), provided that it notifies Licensee in such notice of any available migration paths to alternate product or service offerings that provide comparable technical features, functionality and performance.

**3.3 Third Party Software**. Versions of certain third-party open source software may be delivered along with the Software ("**Ancillary Software**"). A separate agreement may apply to Licensee's use or distribution of Ancillary Software. Licensee acknowledges and agrees that it receives, and will use and distribute, Ancillary Software under the terms and conditions of the applicable open source software license(s), and that Ancillary Software does not form part of the Software for the purpose of this Agreement. VXG identifies all Ancillary Software, and associated open source licenses, in associated Documentation.

**3.4 Application License Agreement**. Where Licensee grants Clients and/or End Users access to and rights to use any Software components for Licensee's Application, as permitted herein, Licensee must do so pursuant to a written Application license agreement ("**ALA**") which contains terms and conditions that: (i) only permit the use of such components in association with Licensee's Application, (ii) prohibit decompiling, reverse engineering or modification of such components (except as and only to the extent any foregoing restriction is prohibited by applicable law), and (iii) are at least as protective of the Software, including the associated intellectual property rights of VXG and its licensors, as the terms and conditions of this Agreement. Licensee will not make any representations and/or warranties on behalf of VXG, whether express, implied, statutory, or otherwise, including warranties of

merchantability, fitness for a particular purpose, satisfactory quality, title or non-infringement. Licensee will enforce VXG' rights under Licensee's ALA with Clients and End Users, in the same manner and to the same extent as Licensee enforce its own rights thereunder, or will allow VXG to do so by naming it as a third-party beneficiary in such agreements. Licensee will cooperate with VXG to maintain VXG's right, title and interest in and to the Software and will use reasonable efforts to promptly provide VXG with notice of any related intellectual property infringement or claim that Licensee becomes aware of.

**3.5 Clients and End Users** . VXG will have no obligation to provide any Managed Services or Development Services directly to Clients or End Users. Licensee will host, manage, maintain and support the Software for Licensee's Application that it offers to Clients and End Users in accordance with the Documentation. Licensee is responsible for: (a) the configuration of the Software to meet Licensee's own (and Licensee's Clients' and Licensee's and their End Users') requirements. Licensee will make no representations or warranties regarding the Software or any other matter pertaining to the features, functionality, performance, reliability, or availability of the VXG Platform to any third party on behalf of VXG, and Licensee will not create or purport to create any obligations or liabilities for VXG.

**3.6 Other Restrictions** . In addition to the restrictions in Section 3.1 (*Software Restrictions*), Licensee will not: (i) rent, sell, lease, distribute, pledge, assign or otherwise transfer, or encumber rights to the Software, or any part thereof, (ii) use the Software for service bureau or time-sharing purposes or in any other way allow third parties to exploit the Software, except by Clients and End Users as expressly authorized by this Agreement; (iii) provide Software passwords or other log-in information to any third party, except to Clients and End Users as required to use Licensee's Application as authorized by this Agreement; (iv) share non-public Software features or content with any third party; or (v) use the Software other than in accordance with this Agreement and in compliance with all applicable laws and regulations.

**3.7 No Hazardous Environments** . Licensee acknowledges and agrees that the Software is not sufficiently fault-tolerant for life-safety operations, and is not designed, manufactured, or intended for use in or in conjunction with control equipment in hazardous environments, including the monitoring or operation of nuclear facilities, aircraft navigation or critical communications systems, air traffic control, transportation control, or life support devices. Licensee will not use any of the Software for any purpose listed in this Section 3.7 and any attempt to do so will be entirely at Licensee's own risk.

#### **4. FEES.**

4.1 Licensee will pay to VXG the Fees specified in Schedule A for Licensee's initial VXG Platform License, Managed Service subscription(s), and additional Service hours, including for any renewals or extensions thereof for the first three (3) years of this Agreement. Thereafter, VXG reserves the right to change such fees, which changes will take effect upon ninety (90) day's prior notice to Licensee. Licensee will pay all such invoiced amounts to VXG within thirty (30) days of the date of the invoice. All Fees are non-refundable, and all invoices must be paid without setoff or counterclaim and without any deduction or withholding. Licensee is responsible for all taxes (other than taxes based on VXG's net income), fees, duties, or other similar governmental charges. VXG may elect to charge Licensee interest for late fees at the lesser of one- and one-half percent (1.5%) per month or the maximum rate permitted by law. VXG also reserves the right to suspend the license if Licensee fails to timely pay any amounts due under this Agreement after receiving notice of such late payment. In this Section 4.1, email will constitute adequate notice.

