



## SOFTWARE AS A SERVICE (SaaS) TERMS and CONDITIONS FOR REMOTE ACCESS SERVICE SOLD BY VIDEOJET

These Software as a Service Terms and Conditions SaaS Terms and Conditions are by and between the Videojet entity that executed Your Order Form and You, the end user.

If a term set forth elsewhere in this Agreement conflicts with a term in these SaaS Terms and Conditions, the provisions of the SaaS Terms and Conditions will prevail unless the term set forth elsewhere expressly states that it supersedes a specific term in the SaaS Terms and Conditions.

BY ACCESSING THE SERVICES AS DEFINED BELOW YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT ACCESS THE SERVICES.

### 1. Defined Terms.

Unless defined in these SaaS Terms and Conditions, capitalized terms used in this Agreement are defined in Exhibit A.

**2. Services Provided.** Videojet will provide the Services during the term of this Agreement. Videojet will use the information You provide for fulfilling its obligations under this Agreement, and performing, improving and enhancing the Services.

### 3. Your Obligations.

(a) *Security; Compliance with Applicable Laws.* You will use reasonable security precautions in light of Your use of the Services. You represent and warrant that You have the right to provide any information You provide to us for use in the Services. Your use of the Services will be in compliance with any and all laws, rules, regulations, statutes, codes, ordinances, orders, or guidelines of any governmental entity the laws of which are applicable to You. You further represent and warrant that You will comply with Videojet's Acceptable Use Policy.

(b) *Viruses and Malicious Code.* You will neither insert nor permit the insertion or introduction of any Malicious Code into the System. In addition, You will take all commercially reasonable actions and precautions to prevent the introduction and proliferation of Malicious Code into the System. The Videojet may immediately suspend Your access to the System if it detects Malicious Code or reasonably suspects that Malicious Code was introduced or permitted to be introduced by or through You or Your account.

(c) *Cooperation.* You will reasonably cooperate with any of the Videojet's investigation of Service outages, security problems, and any suspected breach of the Agreement.

(d) *Your Account.* You are responsible for Your use of the Services, as well as for use of the Services by any third party You authorize to use Your account to the same extent as if You were using the Services Yourself. You are responsible for keeping Your billing, contact, and other account information up to date.

(e) *Consents.* You hereby irrevocably consent and agree to the access and processing, from geographic localities not within North America, of any information sent to, from, or stored on the Services provided to You as part of the standard administration of the Services. You will obtain all necessary consents needed by You to allow Videojet to process Your information as set forth in this Agreement. You will remain the data controller of Your personally identifiable information ("PII") at all times. As the data controller, You will evaluate the sufficiency of the security provided by Videojet under this Agreement. Additionally, You acknowledge that Videojet may store and could access business contact information and the data that You enter into the Services from countries other than the country from which You entered that data.

You grant Videojet a perpetual, worldwide, irrevocable, royalty-free license, with the right to grant sublicenses, to (i) use the Coding and Marking Data and the Processed Data in any manner including diagnosis of errors, determination of trends, research, development and the provision of services to you and others, (ii) prepare and distribute reports and analyses of Processed Data, (iii) distribute and disclose Processed Data and (iv) grant third parties the rights to use and analyze such data.

(f) *Minimum Standards.* You will provide and maintain the Environment needed to access the Internet and the Services. That Environment will

meet the minimum standards set forth in Your Order Form or in Your on-line specifications, if any.

**4. Not Included.** The Services do not include, and Videojet will not under this Agreement provide access to, any third-party support, client-side hardware or software, programming training, hardware or software not set forth in this Agreement. The Services are limited to access to the Services as defined, including the database, associated data storage, bandwidth and user access set forth in this Agreement. Certain Enabled Products may be available from Videojet or third parties to connect to or interact with the Services. Use of, and support for those Enabled Products is not included in this Agreement and will be subject to separate agreements which may be between you and Videojet or You and a third party.

