

TERMS OF SERVICE

1) **GENERAL**

1.1 TERMS OF SERVICE. These Terms of Service (“Terms of Service”) govern your access to and use of Vidvocal services including the Vidvocal Platform and any other software, plans, features, services, products, applications, content, maintenance and training offered by us from time to time (collectively the “Services”) identified in one or more Vidvocal sales order documents (“Sales Order” or “Sales Orders”) or made available by us periodically.

1.2 ACCEPTANCE. By visiting our Platform or using the Services, you accept and agree to be bound by (1) these Terms of Service, (2) all Sales Orders which are included herein by reference and (3) our Privacy Policy, found at <https://vidvocal.com/privacypolicy.html> (the “Privacy Policy”) which is included herein by reference (collectively referred to as the “Agreement”). This Agreement constitutes a binding agreement between the customer (“Customer,” “you,” and “your”) and Vidvocal (“Vidvocal,” “us,” “we,” and “our”). This Agreement represents the parties’ entire understanding regarding the Services and shall govern over any prior oral or written agreement or discussions or different or additional terms or conditions of any purchase order, invoice or other non-Vidvocal ordering documents. No other terms or conditions of any purchase order, invoice or other non-Vidvocal ordering documents shall apply to the Services unless agreed to in writing by both parties involved.

2) **OUR SERVICES**

2.1 VIDVOCAL ACCOUNTS. In order to use the Services, you will have to register and create an Account with us and provide one or more names, email addresses, usernames login and passwords (each known as a “Vidvocal ID”). You are solely responsible for maintaining the confidentiality of your Vidvocal IDs. Vidvocal ID’s may not be shared by more than one user at one time but may be transferred between Users as necessary during the Subscription Period. You agree not to use the Vidvocal IDs, usernames or passwords of any third party or disclose your Vidvocal IDs, usernames or passwords to any third party. You are solely responsible for any and all activity that occurs via your Account. If you suspect any unauthorized or illicit use with your account, you must notify us immediately. You agree to provide us with correct and complete Account information at all times and inform us of any changes to the information you have provided.

2.2 SUBSCRIPTION SERVICES. Unless specified otherwise in a Sales Order, Services are purchased by Customers as a subscription. Subject to your compliance with this Agreement, Vidvocal grants you a non-transferable, non-exclusive, worldwide right to access and use the Services during the term set out in the applicable Sales Order

("Subscription Term").

2.3 USAGE LIMITS. Services that we are providing are subject to usage limits and restrictions. Each Sales Order defines specific usage limits which may include, without limitation, the number of allowable users, the number of allowable videos, limits on the number of recipients and video streaming time limits. You agree to use the Services within the usage limits indicated in the Sales Order or Purchased subscription and that you are solely responsible for ensuring that you do not exceed the limits and restrictions. Extra charges will apply if you exceed any usage limits at the rate indicated in the applicable Sales Order or purchased subscription, or if not included, at Vidvocal's then-current usage fees.

2.4 NECESSARY EQUIPMENT TO USE THE SERVICES. You are responsible for obtaining and maintaining all telecommunications, broadband, computer hardware, software, equipment and services needed to connect to, access and utilize the Services.

3) FEES AND PAYMENT

3.1 FEES. You agree to pay all fees indicated in a Sales Order or On the website. All fees are non-cancellable and non-refundable, other than as expressly set out in this Agreement, and are based on Services purchased and not actual usage. You shall not be entitled to any refund in the event of unused Services. Unless otherwise agreed between you and us, payment may be made by wire transfer, standing order, cheque or credit card. Credit card payments may be subjected to an additional service fee and will be processed on the first day of each month (on a prorated basis if necessary).

3.2 PAYMENT TERMS. Unless otherwise set out in the Sales Order, Services fees are payable either annually, monthly or prepaid in advance. All fees are exclusive of taxes, levies or duties imposed by taxing authorities, and Customer shall be responsible for payment of all such taxes, levies or duties (excluding taxes based on Vidvocal's income), even if such amounts are not listed on a Sales Order. All fees must be paid in U.S. Dollars or in such other currency as previously agreed to in writing by the parties without set-off or deduction.

