

You i Labs Inc.

SOFTWARE LICENSE AGREEMENT

PLEASE READ THE FOLLOWING SOFTWARE LICENSE AGREEMENT (THE "AGREEMENT") BEFORE INSTALLING AND USING THE YOU I LABS INC. ("YOU") SOFTWARE PROGRAM(S) (THE "SOFTWARE") ASSOCIATED WITH THIS AGREEMENT.

IF YOU ACCEPT AND AGREE TO BE LEGALLY BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, CLICK THE "I AGREE" BUTTON AND/OR THE APPLICABLE BUTTON PRESENTED WITH THIS AGREEMENT TO COMPLETE THE ACCEPTANCE AND REGISTRATION PROCESS. THAT ACTION INDICATES YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THAT YOU AND YOUR EMPLOYER (THE "CUSTOMER") INTEND AND AGREE TO BE LEGALLY BOUND BY SUCH TERMS AND CONDITIONS. IF THE CUSTOMER DOES NOT ACCEPT AND AGREE TO THE TERMS AND CONDITIONS OF THIS SOFTWARE LICENSE AGREEMENT THEN DO NOT DOWNLOAD, INSTALL OR OTHERWISE USE THE SOFTWARE.

THE RIGHT TO USE THE SOFTWARE IS CONDITIONAL UPON ACCEPTANCE OF THIS AGREEMENT, UNLESS THE CUSTOMER HAS ENTERED INTO A WRITTEN AND DULY SIGNED LICENSE AGREEMENT WITH YOU, IN WHICH CASE SUCH SIGNED LICENSE AGREEMENT WILL GOVERN THE CUSTOMER'S USE OF THE SOFTWARE.

You hereby represent and warrant that (i) you are lawfully able to enter into and perform a legally binding contract, (ii) if you are entering into this Agreement on behalf of your employer, you are authorized to do so, and (iii) you agree to be bound by this Agreement. Please print a copy of this Agreement and retain it for your or your employer's records.

NOW THEREFORE, the Parties agree as follows:

1. **Interpretation.**

1.1. **Definitions.** For the purposes of this Agreement, the following terms shall have the meanings set forth below:

- (a) "**Affiliate**" means any entity that 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 fifty percent (50%) of the voting interests of the subject entity.
- (b) "**Agreement**" means this Agreement together with the Order Form to which this Software License Agreement is attached or incorporated by reference.
- (c) "**App**" means a single, custom named service or software application that provides a defined and specific set of user functionality, designed and developed by or on behalf of Customer, which runs on the You.i Engine One on one or more Platforms, and is delivered to Customer end users via a single App SKU per licensed Platform.
- (d) "**App SKU**" means a unique tracking number for an App, arbitrarily assigned and used by an App Store.
- (e) "**App Store**" means a type of digital distribution mechanism for Apps, also known as an app marketplace, commonly associated to a particular mobile computer or device operating system, which allows users to browse and/or download Apps.
- (f) "**Bankruptcy Event**" means the occurrence of any one or more of the following events in respect of either Party hereto:

- (i) it ceases to carry on its business in the normal course;
 - (ii) a receiver, liquidator or agent or similar officer is appointed for its business, property, affairs or revenues and such proceedings continue for thirty (30) days;
 - (iii) it admits in writing its inability to pay its debts generally as they come due, becomes insolvent, is adjudicated bankrupt, or enters or commences composition, restructuring, rearrangement, liquidation or similar proceedings, makes an assignment for the benefit of its creditors or another arrangement of similar import; or
 - (iv) proceedings under bankruptcy, composition, restructuring, rearrangement, liquidation (if commenced against it) or similar insolvency laws are commenced and are not dismissed within sixty (60) days.
- (g) “Confidential Information” has the meaning given to it in Section 6.1 hereof.
- (h) “Documentation” means the explanatory user materials supplied by Youi with the Software in electronic form.
- (i) “Effective Date” means the effective date as defined in the applicable Order Form.
- (j) “Intellectual Property Rights” means any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (i) rights associated with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and maskworks, (ii) trademark and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property and proprietary rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license or otherwise, and (vi) all registrations, applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force throughout the universe (including without limitation rights in any of the foregoing).
- (k) “License” means the right and license granted by Youi to Customer to use the Software in accordance with the terms and conditions hereof and of the applicable Order Form.
- (l) “License Fees” means the license fees charged by Youi to the Customer for the right to use the Software in accordance with the terms hereof and which are specified in the applicable Order Form.
- (m) “License Term” for the Software and Documentation means the period of time that Customer is licensed by Youi to use such Software and Documentation as specified in the applicable Order Form.
- (n) “Object Code” means the computer code derived from the related Source Code by compilation or other process which translates the Source Code or some intermediate code derived therefrom to a form which is understood and acted upon by a computer.
- (o) “Order” means an order by Customer for Software Licenses and/or Product Maintenance made pursuant to an Order Form.
- (p) “Order Form” means an ordering document or online order pursuant to which Customer orders Software Licenses and Product Maintenance from Youi.
- (q) “Platform” means a supported operating system and instruction set for a particular personal computer, set-top box, digital media streaming device, game console, mobile