### 5. Users; Authorized Use; Restrictions.

(a) *Users.* The number of users and applications for which You are authorized to use the Services pursuant to this Agreement, and the subscription rate or price for such authorized uses, are set forth in the Order Form agreed between the parties.

(b) *Use.* Your Use is limited to the number of users and applications, as applicable, for which you pay service fees. You will be given Login Credentials to access the Services. Your use of those Login Credentials indicates Your agreement to be bound by the terms of this Agreement, and to follow such other registration process as Videojet may require. You agree to prevent and protect the Login Credentials and the Services from unauthorized disclosure, access or use. You may only use Coding and Marking Data in an approved Enabled Product for which You have obtained a valid license. No other download, transfer or electronic copying of Coding and Marking Data is permitted under this Agreement. Videojet and its licensors, if any, reserve all rights not expressly granted to You.

(c) *Restrictions.* You may not (i) sell, rent, lease, timeshare, license, sublicense, distribute or otherwise transfer, in whole or in part, the Services to another party; (ii) provide, disclose, divulge or make available to, or permit use of the Services, in whole or in part, by any other individual or any third party without Videojet's prior written consent; (iii) modify or create derivative works based upon the Services, or (iv) port, compile, download, or create a partial or complete database from the Services or information obtained from the Services, other than as expressly authorized by Videojet in writing. You will not use the Services to support any other company including Your affiliates unless explicitly agreed to in writing. Except to the extent expressly permitted by applicable law, and to the extent that Videojet is not permitted by that applicable law to exclude or limit the following rights, You may not decompile, disassemble, reverse engineer, or otherwise attempt to derive source code from the System or Services, including without limitation, other software provided to access the Services. If access to the RSA DB is provided with or as part of a specific product or device, You will not remove the RSA DB, in whole or in part, from that product or device and You will not use any portion of the RSA DB separately from or independent of that product or device.

### 6. Fees & Payment Terms.

(a) *Recurring Fees; Fee Increases.* Recurring for the Services are payable in advance, as set forth in the Order Form. Non-recurring fees, if any, will be separately set forth on the Order Form. Videojet may increase the annually by providing You with notice of the increase in fees not less than thirty (30) days prior to the date those increased fees will take effect. Your continued use or access to the Services following such a fee increase will be considered acceptance of the fee increase. In the event that You do not agree to an increase in fees, Your sole remedy will be to terminate this Agreement and discontinue Your use of the Services pursuant to Section 9 at the end of the current term of the Agreement.

(b) *Invoice Due Date.* Invoices are due within fifteen (15) days of receipt of the applicable invoice. Videojet may suspend the Services or terminate this Agreement for non-payment by You, as set forth in Section 9. You will pay a late fee equal to one-and-one-half percent (1.5%) per month or the maximum amount allowed by law, if less, on all past due amounts.

(c) *Taxes.* You are responsible for the payment of all taxes related to Videojet's provision of the Services to You, including, but not limited to all local and federal sales, use, excise, value added, rental receipt, personal property or other taxes and similar taxes which may be levied or assessed



in connection with this Agreement (excluding taxes based on Videojet's net income). If Videojet is required by law to pay taxes on the provision of the Services, You must pay Videojet the amount of the tax that is due or provide Videojet with satisfactory evidence of Your exemption from the tax.

#### **7. Warranty and Disclaimer of Warranty.**

(a) *Warranty.* During the term of this Agreement, Videojet warrants that it will provide the Services in a professional and workmanlike manner, in accordance with applicable industry standards in the country in which Videojet is located. Your sole and exclusive remedy for breach of the foregoing warranty is set forth in the End User Remedy paragraph below.

(b) *Interruptions.* Videojet does not represent or warrant that the Services will be uninterrupted, error-free, or completely secure.

