



KALEIDOSCOPE XR TERMS OF SERVICE

Version date: January 10th, 2024

We encourage all our users to take the time to review all of the Terms of Service to understand what they're agreeing to. To help with reading the Terms of Service, we've included explanation boxes at the start of each section. These explanation boxes are only for reference purposes. They do not form a legal part of the Terms of Service, nor our contract with you.

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1. CONTRACT FUNDAMENTALS



In this section, we have the basic framework of our agreement – the parties involved, what documents make up the agreement, how the documents work together, and some general principles for interpreting the agreement. It clarifies that this main Terms of Service document, along with any Order Forms and the Privacy Policy, form the complete agreement between you and us.

It also explains that if there are any conflicting terms between those documents, the Order Forms take priority over the Terms of Service, and the Terms of Service take priority over the Privacy Policy. Finally, it sets out some fundamental guidelines for interpreting the agreement, like how to calculate dates and times references.

1. CONTRACT FUNDAMENTALS

1.1. Parties to this Contract. This is a contract between Kaleidoscope XR Inc. and you. To keep things simple, in this contract, we (Kaleidoscope XR Inc.) call ourselves either “**Kaleidoscope XR**”, “**we**”, “**us**”, or “**our**”. The term “**you**” or “**your**” is used to refer to the corporation, organization, or other legal entity listed as the client for our services on our order form, statement of work, or other type of ordering document that references these terms of service and any supplements or change orders to this document (“**Order Form**”).

1.2. How this Contract is Made. By signing an Order Form, you agree to this contract with Kaleidoscope XR Inc., an Alberta corporation. This contract covers the customer’s subscription and use of the Services (defined below).

1.3. Documents that are part of this Contract. Several documents form the entire contract between you and us for your subscription purchase and use of the Services. These documents are:

DOCUMENT	WHAT IT DOES
Order Form	Has the details of your purchase, including your fees and payment terms, the length of your



	subscription, and other important order-related information.
These Terms of Service (“ TOS ”)	Sets out the essential legal and business terms that apply to your subscription
Our privacy policy, which is available at https://www.kaleidoscopexr.ca/privacy-policy	details how we collect, use, and disclose personal information.

1.4. These Are the Only Contract Terms.

1.4.1. This contract consists of the only commercial and legal terms, understandings, and agreements applying to our providing services to you set out in Order Forms, the TOS, and the Privacy Policy (altogether, “**Agreement**”).

1.4.2. The Agreement overrides all prior or coexisting understandings, contracts, negotiations, representations and warranties, or communications, including anything in your purchase order, request for proposal, general terms, purchase order, or similar ordering document, or in any click-wrap or browse-wrap contract of yours or your procurement system.

1.4.3. Excluding Order Forms, terms in business forms, purchase orders or quotes used by either party will not change this Agreement; any documents like these are for administrative purposes only

1.5. Priority of Documents. If there is ever a conflict between the documents in this contract, then the following order of priority applies, but only as needed to clear up the conflict or inconsistency:

1.5.1. the applicable Order Form;

1.5.2. the TOS; and

1.5.3. the Privacy Policy, but only when it relates to personal information.

1.6. Rules of Interpretation for this Contract. These are the rules of interpretation for this Agreement:

1.6.1. every use of the words “including” or “includes” will be interpreted as meaning "including, but not limited to" or "includes, but not limited to", respectively;

1.6.2. periods within which or following which any calculation or payment is to be made or action is to be taken must be calculated by excluding the day on which the period begins and including the day on which the period ends; and

1.6.3. We divided this Agreement into sections and subsections and added headings to make it easier to read. But this does not affect the meaning or interpretation of the Agreement. We also included explanatory notes at the beginning of each section to make this Agreement easier to understand. But the explanations are used for convenience and reference. They do not form a part of the TOS.

1.7. Changes to the Agreement. Any changes to this Agreement must be in writing and signed by each party's authorized representatives.

2. DEFINITIONS



This section provides definitions for key terms used throughout the Terms of Service. Defining important terms upfront aims to provide clarity and prevent confusion. This section identifies capitalized terms that have specific meanings in the context of our agreement. For example, it defines what we mean by "Services", "Subscription Term", "Order Form", and other important terms. Having clear definitions ensures you and we share the same understanding of terms integral to the agreement.

2. DEFINITIONS

2.1. Capitalized terms not defined elsewhere in these TOS have the meanings given to them in the table below:

Term	Definition
Affiliate	Any entity controlled, controlling or under common control with a party, where control means at least 50% ownership or power to direct an entity's management.



Confidential Information	<p>All information disclosed by or on behalf of one party (as the discloser) to the other party (as the recipient) under this Agreement, in any form, which (a) the discloser identifies to the recipient as "confidential" or "proprietary" or (b) should be reasonably understood as confidential or proprietary due to its nature and the circumstances of its disclosure.</p> <p>Our Confidential Information includes technical or performance information about the Platform and our pricing information.</p>
Documentation	<p>Our standard usage guides, videos, and policies for the Software, which we may update at times, are available on our website or through the Portal.</p>
Force Majeure	<p>An unforeseen event beyond a party's reasonable control, such as a strike, blockade, war, pandemic, act of terrorism, riot, third-party Internet or utility failure, refusal of government license or natural disaster, where the affected party takes reasonable and customary measures to avoid or mitigate such event's effects.</p>
Headset	<p>A virtual or extended reality headset used to access and use the Platform.</p>
Person	<p>A natural person or any legal, commercial, or governmental entity, including a corporation, general partnership, joint venture, limited partnership, limited liability company, trust, business association, group acting in concert, or any Person acting in a representative capacity.</p>
Platform	<p>Our proprietary multi-user training platform identified in the relevant Order Form and modified from time to time. The Platform includes the Software, Modules, Updates, the Portal, and the Documentation, but not third-party products or services.</p>
Portal	<p>The password-protected website we make available to you and your Champions and Teachers to use for, among other things, the administration or configuration of the Services.</p>
Professional Services	<p>Implementation, configuration, training, or other onboarding services set out in an Order Form.</p>
Software	<p>Any Kaleidoscope XR-branded or owned software, scripts, or other code provided with the Services for use with the Platform.</p>
Subscription Term	<p>The period for your use of the Services set out in an Order Form.</p>
Support Services	<p>Technical support services for the Platform we provide under our standard practices described in the Documentation.</p>
Your Data	<p>The data, content or other materials posted, uploaded, or inputted by or on behalf of you or Users as part of using the Services.</p>

3. THE SERVICES



The goal of this section is to set clear expectations about the services you will receive under our agreement, our respective obligations in delivering and supporting those services, and important conditions around providing the services.