phone, tablet or other mobile device, on which application programs, including an App, can run.

- (r) “Product Maintenance” means the support services provided by Youi in accordance with the Product Maintenance Terms and Conditions to ensure that any problems encountered with the Software are identified and diagnosed for resolution.
- (s) “Product Maintenance Terms and Conditions” means Youi’s policies, terms and conditions for the provision of Product Maintenance to Users, a copy of which is available on the Youi website at: <https://www.youi.tv/support/terms/product-maintenance/>.
- (t) “Software” means the Youi proprietary software referred to in the applicable Order Form, including the You.i Engine SDK, You.i Engine Reference App, You.i Engine Reference App Tools, the You.i Engine One and all releases thereto.
- (u) “Source Code” means any set of instructions in machine or human readable form whose output is directly executable on a central processing unit after compilation or assembly into Object Code, whether such instructions are contained on paper, magnetic media, electronic impulses or other form or media.
- (v) “Supported Platforms” means the Platforms supported by Youi for use with the Software and specified at www.youi.tv/supported_platforms.
- (w) “Third Party Provider” means a party that Customer has entered into a written agreement with for the provision of certain outsourced services by such party for the benefit of Customer.
- (x) “User” means an employee or contractor of Customer.
- (y) “You.i Engine One” means the Youi proprietary software application development platform that Youi licenses to its Customers and which is incorporated into Apps.
- (z) “You.i Engine SDK” means the Youi proprietary software development toolkit that Youi licenses to Customers and other third parties to enable such third parties to develop, customize, extend and integrate Apps.
- (aa) “You.i Reference App” means a specific Youi proprietary App which Youi licenses to its Customers to provide a baseline set of functionality and user experience (e.g. SVOD, TVOD, AVOD, TVE) in order for the Customer to accelerate the creation of an App. The baseline functionality is pre-integrated with select third party Video Components, or can be modified to integrate into or incorporate alternative third party Video Components, and includes but is not limited to a set of common screens, account and authentication, content browsing and video playback features, notifications, error handling, user settings, and analytics. You.i Reference App user interfaces can be configured to meet the branding requirements of the Customer.
- (bb) “You.i Reference App Tools” means the Youi provided software development tools, such as building/packaging scripts and documentation which are necessary for the Customer to create an App built leveraging a You.i Reference App.
- (cc) “Video Components” means video platforms and/or components necessary to store, manage, analyze and deliver video services over a network, and with which an App is integrated to provide a branded user experience to these video services. Video Components can include, but are not limited, to customer management, analytics, advertising servers, content management, service monetization, user authentication, content discovery and recommendations, and digital rights management (DRM).

(dd) "Youi Quotation" means Youi's sales quotation document provided by Youi to a prospective Customer which sets out the License Fees for Youi's Software.

1.2. Currency. Unless otherwise specified, all dollar amounts in this Agreement, including the symbol "\$", refer to United States currency.

2. License Grants

2.1. You.i Reference App License. Subject to the terms and conditions contained in this Agreement, Youi hereby grants Customer a worldwide, non-exclusive, royalty-free, non-transferable, non-sublicensable License during the License Term to (a) copy, incorporate, modify and extend You.i Reference App libraries in an Object Code and Source Code form, and a sample set of binary visual design files which can be modified through Adobe After Effects, to create an App; and (b) distribute such App in Object Code form to an unlimited number of Customer end users on each Platform for which Customer has paid Youi the applicable License Fees.

