

VIDA SAAS AGREEMENT

This software as a service agreement (the “**Agreement**”) contains the terms and conditions that govern the Customer’s access to and use of the Services and constitutes a contractual agreement between Visual Data Media Services Ltd, (together with its subsidiaries and affiliates, the “**Company**”) and the Customer. The Company and the Customer may also be referred to as a “**Party**” and together, the “**Parties**”.

This Agreement takes effect either when the Customer, or an authorised individual on its behalf, clicks “Accept” within the Site, or when both Parties have signed the Agreement (the “**Effective Date**”). The Customer and, if applicable, the individual accepting the Agreement on its behalf, represents that it has appropriate legal authority to bind the Customer to the terms of this Agreement. By clicking “Accept” or signing the Agreement, the Customer, or the authorised individual on its behalf, hereby acknowledges that they have read and understood the terms of this Agreement. If the Customer, or the authorised individual on its behalf, does not agree with, or understand, the terms of this Agreement, the Customer, or the authorised individual on its behalf, should not click “Accept” or sign the Agreement, and should contact the Company to discuss the concerns. The Company reserves the right to amend the terms of this Agreement in accordance with Clause 16.

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this Clause apply in this Agreement.

- **Account:** means an account of the Customer.
- **Additional Charges:** means any one-off or other charges due by the Customer to the Company in addition to the Subscription Fees, as notified by the Company to the Customer, including for any Support Services and/or Optional Services.
- **Authorised Users:** those employees, agents and independent contractors of the Customer who are authorised by the Customer to access the Account, use the Services and the Documentation, as further described in Clause 4.1(d).
- **Business Day:** a day other than a Saturday, Sunday or public holiday in the United Kingdom.
- **Confidential Information:** information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in Clause 11.5 or Clause 11.6.
- **Customer:** the recipient of the Services.
- **Customer Content:** all content, files, data, documents and metadata provided by the Customer pursuant to utilising the Services including any audiovisual content, master video, sound, dubbed content, recordings, graphics, character descriptions, cast lists, scripts, and transcripts.
- **Customer Information:** the information and data inputted by the Customer and Authorised Users for the purpose of using the Services or facilitating the Customer's use of the Services.
- **Customer IPR:** any and all Intellectual Property Rights owned by the Customer, or that the Customer otherwise has valid and subsisting rights to use, that is provided to

the Company with regards receiving the Services including, to the extent applicable, any Intellectual Property Rights within the Customer's name, logo and Customer Content.

- **Data Protection Legislation:** any Law in force from time to time that is applicable to a Party relating to data privacy, data protection or personal data.
- **Documentation:** the documents made available to the Customer by the Company via email, and amended from time to time, which includes a description of the Service, instructions for use of the Services by the Customer, a description of the Subscription Fees, and any further rate cards.
- **Early Termination Fee:** 3 months of the Subscription Fee.
- **End User:** an end user which the Customer makes the Services available to.
- **End User Licence Agreement:** the end user licence agreement between the Company and an End User in accordance with Clause 3.6.
- **Governmental Entity:** any federal, national, supranational, state, provincial, local, or similar government, governmental, regulatory, administrative, or quasi-governmental authority, branch, office agency, commission or other body, or any court, tribunal, or arbitral, or judicial body (including any grand jury), whether domestic or foreign.
- **Governmental Order:** any executive order, injunction, judgment, decree, writ, order, determination, award or other requirement issued by any Governmental Entity, or pursuant to any binding arbitration, mediation or similar proceeding.
- **Initial Subscription Term:** means 12 months from the Effective Date.
- **Insolvency Proceedings:** means, in respect of a Party: a) other than for the purposes of a bona fide reconstruction or amalgamation, passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved, or the Party being otherwise dissolved; b) the appointment of an administrator of, or the making of an administration order in relation to, the Party, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or any part of the entity's undertaking, assets, rights or revenue; c) entering into an arrangement, compromise or composition in satisfaction of its debts with the Party's creditors or any class of them, or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from the Party's creditors; d) being unable to pay the Party's debts, or being capable of being deemed unable to pay the Party's debts; e) entering into any arrangement, compromise or composition in satisfaction of its debts with its creditors; or f) any similar act or circumstances arising in any other applicable jurisdiction.
- **Intellectual Property Rights:** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or

forms of protection which subsist or will subsist, now or in the future in any part of the world.