This section also describes important information related to how we will provide the services, including:

- It outlines the main services – access to our software platform, professional services, and support services.*
- An explanation that we provide the platform and software on a subscription basis.*
- Requirements you must meet to enable us to provide the serviced.*
- Our responsibilities regarding maintenance and updates for the platform.*
- Limitations around our ability to guarantee uninterrupted service.*
- Terms related to any additional professional services or modules you purchase.*
- System requirements and your responsibilities regarding equipment.*

3. THE SERVICES

3.1. The Services We Will Provide. Subject to this Agreement, we will provide you during the term of this Agreement, only for your internal operations, the following (together, the "**Services**"):

3.1.1.the non-transferable right to use the Platform described in this Agreement;

3.1.2.any Professional Services agreed to by both parties; and

3.1.3.the Support Services.

3.2. Subscription for the Services. Unless otherwise provided in the applicable Order Form or Documentation, the Services, which includes licenses to the Platform and the Software, are purchased as subscriptions.

3.3. How We Will Provide the Services.



3.3.1. We will provide the Services to you under this Agreement and in compliance with those laws applicable to us providing those Services to its customers generally.

3.3.2. We will provide the Services with reasonable skill and care.

3.3.3. We are responsible for the performance of our employees, contractors, and service providers and their compliance with our obligations under this Agreement.

3.3.4. We will use reasonable efforts to maintain the availability of the Platform but don't guarantee 100% availability.

3.3.5. Your purchases for Services don't depend on us delivering any future functionality or features, nor do they depend on any oral or written public comments made by us for future functionality or features.

3.3.6. If we agree to provide services outside the scope of the Services, then we will charge you for these additional services on a time and materials basis. We need only provide more services if you have first approved our quotation in writing or signed an Order Form for those additional services.

3.3.7. You must take all reasonable steps to enable us to provide the Services and perform its other obligations under this Agreement. If you don't do this or otherwise prevent or delay us from performing our obligations under this Agreement, we will not breach this Agreement and won't be liable to you for the delay or failure to perform.

3.4. Professional Services.

3.4.1. We will perform Professional Services as described in an Order Form or a statement of work signed by the parties, which may identify more terms or milestones for the Professional Services.

3.4.2. We will perform Professional Services professionally and skillfully.

3.4.3. You will promptly provide all reasonably required information, assistance, materials, and resources as necessary to enable us to perform Professional Services.

3.5. Support Services. We will use commercially reasonable efforts to provide those Support Services described in the Documentation.

3.6. Maintenance.



3.6.1. We will use commercially reasonable efforts to tell your Champion by email about any planned Platform unavailability, including for scheduled maintenance, at least 12 hours before. But we cannot guarantee that we will always give planned Platform availability notice at least 12 hours before. The notice will include the planned date, time, and duration we expect the Platform to be unavailable when possible.

3.6.2. We will use commercially reasonable efforts to promptly tell your Champion about any unexpected Platform outage or unavailability. We could send this notice by email or post it to the Portal. Examples of causes of unexpected Platform unavailability include Force Majeure events, misuse of the Platform by you or Users, or hardware, software, or network issues.

3.6.3. Your Champion is responsible for informing other Users of any planned Platform unavailability.

3.7. Updates.

3.7.1. At no additional costs, we will provide standard generally available bug fixes, corrections, functionality improvements, or enhancements to parts of the Platform and the Software ("**Updates**").

3.7.2. We generally will push Updates out to devices and Headsets. You permit us to upload and install Updates on you and your Users' Headsets and other equipment used to access the Platform.

3.7.3. Failure to install, or have installed, Updates could result in impaired functionality of the Platform, security vulnerabilities, or an inability for us to provide you with Support Services.

3.8. Modules. Under an Order Form signed by the parties, we may provide you with optional additional stand-alone modules, parts, features, or functionalities ("**Module**"). Modules have separate pricing from our standard Services. We will list all fees, charges, payments, and other terms for Modules in the applicable Order Form.

3.9. System Requirements.

3.9.1. Your use of the Services and Software requires one or more compatible devices, Internet access, and specific third-party software, and you may have to obtain updates or upgrades at times for Software or third-party software, which may result in additional costs to you.

3.9.2. As between you and us, you are responsible for:

3.9.2.1. buying or supplying all Headsets or other equipment needed for your users to use the Platform;

3.9.2.2. any fees that may apply to your access to or use of the Services and Software, including fees for hardware, software, Internet access, or text messages; and

3.9.2.3. maintaining all Headsets in good working condition, including the operation, use, maintenance, support, repair, replacement, and anything else to do with you and Users' Headsets and other equipment used to access the Platform.

3.9.3. Because using the Services and the Platform involves hardware, software, and Internet access, all of which are outside our control, your ability to access and use the Services and Software may be affected.

3.9.4. You agree that we may stop the availability or compatibility of the Services or Software on a particular operating system, device, or Platform.

3.10. Open-Source Software. The Platform may include code licensed to you under third-party license agreements, including open-source software provided with the Platform. Open-source software included in the Platform may be listed in the Documentation or by us upon request. If you choose to use any open-source software on a stand-alone basis, that use is subject to the applicable open-source license and not this Agreement.

4. FEES AND PAYMENTS



This section covers your financial obligations under the agreement. The goal of this section is to provide clear guidelines around fees, invoicing, payment terms and timelines, tax obligations, and the process if payments become delinquent. We aim to avoid any surprises by spelling out financial terms upfront.

4. FEES AND PAYMENTS

4.1. Fees. You must pay all fees described in all Order Forms according to the payment terms set out in the applicable Order Form and any fees agreed by the parties in writing for more services. All fees and expenses are non-refundable except as stated in this Agreement.

4.2. Taxes. You are responsible for any sales, use, GST, value-added, withholding, or similar taxes or levies that apply to its Order Forms, whether domestic or foreign (“**Taxes**”), other than for our income or payroll. Fees and expenses are exclusive of Taxes. You must pay all Taxes on top of, and at the same time, as all fees.