2.2. You.i Reference App Tools License. Subject to the terms and conditions contained in this Agreement, Youi hereby grants Customer a worldwide, non-exclusive, royalty-free, non-transferable, non-sublicensable License during the License Term to (a) copy and use the You.i Reference App Tools as reasonably necessary to modify the You.i Reference App to create an App; (b) copy and use the Documentation as reasonably necessary to support the foregoing licensed use.

2.3. You.i Engine One License. Subject to the terms and conditions contained in this Agreement, Youi hereby grants Customer a worldwide, non-exclusive, royalty-free, non-transferable, non-sublicensable License to (a) copy, perform, distribute and use (only as incorporated into a Customer App) the You.i Engine One in Object Code form, solely during the License Term for each App and Platform for which Customer has paid Youi the applicable License Fees; (b) copy, perform and distribute the Customer App to an unlimited number of Customer's end users of each App and Platform for which Customer has paid Youi the applicable License Fees.

2.4. You.i Engine SDK License. Subject to the terms and conditions contained in the Agreement and payment of the applicable License Fees, Youi hereby grants Customer a worldwide, non-exclusive, royalty-free, non-transferable, non-sublicensable License, solely during the License Term to (a) copy, display, distribute internally and use the You.i Engine SDK in Object Code form, to create an App, by reasonably extending, modifying and enhancing the functionality of a You.i Reference App, including but not limited to the integration or connectivity to pre-integrated or alternative third party Video Components; (b) copy and use the Documentation as reasonably necessary to support the foregoing licensed use.

2.5. Third Party Providers. Customer may, at no additional fee, permit a Third Party Provider in the business of providing managed services for the processing or hosting of Customer's internal data or systems or development services (the "Outsourced Services") to use the Software and Documentation for the sole and exclusive benefit of Customer in connection with the provision of the Outsourced Services. The Software, Documentation and Confidential Information of Youi may only be disclosed by a Third Party Provider to those employees of the Third Party Provider who: (i) have a need to know consistent with the purposes of this Agreement; and (ii) are under confidentiality obligations no less restrictive than the confidentiality obligations contained in this Agreement. The use of the Software and Documentation by a Third Party Provider on behalf of Customer shall not in any way amend or alter the terms of this Agreement, including but not limited to the intended use of the Software or Documentation and the number of Users or other restrictions applicable to the license to use the Software. Customer shall provide the Third Party Provider with a copy of this Agreement and the Third Party Provider shall agree in writing to comply with the terms of this Agreement, including that the Software will be removed from the Third Party Provider's servers, computers and networks when the Outsourced Services are completed or the agreement with Customer is terminated, whichever comes first. Any breach of any of the terms hereof by a Third Party Provider shall be deemed to be a breach by the

Customer and, subject to the terms hereof, Customer shall be liable to Youi for any damages arising out of a breach of this Agreement by a Third Party Provider.

- 2.6. Reservation of Rights. The Software and Documentation are licensed, not sold. Youi and its licensors own and shall retain all right, title and interest, including without limitation all Intellectual Property Rights, in and to the Software and Documentation and any copies, corrections, bug fixes, enhancements, modifications) or new releases, all of which shall be deemed part of the Software or the Documentation and subject to all of the provisions of the Agreement. Customer shall keep the Software and Documentation free and clear of all liens, encumbrances and/or security interests. Subject to the limited rights expressly granted in this Agreement, Youi reserves all rights, title and interest in and to the Software and Documentation. No rights are granted to Customer pursuant to this Agreement other than as expressly set forth in this Agreement.
- 2.7. Rights in Derivative Data. Customer acknowledges and agrees that the You.i Engine One compiles, generates, stores and uses aggregated data and system usage, analytics and diagnostic information to monitor and improve the Software and for the creation of new products. Customer hereby grants to Youi a non-exclusive, transferable, assignable, irrevocable, worldwide, perpetual license to collect, process and aggregate Customer Data and other such information and data and create anonymized, aggregated data records and use such anonymized and aggregated data, and all modifications thereto and derivatives thereof ("Derivative Data") to improve the Software, develop new products and services, to understand usage, and for any other business purpose. Derivative Data shall not contain any personal information and shall not be associated with Customer or a User.
- 2.8. Restrictions. Except as expressly permitted in this Agreement the Customer may not:
- (a) make copies of the Software and Documentation except as permitted in this Agreement;
 - (b) translate, modify, reverse engineer, decompile or disassemble the Software, except to the extent the foregoing restriction is expressly prohibited by applicable law;
 - (c) circumvent any user limits or other license timing or use restrictions that are built into the Software;
 - (d) remove any copyright and permission notices, or other indicia of Youi or other licensor's (including open source licensors) Intellectual Property Rights from the Software, or the Documentation, and all copies or substantial portions of the foregoing;
 - (e) assign, transfer, rent, lease, sell, lend, distribute, license, encumber or grant any rights in the Software and/or Documentation in any form to any person without the prior written consent of Youi; or
 - (f) use the Software in violation of applicable laws.
- 2.9. Publicly Available Software. Portions of the Software include software programs that are distributed by Youi pursuant to the terms and conditions of a license granted by the copyright owner of such software programs and which governs Customer's use of such software programs ("Publicly Available Software"). The Customer's use of Publicly Available Software in conjunction with the Software in a manner consistent with the terms of this Agreement is permitted, however, the Customer may have broader rights under the applicable license for Publicly Available Software and nothing contained herein is intended to impose restrictions or limitations on the Customer's use of the Publicly Available Software. The warranty, indemnity and limitation of liability provisions in this Agreement will apply to all of the Software, including Publicly Available Software included in the Software. Copies of such Publicly Available Software license agreements are available by contacting Youi at support@Youi.tv. The Source Code for certain portions of the Publicly Available Software included in the Software (as specified in the copyright notices) is available by contacting Youi at support@Youi.tv within a three (3) year period from the