- **Law:** any statute, law, treaty, ordinance, regulation, directive, rule, code, executive order, injunction, judgment, decree, writ, order or other requirement, including any successor provisions thereof, of any Governmental Entity.
- **Losses:** has the meaning given in Clause 12.1.
- **Normal Business Hours:** 9.00 am to 6.00 pm during a Business Day.
- **Optional Services:** as described in the Documentation.
- **Renewal Period:** the period described in Clause 14.1.
- **Services:** the subscription services provided by the Company to the Customer under this Agreement via the Site or any other website notified to the Customer by the Company from time to time, as more particularly described in the Documentation. If the Support Services and/or Optional Services are to be provided to the Customer in accordance with Clause 2, "Services" shall be deemed to include the Subscription Services and/or Optional Services, as applicable.
- **Services Data:** means any data, results, reports, insights, recommendations, information or other derivative works, developed, derived or otherwise created by the Company, as further defined in Clause 3.3(b).
- **Site:** <https://vida.studio>
- **Subscription Fees:** the monthly subscription fees payable by the Customer to the Company for the Services as provided for in the Documentation.
- **Subscription Term:** the Initial Subscription Term together with any subsequent Renewal Periods.
- **Support Services:** as described in the Documents.
- **Support Services Policy:** the Company's policy for providing support in relation to the Services as provided for in the Documentation.
- **Virus:** any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.
- **Vulnerability:** a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4 A reference to a statute or statutory provision is a reference to it as it is in force as at the Effective Date.
- 1.5 A reference to a statute or statutory provision shall include all subordinate legislation made as at the Effective Date under that statute or statutory provision.
- 1.6 A reference to writing or written includes e-mail and notifications via Site.
- 1.7 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule to this Agreement.

2. ON-BOARDING AND ACCOUNT SETUP

- 2.1 Before the Company can create an Account to allow the Customer to receive the Services from the Company, the Customer must:
 - (a) provide all information requested by the Company, including the names and email addresses of the Authorised Users;
 - (b) confirm whether it would wish to receive any of the Support Services and/or Optional Services; and
 - (c) pay the first Subscription Fee and any Additional Charges in accordance with Clause 10.2.
- 2.2 Notwithstanding the Customer's compliance with Clause 2.1, the Company reserves the right in its sole discretion to refuse to create an Account and provide the Services to a Customer.
- 2.3 Notwithstanding Clause 2.1(b), the Customer is entitled to request the Company provide any of the Support Services and/or Optional Services throughout the Subscription Term. The Company shall review all such requests and confirm within a reasonable period whether it will provide the requested Support Services and/or Optional Services. Provision of Support Services and/or Optional Services is subject to payment of the Additional Charges in accordance with Clause 10.
- 2.4 All information provided for the Account must be accurate and true at the time of provision, and the Customer shall keep all such information up to date by making any changes via its Account.
- 2.5 From creation of the Account, the Customer is solely responsible and will be deemed responsible for all activities, acts and events that occur under or are connected to its Account which are in any way, directly or indirectly, related to the Services, the Documentation, the Services Data, the Customer Information, and/or this Agreement, regardless of whether the activities are authorised or undertaken by the Customer, any Authorised User or other third party. Unless directly caused by a breach by the Company of this Agreement, the Company is not responsible and shall not be held liable under any circumstances for any such activities, acts or events that occur, or any

Losses suffered thereto, with respect to a Customer's Account, its Customer Information and/or its use of the Services, Documentation, or Services Data.