## **5. IP & FEEDBACK.**

5.1 **IP Rights.** VXG retains all right, title, and interest in and to the Software, Managed Service and Development Service deliverables, including all associated software, graphics, application programming interfaces, user interface look and feel, logos, trademarks and all related intellectual property rights. Subject to any underlying rights in the Software, and subject to the provisions of Sections 5.2 (*Independent Development*) and 6.3 (*Feedback*) below, Licensee retains all right, title and interest in and to any Derivative Works and applications Licensee develops (or have developed by third parties) pursuant to this Agreement. This Agreement does not grant Licensee any intellectual property license or rights in or to the Software, the Services, or any of their components, except to the extent expressly set forth in this Agreement. Licensee recognizes that the Software is protected by copyright and other laws.

5.2 **Independent Development.** Each Party acknowledges and agrees that the other Party and its Affiliates may, currently or in the future, make or use goods, services, or technologies that compete with its own; develop information internally or receive information from other parties that may be similar to its own; or evaluate, invest in, or do business with its competitors or potential competitors. Neither Party's execution of this Agreement will restrict such activities, provided all license restrictions of this Agreement are complied with.

5.3 **Feedback.** In this Agreement "**Feedback**" means Licensee's, Licensee's Clients' and Licensee's and their End Users' (and any of their respective employees', agents' or contractors') suggestions, comments, or other feedback about the Software or other VXG products or services. Even if designated as confidential, Feedback will not be



subject to any confidentiality obligations that bind VXG. Licensee hereby acknowledges and agrees that VXG will own right, title and interest in and to all Feedback, including all associated intellectual property rights, and Licensee hereby assign and agree to assign to VXG all of Licensee's right, title, and interest thereto, including all associated intellectual property rights.

## **6. CONFIDENTIAL INFORMATION.**

6.1 **No Confidential Information** . Each Party acknowledges that it will not disclose or provide access to any of its confidential information to the other Party pursuant to this Agreement. Cloud-hosted content will not be considered confidential information.

## **7. WARRANTY DISCLAIMER.**

7.1 THE SOFTWARE, SERVICES, AND ANYTHING ELSE PROVIDED IN CONNECTION WITH THIS AGREEMENT ARE ALL PROVIDED "AS IS" AND AS AVAILABLE. VXG AND ITS SUPPLIERS DISCLAIM ANY AND ALL REPRESENTATIONS, CONDITIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ALL IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR SATISFACTORY QUALITY, AND ANY IMPLIED REPRESENTATIONS, CONDITIONS OR WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. VXG MAKES NO REPRESENTATIONS, CONDITIONS OR WARRANTIES REGARDING ANY THIRD-PARTY SERVICE OR SOFTWARE WITH WHICH THE SERVICE MAY INTEROPERATE OR DEPEND UPON. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING VXG **DOES NOT** REPRESENT OR WARRANT: (A) THAT THE SOFTWARE OR THE SERVICES WILL PERFORM OR BE PROVIDED WITHOUT INTERRUPTION OR ERROR; OR (B) THAT THE SOFTWARE, SERVICES OR ANY OTHER ELEMENTS OF THE VXG PLATFORM ARE SECURE FROM HACKING OR OTHER UNAUTHORIZED INTRUSION. Licensee is solely responsible for determining the appropriateness of using and distributing the VXG Platform and, except as expressly provided in this Agreement, Licensee assumes all risks associated with Licensee's, Licensee's Clients', and Licensee's and their End Users' exercise of service and license rights and entitlements under this Agreement, including but not limited to the risks and costs of errors, compliance with applicable laws, damage to or loss of content, data, programs or equipment, and interruption of services.