(c) *DISCLAIMER.* EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VIDEOJET PROVIDES ACCESS TO THE SERVICES AND SUPPORT SERVICES (IF ANY) "AS IS" AND WITH ALL FAULTS, AND HEREBY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, RELIABILITY OR AVAILABILITY, ACCURACY OR COMPLETENESS OF RESPONSES, RESULTS, WORKMANLIKE EFFORT, LACK OF VIRUSES, AND LACK OF NEGLIGENCE, ALL WITH REGARD TO THE SERVICES, AND THE PROVISION OF OR FAILURE TO PROVIDE THE SERVICES, SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE SERVICES OR OTHERWISE ARISING OUT OF THE USE OF THE SERVICES. VIDEOJET DISCLAIMS ALL WARRANTIES OR CONDITIONS OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT WITH REGARD TO THE SERVICES. AND VIDEOJET DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SERVICES WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF, OR ACCESS TO, THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT DEFECTS IN THE SERVICES WILL OR CAN BE CORRECTED.

**8. Unauthorized Access to Your Data or Use of the Services.** Videojet is not responsible to You for unauthorized access to Your data or the unauthorized use of the Services unless the unauthorized access or use results from Videojet's failure to meet its security obligations stated in the Agreement. You are responsible for the use of the Services by any of Your employees, by any person or entity to whom You have given access to the Services, or any person who gains access to Your data or the Services as a result of Your failure to use reasonable security precautions, even if that use was not authorized by You. You will not resell any part of the Services.

#### **9. Term, Termination and Suspension.**

(a) *Term.* The initial term of this Agreement will start on the Service Commencement Date and continue for a period of twelve (12) months unless terminated in accordance with this Agreement. This Agreement may be extended for additional terms as agreed between the Parties.

(b) *Termination.* You may terminate this Agreement at any time by notifying Videojet of Your intent to cease using the Services at which time Your Login Credentials will be disabled. You must download any of Your information stored on the System prior to terminating the Agreement. Upon any termination, Videojet is authorized to delete Your information stored on the System. Videojet is entitled to retain Your information after termination of the agreement for 30 days after the effective termination date. The access automatically terminates if You fail to comply with the terms and conditions of this Agreement. You agree that, upon termination for any reason, You will cease using the Services and permanently delete from any hardware and storage device all downloads and backup copies of the Coding And Marking Data and information obtained from the RSA DB, together with any other material You have received from Videojet in connection with the RSA DB. Upon request, You agree to provide Videojet with written certification by an authorized officer that all information from the RSA DB and all Coding and Marking Data and information obtained from the RSA DB have been removed and deleted from all hardware and storage devices. Videojet reserves the right at any time to monitor and audit, either physically or electronically, Your use of the information obtained from the RSA DB, including specifically the Coding and Marking Data. You agree to allow Videojet access Your

premises, computers (including, but not limited to, hardware, software and network services) and personnel at all reasonable times for the purposes of that auditing and monitoring.

(c) *Suspension of Services; Accelerated Termination.* Videojet may immediately suspend the Services or terminate this Agreement for its convenience if: (i) Videojet becomes aware of what it, in its sole discretion, deems a credible claim that the Services infringe upon the intellectual property rights of a third party or (ii) required to do so by law. In each case, Videojet will give You advance notice of pending suspension or termination under this Section of at least twelve (12) hours, unless Videojet determines, in Videojet's reasonable commercial judgment, that a suspension on no or shorter notice is necessary to protect Videojet, its customers, or others.

(d) *Termination for Breach.* Videojet may, at its option, terminate this Agreement for cause or suspend the Services if: (i) Videojet reasonably believes that the Services are being used in violation of law or this Agreement; (ii) Your use of the Services interferes with the normal operations of the System or other customer's use of the Services; (iii) there is an attack on the System or Your server(s), Your server is accessed or manipulated by a third party without Your consent, or there is another event for which Videojet reasonably believes suspension of Services is necessary to protect the Videojet network or Videojet's other customers; (iv) Your payment of any invoiced amount is overdue and You fail to pay the overdue amount within ten (10) days of Videojet's written notice; (v) You breach any obligation relating to Videojet's (or its suppliers') intellectual property rights; or (vi) You materially fail to comply with any other provision of the Agreement and do not remedy that failure within fifteen (15) days of Videojet's notice to You describing the failure in reasonable detail.

