

## **MASTER SUBSCRIPTION AGREEMENT**

1. **Definitions.** The following definitions (and additional definitions provided below) will apply:

1.1. “**Agreement**” means the applicable Sales Order and this Master Subscription Agreement.

1.2. “**Appiness**” means Appiness NV, with registered seat at Wellekensstraat 44, 9300 Aalst, Belgium, registered with the Crossroads Bank for Enterprises under enterprise number 0543.611.457.

1.3. “**Appiness Content**” means Appiness-supplied text, audio, video, graphics and other information and data available by means of the Service or on Appiness’s website.

1.4. “**Authorized Users**” means employees or contractors of Customer for whom Customer provided details and created a unique username and password.

1.5. “**Confidential Information**” has the meaning set forth in Section 8.1.

1.6. “**Customer**” means the Party entering the Agreement with Appiness, and identified in the Sales Order.

1.7. “**Customer Data**” means data, information or material provided or submitted by Customer to Appiness and which pertain to the activities of Customer.

1.8. “**Fees**” means the fees payable for the Service specified in the Sales Order.

1.9. “**Intellectual Property Rights**” means any and all now known or hereafter existing (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights, (b) trademark or service mark rights, (c) trade secret rights, know-how, (d) patents, patent rights, and industrial property rights, (e) layout design rights, design rights, (f) trade and business names, domain names, database rights, rental rights and any other industrial or intellectual proprietary rights or similar right (whether registered or unregistered), and (g) all registrations, applications for registration, renewals, extensions, divisions, improvements or reissues relating to any of these rights and the right to apply for, maintain and enforce any of the preceding items, in each case in any jurisdiction throughout the world.

1.10. “**Master Subscription Agreement**” means this master subscription agreement.

1.11. “**Party**” means Appiness or Customer, as applicable.

1.12. “**Renewal Term**” means the term of this Agreement as specified in Section 9.1.

1.13. “**Sales Order**” means the sales order form, or order written document, detailing the Services being procured by Customer, and which references this Agreement;

1.14. “**Service**” means Appiness’ service “Spott™ technology”, which consists of a cloud-based platform as a software solution, aimed at making any type of visual content interactive.

1.15. “**Subscription Date**” means the start date of the subscription for the Service.

1.16. “**Term**” means the term of this Agreement as specified in Section 9.1, extended with any Renewal Term(s), as the case may be.

1.17. “**Third Party**” means any legal or natural person, other than the Customer or the Authorized Users.

1.18. “**Third Party Materials**” means the term of this Agreement as specified in Section 7.5.

1.19. “**Third Party Services**” means the term of this Agreement as specified in Section 7.5.

1.20. “**User Data**” shall mean any of the following data: annotated post impression, product impression, product view, product purchase, sales transaction, video stream play, video stream embed and/or video scene view.

1.21. “**Virus**” means a virus, cancelbot, worm, logic bomb, Trojan horse or other harmful component of software or data.

## 2. **Subscription**

2.1. Subject to the terms and conditions of this Agreement and timely payment of the Fees by Customer, Appiness hereby grants to Customer a renewable, restricted, personal, non-exclusive, non-transferable, non-assignable license, without the right to sublicense, for the Term to permit Authorized Users to access and use the Service, for Customer’s direct business purposes.

Appiness reserves the right to make, in its sole discretion, changes and updates to the functionality and/or documentation of the Service from time to time.

2.2. Customer shall not have the right to (i) use the Service in whole or part for any other purpose, other than as provided herein or to make services available to Third Parties utilizing the Service, (ii) decompile, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, underlying user interface techniques or algorithms of the Service by any means whatsoever, or disclose any of the foregoing, or (iii) use the Service in any way that is unlawful, illegal, fraudulent or harmful, or

(iv) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

2.3. Appiness and its suppliers retain all Intellectual Property Rights, title and interest in and to the Service and Appiness Content, including any and all related Intellectual Property Rights, and all modifications and derivative works thereto. All rights in and to the Service and Appiness Content not expressly granted to Customer in this Agreement are reserved by Appiness. No license is granted to Customer except as to use of the Service as expressly stated herein. Appiness name, Appiness logo, and the product names associated with the Service are trademarks of Appiness or Third Parties, and they may not be used without Appiness's prior written consent.

2.4. Customer agrees that Appiness will set up a separate cloud account under the name of the Customer and with the credentials given by the Customer. The Customer also agrees that only Appiness can manage this account in order to secure its performance for the Customer. This account will be exclusively linked to the Authorized Users of the Customer.

