

## SYNAMEDIA SUBSCRIPTION SERVICES AGREEMENT

This Synamedia Subscription Services Agreement (the "Agreement") by and between Synamedia Vividtec Holdings, Inc., a corporation having a place of business at 1715 North Brown Road, Building B, Suite 200, Lawrenceville, Georgia, 30043 ("Synamedia or Company") and Customer ("Customer") is entered into as of the date last written below ("the Effective Date").

This Agreement consists of this signature page and the following Attachments, which are incorporated in this Agreement by this reference:

1. Agreement Terms and Conditions
2. Annex A: Glossary of Terms
3. Attachment A: VIVID Subscription Service Specifications
4. Attachment B: VIVID Support Service Description
5. Exhibit 1: Affiliates

This Agreement is the complete agreement between the parties hereto concerning the subject matter of this Agreement. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein. This Agreement may only be modified by a written document executed by the parties hereto.

## SYNAMEDIA SUBSCRIPTION SERVICES TERMS AND CONDITIONS

- 1.0 DEFINITIONS.** All capitalized terms not defined herein shall have the meaning ascribed in Annex A (Glossary of Terms).
- 2.0 SCOPE.** Customer may purchase cloud-based subscription services ("VIVID Subscription Services") and software subscription services ("Software Subscription Services"), collectively hereinafter referred to as the "Subscription Services") under this Agreement. Affiliates of Customer (as defined below) which are listed in Exhibit 1 to this Agreement are also authorized on a non-exclusive basis to purchase the Subscription Services. Affiliate is defined as an entity owned by Customer (but only to the extent, and for so long as): (a) at least 50.1% of the voting equity in such entity is owned, directly or indirectly, by Customer; and (b) such entity is actively engaged in the business of providing network services to third party end users.
- 3.0 ORDERS.** Customer may purchase the Subscription Service by submitting an order in the form of a signed order form or other similar documentation Customer and Synamedia may agree upon in writing ("Order"). Synamedia will create an account based on the information set forth in the Order.
- 4.0 USAGE RIGHTS.**
- 4.1 Synamedia grants Customer and its Affiliates a limited worldwide, non-exclusive, non-transferable, non-sublicensable right and license to:
- (a) access and use of the Subscription Services for the Customer's business in accordance with the terms of this Agreement and the applicable Order, for the Subscription Period.
  - (b) use the Documentation to support Customer's authorized use of the Subscription Service. The rights granted under this Agreement are conditional upon Customer and Affiliates' compliance with this Agreement.
- 4.2 Access and use of the Subscription Service by Customer and its affiliates will be Customer's sole responsibility.
- 4.3 Restrictions. Synamedia reserves the right, with reasonable prior written notice to the Customer, to monitor the use of the Subscription Services by the Customer to ensure compliance with the terms of this Agreement.
- 5.0 PRICE AND PAYMENT TERMS.**
- 5.1 Generally. Synamedia will charge Customer all Fees described in an Order.
- 5.2 Payment. Synamedia will issue invoices to Customer for Fees due and payable on a monthly basis, and Customer will pay each invoice within thirty (30) days of the invoice date. All Fees will be described in reasonable detail and will be payable in accordance with the Order. Unless Synamedia and Customer agree otherwise in an Order, all Fees, expenses, costs and payments will be stated and made in United States Dollar. If for any reason Synamedia cannot collect or process Customer's payment due to Customer's failure to provide Synamedia with accurate billing or other necessary information, Customer agrees to pay Synamedia's costs of collection, including all reasonable attorneys' fees and expenses. Synamedia may charge interest on overdue Fees at the lesser of 1.5% per month or the maximum rate permitted by law if Synamedia does not receive Customer's overdue payment within ten (10) business days from the date of Synamedia's written notice to Customer about the overdue payment.
- 5.3 Taxes. All Fees are exclusive of Taxes and Customer shall pay or reimburse Synamedia for all Taxes that Synamedia are required by law or regulation to collect on the Service. Synamedia shall timely remit any and all such Taxes collected from Customer to the proper taxing authority. If Customer is required to pay or withhold any Taxes in respect of any payments due to us hereunder, Customer shall gross up payments actually made, such that Synamedia shall receive sums due hereunder in full and free of any deduction for any such Taxes

## 6.0 TERM AND TERMINATION.

6.1 Term of Agreement. This Agreement commences on the Order Effective Date set forth on Customer's Order (or Customer's initial Order in the case of multiple Orders under this Agreement), and shall continue until either the last outstanding Customer Order under this Agreement is terminated or the Agreement is terminated in accordance with the termination provisions herein. Orders can be terminated independently in accordance with Section 6.3 below. A termination of an Order will not terminate any other outstanding Orders under this Agreement, or this Agreement. A termination of this Agreement shall terminate all outstanding Customer Orders hereunder.

