



## **NEXT GENERATION VIDEO PLATFORM**

### **SERVICE TERMS AND CONDITIONS**

THESE TERMS AND CONDITIONS (THE “**AGREEMENT**”) GOVERN YOUR USE OF THE SERVICES OFFERED BY IDOMOO (“**IDOMOO**”, “**WE**” or “**US**”). IDOMOO OFFERS A WIDE RANGE OF SERVICES AND FEATURES AND ADDITIONAL TERMS MAY APPLY TO SOME OF OUR SERVICES AND FEATURES PURSUANT TO A PRIVATE OFFERING AND BY A SEPARATE AGREEMENT.

#### Definitions:

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity or the right to appoint more than 50% of such entity’s directors or members of a similar body.

“**Customer Data**” means information and data, which may include names, dates, financial and other specific information, provided by you, or anyone on your behalf, to Idomoo for the purpose of integrating with a Template (as defined below) and generating Personalized Videos through the System and/or for the delivery of Personalized Videos to Viewers.

“**Idomoo Scene Builder**” means a script file or any other plugin or similar element which may be downloaded from the Website or otherwise provided to you by Idomoo, to be used with a program recommended by Idomoo for the creation or editing of a Video Project or Template.

“**Idomoo Scene Viewer**” means a program which may be downloaded from the Website or otherwise provided to you by Idomoo to be used for the pre-view and editing of a Video Project generated by Idomoo Scene Builder.

“**Idomoo Template**” means a readymade Template (as defined below) which we may make available to users for creation of Personalized Videos using their Customer Data.

“**Order Form**” means any online or written form used for placing an order for specific Services under this Agreement and evidencing the agreed terms between Idomoo and you, specifying, among other things, the type of Services acquired, the applicable fees and the billing period. Each such Order Form is incorporated into and made a part of this Agreement.

“**Personalized Video**” means each video clip generated by the System from integrating the Customer Data with a Template.

“**Services**” means, in general, the generation by Idomoo through its System of Personalized Videos, alongside any other specific services purchased by you from Idomoo through an Order Form.

“**System**” means Idomoo’s proprietary system for generation of Personalized Videos.

“**System Data**” means data and data elements (other than Customer Data) collected by the System or Idomoo’s computer environment regarding configuration, environment, usage, performance, vulnerabilities and security of the System that may be used to generate logs, statistics and reports regarding performance, availability, integrity and security of the System.

“**User Account**” means the account with Idomoo within which all your activities connected to the Services are carried out. A single User Account may be used for all of your separate Templates.

“**User Data**” means the Video Project, Customer Data and all related content and information that you or anyone on your behalf or working for you submit to us in connection with the Services.

“**Video Project**” means the original video materials that you create and provide us which become a Template from which Personalized Videos may be generated.

“**Viewer**” means your end-customer, client or any other person or entity to which you wish to send a Personalized Video containing the Customer Data applicable to such Viewer.

“**Website**” means Idomoo’s official website, at Idomoo.com, as may be updated from time to time, and any successor thereof.

#### 1. **The Services**

1.1. **The Services**. Idomoo will provide the Services described on any one or more applicable Order Forms

available to you pursuant to this Agreement, and then-current version of any supporting technical documentation provided to you by Idomoo or available on Website (“**Documentation**”). The Services are provided on a subscription basis for the applicable subscription term. Idomoo hereby grants you a non-exclusive, non-transferable, worldwide right during the subscription term to access the System and use the Services solely for its internal business purposes and pursuant to the Documentation, including any restrictions designated on an applicable Order Form. To the extent detailed in the Order Form, we shall provide you also with additional professional services related to the Services (such as editorial and creative services) (the “**Professional Services**”). The provision of the Professional Services shall be subject to the terms of this Agreement and, if applicable, also in the Order Form. For certain Services you may be requested to download updated versions of the Idomoo Scene Builder and the Idomoo Scene Viewer from time to time. Download and use of the Idomoo Scene Builder and the Idomoo Scene Viewer is subject to the terms and conditions set forth in the [Idomoo Features License Agreement](#).