2.5. Access to the Service is initially limited to the Authorized Users, and must not exceed the number of users specified in the Sales Order.

### 3. Fees and Payment terms

3.1. Customer agrees to pay the Fees according to the payment terms in the Sales Order.

3.2. Appiness will invoice the Customer quarterly for the use of the Service. All payment obligations are non-cancellable and all amounts paid are non-refundable. All invoices for any charges under this Agreement are due and payable within 30 (thirty) days as of the respective invoice date. Amounts due are exclusive of all applicable taxes, levies, or duties, and Customer will be solely responsible for payment of all such amounts. All amounts are payable in Euro. Any amounts not paid when due shall bear interest at the rate of one and one half percent (1.5%) per month.

3.3. If Customer believes that Appiness has incorrectly billed the Customer, Customer must contact Appiness as soon as possible and ultimately within 15 days as of the respective invoice date. Customer is not entitled to offset or deduct any amounts from invoices of Appiness, until Appiness has issued a credit note for this disputed amount.

### 4. Customer Data

4.1. All Customer Data submitted by Customer to Appiness will remain the sole and exclusive property of Customer.

4.2. Customer will have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness of and copyright

permissions for all Customer Data. Appiness will not use the Customer Data for any purpose other than to provide the Service to Customer and for the reporting of user statistics.

4.3. The Parties shall comply with all applicable laws regarding Customer Data, use of the Service and the Appiness Content, including but not limited to laws involving data protection law.

4.4. Subject to the terms and conditions of this Agreement, Customer grants to Appiness a non-exclusive license to use, copy, store, transmit and display Customer Data to the extent reasonably necessary to provide and maintain the Service.

### 5. Data Protection

5.1. When performing its obligations under this Agreement, Appiness will process personal data on Customer's behalf. In this context, Customer shall be the data controller and Appiness shall be a data processor. In any such case:

5.1.1. Each Party acknowledges and agrees that the personal data may be transferred or stored in any country of the European Union, in order to carry out each Party's obligations under this Agreement;

5.1.2. Customer shall ensure that Customer is entitled to transfer the relevant personal data to Appiness so that Appiness may lawfully use, process, store and transfer the personal data in accordance with this Agreement on Customer's behalf;

5.1.3. Customer shall ensure that the relevant Third Parties have been informed of such use, processing, storage and transfer as compliant with applicable data protection legislation and industry standards;

5.1.4. Appiness shall process the personal data in accordance with the terms of this Agreement and any lawful instructions reasonably given by Customer from time to time;

5.1.5. Each Party acknowledges and agrees that each Party's data shall be shared with each Party's employees, representatives, officers, directors, agents, advisors, affiliates and consultants who have a need to know such data for the purpose of providing technical support; and are bound by a confidentiality obligation prior to such disclosure;

5.1.6. each Party shall take appropriate and sufficient technical and organizational measures against unauthorized or unlawful processing of the personal data or its accidental loss, destruction or damage;

5.2. If Customer's use of the Service requires the Customer to enter into a data processing agreement, a data processing agreement will be entered into on the date of the Agreement. In the event of a conflict between this Agreement and the

abovementioned data protection agreement, as the case may be, the terms and conditions of the data protection agreement will prevail.

## 6. Indemnification

6.1. Customer agrees to defend, indemnify, and hold harmless Appiness (and its officers, directors, employees and agents) from and against any founded and well-substantiated Third Party claims, actions or demands (including, without limitation, costs, damages and reasonable legal and accounting fees) which result from any Customer Data infringing the rights of any Third Party (including infringement of intellectual property).

6.2. Appiness will defend, indemnify, and hold Customer (and its officers, directors, employees and agents) harmless from and against all costs, liabilities, losses, and expenses arising from any founded and well-substantiated Third Party claim, suit, action, or proceeding arising from the infringement of any European intellectual property rights by the Service or Appiness Content (other than that due to Customer Data). In case of such a claim, Appiness may, in its sole discretion, (i) procure a license that will protect Customer against such claim without cost to Customer, or (ii) replace the Service with a non-infringing Service, or (iii) if such remedies are not practicable, Appiness may cancel the Service and this Agreement, provided that in case of such cancellation, Customer will receive a pro-rata refund of the license fees prepaid for use of the Service not yet furnished as of the termination date, and Appiness shall compensate, without prejudice to the maximum liability of Appiness set forth in clause 7.4 below, Customer for its reasonable internal and external integration and implementation costs of changing to a Third Party supplier of services equivalent to the Services, and Customer's possible other costs and losses.

