

## THANK YOU FOR USING THE REPLAYZ SERVICES!

### TERMS AND CONDITIONS

#### 1. DEFINITIONS

When used in this Agreement, the following terms shall have the following meanings unless the context otherwise requires:

**“Agreement”** means, collectively, the Order Form and these Terms and Conditions.

**“Anonymized Data”** means data, including Client Data, which has been stripped of information potentially identifying Client or which contains any Personal Information, and which has been manipulated or combined to provide generalized anonymous information that cannot directly or indirectly identify Client or any other person, or that is otherwise anonymous or anonymized information under applicable Privacy Laws or is no longer subject to Privacy Laws.

**“Client”** is defined in the Order Form.

**“Client Data”** means any call recordings, including audio and/or video recordings, call transcripts and any other data or information supplied to Replayz by or on behalf of Client.

**“Confidential Information”** means all information regarding a party’s business, including technical, marketing, financial, employee, planning and other confidential or proprietary information, disclosed under this Agreement, that is clearly identified as confidential or proprietary at the time of disclosure or that the receiving party knew or should have known, under the circumstances, was considered confidential or proprietary.

**“Deliverable”** means a deliverable to be provided by Replayz to Client as part of the Services, as described in the Order Form.

**“Intellectual Property Rights”** means any of the following: (a) patents; (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated with them; (c) copyrights, mask works and rights in data and databases; (d) rights for the protection of trade secrets, know-how and other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable law in any jurisdiction throughout the world.

**“Order Form”** means an order form signed by Replayz and Client that incorporates these Terms and Conditions by reference.

**“Personal Information”** means information about or relating to an identified or identifiable individual that is included in the Client Data and subject to any Privacy Laws.

**“Privacy Laws”** means all applicable legislation and regulations governing the collection, use and disclosure of Personal Information, which may include the *Personal Information and Protection of Electronic Documents Act* (Canada) and equivalent provincial, state, federal and international legislation.

“**Replayz**” means Replayz Labs Ltd.

“**Services**” means the services to be provided by Replayz to Client, as described in the Order Form.

“**Term**” is defined in Section 8.1.

## **2. THE SERVICES**

**2.1 Services and Deliverables.** Replayz will provide to Client the Services and Deliverables described in the Order Form. Replayz will use commercially reasonable efforts to perform the Services in accordance with any dates or time periods specified in the Order. However, the parties agree that any dates or time periods specified in the Order Form are intended for planning and estimating purposes only, and are not guaranteed by Replayz.

**2.2 Acceptance of Deliverables.** Deliverables will be deemed accepted by Client when the acceptance criteria, if any, specified in the Order Form has been met. If no such acceptance criteria are specified in the Order Form, Deliverables will be deemed accepted on delivery to Client.

**2.3 Client Data.** Client is solely responsible for the Client Data and will not provide or transmit to Replayz any Client Data that: (a) infringes or violates any intellectual property rights, publicity/privacy rights, law or regulation, or the collection, use, disclosure, or other processing of which by Replayz in accordance with this Agreement would violate any intellectual property rights, publicity/privacy rights, law or regulation; or (b) contains any viruses or programming routines intended to damage, surreptitiously intercept or expropriate any system, data or Personal Information. Replayz may take remedial action if Client Data violates this Section 2.3, however, Replayz is under no obligation to review Client Data for accuracy or potential liability.

**2.4 Personal Information.** To the extent any Client Data contains Personal Information, it will be used, collected, stored and disclosed for the purposes contemplated under this Agreement and in accordance with the Replayz’s Privacy Policy located at <https://replayz.com/privacy/> as it may be amended from time to time in the future.

**2.5 Internet Security Disclaimer.** Client acknowledges and agrees that Replayz exercises no control over, and accepts no responsibility for, any content passing through the Internet or for Internet connectivity outside of Replayz’s control. Client acknowledges that the Internet is inherently risky despite reasonable measures being taken, and Client assumes responsibility for its transmission of Client Data over the Internet.