3. INTELLECTUAL PROPERTY RIGHTS AND THE EULA

3.1 Upon completion of creating an Account in accordance with Clause 2.1, the Company hereby grants to the Customer:

- (a) a revocable, limited, non-exclusive, non-transferable, non-assignable licence, without the right to grant sub-licences, to use the Services, the Documentation and, if applicable, the Support Services and/or Optional Services, during the Subscription Term solely for the Customer's business operations; and
- (b) a revocable, limited, non-exclusive, non-transferable, non-assignable licence, without the right to grant sub-licences, to use the Services Data the Company provides to the Customer (pursuant to Clause 5.2) during the Subscription Term in relation to its use of the Services and, if applicable, Support Services and/or Optional Services, in accordance with Clause 3.1(a),

strictly in accordance with this Agreement.

3.2 Upon creation of an Account in accordance with Clause 2.1, the Customer hereby grants to the Company an irrevocable and non-exclusive licence, with the right to sub-licence to affiliates, for the Subscription Term to use the Customer IPR and Customer Information as is required for the Company to provide the Services and to exercise its rights under this Agreement.

3.3 The Customer acknowledges and agrees that:

- (a) the Company and/or its licensors own all Intellectual Property Rights in the Services, the Documentation, the Services Data, and the Site. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, under or in any such Intellectual Property Rights, or any other rights or licences in respect of such; and
- (b) the Company has the right to develop, derive or otherwise create the Services Data using or based on, in whole or in part, the Customer's use of the Services and, to the extent related to the Customer, any Consumer's use of the Services, and any Customer Information that is not confidential in accordance with Clause **Error! Reference source not found.**

3.4 The Company acknowledges and agrees that the Customer and/or its licensors own all Intellectual Property Rights in the Customer IPR.

3.5 The Customer confirms that it has all rights in relation to the Customer IPR that are necessary to grant the rights it purports to grant under, and in accordance with, the terms of this Agreement.

3.6 If the Customer opts to make the Services available to an End User, it must ensure the EULA is entered into by the End User.

4. AUTHORISED USERS

4.1 In relation to the Authorised Users, the Customer undertakes that:

- (a) it will ensure each Authorised User complies with the all terms of this Agreement when accessing and using the Services, the Documentation, the Services Data or exercising any other right or obligation of the Customer under this Agreement;
- (b) any act or omission by an Authorised User directly or indirectly related to this Agreement and/or the Services will be deemed an act or omission of the Customer;
- (c) if applicable, the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number stated by the Company; and
- (d) it shall ensure the list of current Authorised Users contained within the Site is kept up to date.

5. SERVICES

- 5.1 The Company shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this Agreement. If requested, the Company shall also provide the Support Services and/or Optional Services.
- 5.2 The Company shall, during the Subscription Term, make available in whole or in part, either via the Customer Dashboard or through another means chosen by the Company, the Services Data which it, in its sole discretion, determines would be of benefit to the Customer. The Customer acknowledges that the Company is not, under any circumstances, obligated to make the available all Services Data.
- 5.3 The Company shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, for at least 99.9% of the time, measured annually, except for:
 - (a) planned maintenance carried out outside Normal Business Hours; and
 - (b) unscheduled maintenance performed during Normal Business Hours, provided that the Company has used reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice in advance.

6. UNAUTHORISED USE

- 6.1 When using the Services, the Customer shall not access, upload, share, store, distribute or transmit any Viruses or other any material, including Customer Content, that may be unlawful or, in the Company's sole opinion, detrimental or harmful to the Services. If the Company considers the Customer to have violated this Clause 6.1, the Company reserves the right, without liability or prejudice to its other rights, to immediately suspend or terminate the Customer's access to the Services.
- 6.2 The Customer shall not:
 - (a) except as may be allowed by any applicable Law which is incapable of exclusion by agreement between the Parties and except to the extent expressly permitted under this Agreement:

