

## CAMAYAK SUBSCRIPTION AND LICENSE AGREEMENT

**THIS AGREEMENT** is entered into as of **XXXXXXX** ("**Effective Date**") by and between **Camayak Ltd** with offices at Suite 7A, 15 West 28<sup>th</sup> Street, New York, New York 10001 ("**Licensor**") and **XXXXXXX** with offices at **XXXXXXX** ("**Licensee**").

WHEREAS, Licensee wishes to license online services owned by Licensor for the purpose of managing editorial production and Licensor desires to license to Licensee such online services.

NOW, THEREFORE, for and in consideration of the premises, the agreements set forth hereinafter, and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, Licensor and Licensee hereby mutually agree and covenant as follows:

### 1. GRANT OF LICENSE

Subject to the terms and conditions of the Agreement, Licensor grants to Licensee a non-exclusive, non-transferable license (the "**License**") to use the online services identified in Exhibit A (the "**Licensed Services**") for the purpose of managing editorial production and asset contributions. Licensee may use the Licensed Services for its own use on a Single Publication (identified by name, trademark, address, or other unique identifier).

### 2. CONSIDERATION TO LICENSOR

- a. Licensee shall pay, upon delivery of the Licensed Services, the subscription and license fees set forth in Exhibit A attached hereto.
- b. Subscription and License fees do not include any shipping, duties or bank fees. If Licensor is required to pay any such amounts, Licensee shall reimburse Licensor in full.

### 3. USERS

Licensee may invite as many users over the age of 13 as it desires to use the Licensed Services under its License. Licensee accepts responsibility for any user who uses the Licensed Services as a result of an invitation made by the Licensee ("**Affiliated User**"). Licensee agrees to maintain records of the full name and address(es) of each Affiliated User of the Licensed Services. Any agreement, including but not limited to data usage, Licensee enters into with any Affiliated Users is subject to this Agreement, and in the event of any conflict between this Agreement and any agreement between Licensee and any Affiliated User, this Agreement prevails.

#### 3.1 DATA PLAN

The specifications of Licensee's Data Plan are identified in Exhibit A. Each Data Plan provides for an Annual Data Ceiling which defines the maximum number of Assignments and amount of Data Storage Licensee may transfer/submit using the Services. If the number of Assignments or the amount of stored data exceeds the Annual Data Ceiling, the use and access to the Licensed Services of the Licensee and all Affiliated Users may be suspended, provided that Licensor provide Licensee with at least thirty (30) days written notice prior to any such suspension and provided further that should Licensee remedy or otherwise compensate Licensor on mutually agreeable terms, Licensor shall promptly terminate such suspension and reactivate Licensee' and the Affiliated Users' access to the Licensed Services. Licensor will notify Licensee via email when Licensee's usage reaches 90% of the Annual Data Ceiling. Licensee may elect at any time to change Licensee's selected Data Plan to a Data Plan with a higher Annual Data Ceiling by paying the difference the price for the current Data Plan and the new plan through the duration of the term pursuant to Section 6 hereof. Licensee may not change to a Data Plan with a lower Annual Data Ceiling, except at the time when the Licensee renews the Agreement for an additional Term, at which time Licensee may change its selection of Data Plan to any offered, including those with lower Annual Data Ceilings.

#### **4. OWNERSHIP**

The Licensed Services including translations, compilations, partial copies, modifications, and updates, are the sole and exclusive property of Licensor (or its parents, subsidiaries, affiliates, or designees) or its suppliers. By indicating acceptance of this Agreement, Licensee does not become the owner of the Licensed Services, but is entitled to use them according to the terms of this Agreement. The Licensed Services are copyrighted by Licensor.

Licensor acknowledges that Licensee is the owner of all content and material provided by Licensee and/or the Affiliated Users, and all of the good will pertaining thereto (collectively, the "**Licensee Materials**"). Licensor agrees, subject to the rights and privileges granted hereunder, that the Licensee Materials shall remain the sole and exclusive property of Licensee and that Licensor shall not be permitted to use any of Licensee Materials for Licensor's benefit in any other way than those contained in the Terms of Service. Upon termination of this Agreement, each party shall promptly return to the other any and all materials owned by such other party or its affiliates, including via electronic transfer.

#### **5. PROPRIETARY RIGHTS**

Licensee recognizes that Licensor regards the Licensed Services as its proprietary information and as confidential trade secrets of great value. Licensee agrees not to provide or to otherwise make available in any form the Licensed Services, or any portion thereof, to any person other than the Affiliated Users, employees or members of Licensee without the prior written consent of Licensor. Licensee further agrees to treat the Licensed Services with at least the same degree of care with which Licensee treats its own confidential information and in no event with less care than is reasonably required to

protect the confidentiality of the Licensed Services.

## **6. TERM**

Licensee obtains the right to use and access the Licensed Services for a limited period of time (the “**Subscription Term**” as determined by Exhibit A). At the end of this period, the License, associated rights, such as technical support, will expire automatically, unless Licensee and Licensor renew in writing the License.

## **7. TERMINATION**

The License granted hereunder shall continue unless and until terminated pursuant to Section 6 hereof and subject to Licensee’s proper performance of its obligation hereunder. Either party may terminate this Agreement if the other is in default of any of the material terms and conditions of this Agreement and fails to correct such default within thirty (30) days after written notice thereof. In the event of termination, Licensee will immediately discontinue use of the Licensed Services and Licensor shall promptly return to Licensee any and all Licensee Materials. The provisions of Sections 4, 5, 7, 8, 11, and 13 hereof shall survive any termination of this Agreement.

