

## TERMS AND CONDITIONS

Company Motionlab, s.r.o., company identification number: 076 82 956, having registered address at Novobranská 532/20, 602 00 Brno, registered in the Companies Register maintained with the Regional Court in Brno, Section C, Insert 109547 hereby amends the conditions of the operation and use of “Adina” platform operated by the Operator (hereinafter the “**Terms and Conditions**”).

### 1. DEFINITION OF KEY TERMS

- 1.1. **Operator** – company Motionlab, s.r.o., company identification number: 076 82 956, with registered address at Novobranská 532/20, 602 00 Brno, registered in the Companies Register maintained with the Regional Court in Brno, Section C, Insert 109547.
- 1.2. **Website** – Operator’s website on [www.motionlab.io](http://www.motionlab.io).
- 1.3. **Platform** – a platform intended for the creation, postproduction, generating and spreading of (advertising) videos promoting the Client and its products and services that are personalized for specific Client’s customers based on Client’s Customer Data; the Platform includes other functions and tools for data analysis, collection of data relating to the effectivity of Client’s video campaigns and their analytics, as well as integration and other services of third parties allowing effective spreading of Client’s video campaigns (e.g. email or other communication services), Motionlab recorder, Adobe AE Motionlab Template Creator extension, API extension and others. The description of the Platform is available on [www.motionlab.io](http://www.motionlab.io).
- 1.4. **Client** – a natural person carrying out business, or a legal entity entering into a Contract with the Operator.
- 1.5. **Contract** – a contract to use the Platform entered into in compliance with these Terms and Conditions, and the content of which is defined in these Terms and Conditions.
- 1.6. **Contracting Parties** – Operator and Client.
- 1.7. **Customer** – Client’s customer.
- 1.8. **Customer Data** – Customer-related data (including personal data) recorded in the Platform by the Client as the controller of such data for the purposes of creating personalized video campaigns and their analysis.
- 1.9. **User** – user sub-account opened by the Client within their Account for Client’s employee or other person participating in Client’s activities in the name and at the account of the Client. These are not individual Clients.
- 1.10. **Subscription** – subscription authorizing Full Access to the Platform under the conditions given in the description of the Subscription on the Website.
- 1.11. **Demo Access** – free access to the Platform that serves for trying out the Platform prior to purchasing the subscription. The Demo Access is at the Operator’s discretion and bears no legal rights. The Demo Access is limited in time. The Demo Access has a limited number of generated videos or certain limited functions of the Platform. Premium Services are not available in the Demo Access.

- 1.12. **Full Access** – access to the Platform based on subscription.
- 1.13. **Premium Services** – additional, extra functions of the Platform or services relating to the Platform provided upon individual agreement between the Operator and the Client.

## **2. PURPOSE OF THE TERMS AND CONDITIONS**

- 2.1. Pursuant to the provisions of Section 1751(1) of Act No. 89/2012, the Civil Code, as amended (hereinafter referred to as the “**Civil Code**”), these Terms and Conditions amend the mutual rights and obligations of the Contracting Parties established in relation with or based on a Contract entered into by and between the Operator and the Client, by which the Operator allows the Client to use the Platform under the conditions amended by these Terms and Conditions. The provisions of the Terms and Conditions constitute an integral part of the Contract from the moment of its effectiveness.
- 2.2. The provisions diverging from the Terms and Conditions may be arranged in writing only. Such divergent provisions are part of the Contract and prevail over the provisions of these Terms and Conditions.
- 2.3. These Terms and Conditions concern only the use of the Platform by natural persons and legal entities, who act in the scope of their business activities and their individual occupation (i.e., as entrepreneurs) upon entering the Contract and using the Platform. The Platform is not intended for natural persons – consumers.

## **3. PLATFORM**

- 3.1. The Platform is available on <https://adina.motionlab.io/>. The Platform may be used only based on a Contract executed via a Client’s Account under the conditions laid hereinafter.
- 3.2. The Platform is available in *software as a service* mode and the Client does not receive any copies of the Platform; the Client may access the Platform only via a remote access.
- 3.3. The Platform is a fully automated tool and any using of its functions by the Client is the Client’s responsibility. The Operator itself does not provide a script, production, postproduction, or distribution of personalized videos apart from providing some Premium Services as individually agreed with the Client.
- 3.4. For the purposes of creating personalized videos, the Client may record in the Platform their Customer Data and other content and material for the creation of videos. The Operator provides no Customer Data or content for the creation of videos in the Platform.
- 3.5. The Operator provides hosting of personalized videos for the period defined in the Subscription, or for the period arranged within Premium Services; unless stated otherwise, the videos are hosted for the period of 90 days from their generation. After the expiry of this period, the Operator archives the hosted videos for the period of 30 days, whereas during this period the videos are no longer accessible to the Client; after this period, the Operator erases the videos for good. The Operator also erases the videos for good regardless of the aforementioned periods (i) to the day of termination of the Demo Access not continuously followed by the Subscription, unless another period of Subscription follows in accordance with these Terms and Conditions.
- 3.6. The Platform gathers data relating to the personalized videos and contains tools allowing their

analysis (for the purposes of monitoring the effectivity of Client's video campaigns, e.g. return of Client's investments, click-through rate and other indicators). The analysis and statistics of effectivity of personalized videos are available for the Client within the Platform continuously.