3.3 SUSPENSION RIGHTS. Vidvocal reserves the right to immediately suspend and/or terminate the Services if: (i) you fail to make any payment due within 10 business days after we have provided you with notice of such failure; (ii) the billing or contact information provided by you is false or fraudulent or (iii) if you are found in violation of Section 5.5 (Prohibited Content). Any suspension of the Services by us under this section shall not relieve you of your payment obligations under this Agreement. We will not be liable to you nor to any third party for any suspension and/or termination of the Services.

3.4 OVERDUE CHARGES. Any unpaid invoices that are not the subject of a written good faith dispute are subject to interest at a rate of 1.5% per month on the outstanding balance, or the legal maximum interest rate, whichever is lower, plus all reasonable expenses of collection of dues, in addition to any other solutions we may have

4) **VIDVOCAL CONTENT AND LICENSE**

4.1 VIDVOCAL CONTENT. The Services contain Content, Documentation, and Software owned by Vidvocal, its suppliers or licensors (“Vidvocal Content”). Vidvocal, its suppliers and licensors, own and retain all rights, including all intellectual property rights, in and to the Services and the Vidvocal Content.

4.2 OWNERSHIP AND LICENSING. Vidvocal Content and The Services are licensed and not sold to you. All rights not expressly granted to you in this Agreement are reserved and retained by us. We grant you a limited, revocable, non-sublicensable license to reproduce and display the Vidvocal Content (excluding software code) in connection with using the Services during the Subscription Term. Except as contemplated by this Agreement and the Documentation, no Services, nor any part of any Services, may be reproduced, duplicated, copied, sold, resold, visited, or otherwise exploited for any commercial purpose without our written consent. You may use the Services only as permitted by Applicable Law. The licences granted by Vidvocal may be terminated immediately without notice if you breach this Agreement.

4.3 RESTRICTIONS. Customer shall not (and shall not permit others to): (a) license, sub-license, sell, transfer, distribute or share Vidvocal content or the Services or make either of them available to any third parties; (b) create derivative works based on, build upon, or otherwise modify the Services or Vidvocal Content without express written consent from Vidvocal; (c) disassemble, reverse engineer or decompile the Services or Software or otherwise attempt to discover the source code, underlying structure or object code, ideas or algorithms of the Services or any software, data or documentation related to or provided with the Services; (d) access the Services or Vidvocal Content in order to develop a competing product or service; (e) use the Services or Vidvocal Content to provide a service for others that is not contemplated by this Agreement or the Documentation; (f) use the Vidvocal Platform to operate more or different types of applications than permitted under the applicable Sales Order; (g) modify or remove a copyright or other proprietary rights notice on or in the Services or Vidvocal Content; (h) violate any Applicable Law; (i) disable, hack or otherwise interfere with any security, digital signing, digital rights management, verification or authentication mechanisms implemented in or by the Services; (j) intentionally include, send, store or run software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs from the Services; (k) intentionally cause a computer to malfunction, regardless of how long the malfunction persists; or (l) alter, disable, or erase any

computer data, computer programs or computer software without authorization.

4.4 MODIFICATIONS. We are entitled to modify or update the Services periodically in order to adapt it technically, to change layouts or menu guidances or to expand or limit functionality in a way that does not materially alter the Services.

4.5 FEEDBACK. Customer grants to Vidvocal a worldwide, perpetual, irrevocable, royalty-free permission to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction, or other feedback provided by Customers.

5) **CUSTOMER CONTENT AND LICENSE**

5.1 CUSTOMER CONTENT. As a Vidvocal Account holder, you and/or your Users may submit and publish Content on the Vidvocal Platform (“Customer Content”). Customer Content is the Content that you upload to the Services. Vidvocal and the Services are passive conduits of Customer Content. You are exclusively responsible for all Customer Content and the consequences of submitting and publishing your Content on the Services. We do not verify the accuracy, quality, content or legality of Customer Content. We may, but are under no obligation to, monitor, view, or analyze any Customer Content. We are not responsible for preventing or identifying infringement of intellectual property rights or non-compliance with Applicable Laws. Vidvocal will not be liable, directly or indirectly, in any way for any damage or loss caused or alleged to be caused by or in connection with Customer Content.

