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1. DEFINITIONS

“Access Credentials” means any username, identification number, password, license or security key, security token, PIN, or other security code, method, technology, or device, used alone or in combination, to verify an individual’s identity and authorization to access and use the Software.

“Administrator” means the Person responsible for managing, coordinating, and reporting on the functions of the Software.

“Anonymized Data” means data and information related to your use of the Software that contains no Personally Identifiable Information and is used by us in an anonymized or aggregated manner, such as statistical, performance, and usage information related to the operation of the Software.

“Customer Data” means information and content in any form provided directly or indirectly to us by you or your Users or generated through the use of the Software to facilitate the use, support, and maintenance of the Solution. Customer Data includes Personally Identifiable Information but does not include Anonymized Data.

“Customer Systems” means your information technology infrastructure, including computers, software, hardware, databases, database management systems, mobile devices, and networks, whether operated directly by you or through the use of third-party services.

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“Documentation” means any instructions or other documents or materials that we provide or make available to you and which describe the functionality, components, or features of the Software, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.

“Hardware” means servers, hard drives, encoders, decoders, source controllers, endpoints, broadcast carts, keypads, and other hardware products purchased from SAFARI Montage or our resellers on which Software may be loaded.

“Harmful Code” means any software, hardware, or other technology, device, or means, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (i) computer, software, firmware, hardware, system, or network, or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data Processed thereby; or (b) prevent you or any User from accessing or using the Software or SAFARI Montage Solution as intended by this License.

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“New Version” means any subsequent version of the Software (as may be indicated by our designation of a new version number) that we may introduce and market from time to time.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association, or other entity.

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“SAFARI Montage Solution” means the information technology infrastructure used by or on behalf of SAFARI Montage in performing the Software, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by us or through the use of third-party services.

“Software” means the executable, object code version of the operating system, the application software, Software Updates, open source software, and other components licensed or otherwise provided to you in connection with the operation and use of any on-prem or downloadable commercially marketed SAFARI Montage software products.

“Software Update” means any update, upgrade, release, New Version, or other adaptation or modification of the Software, including any updated Documentation, that we may choose to provide from time to time, which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, performance, efficiency, or quality of the Software.

“Software Upgrade Plan” or “SUP” means the Support Services purchased by you after expiration of the applicable Software Warranty Period (as defined in the SAFARI Montage® Hardware and Software Limited Product Warranty and Support Terms), except that for cloud-hosted services, SUP may be included during any Access Period as described in the Quote.

“Specifications” means the Documentation, system requirements, technical overview requirements, and any select integration requirements for the Software.

“Support Services” means the technical support and maintenance services we provide for the Software, either remotely or on-site, including the release of Software Updates. Interoperability Support Services may be subject to additional terms and conditions.
"Term" has the meaning set forth in Section 10.

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4. DELIVERY. SAFARI Montage will deliver the Software electronically via download to servers or Customer client devices meeting the minimum operating requirements as described in the Documentation at http://safarimontage.com/support/supportdocumentation.aspx; pre-installed on the related Hardware specified in the Quote; or by other means that we choose. Hardware will be shipped to you consistent with Section 1.3 of the SAFARI Montage® Products and Services General Terms and Conditions of Sale.

5. SOFTWARE SUPPORT. We will provide you with Support Services consistent with Section 7.2 below as we determine in our discretion for the first year you license any Software. To receive Support Services after the first year, you must purchase an annual SLP, which will also be provided consistent with Section 7.2. You must cooperate with us and promptly follow instructions for all Support Services. We will provide Support Services the same way we provide “Warranty Service” for Software, subject to and as described in the SAFARI Montage® Hardware and Software Limited Product Warranty and Support Terms.

6. SECURITY.

6.1. Information Security. This Section 6 applies unless we have signed a separate written data protection agreement with you, in which case the fully executed written data protection agreement will be substituted. Otherwise, we will employ industry standard security measures to safeguard sensitive data in our care, including Personally Identifiable Information. We require all employees with access to Personally Identifiable Information to be bound by confidentiality agreements and undergo training to protect it.

6.2. Background Checks. At our own cost, we will screen all of our employees who provide installation, Support Services, or Training Services on-site at your premises.
6.3. **Data Breach Procedures.** We maintain a cybersecurity incident response plan in accordance with accepted industry standards and will implement the procedures required under such plan in the event of a data breach involving your or your Users’ unencrypted Personally Identifiable Information. We will notify you of a confirmed breach of such data as soon as reasonably practical after we become aware of it or as required by applicable law or law enforcement. Immediately following notification to you, you will cooperate with us and we will coordinate with you as necessary to investigate the data breach in accordance with our incident response plan.

6.4. **Customer Control and Responsibility.** You have and will retain sole responsibility for: (i) all Customer Data, including its content and use; (ii) all information, instructions, technology, and other materials provided by or on behalf of you or any User in connection with the Software; (iii) Customer Systems; (iv) the security and use of Users’ Access Credentials; and (v) all access to and use of the Software and SAFARI Montage Materials, directly or indirectly, by or through the Customer Systems or your Users’ Access Credentials, whether with or without your knowledge or consent, including all results obtained from and all conclusions, decisions, and actions based on such access or use.