- 3.7. The Operator agrees to take best effort for the Platform to be accessible and functional. However, the Client hereby acknowledges that despite Operator's efforts, the Platform does not always have to be fully available, especially for the reasons of necessary maintenance of the hardware and software equipment of the Operator or of third persons. The Operator has no liability for any damage caused to the Client on the grounds of unavailability or non-functionality of the Platform.
- 3.8. The Operator is entitled to make changes to the content and functions of the Platform anytime and without prior notifications. That is automatic, and these Terms and Conditions also apply to the updated Platform. The Client is not entitled to reject these changes, since the Platform is provided *as is*. However, the Client has the option to terminate the use of the Platform in compliance with these Terms and Conditions. The Operator is not obliged to provide any updates of the Platform to the Client.

#### **4. CONTRACT**

- 4.1. The Contract is executed based on Client's order placed via an electronic application form for the Demo Access available on the Website (hereinafter referred to as "**Order**"). The Order must include all details required as mandatory by the electronic form. The Client is obliged to enter only correct, full and up-to-date data.
- 4.2. Upon the entering into the Contract, the Client, who is a legal entity, must always be represented by a natural person authorized to act for the Client in this extent (hereinafter referred to as "**Authorized Person**"). By sending the Order, the Authorized Person confirms to have all needed authorizations and delegations to act for the Client in this manner. The Authorized Person is not a contracting party to the Contract; it is always the Client himself or herself only.
- 4.3. By sending the Order, the Client confirms to have read these Terms and Conditions and to agree with them. The Client also confirms to acknowledge the Privacy Policy available on the Website.
- 4.4. Based on the delivery of the Order form to the Operator, the Operator contacts the Client with an offer to enter into a Contract. It is at the Operator's own discretion to offer Demo Access or the Subscription. Should the Client respond to the Operator's offer with reservations given to the offer, or suggests changes to the offer, the Operator must give an explicit consent with them, otherwise the Contract cannot be executed.
- 4.5. The Contract is executed, if the Operator and the Client agree on the conditions of the Contract, and:
  - 4.5.1. In the case of the offer of a Demo Access, in the moment of the first log-in of the Authorized Person in the Platform;
  - 4.5.2. In the case of the offer for a Subscription without the Demo Access, by proper payment of the Subscription Price; in this case, the Operator shall make the Platform available to the Client under the Subscription from the date agreed on the basis of the offer of the Subscription, otherwise not later than within 3 (three) days from the conclusion of

the Contract.

- 4.6. The Operator reserves the right to suspend or terminate the Order negotiations any time; the provisions of Section 1729 of the Civil Code do not apply.

## **5. CLIENT'S ACCOUNT, USERS**

- 5.1. Based on the execution of the Contract, the Client is opened a user account by the Operator to access the Platform and to use its functions (hereinafter referred to as "**Account**").
- 5.2. The Account always pertains to one Client – a business entity (natural person or legal entity) with its own company identification number (or with a similar identifier allocated abroad). Each Client may open one Account only.
- 5.3. The Operator sends to the Client's email address stated in the Order access details in the extent of a username and a password without undue delay after the execution of the Contract. For the Demo Access, the details are sent after the confirmation of the conditions of the Demo Access between the Operator and the Client. The Client is obliged to change their password after the first log-in to the Account.
- 5.4. The Client is responsible for the correctness and authenticity of the details stated in the Account. Should there be any changes in the details, the Client is obliged to update them without undue delay. The Operator bears no liability for any damage in case that the Client enters incorrect or inaccurate data in the Account or breaches their obligation to update the details within the Account according to this Clause.
- 5.5. To enter the Account, Client's correct log-in data are required. The Client is obliged to properly protect their log-in data and to prevent any third person from an unauthorized access to the access details (third persons are not understood as persons authorized to represent the Client). The Client is responsible for damage caused by inadequate protection of their log-in details. Should there be any suspicion that the access details could be revealed or abused, the Client must change their access details without undue delay. The Client bears full responsibility for any activity in their Account regardless of whether the activity is performed by the Client, the Users, another person authorized by the Client or any third person.
- 5.6. The Operator bears no liability for any damage caused by an unauthorized access to the Account by a third person as a consequence to the failure to keep Client's obligations resulting from these Terms and Conditions.
- 5.7. The Client is entitled to open new User sub-accounts within the Account for Client's employees, or for other persons accessing the Platform for the purposes of performance of activities realized in the name and at the account of the Client. The maximum number of User sub-accounts that a Client may open within their Account is determined by the specific conditions of the Subscription used by the Client. Individual Clients may be assigned certain roles and their user authorizations may be limited depending on the Client's decision and on Platform options. The Client is responsible for the Users' use of the Platform as if it was the Client who uses it. The conditions of the use of the Platform by means of Users' sub-accounts are subject to the conditions of using the Client's Account. The Client is not entitled to give access to the Platform to third persons who do not perform activities for the Client in the Client's name and at the Client's account.