(e) *Effect of Termination.* Videojet will not be liable to You for any claims or damages of any kind arising out of termination of this Agreement or suspension of Services in accordance with this Section, provided, however, that where Videojet terminates this Agreement for its convenience, it will refund any amounts prepaid by You for Services not rendered by Videojet prior to termination. Upon termination of this Agreement, You will immediately cease use of the Services and will remain obligated to pay Videojet any amounts owed that accrued prior to the effective termination of this Agreement. Sections 3(b), 5(c), 6, 7(b), 7(c), 8, 9(e) and 10-14, all of Your payment obligations as well as any other provision that is intended or required to survive termination or expiration of this Agreement in order to achieve its full purpose and effect, will survive any termination or expiration of this Agreement.

#### **10. Intellectual Property.**

(a) *Ownership.* The Services, including without limitation, the RSA DB and associated software are owned by Videojet and are protected by applicable intellectual property laws and regulations, including without limitation United States and international copyright and trade secret laws. As between the parties to this Agreement, except for Your right to access the Services during the term, Videojet retains all right, title and interest in and to the Services. Videojet will own and You hereby assign to Videojet any derivative works that You create and/or develop based, in whole or in part, on access to or use of the RSA DB or Services. . You agree that Videojet owns all Coding and Marking Data and all algorithms associated with the Services. You will not own any coding or marking data unless set forth in a separate agreement between you and Videojet and then your ownership will be limited to the Customer Coding Records, as further agreed in that separate agreement. The information contained in or otherwise associated with the design and operation of the Services are the proprietary and confidential information of Videojet (and its licensors), and Videojet (and its licensors) deems the information to be a trade secret. You are licensing the right to access and use the Services in accordance with the terms of this Agreement and are not acquiring any claim or right of ownership in the Services or any intellectual property associated with it. You will treat the information contained in the Services as the proprietary and confidential information of Videojet.

(b) *Trademarks.* All trademarks on or related to the Services are the sole and exclusive property of Videojet (and its licensors) and are protected by US and international trademark laws. Nothing in this Agreement shall give You any right, title, or interest in or to Videojet's (and its licensors') trademarks nor give You any right to use Videojet's (and its licensors') trademarks for any purpose without the prior written approval of Videojet. No rights or licenses are granted to You with respect to any trademark, service mark, and/or trade name owned by Videojet (and its licensors)



regardless of whether it is associated with the Services. You agree that You will do nothing inconsistent with Videojet's (and its licensors') ownership of its trademarks and shall not claim adversely to Videojet (and its licensors), or assist any third party in attempting to claim adversely to Videojet (and its licensors), with regard to such ownership. You agree that You will not challenge the title of Videojet (and its licensors) to any of its trademarks, oppose any registration thereof, or challenge the validity of this restriction. Furthermore, You will not register, nor attempt to register, any trade name trademark, logo, or domain name which, in whole or in part, incorporates or is confusingly similar to any of Videojet's (or its licensors') trademarks.