6.5. **Access and Security.** You will employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (i) securely administer the distribution and use of all Access Credentials and otherwise protect against any unauthorized access to or use of the Software, and (ii) control the content and use of Customer Data, including the uploading or other provision of Customer Data for Processing by the Software.

7. **REPRESENTATIONS, WARRANTIES, PROMISES**

7.1. **Customer.**

7.1.1. You will designate and maintain an Administrator to serve as the primary point of contact for day-to-day communications and technical issues relating to the Software and provide such other personnel and access to your premises and Customer Systems as necessary for us to provide any installation, Support Services, or Training Services on site.

7.1.2. If you, your Administrator, or your representative configure or direct us to configure an integration with an Interoperability Partner (as defined in the SAFARI Montage® Products and Services Privacy Policy) in connection with the Software, such configuration or direction is authorized and approved by you. SAFARI Montage bears no responsibility or liability for the selection of or the data security, collection, or use practices of any Interoperability Partner.

7.1.3. You will install or permit us to install all Software Updates within a reasonable period of time after release, unless otherwise agreed to by us in advance.

7.1.4. You will maintain and upgrade your server hardware environment as required for installation of Software Updates.

7.1.5. You will cause Administrators and Users to comply with the terms of this License by implementing and distributing all necessary policies and notices and requiring Users to abide by the terms of this License. You are responsible and liable for compliance with the terms and conditions of this License.

7.1.6. You represent, warrant, and agree that you or your Users own or otherwise have the necessary rights and consents in and relating to Customer Data so that, as received by us and Processed in accordance with this License, such data do not and will not infringe, misappropriate, or otherwise violate any Intellectual Property Rights or any privacy or other rights of any student, teacher, or third party, or violate any applicable law. You are solely responsible for all information or materials in any form that you or your Users upload, post, distribute, transmit, or otherwise disseminate through or in connection with the Software.

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9. **INDEMNIFICATION.** The following indemnification obligations apply in addition to those set forth in the SAFARI Montage® Products and Services General Terms and Conditions of Sale and other applicable SAFARI Montage Agreements.

9.1. **By Customer.** Unless prohibited by applicable law, Customer shall indemnify, defend, and hold harmless the SAFARI Montage Indemnified Parties from and against any and all Losses incurred in connection with an action, claim, or other demand by a third party arising or resulting from: (i) Customer Data, including any Processing of Customer Data by us; (ii) any infringement, misappropriation, or other violation any Intellectual Property Rights or other rights of any third party by any use of (a) the Software by you, your Users, or any authorized third party and information, materials, including Customer Data, or (b) the technology, software, or other materials directly or indirectly provided or directed by you, your Users, or a third party to be installed, combined, integrated, or used with, as part of or in connection with, the Software or Documentation; (iii) any abuse, misapplication, use, misuse, or more culpable act or omission by you, your Users, or an authorized third party with respect to the Software or Documentation or otherwise in connection with this License that is beyond the scope of or otherwise fails to conform to the express requirements or restrictions of this License.

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modifications, upgrades, replacements, or enhancements we make available to you, or (e) any act, omission, or other matter described in Section 9.1, whether or not resulting in any action, claim, or Losses.

9.3. **Indemnity Procedure.** We will promptly notify each other in writing of any action or claims for Losses for which we believe we are entitled to be indemnified under Section 9.1 or 9.2. The party seeking to be indemnified will cooperate with the indemnifying party, and the indemnifying party will assume control of the investigation and defense at its sole cost and expense. Neither party will materially prejudice the other through a settlement or other action without the other party's prior written consent.

10. **TERM, TERMINATION**

10.1. **Term.** The Term for the Software is as stated in the Quote.

10.2. **Termination.** We may terminate the License, effective upon written notice to you, if you: (i) fail to pay any amount when due and such failure continues more than 10 days after delivery of written notice of the nonpayment; or (ii) breach any obligation under Error! Bookmark not defined. 2, 3, 6.4, 7.1, or 9.1.

10.3. **Effect of Expiration or Termination.** Upon any expiration or earlier termination of the License, except as expressly otherwise provided in this License:

10.3.1. All rights, licenses, consents, and authorizations granted by either party to the other under this License will immediately terminate.

10.3.2. You will (i) immediately cease all use of the Software and Documentation, and (ii) within 10 days, return to us or, upon our request, destroy all copies of the Software and Documentation, and (iii) certify in writing your compliance with these requirements;

10.3.3. We will (i) cease all use of any Personally Identifiable Information, (ii) upon your written request, return or destroy all documents and tangible materials containing, reflecting, incorporating, or based on Personally Identifiable Information, and (iii) after 60 days, take reasonable commercial efforts to erase Personally Identifiable Information from systems we directly control.

10.4. **Surviving Terms.** In addition to any section or term that by its nature should survive, Sections 2.5, 2.6, 6, 7, 9, and 10 will survive any termination or expiration of this License.

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