6.2 Subscription Commit Term. A Subscription Commit Term shall commence on the Subscription Commencement Date specified in the relevant Order and continue for either the Subscription Commit Term specified therein, or, in the absence of such a commitment period, on a month-to-month basis. The following subscription renewal provisions shall apply if a renewal provision is not included in the applicable Order:

**a. Month-to-Month.** Customer's subscription for the Service will be automatically renewed on a month-to-month basis unless either party provides the other party with at least one (1) calendar month written notice of its intention not to renew the subscription. (For example, notice sent on or before March 31 will terminate the subscription as of May 1.)

**b. Subscription Term Commitment.** At the end of the initial Subscription Term, the subscription will automatically revert to a month-to-month subscription at the then-current Minimum Monthly Subscription Fee at the end of the Subscription Term or such other non-discounted subscription fee as determined by Synamedia, unless Customer provides Synamedia with written notice no later than sixty (60) days prior to the end of the initial Subscription Term of Customer's intention not to renew.

## 6.3 Suspension and Termination.

**a. Suspension of the Subscription Service.** Synamedia may suspend Customer's or its Authorized User's access to, or use of, the Subscription Services if Synamedia believes in its sole reasonable discretion that (a) Customer is causing a significant threat to the functionality, security, integrity, or availability of the Service or any content, data, or applications in the Service, or (b) Customer or its Authorized Users are violating the Acceptable Use Requirements. When reasonably practicable and lawfully permitted, Synamedia will provide Customer with advance notice of any such suspension. Synamedia will use reasonable efforts to lift the Subscription Services suspension promptly after Synamedia has determined that the issue causing the suspension has been resolved to Synamedia's satisfaction. Any suspension under this paragraph shall not excuse Customer from its obligation to make payments under this Agreement. If Customer does not adequately address the reason for suspension within sixty (60) days after suspension, then Synamedia may terminate this Agreement.

**b. Termination for Cause by Synamedia.** Synamedia may immediately (and without prior notice) terminate this Agreement by sending Customer a written notice of termination if one or more of the following occurs: (a) Synamedia discovers that Customer provided Synamedia with false information on its Order necessary for registering for the Subscription Services, or that Customer lacked the capacity to enter into this Agreement at the time of its consummation; (b) Customer fails to adequately address a suspension event within sixty (60) days after such suspension; or (c) Synamedia reasonably believes that Customer's use of the Service is illegal or will subject Synamedia to civil or criminal liability. Upon any such termination for cause by Synamedia, Customer will remain obligated to pay all amounts accrued or payable to Synamedia prior to the effective date of termination and all Fees payable for any remainder period in a Subscription Term.

**c. Termination for Cause by either Party.** This Agreement may at any time be terminated immediately by either party by providing the other party with written notice under any of the following conditions:

- (i) Immediately if either party ceases to carry on business as a going concern, either party becomes the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation, or a receiver or similar officer is appointed with respect to a substantial part of its assets.
- (ii) If either party breaches any of the material provisions of this Agreement and fails to remedy such breach within thirty (30) days, after written notification by the other party of such breach.

Upon any such termination for cause by Customer, Synamedia shall refund Customer prepaid Fees (if any) for the remainder period of the Subscription Term. Upon any such termination for cause by Synamedia, Customer will remain obligated to pay all amounts accrued or payable to Synamedia prior to the effective date of termination and all Fees payable for any remainder period in a Subscription Term.

**d. Termination for Convenience.** Customer may not terminate an Order or this Agreement for convenience unless the parties agree otherwise in writing.

6.4 Effect of Termination. Effective immediately upon the termination of this Agreement, (a) the Service will no longer be available to Customer and Synamedia will permanently erase all Customer Content and data stored on the Service-enabling infrastructure, and (b) all Synamedia Confidential Information, including all copies thereof, must be returned to Synamedia or permanently destroyed and upon Synamedia's written request, Customer agrees to certify in writing that Customer is no longer in possession of any Synamedia's Confidential Information.

## 7.0 WARRANTIES; REPRESENTATIONS; DISCLAIMERS.

7.1 Both Parties. Each party represents and warrants that it has the legal authority to enter into this Agreement.

7.2 Synamedia Warranties; Remedies for Breach. Synamedia warrants that the Service will be available and perform substantially in accordance with the Documentation. If the Service does not substantially meet the descriptions in the Documentation, Customer should promptly notify Synamedia as described in the SLA.