5.2 RESPONSIBILITY TO OBTAIN IP CONSENTS. You are responsible for obtaining all necessary consents, licenses and waivers required to create, record, submit, publish and use Customer created or published Content in connection with the Services. These can include, but are not limited to, consents, licenses and waivers from: (i) performers, copyright owners, artists, directors, actors, writers, producers or any other individuals appearing in Customer Content; (ii) public performance rights collection organizations); and (iii) the owners of musical compositions and sound recordings which are embodied in the Customer Content. In addition, you are responsible to pay all applicable royalties, fees and other amounts owing to any person in connection with the use of any Customer Content including payments to any labour guilds, unions and public performance rights collection organizations.

5.3 OWNERSHIP AND LICENSE. As between you and us, you retain all rights of ownership in the Customer Content. By uploading, displaying or publishing your Content to the Services, you grant us a worldwide, royalty-free, fully paid-up, non-exclusive, sublicensable and transferable license to use, distribute, reproduce, personalize, display and reformat your Content for the sole purpose of providing the Services. This license

allows us to: (i) deliver Customer Content in accordance with the preferences set by Customer utilizing the Vidvocal Platform; (ii) secure, encode, reproduce, host, cache, route, reformat, analyze and create algorithms and reports based on access to and use of Customer Content; (iii) use, enhance, personalize, exhibit, broadcast, publish, publicly display, distribute, promote, copy, store, and/or reproduce (in any form) Customer Content on or through the Services; and (iv) utilize Customer Content to test Vidvocal's internal technologies and processes. You also grant us and allow us to grant each Viewer or other user of the Services, a non-exclusive license to view Customer Content through the Services. We reserve the right to retain (but not display, publish or distribute) server copies of Customer Content that have been removed or deleted from the Services for fifteen (15) days. We also reserve the right to copy, use, modify and publish a copy of any personalized videos that you may create on our website for marketing and promoting our personalized video technology.

5.4 REPRESENTATIONS AND WARRANTIES. You represent and warrant that: (i) you own or have the necessary licenses, rights, consents and permissions to use and publish the Content you submit; (ii) the uploading of your Content on the Services and the licenses TERMS OF SERVICE VERSION: 2018/08/07 3 granted to Vidvocal under this Agreement do not and will not violate the rights of any person; and (iii) no payments of any kind shall be due by Vidvocal to any organization for the use or distribution of Customer Content.

5.5 PROHIBITED CONTENT. You agree that you will not upload or use in connection with the Services any prohibited Content including, without limitation, Content that: (i) is pornographic, sexually explicit or offensive or contains a link to an adult website; (ii) contains graphic or gratuitous violence; (iii) conveys a message of hate against any individual or group; (iv) encourages or glorifies drug use; (v) is predatory in nature, or is submitted for the purpose of harassment or bullying; (vi) is highly repetitive and/or unwanted including "Spam" messages; (vii) promotes or incites racism, bigotry, hatred or physical harm of any kind against any group or individual; (viii) constitutes or promotes information that Customer knows is false or misleading or promotes illegal activities or conduct that is abusive, threatening, obscene, defamatory or libellous; (ix) furthers or promotes criminal activity or provides instructional information about illegal activities; or (x) violates or attempts to violate the privacy rights, publicity rights, copyrights, trademark rights, contract rights or any other rights of any Person. We reserve the right to investigate and take appropriate action against anyone who, in our sole discretion, violates these provisions including removing the offending Content without prior notice, terminating or suspending Customer's Account or access to the Services and/or reporting such Content or activities to relevant law enforcement authorities.

5.6 CONTENT PRESERVATION AND DISCLOSURE. Vidvocal may preserve and store Customer Content and/or disclose Customer Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to:

(i) comply with legal processes; (ii) comply with this Agreement; (iii) respond to claims that any Customer Content violates the rights of any person; or (iv) protect the rights, property, or personal safety of Vidvocal, Viewers and/or the public.

6) CUSTOMER DATA AND VIEWER DATA

6.1 CUSTOMER DATA. The Customer Data is the property of Customer and all rights not granted to Vidvocal hereunder shall remain with Customer. Customer grants to Vidvocal a limited, personal, non-sublicensable, non-exclusive, non-transferable, worldwide right to use Customer Data until the end of the Term in accordance with the terms and conditions of this Agreement. Customer represents and warrants to Vidvocal that Customer's collection and use of the Customer Data through the Services is and will continue to be in compliance with Applicable Laws.