## **3. FEES, EXPENSES AND TAXES**

**3.1 Fees.** Client will pay to Replayz the fees and other charges specified in the Order Form.

**3.2 Invoices.** Replayz will invoice Client in accordance with the terms of the Order Form. Unless the Order Form states otherwise, all amounts: (a) will be in US dollars; and (b) will be due within 5 days after the date of the invoice.

**3.3 Taxes.** Fees are exclusive of any applicable taxes. Client will be responsible for any goods and services taxes, sales taxes, value added taxes, import and customs duties, levies, fees, and similar amounts imposed or assessed by any governmental authority arising from Client’s receipt or use of the Services or the Deliverables. If any taxes are required to be withheld on payments Client makes to Replayz, then Client

may deduct such taxes from the amount owed to Replayz and pay them to the appropriate taxing authority; provided, however, that Client promptly secures and delivers an official receipt for those withholdings and provides such other documents as Replayz may reasonably request to claim a foreign tax credit or refund. Client shall ensure that any taxes withheld are minimized to the extent possible under applicable laws.

#### **4. IP OWNERSHIP AND LICENSES**

**4.1 Client Data.** As between Client and Replayz, Client shall own all Intellectual Property Rights in and to the Client Data. Client hereby grants to Replayz a worldwide, royalty-free, non-exclusive license during the Term to use, reproduce, process, display, adapt and modify the Client Data for the purposes of: (a) providing the Services; (b) incorporating the Client Data into any Deliverables; and (c) to generate Anonymized Data which may be used by Replayz in perpetuity solely for the purposes of developing and improving its existing and new products and services, including to build, train, and improve the accuracy of machine learning and artificial intelligence systems to be used in connection with such products and services.

**4.2 Deliverables.** Client acknowledges that Replayz creates the Deliverables from materials that Replayz has used and will use for other Clients, and that new materials built as part of the Services will form part of Replayz's inventory of materials for use with other Clients. Subject to Sections 4.1 and 4.3, as between Client and Replayz, Replayz shall own all Intellectual Property Rights in and to the Deliverables and any other work product resulting from the Services. Subject to Section 4.3, Replayz hereby grants to Client a non-transferable, non-sublicensable license to use, copy and modify the Deliverables for Client's own internal use and only for the purposes for which they were delivered. The rights granted to Client under this Section 4.2 are conditional on and subject to payment by Client of all amounts due under this Agreement.

**4.3 Reservation of Rights.** Each of the parties grants to the other party only those licenses and rights specified in this Section 4. No other licenses or rights are granted.

#### **5. CONFIDENTIALITY**

**5.1 Obligation.** Each party agrees (a) to hold the other party's Confidential Information in strict confidence, (b) to limit access to the other party's Confidential Information to those of its employees or agents having a need to know and who are bound by confidentiality obligations at least as restrictive as those contained herein, and (c) not to use such Confidential Information for any purpose except as expressly permitted hereunder. Notwithstanding the foregoing, the receiving party will not be in violation of this Section 5.1 with regard to a disclosure that was in response to a valid order or requirement by a court or other governmental body, provided that the receiving party gives the other party prior written notice of such disclosure in order to permit the other party to seek confidential treatment of such information.

**5.2 Exceptions.** The restrictions on use and disclosure of Confidential Information set forth above will not apply to any Confidential Information, or portion thereof, which (a) is or becomes a part of the public domain through no act or omission of the receiving party, (b) was in the receiving party's lawful possession prior to the disclosure, as shown by the receiving party's competent written records, (c) is independently developed by the receiving party without reference to the disclosing party's Confidential Information, as

shown by the receiving party's competent written records, or (d) is lawfully disclosed to the receiving party by a third party without restriction on disclosure.

