



THIS IS A LEGAL AGREEMENT between you (the "**Customer**") and Vizzit Media Ltd. (company number 06006483, registered office 9 Stratfield Park, Elettra Avenue, Waterlooville, Hampshire, PO7 7XN) ("**Vizzit Media Ltd.**"). Please read this Agreement carefully as the terms and conditions stated in this Agreement shall at all times govern the provision of services by Vizzit Media Ltd..

AGREED TERMS

1. INTERPRETATION

- 1.1. The definitions and rules of interpretation in this clause apply in this Agreement:
- 1.2. "**Effective Date**" means the date of acceptance by Vizzit Media Ltd. of the Customer's offer in accordance with Clause 2.2. "**Intellectual Property Rights**" means all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, know-how, confidential information, trade secrets, business names and domain names, trade marks, service marks, trade names, patents, petty patents, utility models, design rights, database rights, video rights and all rights in the nature of unfair competition rights or rights to sue for passing off. "**Material**" means the content provided to Vizzit Media Ltd. by the Customer from time to time for incorporation in the Video.
- 1.3. Clause headings do not affect the interpretation of this Agreement. References to Clauses are references to the clauses of this Agreement. Words in the singular include the plural and in the plural include the singular.
- 1.4. A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.5. Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms. References to **content** include any kind of text, word, information, image, logo or audio or video material which can be incorporated in a video for access by a visitor to that video. **Writing** or **written** includes email.

2. APPLICATION OF TERMS AND CONDITIONS

- 2.1. This Agreement and the terms and conditions contained herein shall prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation or specification, or implied by law, trade custom, practice or course of dealing.
- 2.2. The Customer's purchase order, or the Customer's acceptance of a quotation for Services by Vizzit Media Ltd., constitutes an offer by the Customer to purchase the Services specified in it on the terms and conditions stated in this Agreement. No offer placed by the Customer shall be accepted by Vizzit Media Ltd. other than by a written acknowledgement issued by Vizzit Media Ltd. or (if earlier) by Vizzit Media Ltd. stating to provide the Services, when a contract for the supply and purchase of those Services on the terms and conditions stated in this Agreement will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not govern this Agreement.
- 2.3. Quotations are given to the Customer on the basis that no agreement shall come into existence except in accordance with Clause 2.2 above. Any quotation is valid for a period of 20 business days from its date provided that Vizzit Media Ltd. has not previously withdrawn it.

3. THE SERVICES

- 3.1. Vizzit Media Ltd. shall:
 - 3.1.1. design, develop and deliver the Customer's video (the "**Video**") in accordance with the written specification agreed between Vizzit Media Ltd. and the Customer (the "**Video Specification**");
 - 3.1.2. host and/or arrange the hosting of the Video; and
 - 3.1.3. provide the Customer with limited Internet search engine optimisation services; on the terms and conditions set out in this Agreement (the "**Services**").

4. CUSTOMER RESPONSIBILITIES

- 4.1. The Customer acknowledges that Vizzit Media Ltd.'s ability to provide the Services is dependent upon the full and timely co-operation of the Customer (which the Customer agrees to provide), as well as the accuracy and completeness of any information and data the Customer provides to

Vizzit Media Ltd.. The Customer shall provide Vizzit Media Ltd. with any such information and data (including Material) within 5 business days of Vizzit Media Ltd.'s request and warrants that any such information and data (including Material) is accurate, complete and does not infringe the Intellectual Property Rights of any third party.