## **6. DEMO ACCESS TO THE PLATFORM**

- 6.1. It is as the Operator's discretion to give the Client Demo Access to the Platform for a period arranged in the Contract.
- 6.2. The Client hereby acknowledges that the Demo Access to the Platform does not have to have all functions of the Platform available. Premium functions are not available in the Demo Access.
- 6.3. Should the Client fail to duly pay the Subscription Price until the last day of duration of the Demo Access, the Contract is automatically terminated, and the Client loses the possibility to use the Platform. If the Client pays the Subscription Price duly and timely (i.e. the payment is credited to the Operator's account) no later than until the last day of duration of the Demo Access, they will be able to use the Platform in Full Access and in the extent of their Subscription starting on the first day following the last day of duration of the Demo Access. The period for which the Subscription is paid commences on the first day of the Full Access to the Platform.

## **7. PREMIUM SERVICES**

- 7.1. In relation to the Platform, the Operator offers additional functions and services (hereinafter referred to as "**Premium Services**"), the current offer of which is listed on the Website. Providing of Premium Services must be agreed individually in the Contract based on an offer for Premium Services emailed to the Operator's contact address given below in these Terms and Conditions. The order for Premium Services must always include at least one requested Premium Service and other relevant requirements relating to the providing thereof. Following the order for Premium Services, the Operator contacts the Client with an offer for Premium Services and possible detailed conditions of their provision. Some Premium Services may be provided by Operator's business partners. In such cases, the Operator connects the Client with the business partner, and the Client arranges the conditions of the provision of Premium Services directly with the given business partner.
- 7.2. The order for Premium Services becomes a binding part of the Contract in the moment, when both Contracting Parties agree on its content and mutually confirm it by email. Acceptation with changes, even unsubstantial, is not considered as acceptance. The Contracting Parties must expressly agree on all conditions.
- 7.3. Conditions of the provision of Premium Services in an extent not arranged individually based on the order for Premium Services are subject to the conditions determined in these Terms and Conditions.
- 7.4. Should the content of the Premium Service be a work, it is executed, when it is completed and handed over to the Client in a manner defined by the Operator for that purpose. Any Operator's performance will be delivered to the Client by means of the Platform. The Client is obliged to take over the performance provided by the Operator under the Contract and to pay the price agreed for the performance. This Clause is similarly used for the Operator's performance within the Premium Services that does not constitute a work.
- 7.5. The Client agrees to provide the Operator with any cooperation needed for the provision of Premium Services under the Contract, and especially the Client ensures that the Operator has all material needed for the proper and timely provision of the Operator's performance under

the Contract. Should the Client be delayed with the fulfilment of obligations under the Contract, fail to provide the requested cooperation or be delayed with the payment of the Price for the Premium Services, all dates set for the Operator's performance are extended by such a period, for which the Client was delayed with the fulfilment of their obligations.

## **8. SUBSCRIPTION PRICE AND OTHER PAYMENTS**

8.1. In the course of duration of the Demo Access, the Operator allows the Client to use the Platform free of charge.

8.2. In the Full Access mode, the Operator allows the use of the Platform for value, whereas the price for using the Platform is specified in a price list agreed by the Operator and the Client as part of the Subscription offer submitted by the Operator (hereinafter referred to as "**Pricelist**"). If needed, the Operator may modify or change the Pricelist. The Operator must always inform the Client sufficiently in advance of any changes in the Pricelist. Any changes in the Pricelist have no effect on the already paid Price for the Subscription.

### **8.3. Subscription Price:**

8.3.1. To fully access the Platform, the Client agrees to pay a price of the agreed Subscription (hereinafter referred to as "**Subscription Price**").

8.3.2. The Subscription Price is paid in advance for the period of duration of the Subscription. Without the proper payment of the Subscription Price, the Operator does not grant the Client Full Access to the Platform.

8.3.3. The Operator issues an invoice to the Client for the payment of the Price; the invoice must fulfil the requirements of the legal regulations.

### **8.4. Price for Video:**

8.4.1. Should the Client exceed the number of personalized videos generated by means of the Platform and included in the Subscription, apart from the Subscription Price, the Client agrees to pay the price for each other video generated by means of the Platform in an amount defined in the Pricelist (hereinafter referred to as "**Price for Video**").