- 1.2. **Hosting and Storage.** In providing the Services, Idomoo may use the Amazon Web Services™ for hosting and storage purposes or such other reputable provider of hosting and storage services as Idomoo may choose. Idomoo reserves the right to change at any time the hosting and storage solutions used by it for provision of the Services. You acknowledge that such hosting services are beyond the control of Idomoo and Idomoo shall not be liable for any damage, fault or delay which are caused by or at such provider of hosting services.

## 2. **Proprietary Rights**

- 2.1. **Idomoo Proprietary Rights.** Subject to your right to use the Services as specified herein, Idomoo shall own all rights, title and interest in and to the Services and in any Idomoo Templates including all intellectual rights related thereto (including with respect to any improvements, enhancements or modification to the Services or the related intellectual property rights made as a result of your feedback, as stated in Section 2.5) (“**Idomoo IPR**”). Idomoo’s name, trademarks, service marks, logos, and the product names associated with the Services are trademarks and/or service marks and/or trade names owned by Idomoo or third parties who licensed their rights to Idomoo, and no right or license is granted hereunder to use them. Idomoo retains all rights not expressly granted to you under this Agreement.
- 2.2. **Your Proprietary Rights.** As between us and you, you shall own all of your User Data and we acquire no right, title or interest thereof, except for the right to use or to enable third parties to use the User Data for the creation of the Personalized Videos as part of the Services and for the delivery of such Personalized Videos, to the extent applicable. Subject to your payment of the applicable Fees, generated Personalized Videos that are actually delivered to you shall become your property. Notwithstanding the aforesaid, to the extent any Idomoo Templates are made available by us for you to use, you shall not request, nor be granted, any rights in the Idomoo Templates, which shall remain Idomoo Property at all time, except for a limited, non-exclusive and non-transferable right to use such Idomoo Templates for generating the amount of Personalized Videos set forth in the applicable Order Form. Your use of an Idomoo Template shall in no way prevent any others from using the same Idomoo Template for any purpose.
- 2.3. **Third Parties Proprietary Rights.** Each third-party provider used for hosting and storage purposes shall own all rights, title and interest in and to its services and technology (including with respect to any additions, improvements, updates, and modifications thereto) (“**Third Party IPR**”). Notwithstanding anything to the contrary above, to the extent the Videos (and if applicable, the Video Master) contain any third party content (such as images, audio or other), then the rights granted to you pursuant to this Section 2 shall be subject to the license terms and/or other limitations applicable to such third party content.
- 2.4. **Feedback.** You may, at your option, provide suggestions, ideas, enhancement requests, recommendations or feedback regarding the Services or the System (“**Feedback**”), provided however, that Feedback does not include any of your Proprietary Rights or any User Data. Idomoo may use and incorporate Feedback in Idomoo’s products and services without compensation or accounting to you, provided that neither Idomoo nor its use of the Feedback identifies you as the source of such Feedback. You will have no obligation to provide Feedback, and all Feedback is provided by you “as is” and without warranty of any kind.

## 3. **Use of the Services**

- 3.1. **Acceptable Use.** You are responsible for all acts or omissions associated with use of the Services by you or by anyone on your behalf. You undertake to abide by all applicable local, state, national and foreign laws, treaties and regulations (“**Applicable Laws**”) in connection with your use of the Services,