- (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services, Site, and/or Documentation (as applicable) in any form or media or by any means; or
 - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Services or the Site;
 - (b) access all or any part of the Services, Documentation, and/or Services Data in order to build a product or service which competes with the Services;
 - (c) use the Services, Documentation, and/or Services Data to provide services to third parties;
 - (d) subject to Clause 21.1, licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services, Documentation, and/or the Services Data available to any third party except the Authorised Users,
 - (e) attempt to obtain, or assist third parties in obtaining, access to the Services, Documentation, and/or Services Data, other than as provided under this Clause 4 with respect to Authorised Users; or
 - (f) introduce or permit the introduction of, any Virus or Vulnerability into the Company's or one its affiliates' network and information systems.
- 6.3 The Customer shall use its best endeavours to prevent any unauthorised access to, or use of, the Services, the Documentation, and/or the Services Data and, in the event of any such unauthorised access or use, immediately notify the Company.
- 6.4 The Customer will comply with all applicable requirements of the Data Protection Legislation.

7. CUSTOMER INFORMATION

- 7.1 The Customer shall own all right, title and interest in and to all of the Customer Information that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Information.
- 7.2 In the event of any loss or damage to Customer Information, the Customer's sole and exclusive remedy against the Company shall be for the Company to use reasonable commercial endeavours to restore the lost or damaged Customer Information from the latest back-up of such Customer Information maintained by, or on behalf of, the Company. The Company shall not be responsible for any loss, destruction, alteration or disclosure of Customer Information caused by any third party.

8. SUPPLIER'S OBLIGATIONS

- 8.1 The Company undertakes that the Services will be performed substantially in accordance with the relevant Documentation and with reasonable skill and care.
- 8.2 The undertaking at Clause 8.1 shall not apply to the extent of any non-conformance which is caused by use of the Services by the Customer contrary to the Company's instructions, or modification or alteration of the Services by any party other than by the

Company's or the Company's duly authorised contractors or agents. If the Services do not conform with the undertaking at Clause 8.1, the Company will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in Clause 8.1.

8.3 The Company will implement reasonable and appropriate technical and security measures to secure the Services in accordance with market practice.

8.4 The Company:

(a) does not warrant that:

- (i) the Customer's use of the Services will be uninterrupted or error-free;
- (ii) that the Services, Documentation, the Services Data, and/or any further information obtained by the Customer through the Services will meet the Customer's requirements; or
- (iii) the Services will be free from Vulnerabilities, and

(b) is not responsible for any delays, delivery failures, or any other Losses resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

8.5 This Agreement shall not prevent the Company from entering into similar agreements or arrangements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to or the same as those provided under this Agreement.

8.6 The Company warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

9. CUSTOMER'S OBLIGATIONS

9.1 The Customer shall:

(a) provide the Company with:

- (i) all necessary co-operation in relation to this Agreement; and
- (ii) all necessary access to such information as may be required by the Company,

in order to provide the Services, including but not limited to Customer Information, security access information and configuration services;

- (b) ensure the Customer Content that is submitted to the Services is not unlawful;
- (c) be responsible for the acts and omissions of its Authorised Users;

- (d) without affecting its other obligations under this Agreement, comply with all applicable Laws with respect to its activities under this Agreement;
- (e) carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the Parties, the Company may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (f) obtain and maintain all necessary licences, consents, and permissions necessary for the Company, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;
- (g) comply with any obligations under or pursuant to the Documentation;
- (h) ensure that its network and systems comply with the relevant specifications provided by the Company from time to time; and
- (i) be, to the extent permitted by Law and except as otherwise expressly provided in this Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to the Company's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

9.2 The Customer is solely responsible and liable for:

- (a) taking all appropriate action and deploying and implementing all necessary controls and measures to secure and protect its use of the Services and the Customer Information to the highest standards;
- (b) the security and confidentiality of all log-in credentials for the Services, whether provided by the Company or created by the Customer or an Authorised User, and for ensuring they are for the Customer's, and its Authorised User's, internal use only. The Customer will not share, disclose, provide access to, sell, transfer or sublicense the log-in credentials to the Company or any other entity or person. Should the Customer become aware of any accidental or unlawful access to, or loss or disclosure of, its or its Authorised User's log-in credentials (including their email accounts), it shall reset its log-in credentials immediately and contact the Company immediately;
- (c) backing up Customer Information; and
- (d) controlling access to, and all activities carried out on, its Account by it, any Authorised User or any third party, notwithstanding if its log-in credentials have been subject to any accidental or unlawful loss, access or disclosure.