8.4.2. The Price for Video is defined in advance and will be deducted from the Client's credit in the Platform prepaid at the Operator for the purpose of payment of the Price for Video (hereinafter referred to as "**Credit**"). As per Client's request for Credit increase selected by the Client, the Operator issues an invoice, against which the Client pays for the Credit. The Operator does not allow the generation of videos by the Client if their Credit is not sufficient for the payment of the Price for Video.

8.4.3. It is at the Operator's discretion to allow the Client, in case that their Credit is not sufficient for the payment of the Price for Video, to overdraw the Credit and let the Client pay the Price for Video generated by means of the Platform in the preceding calendar month in return additionally to the Credit against an invoice issued by the Operator.

8.4.4. If the Client does not use the Credit within 1 (one) year from the date it was credited to their Account, the Operator may decide that the relevant unused part of the Credit shall be invalidated; the Client shall not be entitled to any refund. The Client will be

notified of this decision in the Platform interface.

- 8.4.5. In the event of termination of the Contract (i) by the Operator for reasons other than the Client's breach of the Contract, or (ii) by the Client due to the Operator's breach of the Contract, the unused Credit shall be refunded to the Client in money.
- 8.4.6. In the event of termination of the Contract (i) by the Client for any reason other than breach of the Contract by the Operator or (ii) by the Operator for breach of the Contract by the Client or (iii) termination of the Contract for any other reason, the unused Credit shall be invalidated, and the Client shall not be entitled to any refund.
- 8.5. **Price for Premium Services:**
  - 8.5.1. Premium Services are paid. The price for individual Premium Services is subject to the Pricelist; in the case that the Pricelist does not specify a price for the given Premium Service, the price for the Premium Service will be arranged in the Contract (hereinafter referred to as "**Premium Services**").
  - 8.5.2. The Prices for Premium Services are paid in return for the calendar month, in which they were provided, against an invoice issued by the Operator.
- 8.6. Payments paid by the Client against invoices issued by the Operator are due in 14 (fourteen) days from their issuance unless the invoice states a later maturity date. The invoice must include all essentials of a tax receipt pursuant to legal regulations in effect. Otherwise, the Client has the right to return the invoice to the Client, whereas the maturity of the invoiced amount is extended with the number of days, for which the Operator was delayed with the delivery of the invoice fulfilling all legal requirements.
- 8.7. Should the Client be in default with the payment of the Price for Video or Price for Premium Services, the Operator has the right to:
  - 8.7.1. claim a contractual penalty from the Client amounting to 0.05% of the due amount per day for each, even commenced, day of the default, and/or
  - 8.7.2. suspend the provision of the Platform or its particular functions to the Client until the Client's debt is paid in full, including any applicable interest or fees.
- 8.8. All prices in the Pricelist exclude the value added tax. Statutory value added tax will be added to all prices. The date of individual taxable supply is, for the purposes of VAT, the last day of the calendar month in which the performance under the Contract was provided.
- 8.9. All Client's payments under the Contract must be paid via a bank transfer to the Operator's bank account stated in the invoice, or, if the Platform allows so in the given moment, online with a card via a payment gate. The payments are executed on the day on which the respective amount is credited to the Operator's bank account.
- 8.10. The Operator accepts the payments in the following currencies: EUR, CZK.
- 8.11. The Client bears all costs of access the Platform (especially Internet connection fees), international payment bank fees and all costs for conversion between currencies (if the Client's payment is in another currency than the currencies specified in Clause 8.10).

## **9. RIGHTS AND OBLIGATIONS OF THE CLIENT**

- 9.1. The Client agrees to use the Platform solely in accordance with the legal regulations and these Terms and Conditions. The Client is not entitled to use the Platform for any other purposes or in any other ways than those determined by these Terms and Conditions. The Client further agrees namely to the following:
  - 9.1.1. To refrain from infringing the rights of third persons or of the Operator when using the Platform,
  - 9.1.2. To refrain from unauthorized interference in the Platform, and to refrain from trying to gain access to the Platform in another way than with the log-in details and by means of the respective interface; especially, to refrain from any reproducing, modifying, decompiling or otherwise interfering in the Platform, relating source codes and documentation, unless expressly authorized to do so by the Operator,
  - 9.1.3. To refrain from using the Platform in a way that could cause damage (including any infringement in hardware, on which the Platform is operated),
  - 9.1.4. To refrain from covering or forging their identity.
- 9.2. When using the Platform, Clients must not record, process by means of the Platform or otherwise spread by means of the Platform any content infringing the rights of third persons or that is for any reasons illegal, and especially:
  - 9.2.1. Infringing intellectual property rights (namely the trademark rights, industrial design rights, business organization rights, copyright or rights relating to copyrights) or relating to acts of unfair competition,
  - 9.2.2. Encouraging to a crime or another offence or approving of such acting, or otherwise supporting the offender of such activities,
  - 9.2.3. Infringing moral rights of third persons, e.g. including untrue data of a third person that could harm that person,
  - 9.2.4. Including pornographic content or content that is in contradiction with public order or good morals,
  - 9.2.5. Supporting or promoting terroristic or extremist movements or another movement aimed at the suppression of rights and freedoms of persons,
  - 9.2.6. Is in contradiction with the regulations for personal data protection,
  - 9.2.7. Is a business statement and its spreading is not in accordance with the law relating to some services in information society.
- 9.3. The Client bears full responsibility for any content recorded in the Platform in relation to the use of the Platform. The Operator is not obliged to examine the Client's content in any way. It is without prejudice to the Operator's possibility to suspend Client's option of recording other content in the Platform, or to suspend the displaying or erasing of the Client's content breaking legal regulations or the rights of third persons or of the Operator, for the purpose of fulfilment of the Operator's legal duties (especially when the Operator learns that the Client's content in any way breaks the legal regulations). Client has no claims toward the Operator in that relation.

