

Terms and Conditions for Content Creators

Last Updated as of September 25, 2020

vi CONTENT CREATOR TERMS OF SERVICE

1. General

1.1. These General Terms and Conditions (“**T&Cs**”) apply to all agreements that vi concludes with the Partner (together the “**Parties**”) for the provision of services in connection with the playing of videos.

1.2. Any terms and conditions of the Partner that deviate from or supplement these T&Cs shall not apply; they shall also not apply if the Partner refers to them, if they are contained in a document of the Partner or if he makes reference to them therein. Something else applies only insofar as vi has expressly agreed in writing in individual cases (e-mail is not sufficient).

2. Contractual Services

2.1. vi grants the Partner the non-exclusive right to use the software vi-Stories in accordance with the provisions of this Agreement to make its content publicly accessible on the Publisher Channels. Furthermore, vi will provide the technical services which are agreed, such as branding of the vi-Player and the implementation of the presentation guidelines for the content.

2.2. The Partner uploads video clips to vi-Stories in accordance with the provisions of the Agreement and selects the Publishers for the respective clips. Provided the Parties have not agreed otherwise, it is at the Partner sole discretion to decide how many and which video clips he uploads at what time (the uploaded video clips together the “**Content**”).

2.3. vi grants the Publishers the right to use the software vi-Stories in accordance with the provisions of this Agreement and thereby provides them the technical possibility to integrate the vi-Player (branded with the logo of Partner if agreed) into their channels and thus technically realizes the public accessibility of the Content on behalf the Partner as its technical service provider.

2.4. The Partner has no claim that the Content or parts thereof are actually integrated in the Publisher Channels. If and how often the Content is made publicly accessible depends exclusively on the use of vi-Stories by Publisher.

2.5. If the Partner uses the uploading tools of vi-Stories for the video clips (e.g. the “Import my Channel” function) this use - like the use of all other vi-Stories functions - shall be at the Partner’s own discretion and responsibility. This means that the Partner is solely responsible to ensure that he is authorized to use the tools for the respective video clips, including the initiation of downloads from respective third party websites, where his videoclips are stored and made publicly available. vi does not carry out a check of the user’s authorization with regards to third party websites and shall not be liable for any respective infringement of rights

3. Granting of rights to the Publisher and Guarantee

3.1. The Partner grants the Publishers selected by him within vi-Stories, the non-exclusive right to make the Content publicly accessible and - if technically necessary - to reproduce it for this purpose, exclusively within the framework of the material, geographical and temporal restrictions defined in the Commercial Terms and this Agreement. Any further use of the Content by the Publishers other than specified in the Commercial Terms and this Agreement is prohibited without written consent by Partner.

3.2. Publishers are not entitled to sublicense or transfer the rights to use the Content acquired under this Agreement to third parties. Furthermore, Publishers are not entitled to demand payment from third parties for access to or use of the publicly accessible Content.

4. Remuneration and accounting

4.1. For the provision and use of the software vi-Stories, vi has a performance-related claim to remuneration against the Partner.

4.2. The remuneration consists of a fixed amount to be paid to the contractual partner per 1000 views of the respective content (“CPM”) or

4.3. vi will provide the Partner with a report and/or an online reporting dashboard for each billing period in accordance with the payment terms in the Commercial Terms and thereafter transfer to the Partner the contractually agreed monies.

4.4. Amounts attributable to the Partner which do not exceed a total of US\$ 100 shall be deferred and carried over to the next respective billing period until the total accrued amount exceeds US\$ 100 or the end of the current calendar year is reached.

4.5. Interest, in particular on the deferred amounts, will not be paid.

4.6. All payments agreed on are net and are to be paid plus the statutory value added tax.

5. Guarantees and indemnification

5.1. The Partner guarantees Publisher and vi that it is the owner of the rights to the Content transferred under the Agreement and that it is able to effectively grant the Publisher these rights. The Partner further guarantees that it has obtained all the necessary rights and approvals from third parties. The Partner undertakes to provide evidence of the rights chain to vi and the Publisher upon request by vi if third parties assert a claim against the Publisher or vi due to the use of the Content.

5.2. The Partner guarantees that the Content is free from third-party rights that could conflict with the contractual use of the Content by vi or Publisher. The Partner further guarantees that the use of the Content within the scope of this Agreement and the agreements with the Publisher does not infringe the personal rights of third parties and is not illegal for any other reason.

5.3. The Partner guarantees that the Content does not contain any virus or computer code, file or program that is intended or suitable to restrict or destroy the functionality of a website, computer software and or other application.

5.4. The Partner shall indemnify vi as well as the Publisher from all claims of third parties upon first request which are based on an infringement of their rights through the contractual execution of the Agreement (in particular copyright, trademark, right to a name, patent, general personal rights, data protection law, competition law). The Partner shall also be obliged to indemnify vi from the legal fees necessary and appropriate for the defence against the claims.