6.2 VIEWER DATA. Customer owns all Viewer Data. Vidvocal has the right to use the Viewer Data in accordance with and subject to the terms of this Agreement. Customer grants to Vidvocal a worldwide, non-exclusive, perpetual, royalty-free license to: (i) collect and analyze information about Customer and Customer's Viewers; (ii) generate statistics and produce reports for the Customer based on the acquired information; and (iii) make recommendations for improving and customizing Services according to Viewer's preferences, statistics and usage activities. Except as set out in this Agreement, Vidvocal will not share any of the Viewer Data with any third parties without the consent of Customer and shall take all reasonably appropriate confidentiality and security measures to protect such Viewer Data.

6.3 ANALYTICS CODE. The Services contains software to track, aggregate and capture Viewer Data ("Analytics Code"). Vidvocal owns all rights in the Analytics Code. Nothing in this Agreement shall be deemed an assignment or transfer of Vidvocal's ownership rights in the Analytics Code to Customer. Through such Analytics Code, Vidvocal may collect information about Customer and Customer's Viewers in order to provide the Services, prepare and analyze statistics, produce reports and improve and customize Services.

6.4 STATISTICAL INFORMATION. Vidvocal may monitor Viewers and Customers' use of the Services and the VidvocalPlatform and compile Viewer Data with other data in an aggregate and anonymous manner to derive statistical and performance information ("Statistical Information"). Vidvocal uses Statistical Information to produce reports and improve and customize the Vidvocal Services. We may make such Statistical Information publicly available, provided that such Statistical Information: (i) is not able to be de-anonymized; (ii) does not include any data that would enable the identification of Customer, a User, or a Viewer; or (iii) would not constitute the disclosure of Confidential Information. We retain all rights, title and interest in and to such Statistical Information.

6.5 RESPONSIBILITY TO OBTAIN PRIVACY CONSENTS. Customer acknowledges, agrees and warrants that it will obtain all necessary rights, releases and consents (collectively "Privacy Consents") from Viewers and other third parties to allow Viewer Data and Customer Data to be collected, used, processed and disclosed in the manner contemplated by this Agreement and to grant Vidvocal the rights set out in this Agreement. We rely exclusively on Customer to obtain all Privacy Consents from and provide all required disclosures to, Viewers as required under Applicable Law.

7) **SECURITY**

7.1 Vidvocal shall maintain appropriate administrative, physical, and technical safeguards designed to protect the security of the Services and Customer Data in accordance with the Vidvocal security standards. If Customer's use of the Services involves processing personal data pursuant to Regulation 2016/679 (the "GDPR") and/or transferring personal data outside the European Economic Area or Switzerland to any country not deemed by the European Commission as providing an adequate level of protection for personal data, the terms of a data processing addendum shall apply to such personal data and be incorporated into the Agreement upon the execution and submission of the data processing addendum to Vidvocal in accordance with its terms. The data processing addendum may be requested by contacting x

8) **SUBCONTRACTORS**

8.1 Vidvocal may use third party subcontractors to provide limited parts of the Services from time to time, including data storage and processing and content delivery ("Subcontractors"). You consent to us subcontracting these services to the Subcontractors, provided that we shall ensure that these Subcontractors comply with the terms of this Agreement applicable to Vidvocal and that Vidvocal shall remain liable to Customer for any breach of this Agreement by a Subcontractor.

9) **THIRD-PARTY SERVICES**

9.1 **NON-VIDVOCAL SERVICES.** Customer may choose to integrate, connect, or otherwise use our Services with other services not provided by Vidvocal ("Non-Vidvocal Services") and in doing so grants Vidvocal permission to interoperate with the Non-Vidvocal Services and share Customer Data and Customer Content with the Non-Vidvocal Services as directed by Customer or the Non-Vidvocal Services. If Customer uses Non-Vidvocal Services:

- (a) Vidvocal does not warrant or support Non-Vidvocal Services,
- (b) as between Vidvocal and Customer, Customer assumes all responsibility for the

Non-Vidvocal Services and any disclosure, modification or deletion of Customer Data by the Non-Vidvocal Services and

(c) Vidvocal shall have no liability, and Customer is not relieved of any obligations under the Agreement or entitled to any refund, credit, or other compensation, due to any unavailability of the Non-Vidvocal Services or any change in the ability of Vidvocal to interoperate with the Non-Vidvocal Services.