9.3 The Customer shall immediately inform the Company of any actual or suspected breach of security of its Account, or any actual or suspected unauthorised access to or use of its Account or the Services, Documentation, and/or Services Data. The Company reserves the right, without liability or prejudice to its other rights to the Customer, to immediately suspend or terminate the Customer's access to the Services if it is notified of, or suspects, a breach of security of the Account, the Services, Documentation, and/or Services Data.

10. CHARGES AND PAYMENT

- 10.1 The Customer shall pay the Subscription Fees and the Additional Charges, if applicable, to the Company in accordance with this Clause 10.
- 10.2 The Customer shall on or before the Effective Date provide to the Company valid, up-to-date and complete credit card details acceptable to the Company. By providing such credit card details to the Company, the Customer hereby authorises the Company to bill such credit card:
- (a) on the Effective Date for the Subscription Fees and the Additional Charges payable in respect of the foregoing month; and
 - (b) on each monthly anniversary of the Effective Date for the Subscription Fees and Additional Charges payable in respect of the foregoing month.
- 10.3 Notwithstanding Clause 10.2, the Customer acknowledges that the Company may elect to invoice the Customer for payment of the Subscription Fees and Additional Charges instead of automatically billing their credit card. Any such invoice is payable by the Customer within 30 days of the date the invoice.
- 10.4 If the Company has not received payment of the Subscription Fees or the Additional Charges, if applicable, whether in accordance with 10.2 or 10.3, within 14 days after a due date, and without prejudice to any other rights and remedies of the Company:
- (a) the Company may, without liability to the Customer, disable the Customer's Account and access to all or part of the Services and the Company shall be under no obligation to provide any or all of the Services while the payments concerned remain unpaid; and
 - (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3%, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 10.5 All amounts and fees stated or referred to in this Agreement:
- (a) shall be payable in the currency stated in the Documentation or as otherwise stated by the Company; and
 - (b) are, subject to Clause 13.3(b), non-cancellable and non-refundable.
- 10.6 The Company shall be entitled to increase the Subscription Fees and/or Additional Charges on an annual basis and upon 90 days' prior notice to the Customer.

11. CONFIDENTIALITY AND PUBLICITY

- 11.1 Each Party may be given access to Confidential Information from the other Party in order to perform its obligations under this Agreement. A Party's Confidential Information shall not be deemed to include information that:
- (a) is or becomes publicly known other than through any act or omission of the receiving Party;
 - (b) was in the other Party's lawful possession before the disclosure;
 - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

- (d) is independently developed by the receiving Party, which independent development can be shown by written evidence.
- 11.2 Subject to Clause 11.4, each Party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation and performance of this Agreement.
- 11.3 Each Party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its Authorised Users, employees or agents in violation of the terms of this Agreement.
- 11.4 A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by Law or by any Governmental Entity or Governmental Order, provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 11.4, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- 11.5 The Customer acknowledges that the Services (and details thereof), the Documentation, and the Services Data each constitute the Company's Confidential Information.
- 11.6 The above provisions of this Clause 11 shall survive termination of this Agreement, however arising.
- 11.7 The Customer shall not make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of this Agreement, the wider transactions contemplated by it, or the relationship between the Parties, without the prior written consent of the Company, except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 11.8 The Company may make public, including, but not limited to, on its Site or social media, or through a press release, the fact that the Customer is a recipient of the Services and in doing so, may display the Customer's name and logo.