6. Liability

6.1. vi shall be liable without limitation within the scope of the statutory provisions for damages which vi, its legal representatives or vicarious agents have caused intentionally or through gross negligence. For damages caused by simple negligence, vi shall only be liable if the damages are based on the violation of an essential contractual obligation and insofar as vi typically had to reckon with the damages caused pursuant to the circumstances known at the time of conclusion of this Agreement.

6.2. Essential contractual obligations within the meaning of clause 6.1 are such obligations whose fulfilment is essential for the proper execution of the Agreement and on whose compliancy one party may regularly rely.

6.3. The exclusions and limitations of liability provided for in clause 6.1 shall not apply (i) in the event

of injury to life, body or health; (ii) insofar as vi has given a guarantee for the quality of a product or fraudulently concealed a defect or in case of mandatory statutory provisions.

7. Marketing

7.1. The Parties grant each other the right to display the name, logo and/or trademark of the other party on their website without prior notice, as well as the right to use them for marketing, sales and PR materials of their own performance for an unlimited period. This right applies regardless of the term of the Agreement until it is revoked by one of the Parties.

7.2. vi is further granted the right to request a service provider case for marketing purposes at least once per calendar year. If this service provider case is not objected in whole or in part within 5 working days, vi may use it for marketing purposes on its website, marketing, sales and PR materials. This right applies regardless of the term of the Agreement until it is revoked by one of the contracting Parties.

8. Confidentiality

8.1. The Parties undertake to treat the Agreement and all information which they have obtained directly or indirectly from the other party in the course of the execution of this Agreement as confidential and to use it only in connection with the execution of this Agreement. In particular, the Parties undertake neither to pass on the information to third parties nor to make it available to third parties in any other form and to take all reasonable precautions to avoid access to the information by third parties. The Parties will only publish press releases on the cooperation after prior mutual agreement.

8.2. The confidentiality obligations under this Agreement shall not apply if and to the extent that the relevant information can be proven to (i) be generally known; (ii) has become generally known without guilt of the recipient of the information; (iii) has been or will be lawfully obtained by a third party; (iv) be disclosed to consultants or potential buyers, to the extent that they are subject to a professional or contractual duty of confidentiality and the disclosure is necessary to protect the legitimate interests of the recipient of the information; and/or (v) have to be disclosed due to mandatory statutory provisions, court orders or other official orders.

9. Declarations and notifications

9.1. All declarations and other communications in connection with this Agreement must be in text form (e-mail is sufficient) in order to be effective.

10. Term and termination of the agreement

10.1. This Agreement shall enter into force upon signature of the Parties. Unless otherwise specified in the Agreement, the minimum term of the Agreement is twelve months, starting from the date specified in the Commercial Terms. After expiry of the minimum term of the Agreement, the Agreement shall be of unlimited duration.

10.2. The Agreement may be terminated for the first time with a notice period of at least two months to the end of the initial minimum contractual term. Thereafter, the Agreement may be terminated at any time with a notice period of at least four weeks to the end of the quarter.

10.3. The right of both Parties to terminate the Agreement without notice for good cause remains unaffected.

10.4. Any declaration of termination must be in text form (e-mail is sufficient) to be effective.

11. Severability clause

11.1. Should individual provisions of this Agreement or its annexes be or become void or ineffective in whole or in part, this shall not affect the effectiveness of the remaining provisions. Any terms and conditions that are not included or are ineffective shall be replaced by statutory law. Otherwise, the Parties shall replace the void or ineffective provision with an effective provision that comes as close as possible to the economic purpose of the void or ineffective provision, provided that not supplementary interpretation of the Agreement has priority or is possible.

12. Final provisions

12.1. This Agreement is subject to Swiss law, excluding the provisions of international private law and the UN Convention on Contracts for the International Sale of Goods.

12.2. If the Partner is a merchant, a legal person under public law, or special assets under public law, the place of jurisdiction for all disputes arising from or in connection with this Agreement shall be Zurich.

12.3. This Agreement, together with its annexes, contains all agreements and declarations of the contracting Parties regarding the subject matter of the Agreement. It replaces all previous agreements, oral or written declarations of intent and other legally binding or non-binding arrangements between the Parties regarding the subject matter of the agreement.

12.4. All the above statements are made in German; the English translation is for information purposes only.

12.5. Amendments and additions to the Agreement must be made in writing to be effective, unless a stricter form is prescribed by law; electronic form and text form are excluded. This shall also apply to any amendment to this written form requirement. Oral or written collateral agreements have not been made. Transmission via Telecommunication or correspondence is not sufficient to comply with the written form requirement.