original date of receipt of the applicable Software and for a fee that shall not exceed Youi's costs associated with the shipping of such software Source Code.

3. License Fees and Payment

- 3.1. License Fees. Customer shall pay the License Fees set out in the applicable Order Form in accordance with the terms of this Agreement.
- 3.2. Taxes. License Fees are exclusive of all sales taxes, value-added taxes and similar taxes, including withholding taxes, or similar charges. Such taxes and charges shall be incremental to the License Fees and shall be payable by Customer in accordance with applicable law.
- 3.3. Payment Terms. Except as otherwise expressly agreed to in the applicable Order Form, Customer shall pay all License Fees within thirty (30) days of the date of Youi's invoice. Customer shall pay Youi the License Fees as required herein except in the case where Customer, acting reasonably, has disputed an invoice in writing. The Parties agree to discuss any disputed invoice including applicable adjustments, if any, and attempt to reach a resolution. Except for such disputed invoices, for invoiced amounts that are past due and have not been paid by Customer, Customer shall pay interest for late payment equal to one percent (1%) per month on the outstanding balance of past due amounts.
- 3.4. Purchase Orders. Unless otherwise agreed to in writing by Customer and Youi, the acceptance of any Order placed by Customer for the Software is expressly made conditional upon Customer's acceptance of and agreement to the terms and conditions contained in this Agreement and Youi agrees to furnish the Software only upon these terms and conditions and not on the terms and conditions contained in Customer's purchase order.
- 3.5. Right to Audit. Youi shall have the right, with reasonable notice and during normal business hours, at Youi's sole expense and in as non-disrupting a manner as reasonably possible, to verify Customer's compliance with Customer's obligations hereunder through an on-site audit of Customer's records, facilities and licensing processes by Youi or a third party representative of Youi. Customer shall permit up to one such audit per year, including once during the 12 month period following the termination of this Agreement for any reason. Youi may use such audit reports solely to enforce its rights hereunder and shall otherwise treat audit reports and any information received in connection with such audits as Confidential Information. In the event that an audit establishes that Customer is in material breach of its obligations hereunder, Customer shall reimburse Youi for the cost of the audit and shall promptly pay to Youi all outstanding License Fees.

4. Product Maintenance

During the License Term, Youi will provide Product Maintenance to Customer as part of the License Fee, including delivering or making available for download by Customer all releases for any Software for which Customer has a current License. Youi shall provide Product Maintenance in accordance with the Product Maintenance Terms and Conditions. Use of any releases to the Software provided by Youi is governed by the terms and conditions of this Agreement.