## 6. INDEMNIFICATION

### 6.1 Indemnity by Replayz.

(a) Indemnity. Subject to Sections 6.1(b) and (c), Replayz will defend, indemnify and hold Client harmless from all claims, demands, legal proceedings, losses, liabilities, costs and expenses (including reasonable legal fees) incurred or suffered by Client arising out of any third party claim brought against Client which alleges an infringement of any third party Intellectual Property Rights by Client's use of a Deliverable (each, an "**IP Infringement Claim**"), provided that: (i) Client promptly notifies Replayz in writing within 30 days of Client's first knowledge of an IP Infringement Claim; (ii) Replayz has sole control of the defence, negotiation and settlement of the IP Infringement Claim; and (iii) Client provides all reasonable assistance requested by Replayz for the purpose of investigating or contesting the IP Infringement Claim.

(b) Opportunity to Cure. If Replayz receives information concerning a possible intellectual property infringement claim (including an IP Infringement Claim) related to a Deliverable, Replayz may, at its expense and without obligation to do so, either: (i) procure for Client the right to continue to use the allegedly infringing Deliverable; or (ii) replace or modify the Deliverable to make it non-infringing, in which case Client will immediately cease use of the allegedly infringing Deliverable. If Replayz is unable to effect either of these options at reasonable cost, then Replayz may, without obligation to do so, refund to Client all amounts paid by Client for the allegedly infringing Deliverable, and Client will thereupon cease use of the allegedly infringing Deliverable.

(c) Exceptions to Indemnity. Replayz shall have no liability for any intellectual property infringement claim based in whole or in part on: (i) Replayz's inclusion of Client Data in the Deliverable, or Replayz's inclusion of any other third party content in the Deliverable at the request of Client; (ii) Client's use of any Deliverable after Replayz's notice that Client should cease use of the allegedly infringing Deliverable due to such a claim; (iii) Client's combination of a Deliverable with any product, program or data not supplied by Replayz; or (iv) Client's adaptation or modification of any Deliverable.

**6.2 Indemnity by Client.** Client will defend, indemnify and hold Replayz harmless from all claims, demands, legal proceedings, losses, liabilities, costs and expenses (including reasonable legal fees) incurred or suffered by Replayz:

(a) arising out of any third party claim brought against Replayz which alleges the Client Data or Replayz's use of any Client Data or inclusion of any other third party content in a Deliverable at the request of Client infringes any third party Intellectual Property Rights, privacy rights or any other rights; or

(b) except to the extent that a third party claim is covered by the indemnity in Section 6.1(a), otherwise arising out of any third party claim brought against Replayz which directly or indirectly results from or arises out of Replayz's use of any Deliverable,

provided that: (i) Replayz promptly notifies Client in writing within 30 days of Replayz's first knowledge of such a claim; (ii) Client has sole control of the defence, negotiation and settlement of the claim; and (iii) Replayz provides all reasonable assistance requested by Client for the purpose of investigating or contesting the claim.

## **7. DISCLAIMER AND LIMITATION OF LIABILITY**

**7.1 Disclaimer.** EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THERE ARE NO REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED OR STATUTORY, WITH RESPECT TO THE SERVICES OR THE DELIVERABLES, AND REPLAYZ SPECIFICALLY DISCLAIMS AND CLIENT HEREBY WAIVES ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, INCLUDING ANY IMPLIED OR STATUTORY WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

**7.2 Limitation of Liability.** CIRCUMSTANCES MAY ARISE WHERE, BECAUSE OF A DEFAULT ON REPLAYZ'S PART OR OTHER LIABILITY, CLIENT IS ENTITLED TO RECOVER DAMAGES FROM REPLAYZ. REGARDLESS OF THE BASIS ON WHICH CLIENT IS ENTITLED TO CLAIM DAMAGES FROM REPLAYZ (INCLUDING FUNDAMENTAL BREACH, NEGLIGENCE, MISREPRESENTATION, OR OTHER CONTRACT OR TORT CLAIM), THE AGGREGATE LIABILITY OF REPLAYZ, ITS AFFILIATES, ITS AND THEIR SUBCONTRACTORS, AND THE PERSONNEL OF EACH OF THEM, FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, SHALL NOT EXCEED AN AMOUNT EQUAL TO THE AGGREGATE OF THE AMOUNTS PREVIOUSLY PAID BY CLIENT TO REPLAYZ UNDER THE ORDER FORM GIVING RISE TO THE CLAIMS DURING THE 12 MONTHS PRIOR TO THE FIRST EVENT GIVING RISE TO SUCH CLAIMS.