7.3 SYNAMEDIA DOES NOT WARRANT THAT THE SERVICE WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, THAT SYNAMEDIA WILL CORRECT ALL SERVICE ERRORS, OR THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS OR EXPECTATIONS. SYNAMEDIA IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION, AVAILABILITY, OR SECURITY OF THE SERVICE THAT ARISE FROM (A) CUSTOMER CONTENT, (B) ANY EXCLUDED ISSUES (AS DEFINED IN APPENDIX B), OR (C) ANY THIRD- PARTY CONTENT OR SERVICES.

7.4 FOR ANY BREACH OF THE WARRANTY FOR THE SUBSCRIPTION SERVICE, CUSTOMER'S EXCLUSIVE REMEDY AND SYNAMEDIA'S ENTIRE LIABILITY SHALL BE TO PROVIDE THE SUPPORT DESCRIBED IN THE SLA TO CORRECT THE ISSUE THAT CAUSED THE BREACH OF WARRANTY, OR, IF SYNAMEDIA CANNOT SUBSTANTIALLY CORRECT OR RESOLVE THE ISSUE IN A COMMERCIALY REASONABLE MANNER, CUSTOMER MAY END THE SERVICE AND SYNAMEDIA WILL REFUND TO CUSTOMER THE USAGE FEES FOR THE TERMINATED SUBSCRIPTION SERVICES THAT CUSTOMER PRE-PAID TO SYNAMEDIA (IF ANY) FOR ANY REMAINDER MONTHS IN THE SUBSCRIPTION TERM.

7.5 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, SYNAMEDIA MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. SYNAMEDIA HEREBY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR CONDITIONS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8.0 **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING ELSE HEREIN, AND EXCEPT FOR LIABILITY ARISING OUT OF CUSTOMER'S BREACH OF COMPANY'S PROPRIETARY RIGHTS OR AMOUNTS DUE FOR SUBSCRIPTION SERVICES PURCHASED WITH RESPECT TO NO BONA FIDE DISPUTE EXISTS, ALL LIABILITY OF EACH PARTY AND THEIR SUPPLIERS FOR CLAIMS ARISING UNDER THIS AGREEMENT OR OTHERWISE SHALL BE LIMITED TO THE MONEY PAID BY CUSTOMER (INCLUDING, IF APPLICABLE, ITS AFFILIATES) TO COMPANY UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. THIS LIMIT SHALL NOT APPLY TO LIABILITY FOR DEATH OR BODILY INJURY RESULTING DIRECTLY FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF EITHER PARTY, THIS LIMITATION

OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT. IN THE EVENT THAT CUSTOMER'S AFFILIATES ARE PERMITTED TO PURCHASE SUBSCRIPTION SERVICES UNDER THIS AGREEMENT, THIS LIMITATION OF LIABILITY SHALL BE DEEMED TO BE AN AGGREGATE LIMITATION OF LIABILITY AS TO CUSTOMER AND ALL AFFILIATES.

**9.0 WAIVER OF CONSEQUENTIAL AND OTHER DAMAGES.** IN NO EVENT SHALL EITHER PARTY OR ITS SUPPLIERS BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, LOST REVENUE, LOST PROFITS, OR LOST OR DAMAGED DATA, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF SUCH PARTY OR ITS SUPPLIERS HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF.

**10.0 NOTICES.** Except where this Agreement provides that notices may be provided by posting on Company.com, all notices required or permitted under this Agreement will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by electronic mail (in the case of Company to (provided that the original document is placed in air mail/air courier or delivered personally, within seven (7) days of the facsimile or electronic notice); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid (or six (6) days for international mail); or (d) one (1) day after deposit with a commercial express courier specifying next day delivery (or two (2) days for international courier packages specifying 2-day delivery). All communications will be sent to the addresses set forth on the cover sheet of this Agreement or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph.