## **8. INDEMNIFICATION.**

**8.1 Indemnification by VXG.** VXG will defend Licensee and Licensee's Indemnified Associates against any and all third party claims, demands, suits, or proceedings (each a "**Claim**") brought against Licensee or Licensee's officers, directors, shareholders, parents, subsidiaries, agents, successors, and assigns (each an "**Indemnified Associate**") alleging that the Software infringe any third party intellectual property right. VXG will pay any damages finally awarded by a court of competent jurisdiction against Licensee and Licensee's Indemnified Associates or settled by VXG which are attributable to such Claims. VXG's obligations set for in this Section 8.1 do not apply to the extent that the Claim arises from: (a) a breach of this Agreement, (b) the Software being used in a manner not authorized by this Agreement, or in a manner or for a purpose other than that for which it was supplied, as contemplated by the corresponding Documentation, (c) the Software having been modified by or for You, Licensee's Clients or Licensee's or their End Users; (d) the implementation of features or functionality requested by Licensee, Licensee's Clients or Licensee's or their End Users, (e) the combination of the Software with hardware, software or services not provided by VXG; (f) the use of any version of the Software other than the current, unaltered release or offering, if such Indemnified Claim would have been avoided by the use of a current unaltered release of the Software; (g) any third-party service, software or other product on which the Software relies (including Ancillary Software and Amazon Web Services); or (h) compliance with any published and industry recognized standards or recommendations (including standards or recommendations of or licensed by MPEG, AVC/H.264, HEVC/H.265, DivX, JPEG, ACC, Dolby, Via, Khronos). The foregoing states VXG's entire liability and Licensee's exclusive remedy with respect to any infringement or misappropriation of any intellectual property rights of any kind. This Section 8.1 and Section 8.2 (*Mitigation by VXG*) will not apply to any Software licensed for no fee, including any free trial or evaluation, and will be subject to the provisions of Section 9 (*Limitation of Liability*).

**8.2 Mitigation by VXG.** If: (a) VXG is subject to (or is believes it may be come subject to) an actual or potential Claim, or (b) Licensee provides VXG with notice of an actual or potential Claim, VXG may, at its sole option: (i) procure for Licensee the right to continue to use the affected portion of the Software; (ii) modify or replace the affected portion of the Software with functionally equivalent or superior software or services so that Licensee's use is non-infringing; or (iii) if (i) or (ii) are not commercially reasonable, terminate Licensee's license to affected Software and refund to Licensee any associated license for the affected portion of the Software.

**8.3 Indemnification by Licensee.** Licensee will indemnify, defend and hold harmless VXG and its Indemnified Associates from and against any and all Claims arising out of or related to Licensee's alleged or actual use of, misuse of or failure to use the Software in accordance with the terms of this Agreement, including: (a) Claims by

Licensee's Clients, or Licensee's or their End Users, or any of their employees, agents or contractors; (b) Claims related to unauthorized disclosure, exposure or use of personal information, other private information or content; (c) Claims related to infringement or violation of copyright, trademark, trade secret, privacy or confidentiality rights, including by content; and (d) Claims related to the injury to or death of any individual, or any loss of or damage to real or tangible personal property, caused by the act or omission of Licensee or of any of Licensee's employees, agents or contractors. Licensee will have no obligation under this Section 8.3 to the extent any Claim is covered by Section 8.1 (*Indemnification by VXG*).

**8.4 Litigation.** The obligations of the indemnifying Party pursuant to this Section 8 include retention and payment of attorneys and payment of costs and expenses, as well as settlement at the indemnifying Party's expense. The indemnified Party or Indemnified Associate(s) must provide the indemnifying Party prompt notice of the Claim and agree to reasonably cooperate and provide assistance (at indemnifying Party's expense) in the defense; provided that failure by the indemnified Party to provide prompt notice will relieve the indemnifying Party of its obligations only to the extent that the indemnifying Party was materially prejudiced by such failure. The indemnifying Party will control the defense of any Indemnified Claim, including appeals, negotiations, and any settlement or compromise thereof; provided that the indemnified Party and Indemnified Associates will have the right to reject any settlement or compromise that requires that it or they admit wrongdoing or liability or that subjects it or them to any ongoing affirmative obligations. VXG and/or VXG's Indemnified Associates may participate in the defense of any Claim for which they are indemnified under this Section 8 at their own expense.