5. Representations, Warranties and Covenants

- 5.1. Youi Warranties. Youi represents, warrants and covenants to and with the Customer that:
 - (a) it has the full power and authority to enter into this Agreement, perform its obligations hereunder and to license the Software to Customer as contemplated hereunder on the terms and conditions in this Agreement without the consent of any other person;
 - (b) the Software will function and perform substantially in accordance with the Documentation during the License Term;

- (c) the Software does not contain code, including without limitation, open source code and freeware, that would directly or indirectly: (i) create, or purport to create obligations on Customer with respect to Customer's use or distribution of any software that incorporates, is combined with, or derived from the Software and each App; (ii) grant, purport to grant, or require Customer to grant to any third party any rights or immunities under Customer's intellectual property or proprietary rights in any software that incorporates, is combined with, or is derived from the Software and each App; and/or (iii) require as a condition of its use, modification, and/or distribution, that any software incorporated into, derived from, or distributed with the Software and each App must be disclosed or distributed in any form;
 - (d) at the time of delivery, the Software and each App will be free from any virus, disabling mechanism or protection feature designed to prevent its use including any clock, timer, counter, computer virus, worm, software lock, drop dead device, trojan horse routine, trap door, time bomb or any other codes or instructions that are designed to access, modify, replicate, distort, delete, damage or disable any such computer systems or any other software or hardware (each a "Virus");
 - (e) the Supported Platforms are supported by and are compatible with the Software; and
 - (f) Youi will comply with all applicable laws and regulations and Youi will obtain any necessary permits for services provided in connection with this Agreement.
- 5.2. Warranty Remedies. In the event of a breach of one or more of the warranties in Sections 5.1(b), 5.1(c) and 5.1(d), Youi shall use commercially reasonable efforts to correct the failure of the Software to perform in accordance with the warranty. In the event of a breach of Section 5.1(d), Youi shall furnish to Customer a new copy of the Software, without the presence of the Virus at no additional cost to Customer.
- 5.3. Exclusive Remedies. THE WARRANTIES SET OUT IN SECTION 5.1 HEREOF ARE THE ONLY WARRANTIES PROVIDED BY YOUI AND THE REMEDIES SET OUT IN SECTION 5.2 HEREOF ARE THE SOLE AND EXCLUSIVE REMEDIES OF CUSTOMER FOR A BREACH OF A WARRANTY SPECIFIED HEREIN.
- 5.4. Disclaimer of Warranties. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS SECTION 5, THE SOFTWARE AND THE APPS DEVELOPED HEREUNDER ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT ANY OTHER WARRANTIES, OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR THOSE ARISING BY LAW, USAGE OF TRADE OR COURSE OF DEALING. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, YOUI DOES NOT WARRANT, GUARANTEE OR MAKE ANY REPRESENTATIONS THAT THE SOFTWARE AND THE AN APPS DEVELOPPED HEREUNDER WILL MEET ALL OF THE CUSTOMER'S NEEDS OR THAT THE OPERATION OF THE SOFTWARE OR AN APP WILL BE UNINTERRUPTED OR ERROR FREE.
- 6. Confidentiality**
- 6.1. Definition of Confidential Information. As used herein, "Confidential Information" means all confidential and proprietary information of a Party ("Disclosing Party") disclosed to the other Party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms and conditions of this Agreement (including pricing and other terms reflected in all Orders hereunder), the Software and Documentation, business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without

breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party.

- 6.2. Confidentiality. Subject to Section 6.5, and unless the Disclosing Party expressly agrees in writing otherwise, the Receiving Party will: (a) use the Disclosing Party's Confidential Information only during the License Term and only as necessary to perform the Receiving Party's obligations under this Agreement; (b) disclose the Disclosing Party's Confidential Information only to the Receiving Party's directors, officers, agents, employees and authorized subcontractors and their employees and only to the extent that such disclosure is necessary to perform the Receiving Party's obligations or exercise the Receiving Party's rights under this Agreement. Customer shall not disclose any performance, benchmarking, or feature-related information about the Software.
- 6.3. Confidentiality of Agreement. Youi and Customer agree that the terms and conditions of this Agreement shall be treated as confidential information and that no reference to the terms and conditions of this Agreement or to activities pertaining thereto can be made in any form without the prior written consent of the other Party; provided that, notwithstanding this Section 6 hereof, either Party may disclose the terms and conditions of this Agreement: (i) as required by any court or other governmental body; (ii) as otherwise required by law; (iii) to legal counsel of the Parties; (iv) in confidence, to accountants, banks, proposed investors, and financing sources and their advisors; (v) in confidence, in connection with the enforcement of this Agreement or rights under this Agreement; or (vi) in confidence, in connection with a merger or acquisition or proposed merger or acquisition.
- 6.4. Protection. Each Party agrees to protect the confidentiality of the Confidential Information of the other Party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care).
- 6.5. Compelled Disclosure. If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.
- 6.6. Remedies. If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies may be inadequate.
- 6.7. Return of Confidential Information. Upon Disclosing Party's written request upon expiration or termination of this Agreement (or at any earlier time upon written request by the Disclosing Party), the Receiving Party will: (a) promptly deliver to the Disclosing Party all originals and copies, in whatever form or medium, of all the Disclosing Party's Confidential Information and all documents, records, data and materials, in whatever form or medium, containing such Confidential Information in the Receiving Party's possession, power or control and the Receiving Party will delete all of the Disclosing Party's Confidential Information from any and all of the Receiving Party's computer systems, retrieval systems and databases; and (b) request that all persons to whom it has provided any of the Disclosing Party's Confidential Information comply with this Section 6.7.