**11.0 CONFIDENTIAL INFORMATION.**

11.1 "Confidential Information" to be disclosed by Customer under this Agreement is information regarding Customer's network operations and technical plans and marketing and financial data, and "Confidential Information" to be disclosed by Company under this Agreement is information regarding Company's Products and Services, technical, financial, and marketing data, information relating to future product and service development, and information posted on [www.synamedia.com](http://www.synamedia.com) which are password protected. The Receiving Party may use the Confidential Information solely for the purpose of furtherance of the business relationship between the parties, as provided in this Agreement and shall not disclose the Confidential Information to any third party, other than to employees of the Receiving Party and its Affiliates who have a need to have access to and knowledge of the Confidential Information, solely for the purpose authorized above. Each party shall take appropriate measures by instruction and agreement prior to disclosure to such employees to assure against unauthorized use or disclosure. Information disclosed by the Disclosing Party in written or other tangible form will be considered Confidential Information only if such information is conspicuously designated as "Confidential," "Proprietary" or a similar legend. Information disclosed orally shall only be considered Confidential Information if: (i) identified as confidential, proprietary or the like at the time of disclosure, and (ii) confirmed in writing within thirty (30) days of disclosure. Confidential Information disclosed to the Receiving Party by any Affiliate or agent of the Disclosing Party is subject to this Agreement.

11.2 The Receiving Party shall have no obligation with respect to information which (i) was rightfully in possession of or known to the Receiving Party without any obligation of confidentiality prior to receiving it from the Disclosing Party; (ii) is, or subsequently becomes, legally and publicly available without breach of this Agreement; (iii) is rightfully obtained by the Receiving Party from a source other than the Disclosing Party without any obligation of confidentiality; (iv) is developed by or for the Receiving Party without use of the Confidential Information and such independent development can be shown by documentary evidence; (v) becomes available to the Receiving Party by wholly lawful inspection or analysis of products offered for sale; (vi) is disclosed by the Receiving Party pursuant to a valid order issued by a court or government agency, provided that the Receiving Party provides as soon as reasonably practicable (a) prior written notice to the Disclosing Party of such obligation and (b) the opportunity to oppose such disclosure. Upon written demand by the Disclosing Party, the Receiving Party shall: (i) cease using the Confidential Information, (ii) return the Confidential Information and all copies, notes or extracts thereof to the Disclosing Party within seven (7) days of receipt of demand, and (iii) upon request of the Disclosing Party, certify in writing that the Receiving Party has complied with the obligations set forth in this paragraph.

11.3 The terms of confidentiality under this Agreement shall not be construed to limit either party's right to independently develop or acquire products without use of the other party's Confidential Information. The Disclosing Party acknowledges that the Receiving Party may currently, or in the

future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information. Accordingly, nothing in this Agreement will be construed as a representation or agreement that the Receiving Party will not develop or have developed for it products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Confidential Information provided that the Receiving Party does not violate any of its obligations under this Agreement in connection with such development. Further, either party shall be free to use for any purpose the residuals resulting from access to or work with such Confidential Information, provided that such party shall maintain the confidentiality of the Confidential Information as provided herein. The term "residuals" means information in non-tangible form that may be retained by persons who have had access to the Confidential Information, including ideas, concepts, know-how or techniques contained therein, provided, such Confidential Information is not expressly incorporated in a tangible form provided by the Disclosing Party. Neither party shall have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of residuals.

- 11.4 Each party shall retain all right, title and interest to such party's Confidential Information. No license under any trademark, patent or copyright, or application for same is either granted or implied by the conveying of Confidential Information. The Receiving Party shall not reverse-engineer, decompile, or disassemble any software disclosed to it and shall not remove, overprint or deface any notice of copyright, trademark, logo, legend, or other notices of ownership from any originals or copies of Confidential Information it obtains from the Disclosing Party. WITHOUT PREJUDICE TO THE EXPRESS WARRANTIES PROVIDED ELSEWHERE IN THIS AGREEMENT, CONFIDENTIAL INFORMATION IS PROVIDED "AS IS" WITH ALL FAULTS. IN NO EVENT, SHALL THE DISCLOSING PARTY BE LIABLE FOR THE ACCURACY OR COMPLETENESS OF THE CONFIDENTIAL INFORMATION. None of the Confidential Information disclosed by the parties constitutes any representation, warranty, assurance, guarantee or inducement by either party to the other with respect to the infringement of trademarks, patents, copyrights, any right of privacy, or any rights of third persons.
- 11.5 Neither party shall disclose, advertise, or publish the terms and conditions of this Agreement without the prior written consent of the other party. Any press release or publication regarding this Agreement is subject to the prior review and written approval of the parties.