4.3. Order Forms and Invoices. Unless an Order Form or invoice from us says otherwise, you must pay each invoice in full within 30 days after the invoice date.

4.4. No Deductions. You must make all payments in full, with no deduction, set-off, withholding or counterclaim (except for any deduction or withholding required by law). If applicable law requires you to make a deduction or withholding, you must increase the payment amount so the net amount we receive is the same as the amount we would have received but for the legally required deduction or withholding.

4.5. Late Payments. If you don't pay all undisputed amounts owing by you in full on the due date for payment, then without limiting one or more of our other rights or remedies, we may:

4.5.1. suspend your account and access to all or part of the Services until we receive full payment; or

4.5.2. charge interest on the overdue amount, calculated daily at an annual rate of 1.5% per month (18% per year) or the maximum amount allowed by law, whichever is less.

4.6. Payment Disputes. If you dispute an invoice in good faith, you must tell us within 15 days of receipt. The parties will seek to resolve the dispute over a 15-day discussion period. You aren't required to pay disputed amounts during the discussion period but must pay all undisputed amounts when due. After the discussion period, either party may pursue any remedies.

5. LENGTH OF CONTRACT AND SUBSCRIPTION PERIODS



The goal of this section is to provide clear expectations around the length of your subscription(s), when/how subscriptions will renew, and the required process to cancel renewal of a subscription term. We aim to outline the term,



auto-renewal, termination, and cancellation provisions related to your ongoing access to our software.

5. LENGTH OF CONTRACT AND SUBSCRIPTION PERIODS

5.1. Term of this Agreement. This Agreement starts on the last signature date of the first Order Form and continues until the earlier of:

5.1.1. this Agreement is terminated under its terms; and

5.1.2. the last outstanding Order Form ends.

If no Subscription Term is in effect, either party may terminate this Agreement for any or no reason with notice to the other party.

5.2. Order Form and Subscription Terms.

5.2.1. The initial Subscription Term begins when we first give you access to the Platform and continues for one year ("**First Subscription Term**").

5.2.2. The applicable Order Form will state whether the First Subscription Term (and your subscription to access and use the Services) ends either: (a) at the end of that initial 1-year period, or (ii) automatically renews and continues for consecutive 1-year periods (each a "**Renewal Term**").

5.2.3. If your subscription to the Services doesn't renew at the end of the First Subscription Term, then you can continue using the Services by entering into a new Order Form with us for a new Subscription Term. Pricing in that new Order Form will be at our then-current list price.

5.2.4. A party may terminate the Order Form at the end of the First Subscription Term or a Renewal Term by giving its termination notice at least 60 days before the end of that Order Form's First Subscription Term or Renewal Term.

5.2.5. Unless specified in the applicable Order Form, pricing for the Services in a Renewal Term will be at our list price in effect at the start of that Renewal Term.

5.2.6. When an Order Form terminates, your access to the applicable Services will stop. An Order Form's termination won't end this Agreement or other outstanding Order Forms. Termination of this Agreement, however, will immediately terminate all outstanding Order Forms.

6. YOUR RIGHTS TO USE THE SERVICES



This is the part of the terms of use covering the licenses granted to you to use our software and services. It states we grant you a limited, non-transferable license to access and use the software platform and documentation during the subscription term, solely for your internal business purposes. We also grant a limited license to download and use the software as needed to access the platform. The section clarifies we retain ownership and rights to the platform, software, and all related intellectual property.

6. YOUR RIGHTS TO USE THE SERVICES

6.1. License to the Platform. As long as you follow this Agreement, the Documentation, and Order Forms, we grant you a limited, non-exclusive, non-sublicensable, revocable, non-transferable license during the Subscription Term to access and use the Platform only for you and your Users' internal use.

6.2. Software License. As long as you comply with this Agreement, the Documentation, and Order Forms, we grant you a limited, non-exclusive, non-sublicensable, revocable, non-transferable license during the applicable Subscription Term to download, install, and use the Software in object code format on a compatible device for your internal use, and only to the extent needed for your Users to access and use the Services.

6.3. Documentation License. As long as you follow this Agreement, the Documentation, and Order Forms, we grant you a limited, non-exclusive, non-sublicensable, revocable, non-transferable license during the applicable Subscription Term to use and copy the Documentation as part of your allowed use of the Services.

6.4. Our Ownership of the Services.

- 6.4.1. You acknowledge that, despite anything contrary in this Agreement, we provide the Services to you on a subscription basis, with the Platform and Documentation provided under a limited license. None of the Services, including the Platform and our Software, are sold to you.
- 6.4.2. You also acknowledge that you have neither obtained nor will obtain any ownership or other right, title, or interest in or to the Services, the Platform, Documentation, or any intellectual property rights relating to any of them.
- 6.4.3. Any copies of the Software will remain our exclusive property.
- 6.4.4. We own all rights, title, and interest in all upgrades, enhancements, new releases, changes, and modifications to the Services or the Platform, including any custom software development, all ideas, architecture, algorithms, models, processes, techniques, user interfaces, database design and architecture, and “know-how” embodying the Services, the Platform, and the Software. In no way will you be considered to receive, have, or be granted title to all or any part of the Services, the Platform, or Documentation, all title to which vests exclusively in us.

7. USERS AND ACCOUNTS



Section 7 addresses the types of user accounts available and permitted use of the services. It explains there are 3 account types – Champion, Teacher, and Student. It states Teacher Accounts are for assigned individuals only, cannot be shared, and require notice and approval to transfer to another user. The section also clarifies you are responsible for your users' access and compliance with the terms of service.

7. USERS AND ACCOUNTS

7.1. Types of Users. Three types of individuals can access and use the Services under your subscription: 1) Champions, 2) Teachers, and 3) Students.



A “**Champion**” is an individual who is an identified employee, contractor, or agent of yours whom you designate to manage the Services on your behalf, including communicating with Us for any support or billing issues and having access to the Platform’s account manager-level features and tools.

A “**Teacher**” is an individual who is an identified employee, contractor, or agent of yours whom you designate to have a Teacher Account to access the Platform’s instructor-level features and tools.

A “**Student**” is an individual invited to use the Platform's student or trainee features. Students can access those limited features without Accounts.