7. Infringement Indemnification

- 7.1. Indemnity. Youi agrees to defend and indemnify Customer and its subsidiaries, Affiliates, shareholders, officers, directors, agents, representatives and employees (collectively, the "Customer Indemnitees") against any and all damages, costs, liabilities, expenses and settlement amounts that may arise as against a Customer Indemnitee in connection with any and all third party claims, liabilities, losses, damages, expenses, or causes of action, including, without limitation reasonable legal fees and expenses or action by any third party, arising with respect

any claim that such license to and/or use by a Customer Indemnitee of the Software infringes such third party's patent, copyright, trade secret or other intellectual property rights (an "IP Claim"). The Customer Indemnitee shall cooperate and provide, at Youi's expense, reasonable information and assistance in connection with the defense and settlement of such IP Claims. Youi shall have sole control of the settlement or defense of all IP Claims.

- 7.2. Exclusions. Youi shall not be responsible for indemnifying Customer to the extent that the infringement claim liability results from (i) modification by Customer of the Software if such infringement would have been avoided but for such modification; (ii) the use of the Software with equipment or software not authorized by Youi or otherwise approved by Youi in the Documentation, if such infringement would have been avoided but for such use; or (iii) the failure by Customer to use a current version of the Software provided by Youi following notice by Youi that the previous version of the Software infringes any third party intellectual property right.
- 7.3. Remedies. Without limiting the generality of the foregoing, if a third party makes an IP Claim, Youi shall:
- (a) procure for Customer, at no cost to Customer, the right to continue using the intellectual property that is the subject of the IP Claim;
 - (b) modify the intellectual property giving rise to the IP Claim so that it is no longer infringing; or
 - (c) if neither Section 7.3(a) or (b) is feasible on commercially reasonable terms, as determined by Youi in its sole discretion terminate the license(s) for the Software and refund to Customer that portion of any prepaid License Fees that is applicable to the period following the termination of the license pursuant to this Section 7.3.
- 7.4. Procedure. If a Customer Indemnitee receives any notice of an IP Claim in respect of which the indemnity given by Youi may apply, the Customer Indemnitee shall promptly after receipt thereof notify Youi of the IP Claim and deliver a copy of same to Youi. Failure to so notify Youi shall not relieve Youi of any liability it may have to the Customer Indemnitee hereunder except to the extent that Youi has been prejudiced thereby. Youi shall be obligated to assume the defence of the IP Claim, at its own expense, with counsel chosen by Youi. Notwithstanding that Youi will be obligated to assume the defence of any IP Claim, the Customer Indemnitee shall be entitled to participate in the investigation and defence thereof, with separate counsel chosen by the Customer Indemnitee, but in such event the fees and expenses of such counsel shall be paid by the Customer Indemnitee. Notwithstanding anything to the contrary in this Section 7.4, Youi shall not, without the prior written consent of the Customer Indemnitee, which consent shall not be unreasonably withheld, settle or compromise any action in any manner that, in the reasonable judgment of the Customer Indemnitee or its counsel, may materially and adversely affect the Customer Indemnitee or its counsel; provided however, that Youi may, without the written consent of the Customer Indemnitee, settle or compromise any action or consent to the entering of any judgment which is for money damages only and includes as an unconditional term thereof the delivery by the claimant or plaintiff to the Customer Indemnitee of a duly executed written release of the Customer Indemnitee from all liability in respect of such IP Claim, which release shall be satisfactory in form and substance to counsel to the Customer Indemnitee.
- 7.5. Limitation. Notwithstanding any other provision of this Agreement, the liability of Youi to Customer under this Section 7 shall not exceed \$5,000,000. Youi agrees to obtain Customer's consent for any settlement in excess of \$5,000,000. In no event shall Youi be responsible for any cost, expense or compromise incurred or made by Customer without Youi's prior written consent.
- 7.6. Entire Liability. SECTION 7 HEREOF CONTAINS YOUI'S ENTIRE LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, FOR AN IP CLAIM.