9.2 NON-VIDVOCAL SERVICES WARRANTY. Customer warrants that if it uses the Vidvocal Services to upload or make public Customer Content to 3rd Party services, including but not limited to YouTube, that such Customer Content shall comply with the 3rd party terms of use in effect and as updated periodically.

10) PROFESSIONAL SERVICES

10.1 SERVICE DELIVERY. Vidvocal shall provide the customer with the professional services ("Professional Services") (if any) purchased as set forth in the applicable Sales Order. The parties acknowledge that the scope of the Professional Services under this Agreement consists solely of either:

(a) assistance with deployment and usage of the Services; or
(b) development or delivery of additional service related to the Services. Customer shall have a license right to use anything delivered as part of the Professional Services subject to the terms of its license to use the Services, but Vidvocal shall retain all right, title, and interest in and to any such work product, code or deliverable and any derivative, enhancement or modification thereof. The scope of Professional Services shall be as set forth in a Statement of Work ("SOW") executed by both parties or as set forth in the applicable Sales Order describing the work to be performed, fees, dependencies and other technical specifications or related information. Customer shall pay Vidvocal at the rates set forth in the applicable Sales Order or SOW (or, if not specified, at Vidvocal's then-current standard rates). Customer will reimburse Vidvocal for reasonable travel and lodging expenses as pre-approved and incurred.

10.2 SUPPORT SERVICES. All support services, including development, relating to the use of the Services shall be billed at the rates set out in the applicable Sale Order or SOW (or, if not specified, at Vidvocal's then-current standard rates).

11) WARRANTIES

11.1 WARRANTY Vidvocal warrants that during the Subscription Term period the Services will operate without a material failure of the Services to perform in accordance with the Product Overview and Documentation (a "Defect"). Customer's exclusive remedy for breach of this warranty is for Vidvocal to correct or work around the Defect

upon request, subject to and in accordance with our procedures and limitations regarding support. If the Defect continues to cause a material failure in the Service to conform to the Product Overview without correction or workaround forty-five (45) days after written notice to Vidvocal of a warranty claim under this Section 11.1, then Customer may terminate the affected Service and Vidvocal shall refund to Customer any prepaid subscription fees covering the remainder of the Subscription Term of the affected Service after the date of termination. This Section 11.1 sets forth Customer's exclusive rights and remedies (and Vidvocal's sole liability) in connection with any Defect or other failure of the Service to perform in accordance with the Product Overview or any other manner.

11.2 DISCLAIMER OF WARRANTIES. Except for the warranties expressly stated in this Agreement, to the maximum extent allowed by Applicable Law, We at Vidvocal disclaim all warranties of any kind, express or implied, including warranties and conditions arising under statute, warranties of merchantability, non-infringement or fitness for a particular purpose.

11.3 MAINTENANCE AND REPAIRS. Vidvocal shall use commercially reasonable efforts to ensure that availability of the Services will be uninterrupted and that transmissions will be without error. However, your access to Services may be occasionally suspended or restricted to allow for maintenance or the introduction of new facilities or services or for repairs. We will attempt to limit the frequency and duration of any such suspension or restriction, and we will use commercially reasonable efforts to alert or notify you in the event of any scheduled or non-scheduled suspension of Services. Due to the nature of technical outages, we cannot always give notice prior to unplanned outages. We will not be held responsible for any delay or failure to comply with our obligations under these conditions if the delay, problem or failure arises from any cause which is beyond our reasonable control.

12) INDEMNIFICATION

12.1 BY VIDVOCAL. We will indemnify, defend and hold harmless Customer from and against all liabilities, damages and costs (including settlement costs and reasonable attorneys' fees) arising out of any claim by a third party against the Customer to the extent based on an allegation that Vidvocal's technology used to provide the Services to the Customer infringes or misappropriates any copyright, trade secret, patent or trademark right of any third party that is issued or registered in Canada or the United States. In no event will vidvocal have any obligations or liability under this section arising in whole or in part from any content, information or data provided by Customer, Viewer or other third parties. We at Vidvocal shall not be required to indemnify Customer in the event of:

(a) modification of the Services by Customer, its employees, or contractors in conflict

with Customer's obligations or as a result of any prohibited activity as set forth herein; (b) use of the Services in a manner inconsistent with the Documentation; (c) use of the Services in combination with any other application, product, or service not provided by Vidvocal if such claim would not have occurred without such combination; or (d) use of the Services in a manner not otherwise contemplated by this Agreement.