## **10. USER AND PROPERTY RIGHTS TO THE PLATFORM**

- 10.1. The Platform is a copyrighted work pursuant to Act No. 121/2000, on copyright, on rights relating to copyright and on changes of certain acts (the copyright act), as amended (hereinafter referred to as the “**copyright act**”). Based on the Contract, the Operator provides Client with a right to exercise the right to use the Platform (a license) in a manner in which the Platform is available in the given time. The license is granted as non-exclusive, for the period of duration of the Contract (however no longer than for the course of duration of the copyright in the Platform), only for the purpose of using the Platform in accordance with these Terms and Conditions and in a manner corresponding thereto. The license is world-wide (without territorial limitation). The Client is given access to the Platform exclusively by means of a remote access (via a relevant website) and the Client receives no copy of the Platform.
- 10.2. The Client has no right to provide a sub-license to third persons except for Platform access to Users participating in the Client’s activities in the Client’s name and at the Client’s account. The Client is not entitled to assign the license to any third persons.
- 10.3. Fee for the license to the Platform is included in the Subscription Price.
- 10.4. The Client is not entitled to interfere in the Platform or change it in any way, connect it with another piece of work, or include it in a collected work. The Client has no right to make any copies of the Platform.
- 10.5. Client and Operator exclude all statutory licenses or free use for the benefit of the Client that may be excluded by agreement between the parties.
- 10.6. Should any performance be created within Operator’s performance under the Contract, protected by the copyright act or as any other protected intangible property (e.g. within the provision of SLA within Premium Services), such performance becomes a part of the Platform and the conditions of using the Platform apply to such performance, too.
- 10.7. This Article 10 applies analogously to other intangible assets protected by the law (other than copyrighted works) included in the Platform and provided by the Operator.
- 10.8. The Platform includes integration to the services of third parties; the conditions for using these services of third parties are subject to the conditions of the given third party.

## **11. USER AND PROPERTY RIGHTS TO THE CLIENTS’ CONTENT**

- 11.1. Should the Client record in the Platform or otherwise, for the purposes of the fulfilment of the Contract (e.g. for the provision of Premium Services), provide the Client with any protected intangible property (such as the copyright work or artistic performance) (hereinafter referred to as “**Client’s Content**”), by recording the Client’s Content in the Platform, i.e. by giving the Client’s Content to the Operator, the Client grants the Client a non-exclusive license to use the Client’s Content for the course of duration of the Contract (no longer than for the period of duration of the copyright or other rights to the Client’s Content), globally and for the purposes of performance of the Contract and ensuring Platform’s operation, to be used in the extent and in the manner necessary for such use. The Operator is entitled to provide the sub-license to a third person. The Client hereby also grants consent to the Operator to assign the license to a third person. The license for the Client’s Content is provided by the Client free of charge, and

the Client has no right to any remuneration in relation with the provision or use of the Client's Content from the Operator. The Contracting Parties exclude the claim to any additional remuneration for the provision of the license to the Client's Content unless it can be excluded by agreement between the parties.

- 11.2. If necessary for the fulfilment of the Contract, the Operator is entitled to publish, change, process, and connect the Client's Content with other pieces of work, or include it in a collected work, or complete the incomplete Client's Content.
- 11.3. In the case that the content provided by the Client fulfils the features of some other intangible property protected by law, the resulting legal relations between the Client and the Operator are subject to the principles determined in this Article 11, especially with regard to the right to the use of the content by the Operator and to the remuneration for the creation of such product.