- 4.2. Vizzit Media Ltd. reserves the right to delay the commencement of the provision of Services until all Material requested from the Customer has been received by Vizzit Media Ltd.. If the Material requested from the Customer is not received within 10 business days of Vizzit Media Ltd.'s request, Vizzit Media Ltd. reserves the right to demand payment in full for the Services.
 - 4.3. The Customer shall provide Vizzit Media Ltd. with access to the necessary personnel of the Customer, to the Customer's systems and software, and to all Video and other relevant statistics, information, data and documentation reasonably required by Vizzit Media Ltd. for the performance by Vizzit Media Ltd. of its obligations under this Agreement.
 - 4.4. The Customer shall be responsible for the accuracy (including grammar and spelling) and completeness of the Material on the Video in accordance with Clause 10.
 - 4.5. The Customer shall be responsible for backing up all information and/or data that is to be transferred as part of the hosting process from the Customer's existing service provider to Vizzit Media Ltd.. Vizzit Media Ltd. shall not be liable for the loss or corruption of any such information and/or data and Vizzit Media Ltd. shall not provide data restoration facilities for the Customer.
- ### 5. DEVELOPMENT AND ACCEPTANCE OF VIDEO
- 5.1. Once Vizzit Media Ltd. has completed the design and development of the Video in accordance with the Video Specification, Vizzit Media Ltd. shall notify the Customer that the Video is ready to be tested and the Customer shall then have a period of 5 business days (the "**Acceptance Period**") in which to complete a user test on the Video to ensure that the Video complies in all material respects with the Video Specification (the "**Acceptance Test**").
 - 5.2. The Customer is solely responsible for completing the Acceptance Test and Vizzit Media Ltd. shall not be liable for any losses incurred by the Customer as a result of the Customer's failure to complete the Acceptance Test.
 - 5.3. Subject to Clause 5.4 and Clause 5.5, acceptance of the Video by the Customer shall occur when the Customer notifies Vizzit Media Ltd. in writing that the Acceptance Test has been passed.
 - 5.4. If any failure to pass the Acceptance Test results from a defect which is caused by an act or omission of the Customer, or by one of the Customer's sub-contractors or agents for whom Vizzit Media Ltd. has no responsibility (a "**Non-Supplier Defect**"), the Video shall be deemed to have passed the Acceptance Test notwithstanding such Non-Supplier Defect. Vizzit Media Ltd. may at its sole election provide assistance to the Customer in order to remedy any Non-Supplier Defect by supplying additional services or products. The Customer shall pay Vizzit Media Ltd. in full for all such additional services and products at Vizzit Media Ltd.'s then current fees and prices.
 - 5.5. Acceptance of the Video shall be deemed to have taken place upon the occurrence of any of the following events:
 - 5.5.1. the Customer uses any part of the Video for any revenue-earning purposes or to provide any services to third parties other than for test purposes; or
 - 5.5.2. the Customer fails to complete the Acceptance Test within the Acceptance Period.
- ### 6. CHARGES AND PAYMENT
- 6.1. In consideration of the Services provided by Vizzit Media Ltd. to the Customer, the Customer shall pay to Vizzit Media Ltd. the fees and charges as set out in the Customer's purchase order form and/or quotation. All fees and charges are exclusive of VAT which the Customer shall pay in addition to the fees and charges.
 - 6.2. Vizzit Media Ltd. reserves the right at its sole discretion to:
 - 6.2.1. require a non-refundable deposit (of 50% of the total invoice value inclusive of VAT) to be paid by the Customer in advance of Vizzit Media Ltd. starting to provide the Services;
 - 6.2.2. elect to not commence with the provision of the Services and (if appropriate) to refund the deposit paid by the Customer in accordance with Clause 6.2.1.
 - 6.3. In relation to the charges payable by the Customer for the design and development of the Video and the first Annual Hosting Fee (together the "**Start-Up Fees**"), full payment (less any deposit paid by the Customer in accordance with Clause 6.2.1) shall be made within 5 business days of the acceptance or deemed acceptance of the Video by the Customer pursuant to Clause 5. The Customer's Video will not be made live until full payment of the Start-Up Fees has been made by the Customer in accordance with this Clause 6.