7.2. Account Limits.

7.2.1. Definitions.

“**Account**” means an account, credentials, and correlating access to the Services under this Agreement.

“**Champion Account**” means an Account with access rights to use the Champion-level features and functions of the Platform.

“**Teacher Account**” means an Account with access rights to use the instructor-level features and functions of the Platform.

7.3. Limits in the Number of Accounts You Can Have.

7.3.1. Unless otherwise listed in an Order Form, you are limited to one Champion Account.

7.3.2. There are no limits on the number of Students that can access and use the Platform.

7.3.3. You are limited to the number of Teacher Accounts you have bought licenses for. This is detailed in Section 7.5.

7.4. Security of Account Credentials. You will make sure your Champions and Teachers understand that they must keep their Account credentials secure and confidential and must not share their Account credentials with anyone.

7.5. Special Terms for Teacher Accounts. *Please read this section carefully. It has vital information about who can use Teacher Accounts.*



7.5.1. The number of individuals you may give access to Teacher Accounts is limited to the number of Teacher Accounts you have bought a license subscription for under one or more Order Forms.

7.5.2. Each Teacher Account needs to be assigned to a specific individual and is personal to them. You can only have one individual assigned to a Teacher Account.

7.5.3. You will give us the names and work emails of the individuals assigned Teacher Accounts.

7.5.4. Unless we approve, Teacher Accounts can't, and must not, be shared.

7.5.5. Teacher Accounts can't be transferred (e.g., reassigned) to a different individual unless:

7.5.5.1. you need to replace the Teacher Account user because of a change in their employment or role within the organization; or

7.5.5.2. you have our approval.

7.5.6. You must give us at least two business days' notice before you transfer a Teacher Account to a different individual. Once you have made such a transfer, you can only make another change in the designated individuals using any Teacher Accounts 30 days later.

7.5.7. Things happen, and circumstances change. Please get in touch with us if something happens and you need to do something with your Teacher Accounts not otherwise allowed by this Agreement. We don't make any promises or guarantees we will approve any deviation from this Agreement. Still, we will try to accommodate reasonable requests.

7.5.8. If you exceed the Account limits allowed under Order Forms, including the number of individuals having access to use Teacher Accounts, then one of the following will happen:

7.5.8.1. you will either (a) sign a new Order Form to buy licenses for the other unauthorized individuals using Teacher Accounts, or (b) pay an invoice for excess usage; or

7.5.8.2. despite anything else in this Agreement, including Section **Error! Reference source not found.**, we may immediately terminate all access to the Services and terminate this Agreement.

7.6. Use of the Services; User Responsibility.

7.6.1. You will, and you will, cause Users to abide by and ensure compliance with this Agreement. You are responsible for your and your Users' access to and use of the Services and the Platform.

7.6.2. You are responsible for the activities of all Users, including making sure all Users will comply with the terms of this Agreement and any applicable Kaleidoscope XR policies.

8. ACCEPTABLE USE



This section prohibits certain behaviors when using the services. It states users must not, among other things, use the services for any illegal or harmful purposes, violate laws or rights, defeat security measures, reverse engineer the software, build a competitive product, or share login credentials. It also prohibits uploading or sharing content that is unlawful, infringing, harmful, or violates privacy rights. You are responsible for violations by users you allow access.

8. ACCEPTABLE USE

8.1. Unacceptable Behaviour. You must not and won't let any Users:

- 8.1.1. use the Services in any way or for any purpose that violates any law or regulation, or any infringes, violates, or misappropriates the contract, intellectual property, privacy, personality rights, or other rights of any Person, including uploading, displaying, playing, or using any media files owned by others without their express permission;
- 8.1.2. change, or try to change, the tracking functionality on the Platform, including any of Software, or disable, change, or interfere with any device manager software in a way not permitted through the regular use of that software;
- 8.1.3. remove, change, or obscure any proprietary or other notices in the Platform;
- 8.1.4. do anything to get around any usage or volume limits applicable to the Services or the Platform, including letting individuals share login credentials;



8.1.5.do anything to, or try to, defeat, remove, or otherwise get around any security, authentication, access, or protection mechanisms for some or all of the Platform;

8.1.6.access all or any part of the Services to build a product or service that competes with the Services;

8.1.7.except as permitted by applicable law, which can't be excluded:

8.1.7.1. try to copy, change, duplicate, create improvements or derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or part of the Platform;

8.1.7.2. try to de-compile, reverse compile, disassemble, reverse engineer, or otherwise reduce to human readable form all or any part of the Platform;

8.1.8.access all or any part of the Services to build a product or service that competes with the Services;

8.1.9.commercially exploit the Services or make them available to anyone except your Users;

8.1.10. try to obtain, or help anyone else obtain, access to the Services other than as provided for in this Agreement

8.1.11. use the Services in any way that causes damage or injury to any Person or property.

8.2. Unacceptable Content. You must not and won't let any Users use the Services to access, create, post, upload, store, distribute, or use any content or materials that in our reasonable discretion:

8.2.1.is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive, helps with illegal activity, depicts sexually explicit images, promotes unlawful violence, or is discriminatory based on race, gender, colour, religious belief, sexual orientation, or disability;

8.2.2.has any personal information or protected health information subject to any health privacy regulation or any other applicable law governing the processing, use, or disclosure of protected health information, including the Alberta Health Information Act or the United States Health Insurance Portability and Accountability Act;

8.2.3.is used to impersonate any Person, including any Kaleidoscope XR staff;

8.2.4.infringes Kaleidoscope XR's or another Person's intellectual property or other rights, including any copyright, trademark, patent, trade secret, moral rights, privacy rights of publicity, or any other intellectual property right or proprietary or contractual right;

8.2.5.has viruses, bots, worms, scripting exploits, or similar materials; or

8.2.6.encourages illegal or tortious conduct or behaviour that is otherwise inappropriate.

8.3. Violations.

8.3.1.You acknowledge that you remain liable for the acts and omissions of any Persons you allow, enable, or otherwise give access to the Services or the Platform, whether or not we expressly allow this access.

8.3.2.We assume no responsibility or liability for violations of this Agreement by Users or any other Person you allow, direct, or enable to access the Services or the Platform.