**11. LIMITED LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL VIDEOJET BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST BUSINESS OR LOST DATA, RELATING TO THE SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE THE SERVICE, SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, OR RELATED CONTENT THROUGH THE SERVICES OR OTHERWISE ARISING OUT OF THE USE OF OR FAILURE TO USE THE SERVICES WHETHER OR NOT DUE TO VIDEOJET'S BREACH OR NEGLIGENCE, AND VIDEOJET WILL NOT BE LIABLE FOR ANY DIRECT DAMAGES, EXCEPT AS EXPRESSLY PROVIDED UNDER THE "END USER REMEDY" SECTION BELOW. VIDEOJET'S MAXIMUM LIABILITY TO YOU ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE EQUAL TO THE FEES PAID BY YOU IN THE SIX MONTHS PRECEDING THE DATE ON WHICH THAT LIABILITY FIRST AROSE UNDER THE ORDER FORM UNDER WHICH THAT LIABILITY AROSE. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

#### **12. Remedies**

(a) *End User Remedy.* Videojet's entire liability and Your exclusive remedy for any breach of this Agreement will be, at Videojet's option, either (i) to return of the price paid in the current term for access to the Services at which time You will cease using the Services, permanently delete from any hardware and storage device all downloads and backup copies of the Coding and Marking Data and any other information obtained from the RSA DB, destroy or return to Videojet any other material You have received from Videojet in connection with the Service, including without limitation, the RSA DB or (ii) to repair or revise the Services to eliminate the error giving rise to the warranty claim. The limited warranty is void if failure of the Services has resulted from accident, abuse, or misapplication, unauthorized use of the Services or, RSA DB, a Force Majeure Event or if You modify the information obtained from the RSA DB. The repaired or revised Services (if any) will be subject to the limited warranty set forth above for the remainder of the original warranty period or thirty (30) days, whichever is longer.

(b) *Videojet Remedy.* You agree that if You are using the Services or any Coding and Marking Data or other information obtained or otherwise derived from the RSA DB, in a manner not specifically authorized by this Agreement, this Agreement shall immediately terminate and Videojet may pursue any and all remedies in respect of such unauthorized use.

**13. Notices.** Notice under this Agreement will be deemed to be sufficiently given, effective on the date received, when delivered personally or by overnight express, or nationally recognized courier services, or three (3) business days after mailing when sent by certified or registered mail, postage prepaid. Notice required to be given to You under this Agreement will be sent to the address specified in the Order Form at the attention of Your designated contact person. Notice required to be given to Videojet under this Agreement should be sent to Your

designated Videojet Sales Representative with a copy to Videojet at the address provided in this Agreement.

#### **14. Miscellaneous.**

(a) *Export Matters.* You agree to abide and conform to any and all export regulations in force during this Agreement that are applicable to You. You understand that these regulations may prohibit the export or re-export of documentation, and any information or technical data related to the Services. The Services and the underlying information and technology may not be accessed, downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) Cuba, Libya, North Korea, Iran, Sudan, Syria or any other country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders.

(b) *Force Majeure.* Neither party will be responsible for, nor be in default under this Agreement due to any delays or failure of performance (except payment obligations) resulting from Force Majeure Events. In the event that either party is unable to perform any of its obligations under this Agreement because of a Force Majeure Event, the party who has been so affected will promptly give notice to the other and will exercise all reasonable efforts to resume performance.

(c) *Governing Law; Lawsuits.* All disputes arising from or related to this Agreement will be governed by the laws of Illinois, without reference to its conflicts of law principles. Each party hereby consents to the exclusive personal jurisdiction and venue of the federal and state courts sitting in DuPage County, Illinois. The parties expressly exclude the United Nations Convention on Contracts for the International Sale of Goods from application to this Agreement. The parties agree that any claim arising out of or related to this Agreement must be brought within one (1) year after the date it first accrued.

(d) *Assignment.* You may not assign this Agreement without the express written consent of the Videojet. Videojet may assign this Agreement to any of its corporate affiliates or pursuant to a merger, consolidation, reorganization, change-in-control or sale of all or substantially all of the assets or business to which this Agreement relates. Any attempted assignment in violation of this provision will be void.

(e) *Third Party Beneficiaries.* This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties.