8. Limitation of Liability

- 8.1. Indirect Damages. SUBJECT TO SECTION 8.3 BELOW, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES (INCLUDING FOR LOSS OF USE, DATA, BUSINESS, LOSS OF GOODWILL, REPUTATION, CREDIT OR PUBLICITY, LOSS OF REVENUE AND INTEREST, PROFITS, OR ANTICIPATED PROFITS AND CLAIMS FOR SUCH DAMAGES BY A THIRD PARTY) RELATED TO OR ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR SUCH DAMAGE WAS REASONABLY FORESEEABLE.
- 8.2. Direct Damages. SUBJECT TO SECTION 8.3 BELOW, THE TOTAL, AGGREGATE LIABILITY OF YOUI FOR ANY CLAIM FOR DIRECT DAMAGES RELATED TO OR ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND WHETHER OR NOT YOUI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES WERE REASONABLY FORESEEABLE, SHALL NOT EXCEED, (A) IN THE CASE OF A CLAIM RELATING TO ANY SERVICES PROVIDED BY YOUI HEREUNDER, THE SERVICES FEES ACTUALLY PAID BY THE CUSTOMER TO YOUI UNDER THE STATEMENT OF WORK TO WHICH THE CLAIM RELATES, OR (B) IN THE CASE OF A CLAIM RELATING TO THE SOFTWARE, THE LICENSE FEES PAID BY CUSTOMER IN THE TWELVE (12) MONTHS PRECEDING THE DATE ON WHICH THE EVENT GIVING RISE TO THE CLAIM OCCURRED.
- 8.3. Certain Damages Not Excluded or Limited. NOTWITHSTANDING THE FOREGOING, NO LIMITATION OF EITHER PARTY'S LIABILITY SET FORTH IN THIS AGREEMENT SHALL APPLY TO (I) DAMAGES ARISING FROM A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS, (II) INDEMNIFICATION CLAIMS (PROVIDED, HOWEVER, THAT THE LIMITATION CONTAINED IN SECTION 7.5 SHALL APPLY TO INDEMNIFICATION CLAIMS MADE UNDER SECTION 7.1 HEREOF), (III) DAMAGES ARISING FROM INFRINGEMENT OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS; (IV) ANY CLAIMS FOR NON-PAYMENT, (V) FRAUD OR WILLFUL MISCONDUCT, OR (VI) BODILY INJURY OR DEATH.

9. Publicity

Customer agrees: (i) to issue a joint press release with Youi ("Press Release") on a mutually agreed date within thirty (30) days of the Effective Date announcing that Customer has entered into an agreement for the license of Youi Software; and (ii) that Youi may disclose that Customer is a customer of Youi. Customer will have the right to review and approve the Press Release in advance; such approval shall not be unreasonably delayed or withheld. Each Party may include the name and logo of the other Party in lists of customers or vendors in accordance with the other Party's standard guidelines.

10. Term and Termination

- 10.1. Term of Software Licenses. Software Licenses commence on the start date specified in the applicable Order and continue for the License Term specified therein. Unless otherwise agreed upon and specified in the applicable Order or at the end of the License Term the Agreement has been terminated, Software Licenses shall automatically renew for additional periods of one (1) year at the License Fee specified in the Youi Quotation or at the list price in effect at the time of renewal, unless the Customer gives Youi notice of non-renewal at least thirty (30) days prior to the end of the applicable License Term.
- 10.2. Termination. Either Party may terminate this Agreement or a License in the event of:

- (a) a material breach of any provision of this Agreement by the other Party that is not cured within thirty (30) days of receipt of notice of such breach; or
- (b) the occurrence of a Bankruptcy Event in respect of the other Party.