## 7. Disclaimers and Breach of Agreement

7.1. To the best of Appiness' knowledge, the Service and/or Appiness Content do not, upon delivery to Customer, contain any Virus, and Appiness shall not knowingly program into any of the Service and/or Appiness Content any Virus or other software routine designed to permit unauthorized access to any Customer computer system or to disable, erase or otherwise cause damage to software, hardware or data or any back door, time bomb, software lockout key or device, drop dead device, or other software routine designed to disable a computer, either automatically or with the passage of time or under the control of any person, unless any such software routine is expressly requested in writing by Customer. It being understood that Appiness will perform the necessary checks and scans to ascertain this representation.

7.2. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN ARTICLE 7.1, APPINESS MAKES NO REPRESENTATIONS OR

WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE USE OR PERFORMANCE OF THE SERVICE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. Appiness does not warrant or represent that the Service will be compatible with any application, program or platform not specifically identified as compatible in the Service. CUSTOMER ACCEPTS THE SERVICE "AS IS".

7.3. TO THE EXTENT LEGALLY PERMITTED UNDER BELGIAN LAW, AND NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, PARTIES SHALL NOT BE LIABLE TO EACH OTHER, FOR ANY PUNITIVE DAMAGES OF ANY NATURE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, EVEN IF PARTIES HAVE BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES.

7.4. Without prejudice to article 7.2 and 7.3 of the Agreement, in the event that liability is imposed on a Party its liability arising out of or in connection with this Agreement, regardless of the cause of action or the theory of liability, whether in tort, contract, or otherwise, shall not exceed the total fees paid by Customer under this Agreement during the 12 (twelve) months prior to the event that gives rise to a Party's liability, provided that the aggregate indemnity obligation of each Party pursuant to this Agreement will be capped at the total fees paid by Customer under this Agreement during the 12 (twelve) months prior to the event that gives rise to a Party's liability. As of the date of the Agreement, Appiness represents to the best of its knowledge, that no Third Party has any claims pertaining to the source code ownership of Appiness pertaining to the Service.

7.5. The Service may include gateways, links or other functionality that allows Customer to access Third Party services ("**Third Party Services**") and/or Third Party content and materials ("**Third Party Materials**"). Appiness does not supply and is not responsible for any Third Party Services or Third Party Materials, which may be subject to their own licenses, end-user agreements, privacy and security policies, and/or terms of use. APPINESS MAKES NO WARRANTY AS TO THIRD PARTY SERVICES OR THIRD PARTY MATERIALS.

## 8. Confidentiality

8.1. "**Confidential Information**" means non-public information, technical data or know-how of a Party and/or its affiliates, which is furnished to the other Party in written or tangible form in

connection with this Agreement. Oral disclosure will also be deemed Confidential Information if it would reasonably be considered to be of a confidential nature or if it is confirmed at the time of disclosure to be confidential.

8.2. Notwithstanding the foregoing, Confidential Information does not include information which is: (i) already in the possession of the receiving Party and not subject to a confidentiality obligation to the providing Party; (ii) independently developed by the receiving Party; (iii) publicly disclosed through no fault of the receiving Party; (iv) rightfully received by the receiving Party from a Third Party that is not under any obligation to keep such information confidential; (v) approved for release by written agreement with the disclosing Party; or (vi) disclosed pursuant to the requirements of law, regulation, or court order, provided that the receiving Party will promptly inform the providing Party of any such requirement and cooperate with any attempt to procure a protective order or similar treatment.

8.3. Neither Party will use the other Party's Confidential Information except as reasonably required for the performance of this Agreement. Each Party will hold in confidence the other Party's Confidential Information by means that are no less restrictive than those used for its own confidential materials. Each Party agrees not to disclose the other Party's Confidential Information to anyone other than its employees or subcontractors who are bound by confidentiality obligations and who need to know the same to perform such Party's obligations hereunder. The confidentiality obligations set forth in this Section will survive for one year after the termination or expiration of this Agreement. Notwithstanding the foregoing, Appiness is entitled to communicate at its sole discretion that it services the Customer (including but not limited to advertising related to the marketing and distribution of its Service) as per the Term of this Agreement, without revealing any Confidential Information.

8.4. Upon termination or expiration of this Agreement, except as otherwise agreed in writing or otherwise stated in this Agreement, each Party will, upon the request of the disclosing Party, either: (i) return all of such Confidential Information of the disclosing Party and all copies thereof in the receiving Party's possession or control to the disclosing Party; or (ii) destroy all Confidential Information and all copies thereof in the receiving Party's possession or control. The receiving Party will then, at the request of the disclosing Party, certify in writing that no copies have been retained by the receiving Party, its employees or agents.