including, but not limited to, those related to data privacy, international communications and the transmission of technical or personal data. You specifically agree not to, in any way: (i) resell, license or lease the Services to a third party without Idomoo's prior written consent; (ii) access (or attempt to access) your or any other party's User Account by any unauthorized or automated means, other than through the interface that is provided by Idomoo; (iii) breach this Agreement or any other applicable rules and instructions that we may convey with respect to the use of the Services, including, but not limited to, any hosting and storage services provided by third parties to facilitate the Services; (iv) interfere with or disrupt the integrity or damage the performance or security of the Website or any of our computer systems or networks or circumvent or manipulate the operation or functionality of the Website or our computer systems or networks, including, but not limited to, any hosting and storage services provided by third parties to facilitate the Services; (v) alter, modify, reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code or create derivative works based on the Idomoo IPR or a Third Party IPR (vi) impersonate any person or entity, or make any false statement pertaining to your identity, employment, agency or affiliation with any person or entity; (vii) in connection with your use of the Services, collect or process any information of third parties without their explicit consent; (viii) be involved in any illegal activities in connection with your use of the Services, including, but not limited to, promoting, transmitting, or otherwise making available gambling sites or services or disseminating, promoting or facilitating child pornography; (ix) violate the security or integrity of any third party network, computer or communications system, software application, or network or computing device used by us for providing the Services including, but not limited to, any hosting and storage services provided by third parties to facilitate the Services; (x) interfere with the proper functioning of any system related to the Services, including, but not limited to, deliberate attempt to overload a system by mail bombing or flooding techniques; (xi) access the Services in order to create a competitive service or product; or copy any features, functions, images or graphics of the Idomoo IPR or a Third Party IPR; or (xii) otherwise access or use the Idomoo IPR or a Third Party IPR, or provide access to the Idomoo IPR or a Third Party IPR to any third party, except as expressly permitted by this Agreement. To the extent a trial Personalized Video generation demo is available to you on our System (the "**Demo**"), you may not create additional Personalized Videos beyond the permissible number (by utilizing multiple accounts or any other means). Without derogating from any other remedy available to it for such breach, Idomoo shall be entitled to charge you the full price, on the basis of its then current rates, for any Personalized Video created other than within the limited framework of the Demo or in connection with the Services.

- 3.2. User Data. In order to maintain the compatibility of Idomoo's guidelines and services with the data protection regulation and industry security best practices around the world, we hereby instruct you to make sure that no data (including, without limitation, any User Data), will be provided to us, unless it is in compliance with all Applicable Laws relating to data protection ("**Privacy Laws**"). Without derogating from the above, you are solely responsible for all User Data that you or anyone on your behalf or engaged by you provide us. You assume all risks associated with your User Data, including, but not limited to, anyone's reliance on their quality, accuracy or reliability, or any disclosure by you of information in User Data that makes you or anyone else personally identifiable. You may not, and may not permit or allow anyone on your behalf to, submit User Data that (i) is false, misleading or inaccurate or otherwise include unauthorized disclosure of any information; (ii) are illegal, libelous, deceptive, obscene, pornographic, threatening, defamatory, harmful to minors, racist, harassing or otherwise injurious to third parties or objectionable; (iii) contain software viruses, Trojan Horses, worms or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or surreptitiously intercept or expropriate any data or information; (iv) encourage, support, assist, provide instructions or advice in the committing of a criminal offense, under Applicable Laws; (v) may be deemed to be unlawful commercial communications ("spam"), chain letters, or pyramid schemes; or (vi) are invasive of privacy or infringing misappropriates or violates of any intellectual property rights or other third party rights. You represent and warrant that you own or otherwise have sufficient rights to the User Data that you or anyone on your behalf submit, as required for their submission and for the generation of Personalized Videos on their basis; that their use does not violate this Agreement and will not cause injury or harm to any person or entity. Idomoo has no obligation to inspect the User Data or monitor your use thereof. However, Idomoo reserves the right (but not the obligation) to review User Data which you provide and to remove, screen, edit, or reinstate User Data from time to time at Idomoo's sole discretion. Idomoo shall provide you a notice of any such action as soon as practically possible. By submitting your User Data, you irrevocably grant Idomoo a worldwide, perpetual, irrevocable, non-exclusive, royalty-free,



fully paid-up, fully sub licensable and transferable right and license to use, modify, host, deliver and display the User Data as may be necessary to perform the Services and to deliver the Personalized Videos to Viewers based on Viewer Data

IDOMOO TAKES NO RESPONSIBILITY AND ASSUMES NO LIABILITY WHATSOEVER FOR ANY USER DATA. SHOULD IDOMOO BECOME AWARE THAT YOU HAVE BREACHED THIS AGREEMENT (OR ANY PART OF IT), OR SHOULD IDOMOO BECOME AWARE (WHETHER BY NOTICE TO IDOMOO OR OTHERWISE) OF ANY THIRD PARTY CLAIMS WITH RESPECT TO THE USER DATA WHICH IF TRUE WOULD MEAN THAT YOU HAVE BREACHED THIS AGREEMENT, IDOMOO SHALL BE ENTITLED, AT ITS SOLE DISCRETION, TO REMOVE THE CONTENT IN VIOLATION IMMEDIATELY, TERMINATE OR SUSPEND YOUR USER ACCOUNT IN RESPECT OF SUCH CONTENT OR IN GENERAL, AND NOTIFY THE RELEVANT AUTHORITIES, WITHOUT ANY LIABILITY TO YOU FOR SUCH ACTIONS (INCLUDING IF EVENTUALLY SUCH THIRD PARTY CLAIMS WERE PROVEN NOT TO BE TRUE).