12. INDEMNITY

- 12.1 The Customer shall defend, indemnify and hold harmless the Company, its affiliates, its officers, directors and employees, from and against any and all claims, actions, lawsuits, and investigations brought by a third party ("**Third Party Claims**"), and will pay any settlements, awards, fines and reasonable legal fees and expenses and court costs associated with such Third Party Claims ("**Losses**"), to the extent arising out of or in connection with:
 - (a) subject to Clause 12.2, the Customer's use of the Services, the Documentation, the Services Data, or the Site;
 - (b) any breach of any obligation of the Customer under this Agreement; or
 - (c) the use by the Company of the Customer IPR.

- 12.2 Subject to Clause 13.3 and the remainder of this Clause 12, the Company shall defend the Customer against any claim that the Customer's use of the Services in accordance with this Agreement infringes any Intellectual Property Rights of a third party as of the Effective Date, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:
- (a) the Company is given prompt notice of any such claim;
 - (b) the Customer provides reasonable co-operation to the Company in the defence and settlement of such claim, at the Company's expense; and
 - (c) the Company is given sole authority to defend or settle the claim.
- 12.3 In the defence or settlement of any claim under Clause 12.2, the Company may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.
- 12.4 In no event shall the Company, its employees, agents and sub-contractors be liable to the Customer under Clause 12.3 to the extent that the alleged infringement is based on:
- (a) a modification of the Services by anyone other than the Company; or
 - (b) the Customer's use of the Services in a manner contrary to this Agreement or the instructions given to the Customer by the Company; or
 - (c) the Customer's use of the Services after notice of the alleged or actual infringement from the Company or any appropriate authority.
- 12.5 The foregoing and Clause 13.3(b), respectively, state the Customer's sole and exclusive rights and remedies, and the Company's (including the Company's affiliates', employees', agents' and sub-contractors') entire obligations and liability, for infringement of any Intellectual Property Rights.

13. LIMITATION OF LIABILITY

- 13.1 Except as expressly and specifically provided in this Agreement:
- (a) the Customer assumes sole responsibility for results or works obtained, gained, developed or created from the use of the Services, the Documentation, and the Services Data by the Customer, and for any conclusions drawn from such use. The Company shall have no liability for any Losses caused by errors or omissions in any information, instructions or scripts provided to the Company by the Customer in connection with the Services, or any actions taken by the Company at the Customer's direction;
 - (b) to the extent related to Services, the Documentation, and the Services Data, including with respect to the accuracy and completeness of any information provided therein, all warranties, representations, conditions and all other terms of any kind whatsoever implied by Law are, to the fullest extent permitted by applicable Law, excluded from this Agreement; and

- (c) the Services and the Documentation are provided to the Customer on an "as is" basis.

13.2 Nothing in this Agreement excludes the liability of either Party:

- (a) for death or personal injury caused by that Party's negligence; or
- (b) for fraud or fraudulent misrepresentation.

13.3 Subject to Clause 13.1 and Clause 13.2:

- (a) to the maximum extent permitted by applicable Law, the Company shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any special, indirect, incidental consequential, punitive or exemplary damages of any kind (including, without limitation, relating to lost or corrupted data or information, lost revenues or profits, valuations, loss of use, loss of cost, or other savings, or loss of goodwill or reputation) arising out of or relating to this Agreement, the Services, the Documentation, or the Services Data; and
- (b) to the maximum extent permitted by applicable Law, the Company's total aggregate liability arising out of or relating to this Agreement, the Services, the Documentation, or the Services Data, regardless of the cause of action (whether in contract, including in respect of the indemnity at Clause 12.2, tort, misrepresentation, restitution or otherwise), shall be limited to the total Subscription Fees paid by the Customer during the 12 months immediately preceding the date on which the claim arose.