## **12. GUARANTEES, RESPONSIBILITY**

- 12.1. The Client hereby declares to be entitled to exercise the rights to the Client's Content at least in an extent needed for the proper fulfilment of these Terms and Conditions and that the use of the Client's Content is not subject to any other consent of any collective administrator or a third person. The Client also guarantees that in relation to the use of the Client's Content the Operator will not be obliged to pay any additional remuneration to any person (or settle another liability). The Client also declares that the provision of the Client's Content does not infringe any rights of third persons. In case that any of the Client's representations prove to be untrue or inaccurate, the Client is obliged, at Operator's request, to compensate the Operator for any damage caused to the Operator in relation to such untrue or inaccurate representation of the Client (including all costs for court and other proceedings). The Client further agrees to gain all rights for the Operator at their own costs under these Terms and Conditions so that the Operator may continue in the proper performance of the Contract. Operator's other possible claims according to legal regulations are not hereby affected.
- 12.2. At their own costs, the Client shall defend the Operator against any claims of third parties applied against the Operator or its clients or business partners in relation to the infringement of intellectual property rights caused by an inaccurate representation of the Client according to this Clause of the Terms and Conditions.
- 12.3. In the maximum extent allowed by the Czech rules of law, the Operator will not be held liable for any damage caused to the Client in relation to the operation of the Platform and the provision of Premium Services. The Operator is especially not obliged to compensate Client for any damage caused:
  - 12.3.1. as a consequence of impossibility to use the Platform;
  - 12.3.2. by modifications to these Terms and Conditions;
  - 12.3.3. by loss, alienation, disclosure, or abuse of Client's access details to their Account;
  - 12.3.4. as a consequence of using the Platform in contradiction with these Terms and Conditions or the rules of law;
  - 12.3.5. as a consequence of using the Platform in a manner which is, by nature, dangerous;
  - 12.3.6. as a consequence of using a service or product provided by a third party;

- 12.3.7. independently on the Operator's will.
- 12.4. The Client hereby acknowledges that the Operator takes adequate effort during the performance of the Contract to ensure the security of information transferred in the Platform. However, the Operator bears no responsibility for the infringement of security of the Platform and transferred information caused independently of the Operator's will in spite of taking adequate effort to secure the information by the Operator.
- 12.5. The Platform is provided "as is". The Client waives all claims from faulty performance of the Operator in relation to the Platform in an extent allowed by the Czech rules of law.
- 12.6. The Client is obliged to adopt all suitable measures to protect their data, namely by making backups in machine-readable formats in intervals common for this activity, however, at least once in a day. The Operator bears no responsibility for the loss of Client's data and their recovery, if such loss could have been prevented by fulfilling the obligations set forth in this provision.

### **13. SUPPORT**

- 13.1. The Client is entitled to contact the Operator for the purpose of settling the functioning issues of the Platform, especially in cases, when the Platform or its functions are unavailable. To contact the Operator in such cases, it is possible to use the following email address: [hello@motionlab.io](mailto:hello@motionlab.io).
- 13.2. The Operator must inform the Client of the result of settling their requests in the same way used by the Client to contact the Operator.

### **14. CONFIDENTIALITY**

- 14.1. The Contracting Parties hereby acknowledge that during the fulfilment of the Contract they may provide each other with information that is confidential. Unless the Contracting Parties explicitly agree otherwise in writing, all information that is or could be part of a business secret of either Contracting Party is understood as confidential, i.e. for instance information about Customers, Customer Data, information about business and marketing procedures and strategies, know-how, contracts with third parties, business partners, employees and internal relations, information about individually arranged conditions of the Contract and about the fulfilment of the Contract, as well as any other information the disclosure of which could cause harm to either Contracting Party (hereinafter referred to as "**Confidential Information**").
- 14.2. Any Confidential Information of either Contracting Party remains to be the exclusive property of the Contracting Party, and the other Contracting Party takes the same amount of effort for the information to remain confidential and for its protection, as if it was its own Confidential Information. Apart from the extent that is needed for cooperation during the fulfilment of the Contract, the Contracting Parties agree to refrain from reproducing the Confidential Information of the other Contracting Party in any way, from disclosing it to any third party or its own employees and representatives except from such employees that need to be acquainted with the Confidential Information in order to fulfil the Contract. The Contracting Parties also agree to refrain from using the Confidential Information of the other Contracting Party otherwise than for the purposes of fulfilment of the Contract.

- 14.3. The provision of this Article is not affected by the termination of the effect of the Contract for any reasons whatsoever, and its effect is terminated after 10 years of termination of the effect of this Contract.

## **15. DURATION AND TERMINATION OF THE CONTRACT**

- 15.1. The Contract is executed for the following period:

15.1.1. If the Demo Access is given, then for the course of duration of the Demo Access arranged in the Contract. If the Client duly pays the Subscription Price by the last day of duration of the Demo Access, duration of the Contract is automatically extended for the period of duration of the given Subscription.

15.1.2. If the Demo Access is not given, then for the period of duration of the respective Subscription.

- 15.2. The duration of the Contract is automatically extended in the case that the Client pays the Subscription Price for the following period by the last day of duration of the current Subscription. In such a case, the duration of the Contract is extended for the period of duration of the new Subscription. If the Subscription Price for the following period is not duly and timely paid, the Contract is automatically terminated.