- 6.4. In relation to the ongoing annual fees payable by the Customer for the hosting of the Video ("**Annual Hosting Fee**"), Vizzit Media Ltd. shall issue an annual invoice in advance, in respect of such Annual Hosting Fee (save for the first Annual Hosting Fee which shall be invoiced as part of the Start-Up Fees as set out in Clause 6.3 above).
- 6.5. The Customer shall pay each Annual Hosting Fee invoice submitted to it by Vizzit Media Ltd., in full and in cleared funds, within 10 business days of the date of Vizzit Media Ltd.'s invoice. An alternative monthly payment option may also be available.
- 6.6. If the Customer fails to pay any amount payable by it under this Agreement, Vizzit Media Ltd. shall be entitled, but not obliged, to:
- 6.6.1. charge the Customer interest on the overdue amount. Such interest shall be payable by the Customer forthwith on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 8% per annum above the base rate for the time being of Lloyds TSB Bank. Such interest shall accrue on a daily basis and be compounded quarterly. Vizzit Media Ltd. reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998;
- 6.6.2. suspend all Services (including for the avoidance of doubt the suspension of the Video) without liability to the Customer until payment has been made in full. If the Customer's Video is suspended in accordance with this sub-Clause and the Customer requests that the Video be reactivated, Vizzit Media Ltd. may charge the Customer a reactivation fee of £100 plus VAT.
- 6.7. Time for payment shall be of the essence of the Agreement.
7. **WARRANTIES**
- 7.1. Each of the parties warrants to the other that it has full power and authority to enter into and perform this Agreement.
- 7.2. Vizzit Media Ltd. shall perform the Services with reasonable care and skill.
- 7.3. Vizzit Media Ltd. warrants that the Video will perform substantially in accordance with the Video Specification for a period of 3 months from the acceptance or deemed acceptance of the Video by the Customer pursuant to Clause 5. If the Video does not so perform, Vizzit Media Ltd. may its sole election, for no additional charge, carry out any work necessary in order to ensure that the Video substantially complies with the Video Specification.
- 7.4. The warranty set out in Clause 7.3 above shall not apply to the extent that any failure of the Video to perform substantially in accordance with the Video Specification is caused by any Material or Non-Supplier Defect.
- 7.5. This Agreement sets out the full extent of Vizzit Media Ltd.'s obligations and liabilities in respect of the supply of the Services. All conditions, warranties or other terms concerning the Services which might otherwise be implied into this Agreement or any collateral contract (whether by statute or otherwise) are hereby expressly excluded. In particular and without prejudice to that generality, Vizzit Media Ltd. shall not be liable to the Customer as a result of any viruses introduced or passed on to the Customer.
8. **LIMITATION OF REMEDIES AND LIABILITY**
- 8.1. Nothing in this Agreement shall operate to exclude or limit Vizzit Media Ltd.'s liability for death or personal injury caused by its negligence, or any breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982, or fraud, or any other liability which cannot be excluded or limited under applicable law.
- 8.2. Vizzit Media Ltd. shall not be liable to the Customer for any damage to software, damage to or loss of data, loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity howsoever arising (including but not limited to loss arising directly or indirectly from a breach of this Agreement).
- 8.3. Vizzit Media Ltd. shall not be liable to the Customer for any or for any indirect, special or consequential loss or damage howsoever arising.
- 8.4. The Customer agrees that Vizzit Media Ltd. shall not be liable for:
- 8.4.1. any drop in position on Internet search engines resulting from non-implementation of any of Vizzit Media Ltd.'s recommendations, from any increase in competition, from changes implemented by the search engines or any other external influences on the position of the Customer on the Internet search engines;
- 8.4.2. the loss or corruption of any information and/or data during the transfer of the hosting and/or domain name from the Customer's existing service provider to Vizzit Media Ltd.;
- 8.4.3. any loss of money paid to the Customer by end users via the Video as a result of problems with the payment processors (including Paypal) and/or the Customer's and/or end-users bank.