- 3.3. Data Backup. You have sole responsibility for adequate protection and backup of data and/or equipment you use in connection with the Services. Idomoo may store the User Data on its servers or with third party hosting and storage services, including, but not limited to, the Video Projects, Personalized Videos and data files, for a limited period of time as may be applicable for each Video Project (and following the lapse of such period Idomoo may erase such information and shall not be obligated to keep a record thereof). In the event in which Idomoo delivers or makes available to you the Personalized Videos, other than merely by links to where such video clips are hosted, it is your responsibility to download such Personalized Videos immediately after they are made available to you by Idomoo and create any necessary backups of such Personalized Videos.
- 3.4. Compliance with Laws. Idomoo's performance of this Agreement is subject to existing laws and legal process, and nothing contained in this Agreement will derogate from Idomoo's right to take any action that Idomoo believes to be required to comply with governmental, court, and law enforcement requests or requirements relating to your use of the Services or information provided to or gathered by Idomoo with respect to such use.
- 3.5. Idomoo Templates. In the event in which we make available to you any Idomoo Templates and you use such Templates for generating Personalized Videos, you shall provide us with any analytical information we require with respect to the Personalized Videos generated from such Idomoo Templates, such as email-open rates and so forth. You agree to allow us to use and present examples of Personalized Videos generated for you from Idomoo Templates on our website and to any third party in our sole discretion. By using the Idomoo Templates, you agree to allow us to present your name and company logo (which you shall provide us, upon request) in connection with your use of the Idomoo Templates. The provisions of this Agreement shall govern your use of the Idomoo Template, with all necessary changes made.

#### 4. Registration and User account

- 4.1. User Account. The Services will be provided to you through your User Account. When opening your User Account and when utilizing the Services we will ask you to provide us with certain information including information regarding your designated contact person(s) and billing information. All information provided by you to Idomoo in connection with opening of the User Account must be true, current and complete. You should update such information from time to time, and no later than 7 days after any change to it. You grant Idomoo the right to independently verify any information that you provide, but Idomoo does not have the obligation to do so. If you provide any information that is false, inaccurate, out of date or incomplete, or if we have reason to believe that the information which you have provided us with is false, inaccurate, out of date or incomplete, we may suspend or terminate your User Account and refuse any and all current or future use of the Services.
- 4.2. Login. To log in, you must use the email address and password (or other allowed identification means) you entered in the registration process. We may also establish and require from time to time additional or different means of identification and authentication for logging in and accessing your User Account, or for accessing other certain services of Idomoo. You are responsible for maintaining the confidentiality of your password. You are fully responsible for all activities that occur under your password and in your User Account, and agree to notify Idomoo immediately of any unauthorized use of your User Account or any other breach of security.

#### 5. Privacy & Security

Idomoo respects your privacy and the privacy of third parties whose information you may include in the



Customer Data, subjects to the terms of this Agreement. The terms of the [Data Processing Addendum](#) (“DPA”) are hereby incorporated by reference and apply to the processing on the System of personal information which is part of the Customer Data. In addition, The use of any Services shall at all times be subject to Idomoo’s [Privacy and Information Security Policy](#), which constitutes an integral part of this Agreement. Idomoo reserves the right to modify the [Privacy and Information Security Policy](#) and the [DPA](#) in its discretion from time to time. Therefore, it is recommended that you read it periodically. Continued use of the Services after any such changes shall constitute your consent to such changes. Additionally, any Customer Data provided for the delivery of Personalized Videos may be used by third party providers listed under the DPA subject to their terms of use and privacy policies for purposes of the improvement of such third party’s services, the detection of violations of such third party’s terms of use or other similar purposes.