9. HEADSETS AND OTHER DEVICES



This section addresses terms related to virtual reality headsets and devices. It states we will configure and install the software on headsets unless otherwise agreed. It requires compliance with health and safety instructions for headset use. The section clarifies you are responsible for procuring compatible devices, maintaining devices, and ensuring users follow safety guidelines. It also states we may provide support services to help with device configuration if needed.

9. HEADSETS AND OTHER DEVICES

9.1. Headset Configuration and the Software.

9.1.1.Unless set out in an Order Form, we will configure all your Headsets using the Software, including the first installation of the Software. These services are Professional Services.

9.1.2.All details and terms for shipping and receiving Headsets will be described in the applicable Order Form, the Documentation, or our communications.

9.1.3. We will only ship Headsets to your head office or other designated address you give to us.

9.1.4. If we aren't providing these configuration and installation Professional Services, we will provide Support Services to your Champion to help them with the configuration and installation of the Software.

9.2. Health and Safety. There are important health and safety warnings and instructions for using Headsets you and your Users must read before first using the Platform. These are in the Documentation, in the Headset manufacturer's labels and documentation included with a Headset, and on the Meta website, which currently includes this web page <https://www.meta.com/ca/legal/quest/health-and-safety-warnings/>.

9.3. Warning. Failure to follow the health and safety warnings and instructions may result in damage to Headsets or accessories and may increase the risk of personal injury, property damage, discomfort, or other potential hazards.

9.4. You are Responsible for Users. As between you and us, you are responsible and liable for any use of your Headsets, including by your Users. You will ensure anyone using your Headsets will read the health and safety warnings and instructions before using them, review any updates to those warnings or instructions, and comply with those warnings and instructions.

10. YOUR DATA AND INTELLECTUAL PROPERTY



This section addresses data ownership and intellectual property. It states you retain ownership of your data, while granting us a license to access and use it to provide services under the agreement. The section also grants us a license to use aggregated, de-identified data from your usage for analytics and research purposes. It clarifies you are responsible for ensuring your data does not infringe rights or violate laws. The section also confirms our ownership of the platform, software, and all related intellectual property.



10. YOUR DATA AND INTELLECTUAL PROPERTY

10.1. You Own Your Data. As between you and us, you and your licensors own all intellectual property rights in Your Data.

10.2. Our License to Your Data. You grant us a worldwide, non-exclusive, royalty-free license during the Subscription Term to access and use Your Data and any other information provided by you:

- 10.2.1. to provide you with the Services under this Agreement and as required to perform our obligations under this Agreement;
- 10.2.2. under our Privacy Policy;
- 10.2.3. as authorized or instructed by you;
- 10.2.4. as permitted or required by law.

In each case, we may sublicense the rights granted in this section to its agents and contractors to the extent necessary to enable Us to perform and improve the Services. You represent and warrant that you have the right to grant the license in Section 10.2 and that our use of Your Data under this Agreement won't infringe anyone's intellectual property or privacy rights.

10.3. You Are Responsible and Liable for Your Data. You and your Users are solely responsible for Your Data and any other content or materials you or they submit, upload, manage, or provide via the Services. We will not be responsible for the use or misuse of any content by you, Users, or any unauthorized use of Your Data by anyone else (other than our personnel). We reserve the right to exclude or remove any of Your Data we, in our sole discretion, determine to be not allowed under this Agreement.

10.4. License to Deidentified Aggregate Data. You grant a non-exclusive, worldwide, royalty-free right for us and for us to allow our service providers to process, use, and adapt Your Data for the limited purposes of: (1) providing the Services to you, and (2) generating technical, statistical, and other aggregate data derived from Your Data and your use of the Hosted Services ("Deidentified Aggregate Data") for our business purposes, including supporting and improving our products and services. We will only generate Deidentified Aggregate Data in a way that doesn't identify you or Users.

10.5. Our Right to Investigate Use. We may investigate any complaints and violations that come to our attention and may take any action, in our sole discretion, including issuing warnings, suspending access to the Services or the Platform, removing applicable data or other content, suspending or terminating Accounts, or taking other reasonable actions in our sole discretion.

10.6. Security of Your Data.

10.6.1. We will use commercially reasonable efforts to maintain the technical, physical, and organizational measures described in the Privacy Policy to protect and preserve the security and integrity of Your Data and to protect against unauthorized disclosure or access to Your Data.

10.6.2. We will tell you about any material failure of its safety and security procedures or any security breach related to Your Data.

11. THIRD-PARTY STUFF



This section addresses the use of third-party products and services with our platform. It explains you may choose to use or enable third-party offerings that plug into our platform, but those are subject to separate agreements directly between you and the third party.

If you do enable third-party integrations, we may share your data with them solely to allow their product to work with our platform. However, we are not responsible for how third parties handle your data or for the functionality of any third-party products or services you choose to use.

The section disclaims all liability related to third parties and clarifies you are responsible for reviewing their agreements and privacy practices.

11. THIRD-PARTY STUFF

11.1. You (including Users) may choose to use or get other third-party products or services to use with the Platform. Your receipt or use of any third-party products or services (and the third parties' use of any of Your Data) is subject to a separate agreement between you and the third-party provider.

11.2. If you enable or use third-party products or services with the Platform, we will let the third-party providers access or use Your Data as required to interoperate their products and services. This may

include transmitting, transferring, changing, deleting, or storing Your Data on systems belonging to third-party providers or others.

11.3. Any third-party provider's use of Your Data is subject to the applicable agreement between you and such third-party provider. You will carefully review the agreement between you and the third-party provider, as provided by the applicable third-party provider.

11.4. We aren't responsible for any access to or use of Your Data by third-party providers or their products or services or for the security or privacy practices of any third-party provider or its products or services. You are solely responsible for your decision to permit any third-party provider or third-party product or service to use Your Data. **We disclaim all liability and responsibility for any third-party products or services (whether support, availability, security or otherwise) or the acts or omissions of any third-party providers or vendors.**

12. ENDING THIS AGREEMENT



This section includes terms for ending or terminating the agreement. It states either party can terminate for a material breach or insolvency of the other party. It explains termination impacts any outstanding Order Forms and requires you to stop using the services and pay any unpaid fees. The section also allows us to suspend access to the services instead of terminating if you breach the agreement. Finally, it spells out the effects of termination, including ending license grants and our obligation to provide services.