## **9. LIMITATION OF LIABILITY.**

9.1 EXCEPT TO THE EXTENT SUCH A LIMITATION IS PROHIBITED BY LAW, IN NO EVENT WILL VXG BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE USE OR INABILITY TO USE THE VXG PLATFORM, WHETHER UNDER A THEORY OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCTS LIABILITY, OR OTHERWISE, EVEN IF VXG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

EXCEPT TO THE EXTENT SUCH A LIMITATION IS PROHIBITED BY LAW, IN NO EVENT WILL ANY PARTY'S TOTAL LIABILITY FOR ANY AND ALL DAMAGES AND CLAIMS UNDER OR RELATED TO THIS AGREEMENT

EXCEED THE FEES PAID TO VXG FOR THE SERVICES AND/OR SOFTWARE FROM WHICH THE CLAIM(S) AROSE IN THE TWELVE CONSECUTIVE MONTHS PRIOR TO THE MONTH IN WHICH THE EVENT GIVING RISE TO THE FIRST CLAIM OCCURRED.

Nothing in this Agreement will limit or exclude VXG's liability for death or personal injury caused by its negligence or for fraudulent misrepresentation or for any other liability which by law cannot be excluded.

## **10. TERM & TERMINATION.**

**10.1 Term & Renewal.** This Agreement commences on the Effective Date. The term for any VXG Platform License or Managed Service subscription is defined in Section 1.15 ("Term"). Licensee can extend the Term for any time-limited license or subscription(s) by issuing to VXG a corresponding order in accordance with Section 4 (Fees) at least thirty (30) days prior to expiration of the then-current Term.

**10.2 Termination for Convenience.** Licensee may terminate this Agreement without cause upon sixty (60) days prior written notice to VXG, in which case no Fees will be refundable. After the fourth (4<sup>th</sup>) anniversary of the Effective Date VXG may terminate this Agreement without cause upon sixty (60) days prior written notice to Licensee.

**10.3 Termination for Cause.** Either Party may terminate this Agreement by providing written notice if the other Party fails to comply with any material term of this Agreement and, in the event such breach can be cured, fails to cure the breach within thirty (30) days written notice thereof.

**10.4 Effects of Termination.** Upon expiration of a Term or termination of this Agreement, all corresponding licenses and all Service access rights will immediately end, and Licensee must cease all use of all corresponding Software and delete, destroy, or return (at VXG's direction) all copies of the Software in Licensee's possession or control. The following provisions will survive termination or expiration of any particular Software license or termination of this Agreement: Sections 3.1 (*SoftwareRestrictions*), 3.6 (*Other Restrictions*), 5 (*IP & Feedback*), 7 (*Warranty Disclaimer*), 8 (*Indemnification*), 9 (*Limitation of Liability*), 10 (*Term & Termination*) and 11 (*Miscellaneous*); and, any other provision of this Agreement that must survive to fulfill its essential purpose. Termination is without prejudice to any right or remedy that may have accrued or be accruing to either Party prior to termination. Termination will not relieve Licensee from any obligation to pay VXG any and all Fees or other amounts due under this Agreement.

## 11. MISCELLANEOUS.

11.1 **Independent Contractors.** The Parties are independent contractors and will so represent themselves in all regards. Neither Party is an agent of the other, and neither Party may make commitments on the other's Party's behalf. The Parties agree that no VXG employee, agent or contractor is or will be considered an employee of Licensee.

11.2 **Notices.** All notices to VXG under this Agreement will be in writing and will be personally delivered or sent by courier or by certified or registered mail (return receipt requested) and will be deemed to have been duly given when received at 77 Bloor St West, Suite 600, Toronto, Ontario, M5S 1M2, Canada. All notices to Licensee under this Agreement will be provided electronically when expressly permitted in this Agreement, or by courier or certified or registered mail (return receipt requested) to Licensee at the addresses on Licensee's last Order and will be deemed to have been duly given when sent or posted electronically (when permitted in this Agreement) or when received.