Idomoo uses and implements information security systems and procedures to secure your personal information and to prevent unauthorized access to your User Account, personal and third-party information you provide to us and your Personalized Videos. While such systems reduce the risk of security breaches, they do not provide absolute security, and Idomoo cannot guarantee that your User Account or any information will be immune from any unlawful interceptions or unauthorized access. To learn more about how Idomoo secures your personal information, please visit our [Academy](#) and see the [Privacy and Information Security Policy](#).

Notwithstanding the foregoing, nothing in this Agreement will restrict: (a) Idomoo’s use of System Data or data derived from System Data that does not identify or permit, alone or in conjunction with other data, identification, association, or correlation of or with (i) you, your Affiliates, Users, customers, suppliers or other persons interacting with you and your Affiliates or your Confidential Information, or (ii) any device used to access or use the Services as originating through you or your Affiliates; or (b) either Party’s use of any data, records, files, content or other information related to any third party that is collected, received, stored or maintained by a Party independently from this Agreement.

## 6. **Confidentiality of Terms of Engagement**

- 6.1. Each Party acknowledges that it may receive or otherwise have access to Confidential Information of the other Party in connection with the Agreement. All information furnished by either party (“**Disclosing Party**”) to the other party (“**Receiving Party**”) with regard to any activities of Disclosing Party, and all information learned by Receiving Party in the scope of this Agreement, including but not limited to the business, marketing and sales plans of Disclosing Party, and designs, manufacturing process and any information pertaining to Disclosing Party’s intellectual property (“**Confidential Information**”), shall be deemed to have been furnished in confidence and shall not be used by Receiving Party for any purpose whatsoever other than for Receiving Party’s performance under this Agreement.
- 6.2. Receiving Party shall take all necessary precautions to hold such Confidential Information in strict confidence and to prevent the disclosure thereof to any third party; and it shall exercise at least such degree of care to preserve and safeguard the Confidential Information as that which it would undertake to preserve and safeguard its own confidential information, including, without limitation, taking all reasonable steps to ensure that the Disclosing Party’s Confidential Information to which it has access is not disclosed or distributed by its Personnel in violation of the terms of this Agreement.
- 6.3. At Disclosing Party’s request, Receiving Party will promptly deliver to Disclosing Party all documents and materials of any nature pertaining to Receiving Party’s engagement with Disclosing Party, and will not take with it any documents or materials or copies thereof containing any Confidential Information.
- 6.4. The undertakings set out above do not apply to any information that is: (a) in the public domain at the date of this Agreement or which subsequently comes into the public domain other than by breach of the Receiving Party’s confidentiality obligations; (b) in the possession of the Receiving Party at the date of receipt, other than under an obligation of confidentiality; (c) obtained without an obligation of confidence from a third party not in breach of a confidentiality agreement with a party to this Agreement concerning the information obtained; (d) was specifically approved for use/release with the prior written consent of the Disclosing Party; or (e) required to be disclosed by law, rule, regulation or, by order of a governmental body or regulatory or other competent authority (if disclosure is required by such an authority, the Receiving Party shall, where legally permissible to do so, promptly notify the Disclosing Party and only disclose such information required under such order).
- 6.5. The Receiving Party will include its Affiliates where those Affiliates have a legitimate interest in

receiving the Confidential Information and are bound by equivalent obligations.

- 6.6. Receiving Party may disclose the Confidential Information to its employees on a need to know basis, and provided that such employees are bound by written confidentiality and non-use undertakings towards Receiving Party which also apply to the Confidential Information disclosed to Receiving Party under this Agreement.
- 6.7. Neither party shall disclose the terms of any Order Form to any third party other than its Affiliates and their legal counsel and accountants, and other than as part of a due diligence procedure relating an investment in or acquisition of such party (subject to a confidentiality undertaking by the party to whom such information is disclosed), without the other party's prior written consent. However, a party may disclose such information if it is compelled by law to do so, provided it gives the other party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure.