(f) *Severability; Waiver; Counterparts; Entire Agreement.* If any part of the Agreement is found unenforceable by a court of competent jurisdiction, such provision(s) will be ineffective to the extent of the court's ruling while the remainder of the Agreement will remain in full force and effect. Except as set forth below, this Agreement may be amended only in a writing signed by both parties. The waiver by a party of any breach of any provision of this Agreement will not operate or be construed as a waiver of any subsequent breach. The parties' relationship is that of independent contractors. Neither party is an agent for the other, nor does either party have the right to bind the other to any agreement with a third party. The captions used in the Agreement are for convenience only and are not binding. This Agreement constitutes the entire agreement of the parties and supersedes all previous communications between the parties relating to this Agreement and to the subject matter herein. Videojet may modify this Agreement from time to time by posting the revised Agreement on [www.videojet.com](http://www.videojet.com). Your continued use of the Services constitutes acceptance of those changes. If within 10 days' of posting those changes, you notify Videojet that you do not accept those changes, Videojet may terminate this Agreement and provide you with a refund for the portion of the Services not yet used, or Videojet may choose to continue to provide you the Services under the unchanged Agreement. Any changes posted shall have prospective application only.



## Exhibit A

### Defined Terms

“**Agreement**” means the SaaS Terms and Conditions, Your Order Form, Videojet’s Service Level Availability Plan, any other writing which incorporates by reference these SaaS Terms and Conditions (if executed by each of the parties), and any exhibit or other document referenced in this Agreement.

“**Coding and Marking Data**” means coding information contained within the Videojet Remote Service database, without limitation, head temperature, viscosity, consumable levels and print counts data. “Coding and Marking Data” specifically includes any modified information, i.e., any derivative work, that is created and/or developed by You based, in whole or in part, on access to and use of the information contained in the Remote Service Database.

“**Processed Data**” means all information that is collected by Videojet, or to which Videojet has access that relates to Your use of the Services. Processed Data includes, but is not limited to, the results generated through the use of the Services. The Processed Data will be masked or aggregated so that You are not identified as the original provider of the data.

“**Customer Coding Records**” means RSAD coding data created specifically for You.

“**Enabled Products**” means certain certain desktop or web-based software which may be available from Videojet or third parties to connect to or interact with the Services.

“**Environment**” means all hardware, software and network connectivity needed to access the Internet and the Services.

“**Force Majeure Events**” mean acts or causes beyond Videojet’s reasonable control, including without limitation, acts of God, acts of war, third-party labor strikes, power failures, communication failures, floods, earthquakes, other natural disasters, or other similar events.

“**Login Credentials**” means a set of login credentials that will allow You to use the Services.

“**Malicious Code**” means (i) any code, program, or sub-program the knowing or intended purpose or effect of which is to damage or maliciously interfere with the operation of a computer system containing the code, program or sub-program, or to halt, disable, or interfere with the operation of the software, code, program, or sub-program, itself, or (ii) any device, method, or token that permits any person to circumvent without authorization the normal security of any software or System containing the code.

“**Order Form**” means the SaaS Terms and Conditions Order Form executed by and between a Videojet entity and You.

“**Remote Service Access Database**” or “**RSA DB**” means the database that contains the Coding and Marking Data.

“**SaaS Terms and Conditions**” means those terms and conditions set forth in the document entitled Software as a Service (SaaS) Terms and Conditions for Remote Access Service Sold By Videojet.



“**Services**” means the (i) RSA DB, (ii) Coding and Marking Data, (iii) ability to connect to and access both of those, (iii) the Login Credentials, and (iii) any other web-based solution set forth in the Agreement (if any), for Your individual and internal business use as provided in this Agreement.

“**Service Commencement Date**” means the date on which You receive access sufficient to use the Service, whether or not You actually begin use of the Services on that date.

“**Service Level Availability Plan**” or “**SLAP**” means the plan described in Exhibit A.

“**System**” means collectively the Services or systems and software used to deliver the Services.

“**Videojet**” means Videojet Technologies Inc.

“**You**” or “**Your**” means the customer user identified in the applicable Order Form.