11.3 **Force Majeure.** No delay, failure, or default, other than a failure to pay fees when due, will constitute a breach of this Agreement to the extent caused by acts of war, terrorism, hurricanes, earthquakes, other acts of God or of nature, strikes or other labor disputes, riots or other acts of civil disorder, embargoes, or other causes beyond the performing Party's reasonable control.

11.4 **Assignment & Successors.** Licensee may not assign, transfer or sublicense this Agreement or any of its rights or obligations hereunder without VXG's express written consent. An assignment will be deemed to include any merger of Licensee with another party, whether or not Licensee is the surviving entity, the acquisition of more than 50% of any class of Licensee's voting stock by another party, or the sale of more than 50% of Licensee's assets. Except to the extent forbidden in this Section 11.4, this Agreement will be binding upon and inure to the benefit of the Parties' respective successors and assigns.

11.5 **Severability.** To the extent permitted by applicable law, the Parties hereby waive any provision of law that would render any term of this Agreement invalid or otherwise unenforceable in any respect. If a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

11.6 **Interpretation.** This Agreement is the Parties' entire agreement on this topic, superseding any prior or contemporaneous agreements. Failure to enforce any of provisions of this Agreement will not constitute a waiver. Unless otherwise expressly

stated, when used in this Agreement "include," "includes," and "including" are not exclusive or limiting; "Section" refers to this Agreement's provisions; "days" refers to consecutive calendar days including Saturdays, Sundays and holidays; and "dollars" and the symbol "\$" refer to United States dollars. Section headings in this Agreement are for ease of reference only.

**11.7 Applicable Law and Place of Performance.** This Agreement will be governed solely by the laws of the Province of Ontario, Canada, including applicable federal laws, without reference to: (a) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the Parties' rights or duties; (b) the United Nations Convention on Contracts for the International Sale of Goods; or (c) other international laws. This Agreement will be deemed to be entered into and fully performed by VXG in the Province of Ontario.

**11.8 U.S. Government.** The Services and Documentation are provided with Restricted Rights. Use, duplication, or disclosure for or by the government of the United States, including any of its agencies or instrumentalities, is subject to restrictions set forth, as applicable: (a) in subparagraphs (a) through (d) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19; or (b) in similar clauses in other federal regulations, including the NASA FAR supplement and the DFAR's. The contractor or manufacturer is VXG. Licensee will not remove or deface any restricted rights notice or other legal notice displayed as part of the Services or appearing in the Software, Documentation or on any packaging or other media associated with the Software or Documentation. Licensee will require that Licensee's government Clients and End Users of the agree to and acknowledge the provisions of this Section 11.8 in writing.

**11.9 Technology Export.** Licensee will comply in all respects with any and all applicable laws, rules and regulations and obtain all permits, licenses and authorizations or certificates that may be required in connection Licensee's use of the Software. Licensee represents and warrants that: (a) Licensee is not located in, under the control of, or a national or resident of any country to which: the export of the Software, Documentation, Services or related information would be prohibited by the applicable laws, rules or regulations of the United States or Canada; (b) Licensee is not an entity to whom the export of the Software, Services or related information would be prohibited by the laws of the United States or Canada; and (c) Licensee has and will comply with applicable laws, rules and regulations of the United States and Canada (or other applicable jurisdiction) and of any state, province, or locality (or other applicable jurisdiction) governing exports of any product or service provided by or through VXG. Licensee will not use the Software for any purposes prohibited by applicable laws, rules or regulations on exports, including nuclear, chemical, or biological weapons proliferation.

11.10 **Amendment.** Subject to Section 3.2 (*Changes to Software*) and 4 (*Fees*), this Agreement may only be amended by written agreement of the Parties..

## **SCHEDULE A**

### **A.1 VXG Platform License Fees**

The license fees are as published on AWS Marketplace

<https://aws.amazon.com/marketplace/pp/prodview-iqvrq5gev4ibo>

### **A.2 Managed Service Subscription Fees and SLA**

The Managed Service Subscription Fee is optional. The Managed Service can be purchased separately. The SLA requires a Managed Service Subscription Fee subscription.