## **7. Charges and Payment of Fees**

You shall pay all applicable fees or charges with respect to the Services (the “Fees”) as shall be agreed in the applicable Order Form. All payment obligations are non-cancelable and all amounts paid are non-refundable. At our discretion, late payments may be charged with a late payment interest at a rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid. We may offer you the option to pay the Fees for certain Services offered on the Website through external billing and payment processing services providers (the “Clearing Services”). In such cases where you have chosen to pay the Fees with the use of the Clearing Services, such payment will be made through the external website of the Clearing Service provider, which is not part of the Website. Use of the Clearing Services is subject to the Clearing Services provider's applicable terms of use. The Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, “Taxes”). You are responsible for paying all Taxes associated with your purchases hereunder. If we have the legal obligation to pay or collect Taxes for which you are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by you, unless you provide us with a valid tax exemption certificate authorized by the appropriate taxing authority. We are solely responsible for taxes assessable against us based on our income.

To the extent you shall choose to use the Clearing Services and disclose information directly (including if following the use of a link provided on the Website) to a Clearing Services provider on its external website, you understand and acknowledge that such use is through an external website which is not part of the Website, that the Clearing Services are not part of the Services provided Idomoo, and that any information disclosed on such external website is not under our control. WE MAKE NO WARRANTIES OR PROMISES WHATSOEVER IN CONNECTION TO THE CLEARING SERVICES, THE USE OF ANY EXTERNAL WEBSITE AND/OR ANY INFORMATION DISCLOSED ON SUCH EXTERNAL WEBSITE (INCLUDING IF FOLLOWING THE USE OF A LINK PROVIDED ON THE WEBSITE). WE SHALL HAVE NO LIABILITY WHATSOEVER IN CONNECTION WITH THE CLEARING SERVICES.

## **8. Warranties and Disclaimers**

- 8.1. Compliance with Laws. Each Party represents and warrants to the other Party that it will comply with all applicable international, national, state and local laws, ordinances, rules, regulations and orders, as amended from time to time applicable to such Party in its performance under this Agreement.
- 8.2. Power and Authority. Each Party represents and warrants to the other Party that: (a) it has full power and authority to enter in and perform this Agreement and that the execution and delivery of this Agreement has been duly authorized; and (b) this Agreement and such Party's performance hereunder will not breach any other agreement to which the Party is a party or is bound or violate any obligation owed by such Party to any third party.
- 8.3. Services. Subject to your compliance with your undertakings herein, we warrant that the Services shall be performed substantially in accordance with the published specifications on our Website. Idomoo will use industry standard practices designed to detect and protect the System against any viruses, “Trojan horses”, “worms”, spyware, adware or other harmful code designed or used for unauthorized access to or use, disclosure, modification or destruction of information within the System or interference with or harm

to the operation of the System.

- 8.4. **Disclaimer.** EXCEPT FOR THE AFORESAID WARRANTY, THE SERVICES INCLUDING, BUT NOT LIMITED TO, ANY HOSTING AND STORAGE SERVICES PROVIDED BY THIRD PARTIES TO FACILITATE THE SERVICES, ARE PROVIDED TO YOU STRICTLY ON AN “AS IS” AND “AS AVAILABLE” BASIS AND WE DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON- INFRINGEMENT OF THIRD PARTY RIGHTS IN RELATION TO THE SERVICE. WITHOUT DEROGATING FROM THE AFORESAID, IDOMOO MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICES OR THE SYSTEM.

The availability and functionality of the Services depend on various factors and elements, including software, hardware and communication networks, and partially provided by third parties, including third party hosting and storage services. These factors are not fault free. We do not warrant or guarantee that the Services will operate without disruption, limitations, delays, errors or interruptions, or that they will be accessible, or available at all times, or immune from unauthorized access or error free.