10.3. Effect of Termination.

- (a) Upon the termination or the expiry of this Agreement in accordance with its terms:
 - (i) Customer shall pay all amounts owing to Youi for outstanding License Fees within thirty (30) days of the effective date of termination; and
 - (ii) each Party shall return to the other Party all copies of the other Party's Confidential Information in its possession or control.
- (b) Upon the termination of a License or expiration of the License Term in respect of a License:
 - (i) the applicable Licenses granted in Section 2 hereof shall terminate (i) immediately if the termination is due to a material breach by Customer, or (ii) at the end of the then-current License Term (unless Customer renews such License(s) for one or more Apps and Youi accepts such renewal on terms and conditions to be mutually agreed upon by Youi and Customer) and thereafter Customer shall no longer be permitted to use the Software for which the License has terminated (and, with respect to the termination of the License to use the You.i Engine One, Customer shall no longer be permitted to integrate and distribute the You.i Engine One as part of any new Customer Apps; provided that, Customer's end users shall continue to have the right to use any versions of the Customer's Apps that have been purchased, downloaded or installed as of the effective termination date, without Customer incurring additional License Fees;
 - (ii) Customer shall immediately (in the event of the termination of the License or this Agreement due to a material breach by Customer), or otherwise at the end of the then-current License Term (i) discontinue all use of the Software, (ii) destroy all copies of the Software and related Documentation, (iii) uninstall and remove from all computers all copies of the Software and related Documentation, and (iv) if requested by Youi, certify in writing to Youi that it has complied with the foregoing requirements of this Section 10.3(b).

10.4. Survival. The provisions of Sections 1 (Interpretation), 6 (Confidentiality), 7 (Infringement Indemnification), 8 (Limitation of Liability) and 11 (Miscellaneous) hereof shall survive the termination of this Agreement.

11. Miscellaneous

11.1. Assignment. Neither Party shall assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any purported assignment in violation of this provision shall be null and void and shall constitute a material breach of this Agreement. Notwithstanding the foregoing, Youi shall have the right to assign this Agreement: (i) to an Affiliate; or (ii) in conjunction with the transfer or sale of a substantial portion of its business or an entire business unit to which this Agreement relates; or (iii) in connection with the sale or transfer of the voting shares of Youi pursuant to a purchase, merger, amalgamation, consolidation or other reorganization resulting in a change in its effective control; and in each such case Youi shall provide notice to Customer of any such assignment or sale transaction within 30 (thirty) days of such assignment.

- 11.2. Governing Law. This Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein. The application of the *United Nations Convention on Contracts for the International Sale of Goods* to this Agreement is expressly excluded and the Uniform Computer Information Transactions Act does not apply to this Agreement.
- 11.3. No Partnership or Joint Venture. In performing their respective duties under this Agreement each of the Parties will be operating as an independent contractor. Nothing contained herein will in any way constitute any association, partnership, or joint venture between the Parties hereto, or be construed to evidence the intention of the Parties to establish any such relationship.
- 11.4. Rights Cumulative. The Parties agree that their respective rights and remedies in this Agreement shall be independent and cumulative and no remedy contained herein is intended to be exclusive but shall be in addition to every other remedy contained herein and that the taking of a judgement or judgements with respect to any of the covenants contained herein shall not operate as a merger of any of the other covenants contained in this Agreement.
- 11.5. Severability. Any term or provision of this Agreement held to be illegal or unenforceable shall, if possible, be interpreted so as to be construed as valid, but in any event the validity or enforceability of the remainder hereof shall not be affected.
- 11.6. Export Regulations. Each Party understands that the products which are the subject of this Agreement will be subject to regulation by agencies of the U.S. Government, including the U.S. Department of Commerce, which prohibit export or diversion of certain technical products to certain countries. Each Party warrants that it will comply in all respects with the export and re-export restrictions applicable to the technology and documentation licensed hereunder.
- 11.7. Waiver. The waiver of, or failure to enforce, any breach or default hereunder shall not constitute the waiver of any other or subsequent breach or default.
- 11.8. Entire Agreement. This Agreement, together with any Schedules attached hereto and Orders which are incorporated herein by reference, sets forth the entire Agreement between the Parties hereto with respect to the subject matter hereof and supersedes any and all prior proposals, agreements, and representations between them relating to the subject matter hereof, whether written or oral. This Agreement may be changed only by mutual agreement of the Parties in writing.
- 11.9. Binding Effect. This Agreement is binding upon and shall inure to the benefit of the Parties hereto and each Party's successors in interests and permitted assigns.