- 8.5. Vizzit Media Ltd. shall use its reasonable endeavours to make the Video available to the Customer 100% of the time but because the Services are provided by means of computer and telecommunications systems, Vizzit Media Ltd. makes no warranties or representations that the Video will be uninterrupted or error-free and Vizzit Media Ltd. shall not, in any event, be liable for interruptions of Service or downtime of the Video.
- 8.6. Subject to Clause 8.1, Vizzit Media Ltd.'s aggregate liability in respect of claims based on events in any calendar year arising out of or in connection with this Agreement or any collateral contract, whether in contract or tort (including negligence) or otherwise, shall in no circumstances exceed the total fees and charges payable by the Customer to Vizzit Media Ltd. under this Agreement in that calendar year.
9. **INTELLECTUAL PROPERTY RIGHTS**
- 9.1. All Intellectual Property Rights in the Video (including in the content of the Video and the software for the Video) and the Domain Name or arising in connection with the performance of the Services by Vizzit Media Ltd. (including any report, documentation or information), but excluding the Material, shall be the property of Vizzit Media Ltd., and Vizzit Media Ltd. hereby grants the Customer a non-exclusive, revocable licence of such Intellectual Property Rights during the term of this Agreement for the sole purpose of operating the Video. For the purposes of clarity ownership of all domain names registered by Vizzit Media Ltd., remains the sole possession of Vizzit Media Ltd.. Transfer and/or release of domain ownership is at the sole discretion of Vizzit Media Ltd., and may be subject to the payment of a transfer and/or early redemption fee.
- 9.2. In relation to Vizzit Media Ltd.'s obligations under this Agreement in connection with the provision of the Services, the Customer hereby grants Vizzit Media Ltd. a royalty-free, world-wide, non-exclusive licence to use the Material.
- 9.3. The Customer shall indemnify Vizzit Media Ltd. against all damages, losses and expenses arising as a result of any allegation, action or claim that the Material or the Customer's chosen Domain Name or business name infringe the Intellectual Property Rights of any third party.
10. **VIDEO CONTENT**
- 10.1. All Material to be included in the Video shall be incorporated by Vizzit Media Ltd. in one implementation during the design and development of the Video.
- 10.2. If the Customer requires Vizzit Media Ltd. to include additional Material, it shall notify Vizzit Media Ltd. of its requirements. Any changes to the Material (which for the avoidance of doubt does not include any colour, timing or structural changes) made during the Acceptance Period shall be made by Vizzit Media Ltd. without charge to Customer. All other changes shall be charged to the Customer on a time and materials basis at Vizzit Media Ltd.'s hourly rates from time to time.
- 10.3. Once the Acceptance Period has expired and/or the Video has been accepted by the Customer pursuant to Clause 5, any changes to the Video including changes to the Material shall be charged to the Customer on a time and materials basis at Vizzit Media Ltd.'s hourly rates from time to time.
- 10.4. In relation to bespoke videos, all design features (including colour scheme, images, length and structure) shall be agreed in writing between Vizzit Media Ltd.'s allocated videographer. and the Customer prior to commencement of the Video build. Once the Video build has commenced, any changes to such design features shall be charged to the Customer on a time and materials basis at Vizzit Media Ltd.'s hourly rates from time to time.
- 10.5. The Customer shall ensure that the Material does not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights) ("**Inappropriate Content**").
- 10.6. The Customer has full responsibility for the content of the Video and acknowledges that Vizzit Media Ltd. has no control over any content placed on the Video by visitors and that Vizzit Media Ltd. does not purport to monitor the content of the Video. Vizzit Media Ltd. reserves the right to remove content from the Video where it reasonably suspects such content is Inappropriate Content and agrees to indemnify the company in the event of any breach of copyright claims being brought against the company in respect of nmaterial supplied by the customer.
- 10.7. The Customer shall indemnify Vizzit Media Ltd. against all damages, losses and expenses arising as a result of any action or claim that the Material or the content of the Video constitute Inappropriate Content.
- 10.8. Vizzit Media Ltd. may include the statement "*Designed by Vizzit Media Ltd.*" Within the body of the Video.
11. **TERM AND TERMINATION**
- 11.1. This Agreement shall commence on the Effective Date and shall (subject to earlier termination pursuant to this Clause 11) terminate automatically on the fifth anniversary of the Effective Date (the "**Term**"), unless the