- 8.5. **Remedies.** If the System fails to conform to the foregoing warranties, Idomoo promptly will, at its option and expense, correct the System and re-perform the Services as necessary to conform to the warranties. If Idomoo does not correct the System or re-perform the Services to conform to the warranties within a reasonable time, not to exceed 30 days (or such other period as may be agreed upon by the Parties) (the “**Cure Period**”), as your sole remedy and Idomoo’s exclusive liability (except as provided in Section 9), you may for a period of 30 days following the conclusion of the Cure Period (or such other period as may be agreed upon by the Parties), elect to terminate the applicable Order Form and this Agreement without further liability and Idomoo will provide you with a refund of any fees prepaid to Idomoo, prorated for the portion of the Services unused due to the failure at the time you reported the breach of warranty to Idomoo.
- 8.6. **Warranty Exclusions.** Idomoo will have no liability or obligation with respect to any warranty or representation in this Agreement to the extent attributable to any: (a) use of the Services by you in violation of this Agreement or applicable law; (b) modifications to the Personalized Videos or any other deliverable not provided by Idomoo or its personnel; (c) use of the Services in combination with third-party equipment or software not provided or made accessible by Idomoo or contemplated by the Documentation; or (d) use by you of the Services in conflict with the Documentation, to the extent that such nonconformity would not have occurred absent such use or modification by you or anyone acting on your behalf.

## 9. **Indemnification; Limitation of Liability**

- 9.1. **Idomoo Indemnification.** Subject to Section 9.3 (Procedures) and the remainder of this Section 9.1, Idomoo shall (a) defend you and your shareholders, partners, members, directors, officers, employees, lenders, successors and assigns, (collectively, each a “**Customer Indemnitee**”) from and against:

- 9.1.1. Any claim by a third party alleging that the technology underlying the Services, when used as authorized under this Agreement, directly infringes such third party’s copyright, U.S. patent, or trademark, and in relation to such claim, indemnify and hold harmless the Customer Indemnitees from any damages and costs finally awarded or agreed to in settlement by Idomoo (including reasonable attorneys’ fees). If your use of the Services is, or in Idomoo’s opinion is likely to be, enjoined due to the type of infringement specified above, if required by settlement, or if Idomoo determines such actions are reasonably necessary to avoid material liability, Idomoo may, in its sole discretion: (i) substitute substantially functionally similar products or services; (ii) procure for you the right to continue using the Services; or if (i) and (ii) are not commercially reasonable, (iii) terminate the Agreement and refund the fees paid by you for the portion of the subscription term which was paid by you but not rendered by Idomoo. The foregoing indemnification obligation shall not apply: (1) with respect to the Warranty Exclusions set forth in Section 8.6 or (2) if Customer Indemnitee settles or makes any admissions with respect to a claim without Idomoo’s prior written consent; and

9.1.2. Any unauthorized access, use or disclosure of Customer Data resulting from breach of Idomoo's obligations under the DPA or any violation by Idomoo of Privacy Laws and in relation to such claim, indemnify and hold harmless the Customer Indemnitees from any damages and costs finally awarded or agreed to in settlement by Idomoo (including reasonable attorneys' fees).

9.1.3. THIS SECTION 9.1 SETS FORTH IDOMOO'S SOLE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT AND SECURITY BREACH.

9.2. Your Indemnification. You shall (a) defend Idomoo, its shareholders, partners, members, directors, officers, employees, lenders, successors and assigns from and against any claim by a third party alleging that the User Data, or your use of the Services in breach of this Agreement infringes or misappropriates such third party's rights or violates applicable laws, and (b) in relation to such claim, indemnify and hold harmless Idomoo from any damages and costs finally awarded or agreed to in settlement by you (including reasonable attorneys' fees).

9.3. Procedures. The obligations of each indemnifying party are conditioned upon receiving from the party seeking indemnification: (i) prompt written notice of the claim (but in any event notice in sufficient time for the indemnifying party to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense and settlement (if applicable) of such claim; and (iii) all reasonable necessary cooperation of the indemnified party, at indemnifying party's expense.

9.4. Limitation of Liability.

9.4.1. IN NO EVENT SHALL YOU, IDOMOO OR ITS THIRD PARTY PROVIDERS (INCLUDING WITHOUT LIMITATION ANY PLATFORM OR MARKET PLACE THROUGH WHICH IDOMOO OFFERS ITS SERVICES) BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES AND THE HOSTING AND STORAGE SERVICES, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION EVEN IF THE APPLICABLE PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF SUCH DAMAGES WERE REASONABLY FORESEEABLE. IN NO EVENT SHALL IDOMOO OR ITS THIRD PARTY PROVIDERS (INCLUDING WITHOUT LIMITATION ANY PLATFORM OR MARKET PLACE THROUGH WHICH IDOMOO OFFERS ITS SERVICES) BE LIABLE TO ANYONE FOR ANY DIRECT DAMAGES OF ANY TYPE OR KIND ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE HOSTING AND STORAGE SERVICES.