**7.3 Certain Exclusions.** UNDER NO CIRCUMSTANCES SHALL REPLAYZ, ITS AFFILIATES, OR ITS OR THEIR SUBCONTRACTORS BE LIABLE FOR ANY OF THE FOLLOWING, WHETHER FORESEEABLE OR NOT AND EVEN IF INFORMED OF THEIR POSSIBILITY: (A) SPECIAL, INDIRECT, AGGRAVATED, PUNITIVE OR CONSEQUENTIAL DAMAGES; (B) LOST PROFITS, BUSINESS REVENUE, GOODWILL, ANTICIPATED SAVINGS OR OTHER SIMILAR ECONOMIC DAMAGES; OR (C) CLAIMS OF THIRD PARTIES (EXCEPT TO THE EXTENT OTHERWISE PROVIDED IN SECTION 6.1(a)).

## **8. TERM AND TERMINATION**

**8.1 Term.** The term of this Agreement shall commence on the Effective Date and will continue for the length of time stated in the Order Form (the "**Term**").

**8.2 Termination for Default.** Either party may terminate this Agreement immediately upon written notice if: (a) the other party materially breaches this Agreement and does not cure such breach (if curable) within 30 days after written notice of such breach; or (b) the other party becomes insolvent or files or has filed against it a petition in bankruptcy.

**8.3 Effect of Termination.** Upon any termination or expiry of this Agreement: (a) any amounts owed to Replayz under this Agreement before such termination or expiry (including with respect to all Services provided up to the date of termination or expiry) will become immediately due and payable; and (b) each party will return to the other party all property (including any Confidential Information) of the other party in its possession or control. The rights and duties of the parties under Sections 2.3, 3 through 7, 8.3 and 9 will survive the termination or expiration of this Agreement.

## **9. GENERAL**

**9.1 Notices.** All notices, requests, demands, claims, and other material communications under this Agreement will be in writing, and will be deemed duly given when delivered, personally, by courier or by

email, to the address of the intended recipient as set forth in the Order Form. Either party may change its address for notice from time to time by notice given in accordance with this Section 9.1.

**9.2 Subcontracting.** Replayz may subcontract any part of the Services to one or more subcontractors selected by Replayz. Any such subcontracting will not affect Replayz's obligations to Client for Services provided under this Agreement. Replayz shall remain solely responsible and liable at all times for the actions of its subcontractors as though they were the actions of Replayz itself. Any reference to the personnel of Replayz in this Agreement includes the personnel of any subcontractor of Replayz.

**9.3 Assignment.** Client may not assign this Agreement to a third party without Replayz's prior written consent, not to be unreasonably withheld, except to a third party that controls, is controlled by or is under common control with Client. Replayz may assign this Agreement or any rights hereunder to any third party without Client's consent. Any assignment in violation of this Section 9.3 shall be void. Any assignment is conditional upon the assignee agreeing in writing to be bound to the terms of this Agreement which shall be binding upon and inure to the benefit of the parties' successors and permitted assignees.

**9.4 Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all other prior proposals, communications, agreements and understandings, both written and oral, between the parties with respect to the subject matter of this Agreement. There are no warranties, conditions, or representations and there are no agreements in connection with such subject matter, except as specifically set forth in this Agreement.

**9.5 Arbitration.** Any dispute or claim arising out of or relating to this Agreement will be referred to and finally resolved by arbitration administered by the Vancouver International Arbitration Centre (VnIAC) pursuant to its applicable Rules. The place of arbitration shall be Vancouver, British Columbia, Canada and the language of the arbitration shall be English. The number of arbitrators shall be one. Notwithstanding the foregoing, Replayz may seek and obtain injunctive relief in any jurisdiction in any court of competent jurisdiction and you agree that this Agreement is specifically enforceable by Replayz through injunctive relief and other equitable remedies without proof of monetary damages.