14. TERM AND TERMINATION

14.1 This Agreement shall, unless otherwise terminated in accordance with this Clause 14 or pursuant to any other rights of termination granted under this Agreement, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this Agreement shall be automatically renewed for successive periods of 12 months (each a "**Renewal Period**"), unless:

- (a) either Party notifies the other Party in writing of termination of the Agreement to take effect at the end of the Initial Subscription Term or any Renewal Period, at least 90 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period;
- (b) Customer provides the Company 90 days' notice in writing of termination of the Agreement, notwithstanding the date of termination being before the final date of the Initial Subscription Term or any Renewal Period. In such instance, Customer shall be subject to payment of the Early Termination Fee;
- (c) the Company provides Customer with 14 days' notice in writing of termination of the Agreement, notwithstanding the date of termination being before the final date of the Initial Subscription Term or any Renewal Period; or
- (d) otherwise terminated in accordance with the provisions of this Agreement.

14.2 Without affecting any other right or remedy available to it, either Party may terminate this Agreement with immediate effect by giving written notice to the other Party if:

- (a) the other Party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- (b) the other Party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (c) the other Party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or
- (d) the other party experiences an Insolvency Event.

14.3 On termination of this Agreement for any reason:

- (a) all licences granted and rights provided under this Agreement, including those under Clause 3, shall immediately terminate;
- (b) to the extent the Customer has entered into the EULA with any End Users, the EULA will terminate immediately;
- (c) the Customer shall immediately cease all use of the Services, the Documentation, and the Services Data;
- (d) the Customer shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the Company;
- (e) the Customer shall pay the Early Termination Fee, if payable;
- (f) the Company may destroy or otherwise dispose of any of the Customer Information in its possession, unless the Company receives, no later than 10 days after the effective date of the termination of this Agreement, a written request for the delivery to the Customer, or transfer to a third party or other cloud instance, of the then most recent back-up of the Customer Information. The Company shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination), including the Early Termination Fee, if payable. The Customer shall pay all reasonable expenses incurred by the Company in returning or disposing of Customer Information; and
- (g) any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

15. FORCE MAJEURE

The Company shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable

control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, pandemic or epidemic, compliance with any Law or Governmental Order, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

16. VARIATION

16.1 No variation of this Agreement shall be effective unless it is either:

- (a) in writing and signed by the Parties (or their authorised representatives); or
- (b) if the variation is proposed by the Company, notified by the Company to the Customer within at least 30 days' of the variation taking effect, during which time the Customer will have the right to review the variation. If the Customer does not agree to the variation, it will have the right to terminate the Agreement, subject to providing the Company with notice of such termination at least 10 days prior to the date upon which the variation will take effect. If the Customer does not notify the Company during this time, the Customer will be deemed to have accepted the varied Agreement from the date the variation takes effect.

17. WAIVER

No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by Law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18. RIGHTS AND REMEDIES

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by Law.

19. SEVERANCE

- 19.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
- 19.2 If any provision or part-provision of this Agreement is deemed deleted under Clause 19.1 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

20. ENTIRE AGREEMENT

- 20.1 This Agreement constitutes the entire Agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- 20.2 Each Party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 20.3 Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.
- 20.4 Nothing in this Clause shall limit or exclude any liability for fraud.

21. ASSIGNMENT

- 21.1 The Customer shall not, without the prior written consent of the Company, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 21.2 The Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

22. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to or shall operate to create a partnership between the Parties, or authorise either Party to act as agent for the other, and neither Party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

23. THIRD PARTY RIGHTS

This Agreement does not confer any rights on any person or party (other than the Parties to this Agreement).

24. NOTICES

- 24.1 Any notice required to be given under this Agreement shall be in writing and shall be sent via the Customer Site, or email to the following address:
- (a) The Company: hello@vida.studio
 - (b) The Customer: the email address linked to the Account.

25. GOVERNING LAW

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the Laws of the England and Wales.

26. JURISDICTION

Each Party irrevocably agrees that the state or federal courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

EXECUTED by the Parties on the Effective Date.

Signed for an on behalf of Visual Data Media Services Ltd

Signature

Name

Date

Title

Signed for an on behalf of CUSTOMER

Signature

Name

Date

Title