12.2 CUSTOMER INDEMNIFICATION. Customer shall indemnify, defend and hold harmless Vidvocal from and against all liabilities, damages and costs (including settlement costs and reasonable attorneys' fees) arising out of any claim by a third party against Vidvocal or its affiliates regarding:

- (i) Customer Content, Customer Data or Viewer Data;
- (ii) failure by the Customer to obtain any necessary consents required from Viewers under this Agreement or Applicable Law;
- (iii) Customer's use of the Services in violation of this Agreement; and/or
- (vi) violations of Customer's obligations of privacy to any Person.

12.3 POSSIBLE INFRINGEMENT. If we believe the Services infringe or may be alleged to infringe a third party's intellectual property rights, then Vidvocal may:

- (i) obtain the right for you (at our expense) to continue using the Services;
- (ii) provide a non-infringing functionally equivalent replacement; or
- (iii) modify the Services so that they no longer infringe. If we do not believe that the options described in this section are commercially reasonable, then we may suspend or terminate Customer's use of the affected Services (with a pro-rata refund of prepaid fees for the suspended or terminated Services).

12.4 PROCESS. The party seeking indemnification will promptly notify the other party of the claim and cooperate with the other party in defending the claim. The indemnifying party will have full control and authority over the defence, except that: (i) any settlement requiring the party seeking indemnification to admit liability requires prior written consent, not to be unreasonably withheld or delayed; and (ii) the other party may join the defence with its own counsel at its expense.

12.5 EXCLUSIVE REMEDY. The indemnities mentioned above are Vidvocal's and the Customer's only remedy under this Agreement for 3rd party infringement claims and actions.

13) LIMITATIONS OF LIABILITY AND DAMAGES

13.1 LIMITATIONS OF LIABILITY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE MAXIMUM AGGREGATE LIABILITY OF EACH PARTY UNDER THIS AGREEMENT, WHETHER BASED ON CONTRACT, IN TORT OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY THE CUSTOMER FOR THE SERVICES GIVING RISE TO THE CLAIM DURING THE

TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (I) EITHER PARTY'S INTELLECTUAL PROPERTY INDEMNIFICATION OBLIGATIONS; (II) BREACH OF PRIVACY LAWS AND (III) CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED FOR SERVICES.

13.2 EXCLUSIONS OF DAMAGES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER THE CUSTOMER NOR VIDVOCAL SHALL BE LIABLE UNDER THIS AGREEMENT FOR

(I) INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR

(II) LOSS OF USE, DATA, BUSINESS, REVENUE OR PROFITS (IN EACH CASE WHETHER DIRECT OR INDIRECT), EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO EITHER PARTY'S INTELLECTUAL PROPERTY INDEMNIFICATION OBLIGATIONS AND

(III) APPLICABLE BREACH OF PRIVACY LAWS.

14) PRIVACY AND CONFIDENTIAL INFORMATION

14.1 PRIVACY POLICY. Vidvocal's collection and use of your information and information regarding Viewers is governed by our Privacy Policy. You understand that through your use of the Services, you consent to the collection and use of this information, including the transfer of this information to Canada and/or other countries for storage, processing and use by us. As part of providing you with the Services, we may need to provide you with certain communications, such as service updates and announcements and administrative messages. These communications are considered part of the Services and your Account.