12. ENDING THIS AGREEMENT

12.1. Termination of this Agreement.

12.1.1. Either party may terminate this Agreement immediately by giving notice to the other party if the other party materially breaches this Agreement unless, where the breach is capable of remedy, the other party remedies the breach within 30 days after receiving notice to do so. This cure period won't



apply to breaches relating to the license grants, confidentiality provisions, or any outstanding amounts over 10 days past due. In the event of early termination permitted by this Agreement, you and Users will immediately stop using the Services, and you will pay any amounts still owing under this Agreement.

12.1.2. Either party may terminate this Agreement if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment to benefit creditors and that proceeding is not dismissed within 60 days.

12.1.3. In the event of a termination of this Agreement for cause under Section 12.1.1, we will refund any amounts prepaid for the Services on a prorated basis if we are the breaching party; and (ii) there will be no refund of any fees paid to us if you are the breaching party.

12.2. Suspension. If you breach this Agreement, rather than terminate this Agreement, we may suspend or restrict access to the Services until you correct the breach.

12.3. What Happens When this Agreement Terminates. Upon termination of this Agreement:

12.3.1. you must pay all accrued and outstanding amounts owing to us;

12.3.2. all non-perpetual licenses and use rights granted by a party end;

12.3.3. our duty to provide any further Services to you under this Agreement ends, except for those services this Agreement explains are to be provided following termination;

12.3.4. we will delete all Your Data stored on our servers within 30 days;

12.3.5. all confidential information kept under a recipient's retention policies will still be subject to this Agreement's confidentiality obligations; and

12.3.6. any part of this Agreement which, by its nature, should survive termination will continue in force.

13. MUTUAL CONFIDENTIALITY OBLIGATIONS



This section establishes the mutual confidentiality obligations between the parties. Confidential information is broadly defined as technical, business, or pricing information disclosed by one party to the other.

Confidential information disclosed by one party to the other must be protected from unauthorized use and disclosure. The receiving party can only use the confidential information to fulfil its duties under the agreement and must exercise reasonable security measures.

The section allows for limited disclosure to authorized personnel and for compliance with legal requirements.

Lastly, it states breaches may result in the harmed party seeking equitable relief.

13. MUTUAL CONFIDENTIALITY OBLIGATIONS

13.1. **Use and Protection.** As the recipient, each party will:

- 13.1.1. use Confidential Information only to fulfill its obligations and exercise its rights under this Agreement;
- 13.1.2. not disclose Confidential Information to third parties without the discloser's prior approval, except as permitted in this Agreement; and
- 13.1.3. protect Confidential Information using at least the same precautions the recipient uses for its Confidential Information and no less than a reasonable standard of care.

13.2. **Permitted Disclosures.** The recipient may disclose Confidential Information to its employees, agents, contractors and other representatives legitimately needing to know (including, for us, the subcontractors permitted under this Agreement), provided it remains responsible for their compliance with this Section 0 and they are bound to confidentiality obligations no less protective than this Section 0.

13.3. **Exclusions.** These confidentiality obligations don't apply to information that the recipient can demonstrate:

- 13.3.1. is or becomes public knowledge through no fault of the recipient;
- 13.3.2. it rightfully knew or had, without confidentiality restrictions, before receipt from the discloser;
- 13.3.3. it rightfully received from a third party without confidentiality restrictions; or
- 13.3.4. it independently developed without using or referencing Confidential Information.

13.4. Remedies. Breach of Section 0 may cause substantial harm for which monetary damages are an insufficient remedy. After a breach of Section 0, the discloser has the right to seek appropriate equitable relief, including an injunction, on top of other remedies.

13.5. Required Disclosures. The recipient may disclose Confidential Information (including Your Data) as applicable law requires. If permitted by law, the recipient will give the discloser reasonable notice of the required disclosure and reasonably cooperate, at the discloser's expense, to obtain confidential treatment for the Confidential Information.

OTHER IMPORTANT TERMS



This section covers additional miscellaneous important provisions. Among other things this section addresses:

- *Both parties represent compliance with export regulations.*
- *We may reference the customer's name and logo in marketing and sales materials. We may also issue a press release announcing the customer relationship subject to approval of content.*
- *Any feedback provided about our software and service services may be used to make improvements at the provider's discretion.*
- *Access to trials or beta versions of services is provided "as-is" without warranties or conditions.*

14. OTHER IMPORTANT TERMS

14.1. Your Cybersecurity Obligations.



14.1.1. We may introduce security features such as multi-factor authentication to make your accounts more secure. We may require you to adopt some of these features. When we make the use optional, you are responsible for any consequences of not using those features, although their use is strongly encouraged.

14.1.2. You must adopt and actively maintain security arrangements, including physical security, password and encryption tools, use of reputable antivirus software and use of other reasonable security measures we specify.

14.2. Your Acts or Omissions. If performing our obligations under this Agreement is prevented or delayed by any act or omission of yours or your Champions, agents, subcontractors, consultants, or employees, then we won't be considered in breach of its obligations under this Agreement. We will also not otherwise be liable for any costs, charges or losses sustained or incurred by you.

14.3. Export Controls. Each party (a) will follow all export and import laws in performing this Agreement and (b) represents and warrants it is not listed on any Canadian or U.S. government list of prohibited or restricted parties or located in (or a national of) a country subject to a Canadian or U.S. government embargo or designated by the Canadian or U.S. governments as a "terrorist supporting" country.

14.4. Marketing Permissions.

14.4.1. We may use your name and logo on our website, in marketing materials, and discussions with potential new clients. We may also refer to you as one of our clients and broadly describe our work for you, including on our website, in submissions to directories, in marketing materials, and in discussions with potential new clients. This right will survive the termination of this Agreement. Please let us know if you'd prefer that we don't use your name and logo.

14.4.2. You agree that we may put out a press release naming you as our client and describing your intended use of our services and the benefits you expect from us. The content of that press release will be subject to your approval.

14.5. Feedback. If you provide us with feedback or suggestions about the Platform or our marketing, promotion, or provision of our services, we may use all feedback or suggestions any way and without compensation. You grant us a worldwide, perpetual, irrevocable, royalty-free license to use, copy, display, distribute, make, and incorporate into our services any suggestion, enhancement request, recommendation, correction, or other feedback made by you or your Users relating to the Platform or our marketing, promotion, or provision of our services, and waive any moral rights you may have in them.