- 15.3. The Operator is entitled to notify the Client in writing that the Operator does not wish to automatically extend the Contract, no later than 1 (one) month before the end of the current Subscription. In such case, the Contract will not be extended and will end on the last days of the current Subscription, and the Operator will refund the Subscription Price already paid for the following period to the Client, if any, within 1 (one) month of the end of the Contract.

- 15.4. The Operator is entitled to terminate the Contract by a written notice without a notice period in cases when the Client breaches the Contract materially, provided that prior to the termination of the Contract, the Operator informed the Client of such breach by email, and the Client took no remedy within an additional adequate period provided by the Operator that was no shorter than three (3) business days. The material breach of the Contract is (including, but not limited to):

15.4.1. Client's delay with the fulfilment of their obligations under the Contract that lasts longer than two (2) months, including the default in the payment of any amount under the Contract;

15.4.2. breach of the conditions of using the Platform determined in the Contract;

15.4.3. If any of the representations made by the Client in this Contract prove to be untrue, incomplete, or inaccurate, or

15.4.4. breach of obligation to protect Confidential Information.

- 15.5. Either Contracting Party has the right to terminate this Contract by a notice without a notice period if the other Party goes into liquidation or in the case of final and effective adjudication of bankruptcy to the property of the other Contracting Party.

- 15.6. The Contracting Parties exclude the legal options of withdrawal from this Contract and its termination.

- 15.7. To avoid any doubts, the Contracting Parties hereby confirm that the termination or expiry of this Contract also leads to the termination or expiry respectively, of any licenses or other authorizations to use the Platform granted to the Client under this Contract. Upon the termination or expiry of the Contract, the Operator erases all data and Client's Content from the Platform; in this regard, the Provider has no claims whatsoever toward to the Operator.
- 15.8. In the event of termination of the Contract prior to the expiry of the Operator's current Subscription, the procedure set out in 8.4.5 and 8.4.6 of the Terms and Conditions shall apply.

## **16. PERSONAL DATA PROTECTION, DATA PROCESSING AGREEMENT**

- 16.1. The Operator, as the data controller, informs about the processing of Client's (or Authorized Persons') personal data within the Platform's operation in the document "Privacy Policy" available on [www.motionlab.io/privacy-policy/](http://www.motionlab.io/privacy-policy/).
- 16.2. In relation to the personal data of Client's Customers recorded in the Platform by the Client, the Operator acts as the processor of the personal data for the Client. Therefore, the Operator and the Client arrange in this Article the following obligations of the processor relating to the Operator pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council, Article 28, general regulation on the protection of personal data, as amended (hereinafter referred to as "GDPR").
- 16.3. The purpose of processing of Customers' personal data by the Operator is to fulfil the Contract. It specifically concerns the automated processing of personal data for the purposes of operating and allowing to use the Platform and its functions to create personalized videos and other analysis of the success rate of Client's video campaigns at the Customers. The Operator is not authorized to process Customers' personal data, processed by the Operator as the processor, for other purposes than the purposes determined by the Client in the Contract.
- 16.4. The Operator shall process the personal data for the period needed for the fulfilment of the Contract, and unless instructed otherwise according to the paragraph 16.6.7 of these Terms and Conditions, the Operator shall erase all personal data processed by the Operator as the processor for the Client without undue delay after the termination of the fulfilment of the Contract, no later than within 1 (one) month.
- 16.5. The Operator shall process Customer Data for the Client – personal data entered in the Platform by the Client for the purposes of creating personalized videos, the specific extent of which depends on the Client; usually, it concerns the following types of personal data of the stated categories of data subjects:
- 16.5.1. Identification and contact details of Client's Customers;
  - 16.5.2. Data concerning the Customer's purchases from the Client, services provided to the Customer by the Client, information received within their mutual business relations, information concerning Customer's preferences etc.;
  - 16.5.3. Identification and contact details of Users established in the Platform by the Client, information concerning their activities in the Platform;
  - 16.5.4. Other data entered in the Platform by the Client for the purposes of using the Platform.
- These data may fall into the special category of personal data within meaning of Art. 9 of the

GDPR (so-called “sensitive data”).