14.2 CONFIDENTIAL INFORMATION. Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's business (together "Confidential Information" of the Disclosing Party). Such information includes, without limitation, information relating to pricing of Services, Customer Data and your Vidvocal ID. The Receiving Party agrees: (i) to take reasonable precautions to protect such Confidential Information; and (ii) not to use (except as permitted in this Agreement) or divulge to any third person such Confidential Information. The Disclosing Party agrees that the foregoing shall not apply with respect to Confidential Information after five years following the termination of this Agreement or any Confidential Information that the Receiving Party can demonstrate that: (i) is or becomes generally known to the public; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation to the Disclosing Party; (iii) is received from a third party without any obligation of

confidentiality to a third party or breach of any obligation of confidentiality to the Disclosing Party; (iv) was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information; or (v) is deemed non-confidential by law. Receiving Party may disclose Confidential Information where disclosure is required by a court of competent jurisdiction or other governmental authority, provided, however, that the Receiving Party provides prior written notice to the other of any such order, to the extent permitted by Applicable Law, and limits disclosure to the scope of such order. The Receiving Party shall promptly return to the Disclosing Party or destroy (with the certification of such destruction provided by the Receiving Party upon request) all Confidential Information of the Disclosing Party in its possession or control upon request from the Disclosing Party.

15) **TERM AND TERMINATION**

15.1 **TERM.** This Agreement shall commence on the date set out in the first Sales Order and shall remain in effect through the end of the Subscription Term in any current Sales Order unless terminated earlier pursuant to the terms of this Agreement (the "Initial Term"). Your subscription will automatically renew at the end of the Initial Term for an additional 12-month term and shall continue to renew for successive 12-month terms thereafter (each a "Renewal Term") unless you provide us with written notice of your intent not to renew at least sixty (60) days before the expiration of the Initial Term or the Renewal Term. You must cancel the Services at least sixty (60) days prior to the expiration of the Initial Term or Renewal Term in order to avoid being billed for a (further) Renewal Term. Payment for Services for the Renewal Term is due on the first day of the Renewal Term and will automatically be charged to the account that you used for the original subscription. The renewal price for any Services for a Renewal Term may be increased by Us by up to five percent (5%) from the applicable price on the prior Sales Order, unless we provide you written notice of different pricing at least 90 days prior to the applicable Renewal Term.

15.2 **TERMINATION.** Either party may terminate this Agreement effective upon written notice: (i) if the other party materially breaches a material obligation under this Agreement and does not cure the breach within thirty (30) days after receiving written notice thereof from the non-breaching party; or (ii) if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership or liquidation, in any jurisdiction, that is not dismissed within sixty (60) days of its commencement or an assignment for the benefit of the creditors.

15.3 **EFFECT OF TERMINATION.** Upon expiration or other termination of the Services for any reason, your right to access and use the Services shall terminate. If you terminate this Agreement or any Sales Order solely due to a material breach of this Agreement by us, we agree to refund all prepaid fees for the remaining portion of the Subscription Term for the terminated Services within thirty (30) days after the date of

termination. If we terminate this Agreement or any Sales Order for your material breach, all fees set out on such Sales Order shall be immediately due and payable.

15.4 RETURN OF CUSTOMER DATA. At the end of the Subscription Term, you will be entitled to extract Customer Content stored using the Services, Customer Data and Non-Anonymized Viewer Data for a period of seven (7) days following termination (the "Extraction Grace Period"). Following the Extraction Grace Period, Vidvocal shall have the right to delete all of the Customer Content, Customer Data and NonAnonymized Viewer Data at any time and cancel your Account with us. You acknowledge and agree that archived versions of the Services may include archived copies of Customer Data, Customer Content and Non-Anonymized Viewer Data which may be retained by us for an archive cycle.

15.5 SURVIVAL. Upon termination of this Agreement for any reason, Customer shall pay all amounts owed hereunder. Sections 3.4, 4.1, 4.5, 6.2, 6.3, 6.4, 11, 12, 13, 14, 15 and 16 of this Agreement, together with any other provision required for their construction or enforcement, shall survive termination of this Agreement for any reason.

16) GENERAL PROVISIONS

16.1 DEFINITIONS. Capitalized terms used in this Agreement, and not otherwise defined in this Agreement, shall have the following meanings:

(a) "Account" in this case means the Vidvocal account, which includes a username and password, used by Customer to access and use the Services and includes a Customer Demo Account;

(b) "Applicable Laws" in this case means all statutes, codes, rules, regulations, by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, policies, guidelines, or any provisions of the foregoing, including general principles of common and civil law and equity, binding on or affecting the Person referred to in the context in which such word is used;

(c) "Content" in this case means any and all content, data and other materials including, without limitation, videos, music, sounds, images, live streams, documentation, reports, materials, files, text, images, logos, artwork, graphics, pictures, advertisements, works, works of authorship or any other intellectual property contained in any such materials;