**9.6 Governing Law.** This Agreement and any action related thereto shall be governed by and construed in accordance with the laws of the province of British Columbia and the federal laws of Canada applicable therein, without regard to conflicts of law principles. The U.N. Convention on Contracts for the International Sale of Goods will not apply to this Agreement.

**9.7 Interpretation.** Unless otherwise indicated in this Agreement, all dollar amounts referred to in this Agreement are in the currency of the United States of America. All usage of the word "including" in this Agreement shall mean "including, without limitation". The parties agree that this Agreement was drafted with the participation of both parties, and shall not be construed either against or in favour of either party. If there is any inconsistency between a term of this Agreement and a term of the Order Form, the term of this Agreement shall prevail unless the Order Form expressly provides otherwise.

**9.8 Further Assurances.** Each of the parties will promptly execute and deliver to the other at the cost of the other such further documents and assurances and take such further actions as the other may from time to time request in order to more effectively carry out the intent and purpose of this Agreement and to establish and protect the rights, interests and remedies intended to be created in favour of the other.

**9.9 Remainder Not Affected by Invalidity.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any

other jurisdiction. On such determination that any term or other provision is invalid, illegal or unenforceable, the parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by this Agreement shall be consummated as originally intended to the greatest extent possible.

**9.10 Waiver.** A waiver of any term or breach of this Agreement is effective only if it is in writing and signed by the waiving party. No omission, delay or failure to exercise any right or power, or any waiver by either party of any breach or default, whether express or implied, or any failure to insist on strict compliance with any provision of this Agreement, shall constitute a waiver of any other provision. Any waiver of any provision of this Agreement shall not constitute a continuing waiver unless otherwise expressly provided.

**9.11 Remedies Not Exclusive.** Except as otherwise expressly provided in this Agreement, the remedies set forth in this Agreement are cumulative, and are in addition to all the rights and remedies available to Replayz or Client, as the case may be, under law, equity or otherwise. Except as otherwise expressly provided in this Agreement, nothing contained in this Agreement shall limit any other remedies which either party may have as a result of the default of the other party under this Agreement, and the parties agree that remedies for breach of this Agreement may be in equity by way of injunctive relief or specific performance, as well as for damages and any other relief available, whether in law or in equity.

**9.12 Recovery of Legal Costs.** Each party will be entitled to be reimbursed by the other party for all reasonable costs and expenses (including, but not limited to, reasonable legal fees and disbursements) in its successful prosecution or defense of any breach or alleged breach of a provision of this Agreement.

**9.13 Independent Contractors.** The parties to this Agreement are independent contractors, and not agents, partners, joint venturers or employees of one another. Nothing in this Agreement shall make or be construed to make Replayz and Client partners or agents of each other or to create any other relationship by which the acts of either party may bind the other or result in any liability to the other.

**9.14 Services are Non-Exclusive.** Client acknowledges that Replayz provides services to other clients, some of whom may be competitors of Client. Client agrees that Replayz may do work for all such other clients, provided that Client does not disclose to any Confidential Information of Replayz to such other clients. Notwithstanding any other provision of this Agreement, Replayz will not be prevented or restricted by this Agreement from using any techniques, ideas, concepts or know-how relating to Replayz's business activities.

**9.15 Force Majeure.** Neither party shall be liable for damages caused by delay or failure to perform its obligations under this Agreement where such delay or failure is caused by an event beyond its reasonable control. This provision does not apply to any of Client's obligations to make payments under this Agreement.

**9.16 Amendment.** This Agreement may not be amended except by a written amending agreement signed by duly authorized officers of both parties.

**9.17 Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument. This Agreement may be executed by electronic means and signature pages exchanged by electronic means shall be binding on the parties to the same extent as the original signed pages.