14.6. Force Majeure. Neither party is liable for a delay or failure to perform this Agreement due to a Force Majeure. If a Force Majeure materially adversely affects the Services for 15 or more consecutive days, either party may terminate the affected Order Forms upon notice to the other, and we will refund you any prepaid, unused fees for the terminated part of the Subscription Term. This Section 14.6 doesn't limit your obligations to pay the fees owed.

14.7. Trials and Betas. We may offer optional access to certain features and functions of the Platform on a free, trial, beta or early access basis (“**Trials and Betas**”). Trials and Betas are permitted only for your internal evaluation during the period specified by us (or, if not designated, 30 days). Either party may terminate your use of Trials and Betas at any time. Trials and Betas may be inoperable, incomplete or include features never released. **All Trials and Betas are provided "as-is," without indemnification, support, warranty, conditions, or liability or rights to damages of any kind, expressed or implied, unless such exclusion of liability is not enforceable under law, in which case our liability will not exceed USD\$100.00.**

15. WARRANTIES AND DISCLAIMERS



The goal of Section 15 is to be clear about software warranties and disclaim any other warranties. Here's what it covers:

- Both parties promise they have the legal right to enter into the agreement.*
- We warrant the software will function substantially as described in its documentation.*
- No other express or implied warranties are provided.*

The services and platform are offered “as-is” without warranties.

We specifically disclaim any implied warranties of merchantability, fitness for a purpose, or non-infringement.

- You warrant you and your users have the legal right to share their data with us.*



15. WARRANTIES AND DISCLAIMERS

15.1. **Mutual Warranties.** Each party represents and warrants that:

15.1.1. it has the legal authority to enter into this Agreement, and

15.1.2. received all approvals it needs to execute, deliver, and perform this Agreement.

15.2. **Our Limited Warranty.** When used as allowed under this Agreement, we warrant that the Platform will perform substantially in conformity with the Documentation. Your sole remedy for any breach of this warranty is for us to correct the Platform to make them substantially conform to the Documentation.

15.3. **Your Limited Warranties.** You represent and warrant that:

15.3.1. all Your Data disclosed or transferred to us will be collected and disclosed in compliance with all laws; and

15.3.2. none of Your Data will violate the rights of any Person.

15.4. **Mutual Disclaimer of Warranties.** Except as expressly set out in this Agreement, neither party makes, and disclaims, all warranty, condition, guarantee or undertaking of any kind, whether express, implied, statutory, or otherwise. Each party won't be liable for any implied warranties or conditions, including any implied warranty or condition of merchantability, fitness for a particular purpose, title, or non-infringement.

15.5. **Services Disclaimer.**

15.5.1. Except for the express warranties for the Service given us in this Agreement, all Services, including the Platform, Support Services, and Professional Services, are provided "as is" without express or implied warranties or conditions.

15.5.2. We don't warrant that your use of the Services will be uninterrupted or error-free.

15.5.3. We aren't responsible for delays, delivery failures, or any other loss or damage caused by data transfer over communications networks and facilities, including the internet. You acknowledge that the Services are subject to limitations, delays and other problems in using communications networks and facilities.

15.5.4. We don't control content posted in or using the Services. We don't control Your Data. We give no representations, warranties, conditions, or guarantees about the accuracy,

completeness, currency, correctness, reliability, integrity, usefulness, quality, fitness for purpose or originality of the content or Your Data.

15.5.5. We aren't responsible for any loss, destruction, alteration, or disclosure of Your Data caused by any third party, except those third parties engaged by Us to maintain and back up Your Data.

16. MUTUAL INDEMNITIES



The purpose of Section 16 is to outline the indemnification requirements each party has to compensate the other for certain legal claims. It states we will defend and indemnify you against third party claims alleging the software infringes intellectual property rights. You must defend and indemnify us against claims arising from the customer's data practices, use of headsets, or violation of the acceptable use terms. Each party owes the other prompt notification of claims, control over defending claims, and reasonable cooperation. Standard exclusions apply, like claims resulting from unauthorized software use.

By defining indemnity obligations for specific scenarios, Section 16 aims to appropriately allocate legal and financial liability.

16. MUTUAL INDEMNITIES

16.1. Indemnification Definitions.

“Customer-Covered Claim” means a third-party claim against us arising from: (a) any infringement, misappropriation or violation of any intellectual property or privacy rights by you or Users; (b) use of your Headsets by you, Users or any other Person; or (c) your or Users’ actual or alleged breach of Section **Error! Reference source not found.**

“Kaleidoscope XR-Covered Claim” means a third-party claim against you arising from an allegation that the Platform, when used as allowed in this Agreement, infringes or misappropriates a third party's intellectual property rights.



16.2. Indemnification by Us. At our own cost, we will defend you against any of Kaleidoscope XR-Covered Claims and indemnify and hold you harmless against any damages or costs awarded against you (including reasonable legal fees) or agreed in settlement by us resulting from Kaleidoscope XR-Covered Claims.

16.3. Indemnification by Customer. You, at your own cost, will defend us against any of the Customer-Covered Claims, and you will indemnify and hold us harmless against any damages or costs awarded against us (including reasonable legal fees) or agreed in settlement by you resulting from Customer-Covered Claims.

16.4. Indemnification Procedures.

16.4.1. The indemnifying party's obligations in Section 16 are subject to receiving from the indemnified party:

16.4.1.1. prompt notice of the claim (but delayed notice will only reduce the indemnifying party's obligations to the extent the delay prejudices it);

16.4.1.2. the exclusive right to control the claim's investigation, defence, and settlement; and

16.4.1.3. reasonable cooperation at the indemnifying party's expense.

16.4.2. The indemnifying party may not settle a claim without the indemnified party's prior approval if the settlement would require the indemnified party to admit fault or take, or not take, any action (except regarding the use of the Services when you are the indemnifying party). The indemnified party may participate in a claim with its counsel at its own expense.

16.5. Mitigation. In response to an infringement or misappropriation claim, if required by settlement or injunction or as we determine necessary to avoid material liability, we may:

16.5.1. get rights for your continued use of the Services;

16.5.2. replace or change the allegedly infringing part of the Services to avoid infringement without reducing the Services' overall functionality; or

16.5.3. terminate the affected Order Form and refund any prepaid, unused fees for the terminated part of the Subscription Term.