- parties agree in writing to extend the term of this Agreement by a further term.
- 11.2. Either party may terminate this Agreement immediately at any time by written notice to the other party if:
- 11.2.1. that other party commits any material breach of its obligations under this Agreement which (if remediable) is not remedied within 30 days after the service of written notice specifying the breach and requiring it to be remedied; or
- 11.2.2. that other party:
- 11.2.2.1. ceases to trade (either in whole, or as to any part or division involved in the performance of this Agreement); or
- 11.2.2.2. becomes insolvent or unable to pay its debts within the meaning of the insolvency legislation applicable to that party; or
- 11.2.2.3. a person (including the holder of a charge or other security interest) is appointed to manage or take control of the whole or part of the business or assets of that party, or notice of an intention to appoint such a person is given or documents relating to such an appointment are filed with any court; or
- 11.2.2.4. the ability of that party's creditors to take any action to enforce their debts is suspended, restricted or prevented or some or all of that party's creditors accept, by agreement or pursuant to a court order, an amount of less than the sums owing to them in satisfaction of those sums; or
- 11.2.2.5. any process is instituted which could lead to that party being dissolved and its assets being distributed to its creditors, shareholders or other contributors (other than for the purposes of solvent amalgamation or reconstruction).
- 11.3. On expiry or termination of this Agreement (including for the avoidance of doubt termination by either party pursuant to Clause 11.2):
- 11.3.1. all licences granted by Vizzit Media Ltd. under this Agreement shall terminate immediately;
- 11.3.2. Vizzit Media Ltd. shall return all Material to the Customer; and
- 11.3.3. at the Customer's written request Vizzit Media Ltd. shall, subject to the payment of Vizzit Media Ltd.'s then current transfer fees (a transfer quote is available on request):
- 11.3.3.1. provide the Customer with an electronic copy of the Video (including all content on the Video);
- 11.3.3.2. transfer the Intellectual Property Rights in the Video and/or the Domain Name to the Customer; and
- 11.3.3.3. transfer the hosting of the Video to the Customer or another service provider subject to the payment of Vizzit Media Ltd.'s expenses reasonably incurred.
- 11.4. If this Agreement is terminated by the Customer (including for the avoidance of doubt termination by the Customer pursuant to Clause 11.2) prior to the expiry of the five year Term, the Customer shall pay to Vizzit Media Ltd. an early redemption fee which shall be equal to the sum outstanding under the five year hosting package. An early redemption quote is available on request.
- 11.5. On expiry or termination of this Agreement, all provisions of this Agreement shall cease to have effect, except that any provision which can reasonably be inferred as continuing or is expressly stated to continue shall continue in full force and effect.
12. **FORCE MAJEURE**
- 12.1. In this Clause 12, "**Force Majeure Event**" means any event arising which is beyond the reasonable control of the affected party (including any industrial dispute affecting any third party, governmental regulations, fire, flood, disaster, civil riot or war).
- 12.2. A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under this Agreement shall forthwith notify the other and shall inform the other of the period for which it is estimated that such failure or delay will continue. The affected party shall take reasonable steps to mitigate the effect of the Force Majeure Event.
13. **CONFIDENTIALITY**
- 13.1. Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party except as permitted by Clause 13.2.
- 13.2. Each party may disclose the other party's confidential information: (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement provided that each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 13 and (b) as may be required by law, court order or any governmental or regulatory authority.
- 13.3. No party shall use any other party's confidential information for any purpose other than to perform its obligations under this Agreement.
- 13.4. The obligations of confidentiality in this Clause 13 shall not be affected by the expiry or termination of this Agreement.
14. **NOTICES**
- 14.1. Any communications between the parties about this Agreement shall be in writing in the English language and shall be delivered by hand or sent by pre-paid first class post or sent by fax or email to:
- 14.1.1. (in case of communications to Vizzit Media Ltd.) to Vizzit Media Ltd., 1 Hawthorn Drive, Sway, Lymington, Hampshire, SO41 6DX or such changed address as shall be notified to the Customer by Vizzit Media Ltd. and marked for the attention of Richard Lock or Anita Gresham-Hale; or
- 14.1.2. (in the case of the communications to the Customer) to the registered office of the Customer (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Agreement or such other address as shall be notified to Vizzit Media Ltd. by the Customer.
- 14.2. Communications shall be deemed to have been received:
- 14.2.1. if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- 14.2.2. if delivered by hand, on the day of delivery; or
- 14.2.3. if sent by fax or email on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 14.3. The provisions of this Clause 14 shall not apply to the services of any proceedings or other documents in any legal action.
15. **ASSIGNMENT**
- The Customer may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of Vizzit Media Ltd., such consent not to be unreasonably withheld or delayed.
16. **ENTIRE AGREEMENT**
- 16.1. It is acknowledged and agreed that this Agreement (including the documents and instruments referred to herein (the "**Documents**") shall supersede all prior representations arrangements, understandings and agreements between the parties relating to the subject matter hereof and shall constitute the entire complete and exclusive agreement and understanding between the parties hereto
- 16.2. The parties irrevocably and unconditionally waive any right they may have to claim damages for any misrepresentation, arrangement, understanding or agreement not contained in the Documents or for any breach of any representation not contained in the Documents (unless such misrepresentation or representation was made fraudulently).
- 16.3. It is further acknowledged and agreed that no representations, arrangements, understandings or agreements (whether written or oral) made by or on behalf of any of the other parties have been relied upon other than those expressly set out or referred to in the Documents.
17. **THIRD PARTY RIGHTS**
- This Agreement is made for the benefit of the parties to it and is not intended to benefit, or be enforceable by, any other person.
18. **VARIATION AND WAIVER**
- 18.1. A variation of this Agreement shall be in writing and signed by or on behalf of both parties to this Agreement.
- 18.2. A waiver of any right under this Agreement is only effective if it is in writing, and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. No waiver shall be implied by taking or failing to take any other action.
- 18.3. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

19. **SEVERANCE**

19.1. If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

19.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

20. **GOVERNING LAW AND JURISDICTION**

20.1. This Agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England.

20.2. The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.