8.5. In case a Party receives legal process that demands or requires disclosure of the disclosing Party's Confidential Information, such Party will give prompt notice to the disclosing Party, if legally

permissible, to enable the disclosing Party to challenge such demand.

## 9. Term and Termination

9.1. This Agreement will begin on the Subscription Date and will end twelve (12) months later (the "**Term**"). This Agreement will then automatically renew itself for a successive two (2) years period (each a "**Renewal Term**") beginning at the end of the Term, respectively Renewal Term, unless either Party provides notice of termination three (3) months before the end of the Term, respectively current Renewal Term, as applicable.

9.2. Each of the Parties may terminate this Agreement with immediate effect (or alternatively, in its sole discretion, suspend the access to the Service, in the event applicable) due to any material breach of the rights and obligations of the other Party under this Agreement.

9.3. Notwithstanding the above, either Party may terminate this Agreement by written notice to the other Party if the other Party materially breaches this Agreement and fails to cure such breach within sixty (60) days from receipt of a default notice.

9.4. Either Party may terminate this Agreement by written notice to the other Party, effective as of the date of delivery of such notice, if the other Party becomes the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding or otherwise liquidates or ceases to do business.

9.5. Upon termination of this Agreement for whatever reason (i) Customer shall promptly pay Appiness all Fees and other amounts earned by or due to Appiness pursuant to this Agreement, up to and including the date of termination, (ii) all user rights granted to Customer pursuant to this Agreement, including the rights to use the Service as per section 2, shall automatically terminate and Customer shall return all copies of the Service (In a directory structure file with the original data, all the reports in PDF, all documents in the same format (pdf, xls, doc, ...) as uploaded in the service, delivered to the client on USB/DVD), if any. Termination of this Agreement on whatever ground shall be without prejudice to any right or remedy that has accrued prior to the actual termination.

9.6. The provisions of this Agreement that are expressly or implicitly intended to survive termination shall survive any expiration or termination of this Agreement.

## 10. Miscellaneous

10.1. *Applicable law and Jurisdiction.* This Agreement will be interpreted fairly in accordance with its terms, without any strict construction in favor of or against either Party and in accordance with Belgian law, without giving effect

to any laws of conflict. Any dispute arising hereunder which cannot be amicably settled between the Parties within a reasonable period from the dispute arising, shall be submitted to the courts of Aalst.

10.2. *Severability.* If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) will be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

10.3. *No Agency.* No joint venture, partnership, employment, or agency relationship exists between Customer and Appiness as a result of this Agreement or use of the Service.

10.4. *No Waiver.* The failure of a Party to enforce any right or provision in this Agreement will not constitute a waiver of such right or provision unless acknowledged and agreed to by that Party in writing.

10.5. *Force Majeure.* Except for the payment by Customer, if the performance of this Agreement by either Party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, riot, fire, judicial or governmental action, labor disputes, act of God or any other causes beyond the control of such Party, that Party will be excused from such to the extent that it is prevented, hindered or delayed by such causes.

10.6. *Assignment.* This Agreement (or any part thereof) may not be assigned, transferred or sub-licensed by either of the Parties without the other Party's prior written consent. Such consent is not to be withheld unreasonably, however, it is highly important to Customer that this Agreement in whole or in part will not be assigned, transferred or sub-licensed to a direct or indirect competitor to Customer. This agreement may be enforced by and is binding on permitted successors and assigns.

10.7. *Notice.* Each Party must deliver all notices or other communications required or permitted under this Agreement in writing to the other Party at the address listed on the Sales Order by courier, by certified or registered mail (postage prepaid and return receipt requested), or by a nationally-recognized express mail service. Notice will be effective upon receipt or refusal of delivery. If delivered by certified or registered mail, any such notice will be considered to have been given five (5) business days after it was mailed, as evidenced by the postmark. If delivered by courier or express mail service, any such notice shall be considered to have been given on the delivery date reflected by the courier or express mail service receipt. Each Party may change its address for receipt of notice by giving notice of such change to the other Party.

10.8. *Entire Agreement.* This Agreement, together with any applicable Schedule(s) and Appendix(es), comprises the entire agreement between Customer and Appiness and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein. No amendment to or modification of this Agreement will be binding unless in writing and signed by an authorized representative of each Party.