9.4.2. EACH PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF FEES ACTUALLY PAID BY YOU TO IDOMOO FOR THE SERVICES UNDER THE APPLICABLE ORDER FORM IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT YOUR AND YOUR AFFILIATES' PAYMENT OBLIGATIONS UNDER THE APPLICABLE ORDER FORM.

9.4.3. Exceptions to Limitations. NOTHING IN THIS AGREEMENT EXCLUDES OR LIMITS EITHER PARTY'S LIABILITY FOR: (A) DEATH OR PERSONAL INJURY RESULTING FROM ITS GROSS NEGLIGENCE OR THE GROSS NEGLIGENCE OF ITS PERSONNEL; (B) FRAUD OR FRAUDULENT MISREPRESENTATION; (C) MATTERS FOR WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAWS; OR (D) A PARTY'S LIABILITY UNDER SECTION 9 (INDEMNIFICATION); PROVIDED THAT IDOMOO'S AGGREGATE LIABILITY UNDER THIS AGREEMENT OR THE DPA FOR ANY SECURITY INCIDENT RESULTING FROM BREACH OF IDOMOO'S OBLIGATIONS UNDER THE DPA OR ANY VIOLATION BY IDOMOO OF PRIVACY LAWS, WHETHER SUCH DAMAGES ARE BASED IN CONTRACT, TORT OR OTHER LEGAL THEORY,





WILL NOT EXCEED TWO TIMES THE FEES PAID UNDER THIS AGREEMENT IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE DAMAGES.

#### 10. **Term and Termination**

- 10.1. **Term**. This agreement is effective from the moment of your execution of the Order, and shall continue in full force and effect until terminated in accordance with the terms of this section or as otherwise specified in the applicable Order Form.
- 10.2. **Termination**. Either party may terminate this Agreement: (a) if the other party materially breaches its obligations hereunder, which default is incapable of cure or which, being capable of cure, has not been cured within 14 days after receipt of written notice from the non-defaulting party; or (b) for convenience, by providing to the other party with a 90-day prior written notice, in which case Idomoo shall refund to you the Fees paid by you in advance of receiving the Services not yet provided on a pro rata basis. Such termination shall not affect any Order Form that shall be outstanding on the date of termination and the parties shall continue to comply with their respective obligations thereunder.
- 10.3. **Effect of Termination**. The termination of this Agreement for any reason shall not affect any rights, obligations or liabilities accrued through the date of termination, including, but not limited to, any unpaid Fees and any other obligations you have incurred through the date of termination for your use of the Services. The provisions of Sections 3, 4 and 7 through 12 shall survive the termination or expiration of the Agreement.

#### 11. **Miscellaneous**

This Agreement shall be exclusively governed by the laws of the State of New York, without regard to the choice or conflicts of law provisions thereof, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the courts of New York City. This Agreement and any Order Form related thereto comprise the entire agreement between the parties and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein. Idomoo reserves the right to make changes to this Website and to these terms and conditions at any time. Your continued use of the Website will constitute your acceptance of any new, amended or modified terms and conditions. In the event of a conflict between the terms of an Order Form and this Agreement, the terms of the Order form shall prevail. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision, with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between the parties as a result of this Agreement or use of the Services. The failure of Idomoo to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Idomoo in writing. The section headings in the Agreement are included for convenience only and shall take no part in the interpretation or construing of the Agreement. This Agreement may not be assigned by you, whether by operation of law or otherwise, without the prior written approval of Idomoo and any assignment without such prior written consent shall be void. We may freely assign this Agreement and our rights and obligations hereunder and any related Order Form by providing you a notice thereof. The Services, other technology we make available, and derivatives thereof may be subject to export laws and regulations of the United States, Israel and other jurisdictions. You represent that you are not named on any U.S. or Israeli government denied-party list. You shall not permit anyone to access or use Services in a U.S. or Israeli embargoed country or in violation of any U.S. or Israeli export law or regulation.

**Last Updated:** June 26, 2024