### **7.1 RESTRICTIONS**

Licensee or its Affiliated Users may not attempt to circumvent Data Ceiling restrictions or Single Publication rule including by (a) archive deletion, (b) assignment or package re-use or re-purposing, (c) creating or separating multiple publications or organizations under (d) encryption, or (e) steganography. Licensee or its Affiliated Users may not upload files with an invalid extension or in an invalid format for the purpose of circumventing the terms of this Agreement. Licensor will prosecute those who illegally threaten the system or its services.

## **8. MAINTENANCE SUPPORT**

Licensor will provide to Licensee the following support with respect to the Services:

(i) If during the Term of this Agreement, Licensee notifies Licensor of a substantial program error respecting the Services, or Licensor has reason to believe that error exists in the Services and so notifies Licensee, Licensor shall at its expense verify and correct such error within ten (10) working days after the date of notification. If Licensee is not satisfied with the correction, then Licensee may terminate this Agreement without liability, and Licensor shall refund any prepaid amounts paid to Licensor based on pro rata usage of the existing Term.

(ii) In the case that Licensee has technical questions in the use of the Services during this Agreement, Licensee may submit those questions at any time to Licensor. Licensor shall provide consulting to answer such questions without charge to Licensee within a reasonable amount of time.

## **9. WARRANTY AND DISCLAIMER**

Licensor licenses, and Licensee accepts, the Licensed Services subject to the following limited warranty. Licensor warrants to Licensee that (a) it is the exclusive owner of the Licensed Services (including any copyrights and/or patent rights that may exist); (b) it has the legal right to grant to Licensee the License and the other rights set forth in this Agreement; (c) to its knowledge, no third party is using any intellectual property in a manner that infringes on Licensor's lawful rights in and to the Licensed Services and (d) it has not received any written notice that the Licensed Services do or may infringe on the lawful rights of a third party. Licensor accepts that this warranty may serve as evidence that Licensee is not directly responsible for Licensor's infringement of any of its claims herein.

LICENSOR PROVIDES NO WARRANTIES AS TO THE FUNCTION OR USE OF THE LICENSED SERVICES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE LICENSED SERVICES IS WITH LICENSEE. LICENSOR DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE LICENSED SERVICES WILL MEET LICENSEE'S REQUIREMENTS OR THAT THE OPERATION OF THE LICENSED SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

## **10. LIMITATION OF LIABILITY**

EACH PARTY'S LIABILITY TO THE OTHER UNDER ANY PROVISIONS OF THIS AGREEMENT FOR DAMAGES FINALLY AWARDED SHALL BE LIMITED TO THE AMOUNTS ACTUALLY PAID HEREUNDER BY LICENSEE TO LICENSOR. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF USE, LOSS OF PROFITS OR INTERRUPTION OF BUSINESS, HOWEVER CAUSED OR ON ANY THEORY OF LIABILITY.

## **11. NOTICES**

Except as otherwise provided herein relating to electronic mail communications, all notices in connection with this Agreement shall be communicated in writing to the address set forth above.

## **12. SUCCESSORS**

This Agreement will be binding upon and will inure to the benefit of the parties hereto and their respective representatives, successors and assigns except as otherwise provided herein.

### **13. SEVERABILITY**

In the event any provision of this Agreement is determined to be invalid or un-enforceable, the remainder of this Agreement shall remain in force as if such provision were not a part.

### **13.1 HEADINGS**

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

### **14. GOVERNING LAW/FORUM**

This Agreement shall be governed and interpreted by the laws of the State of New York. New York County, New York shall be the appropriate venue and jurisdiction for the resolution of any disputes hereunder. Both parties hereby consent to such personal and exclusive jurisdiction.

### **15. NON-ASSIGNMENT**

This Agreement and the License granted by it may not be assigned, sublicensed, or otherwise transferred by Licensee without the prior written consent of Licensor.

### **16. EXPORT REGULATIONS**

Licensee understands that Licensor is subject to regulation by agencies of the U.S. Government, including the U.S. Departments of Commerce and State, which prohibit export or diversion of certain technical products to certain countries. Licensee warrants that it will comply in all respect with the export and re-export restrictions set forth in the export license for the Licensed Services and all other applicable export regulations. Licensee agrees to indemnify and hold Licensor harmless from any loss, damages, liability or expenses incurred by Licensor as a result of Licensee's failure to comply with any export regulations or restrictions.

### **17. ENTIRE AGREEMENT**

This Agreement sets forth the entire understanding between the parties with respect to the subject matter hereof, and merges and supersedes all prior agreements, discussions and understandings, express or implied, concerning such matters. This Agreement shall take precedence over any additional or conflicting terms which may be contained in Licensee's purchase

*[SIGNATURE PAGE FOLLOWS]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date.

**LICENSEE:**

**XXXXXXXXXXXXXXXXXX**

By: \_\_\_\_\_

Name: **XXXXXXXXXX**

Title: **XXXXXXXXXX**

**LICENSOR:CAMAYAK**

By: \_\_\_\_\_

Name: Roman Heindorff

Title: Chief Executive Officer