16.6. When processing the personal data for the Client, the Operator agrees to the following:

- 16.6.1. Process the personal data only based on the instructions given by the Client, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by EU or Member State law to which the Client is subject; in such a case, the Operator shall inform the Client of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
- 16.6.2. Ensure that the persons authorized to process personal data agree to remain confidential or that they are subject to the legal obligation of confidentiality;
- 16.6.3. Adopt all technical and organizational measures to ensure the security level corresponding to the given risk, at least in the extent required by Article 32 of GDPR;
- 16.6.4. Follow the conditions of including another processor (namely the conditions of Article 28(2 and 4) of GDPR, including the prior consent of the Client for this inclusion);
- 16.6.5. Take into consideration the nature of the processing, be of assistance to the Client by means of suitable technical and organizational measures, if possible, for the fulfilment of Client’s obligation to respond to the application for the exercise of rights of the data subject stated in Articles 12-23 of GDPR, i.e. application of the person for whom the Client is the processor;
- 16.6.6. To be of assistance to the Client when providing accord with the obligations in compliance with Articles 32-36 of GDPR, (namely the obligation to secure personal data, report security incidents etc.);
- 16.6.7. According to the Client’s decision, erase all personal data, or, if requested by the Client, return them to the Client after the termination of the fulfilment of the Contract, and erase their existing copies, unless stipulated otherwise in the legislation. In the case of termination of the Contract, the Operator is obliged to proceed according to Clause 16.4 of these Terms and Conditions;
- 16.6.8. Provide Client with all information necessary to prove that the obligations defined in this Article of the Terms and Conditions have been fulfilled, and allow audits, including inspections, performed by the Client or by another auditor assigned by the Client bound to confidentiality, and to be cooperative with respect to these audits; the Client may only carry out an audit in relation to the documents and premises necessary to verify the compliance with this Article of the Terms and Conditions, and will not unreasonably disrupt the business operation of the Operator; costs of the audit are born by the Client;
- 16.6.9. Report to the Client any breach of security of personal data without undue delay after learning so and with regard to the Client being able to duly and timely fulfil their obligation in compliance with Article 33 or 34 of GDPR;
- 16.6.10. Notify the Client immediately of its assumption that the Client’s instruction breaches the legal regulations for the protection of personal data.

- 16.7. The Client grants the Operator a consent to engage other processors (sub-processors) in the processing of personal data under the Contract. The Operator undertakes to inform the Client sufficiently in advance of the intended engagement of another sub-processor and/or of any changes in the sub-processors. The Client may object to the engagement of the sub-processor within 5 (five) working days of the Operator's notification.
- 16.8. The Client hereby also grants consent with the inclusion of the following sub-processors:
- 16.8.1. Microsoft Ireland Operations Limited, One Microsoft Place, Leopardstown, Dublin, Ireland.
- 16.8.2. Adobe Systems Software Ireland Limited, 4-6, Riverwalk Drive, Dublin, Ireland.
- 16.9. The Operator shall process the personal data automatically within the Platform.

## **17. MUTUAL COMMUNICATION**

- 17.1. All notifications between the Contracting Parties relating to the Contract, or such that are made under it, must be made in writing and delivered to the other Contracting Party. The requirement of the written form must be kept even if the notification is made electronically by means of the Account interface or by email to the below-stated address.
- 17.2. Contact details of the Contracting Parties:
- 17.2.1. Operator: e-mail: [hello@motionlab.io](mailto:hello@motionlab.io), delivery address: Operator's registered address.
- 17.2.2. The contact details specified in the Contract or in the Account shall be used for the communication with the Client.
- 17.3. The Contracting Parties further agree that in the case of any changes made to the contact details they must inform the other Contracting Party no later than within three (3) business days. The Client is this way obliged to update the details in the Account.

## **18. COMMON AND FINAL PROVISIONS**

- 18.1. The Operator is entitled to use the performance for the Client under the Contract for its own presentation or as reference.
- 18.2. The Client bears all costs for the means of remote communication incurred to them upon the execution and fulfilment of the Contract.
- 18.3. In case that the contractual penalty is reduced by court, the right to damages is maintained in the amount, in which the damage exceeds the amount determined by court as adequate without any other limitation. The arrangement of a contractual penalty is without prejudice to the right to damages in full amount.
- 18.4. The Operator has the right to amend or change these Terms and Conditions. This amendment and/or change will be published on the Website and information about this amendment and/or change will be sent to each Client to their contact email address specified in the Account. On the day of effectiveness of the new version of the Terms and Conditions, the preceding version of the Terms and Conditions loses effect. Should the Client disagree with the changes, they have the right to terminate the Contract to the day of effectiveness of the new version of the Terms

and Conditions.

- 18.5. Should any of the provisions of these Terms and Conditions be or become null and void and unenforceable, it is without prejudice to the validity and enforceability of other provisions of the Terms and Conditions.
- 18.6. The Client agrees that the Operator has the right to assign the Contract or its part to a third person. The Client has no right to transfer or otherwise encumber their receivables from the Operator without the Operator's prior written consent.
- 18.7. Both Contracting Parties assume the risk of change in the circumstances pursuant to the provisions of Section 1765(2) of the Civil Code.
- 18.8. The Contracting Parties exclude the application of provisions of Section 557 of the Civil Code.
- 18.9. These Terms and Conditions as well as any legal relations established based on these Terms and Conditions and dispute resolution are subject to the rules of law in the Czech Republic. Any disputes occurred in relation to the Contract shall be settled by the District Court for Prague 1, and if the regional court has jurisdiction in the first instance according to legislation, by the Metropolitan Court in Prague.
- 18.10. These Terms and Conditions come into effect on 19<sup>th</sup> June 2023.