16.6. Exceptions. Our obligations in Section 16 don't apply to a claim if such claim:

- 16.6.1. would not have arisen but have been avoided but for the combination, operation, or use of the Services or any of the Platform (a) with any third-party product, service, equipment, or software, or (b) Your Data;
- 16.6.2. is based on the operation or use of the Services or the Platform in a way not consistent with the Documentation, in violation of this Agreement; or
- 16.6.3. comes from any unauthorized use of the Services.

17. LIMITS ON LIABILITY



The goal of Section 17 is to set reasonable limits on the legal liability and damages each party could face under the agreement. It does three main things:

- *First, it caps the maximum damages either party can recover at the amount the customer paid over the past 12 months. This does not apply to certain types of uncapped liabilities like copyright infringement.*
- *Second, it removes any liability for indirect, special, or consequential damages. This applies no matter what theory of liability is claimed.*
- *Third, it makes clear the liability limits apply even if other remedies fail or don't fully compensate the harmed party.*

Overall, Section 17 aims to create a balanced approach to limit the monetary risks and legal exposure if something goes wrong down the road.

17. LIMITS ON LIABILITY

17.1. Liability Definitions.

“Uncapped Claims” means (a) the indemnifying party’s obligations under Section 16 (Indemnification), (b) either party’s infringement or misappropriation of the other party’s intellectual property rights, (c) any breach of a party’s confidentiality, privacy, or data security



obligations under this Agreement, (d) your payment obligations, and (e) liabilities that can't be limited by law; and

“**General Cap**” means an amount equal to the total amounts paid or payable by you to us under this Agreement in the 12 months right before the first incident giving rise to liability.

17.2. Mutual Limitation of Liability. Except for Uncapped Claims, neither party's entire liability arising from or related to this Agreement will exceed the General Cap.

17.3. Consequential Damages Waiver. Neither party will have any liability arising out of or related to this Agreement for indirect, special, incidental, incidental, remote, speculative, exemplary, punitive, reliance, or consequential damages or damages for loss of use, data loss, lost profits, or business interruption.

17.4. Nature of Claims. The waivers, exclusions, and limitations of damages in this Agreement apply no matter how those damages are caused or no matter any theory of liability or theory of relief, whether based in contract, tort, negligence or otherwise, even if the liable party were advised of the possibility of those damages. The waivers, exclusions, and limitations of damages will survive and apply even if any limited remedy in this Agreement fails of its essential purpose.

17.5. Insurance. We have bought and will maintain insurance coverage for some parts of our legal liability, including:

17.5.1. commercial general liability insurance coverage of two million Canadian dollars (CDN\$2,000,000) per claim and in the aggregate;

17.5.2. professional liability insurance coverage of two million Canadian dollars (CAD\$2,000,000) per claim and in the aggregate; and

17.5.3. cyber liability insurance coverage of two million Canadian dollars (CAD\$2,000,000) per claim and in the aggregate.

18. GENERAL CONTRACT TERMS



By covering procedural points like notices, governing law, and severability, Section 18 aims to facilitate smooth contract administration and tie up loose ends. Section 18 covers some final housekeeping terms for the agreement such as:

- Notices must be in writing by the authorized means listed. Email is acceptable.*
- Neither party can assign the agreement without permission, except to an affiliate or new owner.*
- If there's a dispute, the parties must try to informally negotiate before going to court.*
- The agreement is governed by the laws of the province of Alberta and federal laws of Canada.*
- The parties are independent contractors, not partners in the legal sense.*

18. GENERAL CONTRACT TERMS

18.1. Notices.

18.1.1. Except as stated in this Agreement, any notifications under this Agreement must be given using: (a) certified or registered mail; (b) a nationally recognized overnight courier; or (c) email to the proper party at the address set out on the Order Form.

18.1.2. Notices become effective on: (a) the second business day after mailing; (b) one business day following delivery to a courier; or (c) if by email, then upon confirmation of receipt.

18.1.3. Billing-related notices to you must be addressed to the billing contact designated by you, and all other notices go to the contact designated by you in the Order Form.

18.1.4. Either party may update its address with notice to the other.

18.1.5. We may also send operational notices through the Platform.

18.2. Assignment. Neither party may assign its rights or obligations under this Agreement without the other party's written consent. A party may assign its rights and obligations under this Agreement to an Affiliate as part of a reorganization or to a buyer of its business entity or substantially all of its assets or

business to which rights and obligations pertain without the other party's consent if: (a) the buyer is not insolvent or otherwise unable to pay its debts as they become due, (b) the buyer is not a competitor of the other party, and (c) this Agreement binds any assignee. Other than allowed in this Section 18.2, any attempt by a party to transfer its rights or obligations under this Agreement is void.

18.3. Successors and Assigns. This Agreement benefits and binds the parties and their successors and allowed assigns.

18.4. Dispute Resolution. If any dispute arises between the parties, a meeting will be held between representatives of each party with decision-making authority to settle the dispute. At the meeting, the parties will attempt in good faith to negotiate an informal resolution. If the dispute is not resolved through negotiation within 30 days, then any party may begin legal action against the other under this Agreement.

18.5. Governing Law and Courts.

18.5.1. The laws of the Province of Alberta and the federal law of Canada apply to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods (also called the Vienna Convention) won't apply to this Agreement or the transactions contemplated by this Agreement.

18.5.2. If one party brings a claim against the other party, the courts in the jurisdiction where the other party's head office is located will have exclusive authority to hear any dispute under this Agreement. The party bringing forward this action waives all objections to exercising authority over them by those courts and to venue in those courts.

18.6. Injunctive Relief. Nothing in this Agreement will prevent either party from applying to a court of competent authority for injunctive or other equitable relief in the case of an infringement of intellectual property rights, the breach of a duty of confidentiality, or to preserve or protect real or tangible property from continuing damage or risk of same.

18.7. Waivers and Severability. The waiving party's authorized representative must sign waivers, and waivers can't be inferred from conduct. If any provision of this Agreement is held invalid, illegal, or unenforceable, it will be limited to the minimum extent necessary, so the rest remains in effect.

18.8. Independent Contractors. The parties are independent contractors, not agents, partners, or joint venturers.

18.9. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.