(d) "Customer Data" in this case means non-anonymized electronic data pertaining to Customer, the Users and the Viewers that is collected and/or processed using the Services, including personal information, login credentials, and other information that relates to such parties' use of the Services;

(e) "Demo Account" in this case means a temporary account provided to Customer by Vidvocal that permits a potential customer to use the Services on a trial basis for a limited time period, free of charge;

(f) "Documentation" in this case means documentation relating to the operation and use of the Services that are provided by Vidvocal to Customer under this Agreement, as updated by Vidvocal from time to time;

(g) "Person" in this case means a natural person or any legal, commercial or governmental entity, such as, but not limited to, a corporation, a general partnership, joint venture (JV), limited partnership, limited liability company, trust, business association, group acting in concert, or any person acting in a representative capacity.

(h) "Product Overview" in this case means the overview of the Services to be provided to a Customer set out in the Sales Order.

(i) "Software" in this case means the software products used in connection with the Services, like an embed code for Vidvocal's embedded video player, and could also include code that is licensed under 3rd party license agreements, including open source, made available or provided with the Software, as applicable;

(j) "Users" in this case means Customer's employees, representatives, consultants, contractors or agents who are authorized to use the Services for Customer's benefit and have unique user identifications and passwords for the Services;

(k) "Vidvocal Platform" in this case means the code, technology and servers used in the operation and provision of the Services and includes the Documentation and Software;

(l) "Viewers" in this case means viewers that use or view the Customer Content;

(m) "Viewer Data" in this case means the electronic data concerning the characteristics and activities of Viewers (including personal information of such Viewers) collected and analyzed by the Services relating to such Viewers use or viewing of the Customer Content.

16.2 ASSIGNMENT. You may not assign this Agreement, nor any of the rights or obligations arising thereof, in whole or in part, to any 3rd party without our prior written consent. We may assign this Agreement, as well as any of our obligations or rights, to a successor entity resulting from a merger, acquisition or consolidation involving Vidvocal.

16.3 CONFLICT. In the event of any conflict between these Terms of Service and a Sales Order, the terms of the Sales Order shall govern.

16.4 NOTICE. Except as otherwise provided herein, all notices shall be in writing and deemed given upon: (i) personal delivery; (ii) when received by the addressee if sent by an internationally recognized courier (receipt requested); (iii) the second business day after mailing; or (iv) the first business day after sending by email, except that the email shall not be sufficient for notices of termination or regarding a Claim. Notices shall be sent to the parties as set forth in the Sales Order, the signature page of this Agreement (if applicable) or as otherwise agreed to by the parties in writing.

16.5 PUBLICITY. You grant us permission to list you as a customer and use your standard logo for marketing and promotional usage during the Subscription Term.

16.6 FORCE MAJEURE. Except for your obligation to pay fees for the Services, neither party will be responsible for failure of performance due to causes beyond its control. Such causes include, without limitation, acts of God, accidents, labour disputes, actions of any government agency, shortage of materials, acts of terrorism or the stability or availability of the Internet or a portion of it.

16.7 WAIVER AND AMENDMENT. A waiver of any right is only effective if it is in writing and only against the party who signed such writing and for the circumstances expressly mentioned. Any modification of this Agreement must be in writing and signed and agreed to by both parties.

16.8 RELATIONSHIP OF THE PARTIES. The parties are independent contractors. No section in this Agreement shall be construed to create a joint venture (JV), partnership or agency relationship.

16.9 GOVERNING LAW; VENUE; TIME FOR BRINGING ACTION. This Agreement shall be governed by the laws of the state of Haryana, India and the laws of India applicable in that state. Any action or proceeding arising from or relating to this Agreement may only be brought in the courts located in Gurugram, Haryana and each party irrevocably submits to such exclusive jurisdiction and venue. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement or the transactions contemplated by this Agreement. No cause of action arising hereunder or relating hereto may be brought more than two (2) years after it first accrues.

16.10 EXECUTION. This Agreement may be executed and delivered electronically or by facsimile and the parties agree that such electronic or facsimile execution and delivery will have the same force and effect as delivery of an original document with original signatures, and that each party may use such electronic or facsimile signatures as evidence of the execution and delivery of this Agreement by all parties to the same extent that an original signature could be used.