## **12.0 GENERAL.**

- 12.1 Disclosure of Contract Information. Parties acknowledge and agree that in no event shall any of the information contained in this Agreement be disclosed to any third party. Customer further agrees to promote its own services brand to enable a market differentiation for the Customer brand as compared to the Company Remote Management Service brand in marketing materials and sales efforts.
- 12.2 Representations and Warranties. Parties shall not make any representations or warranties on behalf of the other party, except as expressly authorized herein or as expressly authorized by the other party in writing.
- 12.3 Independent Contractors. The relationship of Company and Customer established by this Agreement is that of independent contractors. Nothing in this Agreement shall be construed to (i) give either party the power to direct and control the day-to-day activities of the other, (ii) constitute the parties as joint ventures, co-owners or otherwise as participants in a joint or common undertaking, or (iii) either party to create or assume any obligation on behalf of the other party for any purpose whatsoever. All financial obligations associated with a party's business are the sole responsibility of the other party.
- 12.4 Indemnification. Customer hereby indemnifies and holds Company harmless from any claim, loss, damage or expense, including reasonable court costs and attorney's fees, resulting from any claim made by a third party against Company hereunder under claim of a third party beneficiary or otherwise. This shall not limit Company's obligations, subject to the terms and conditions of this Agreement, to provide the Subscription Services described herein. Customer shall be solely responsible for and shall indemnify and hold Company free and harmless from, any and all claims, damages or lawsuits (including Company's attorneys' fees) arising out of the acts of Customer, its employees or its agents and for any misrepresentation of Company's reputation or the Subscription Services.

- 12.5 Indemnification - Obligations of the Parties:  
As it relates to Customer's indemnity obligations as set out in Section 9.2 and Section 14.4 herein, Company shall promptly notify Customer of any liability or action related to such indemnification and Customer will have the right to select counsel and assume the defense thereof. If Customer fails to assume such defense, Company will have the right to defend or settle such claim on behalf of and for the account of Customer. A delay on the part of Company in notifying Customer will not relieve Customer from any obligation unless (and then solely to the extent that) Customer is prejudiced by such delay. Customer may not settle the action or otherwise consent to an adverse judgment in such action that diminishes the rights or interests of Company without the written consent of Company. Company, its employees and agents, will cooperate fully with Customer and its legal representatives, at the expense of Customer, in the investigation of any action, claim or liability covered by Section 9.2, Section 14.4 and Section 14.16.
- 12.6 No Third Party Beneficiaries. Except as expressly set forth herein, nothing expressed or referred to in this Agreement shall be construed to give any person or entity other than the parties to this Agreement any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement. This Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement.
- 12.7 Choice of Law. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of New York, as if performed wholly within the state and without giving effect to the principles of conflicts of law, and the State and federal courts of New York shall have jurisdiction over any claim arising hereunder. Notwithstanding the foregoing, either party may seek interim injunctive relief in any court of appropriate jurisdiction with respect to any alleged breach of such party's proprietary rights. The parties specifically disclaim the application of the UN Convention on Contracts for the International Sale of Goods to the interpretation or enforcement of this Agreement.
- 12.8 No Waiver. No waiver of rights under this Agreement by either party shall constitute a subsequent waiver of such right or any other right under this Agreement.
- 12.9 Assignment. Neither this Agreement nor any rights under this Agreement, other than the right to receive monies due or to become due, shall be assigned or otherwise transferred by Customer (by operation of law or otherwise) without the prior written consent of Company which shall not be unreasonably withheld. Company shall have the right to assign, without the consent of Customer, all or part of this Agreement or an Order.
- 12.10 Severability. In the event that any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect.
- 12.11 No Agency. This Agreement does not create any agency, partnership, joint venture, or franchise relationship. No employee of either party shall be or become, or shall be deemed to be or become, an employee of the other party by virtue of the existence or activation of this Agreement. Each party hereto is an independent contractor. Neither party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.
- 12.12 Customer Content. Company products and services are intended for lawful use only. Notwithstanding any term or condition set forth in this Letter Agreement or the Agreement, Customer is solely responsible for ensuring Customer has appropriate licenses and authority for any copyrighted content utilized by Customer. Customer is and shall be solely responsible for all content, including but not limited to, the creation, renewal, updating, deletion, editorial content, control and all other aspects of any files, software, scripts, multimedia images, graphics, audio, video, text, data or other objects, including any third party content or materials, originating or transmitted from any location owned or operated by Customer, and/or uploaded or routed to, passed through and/or stored on or within the Subscription Services, or otherwise provided to Company in any medium or transmitted or routed using the Subscription Services ("**Customer Content**"). Customer owns all

right, title, and interest in the Customer Content, or possesses or shall possess all legally valid rights in the Customer Content necessary for the uses of the Customer Content contemplated herein. Customer shall not transmit or route to Company or the Subscription Services, or otherwise direct via the Subscription Services, any Customer Content that infringes any copyright, trade secret, or other intellectual property right, or otherwise violates any laws or regulations relating to content or content distribution. Customer shall be responsible for utilizing the Subscription Services in accordance with the terms of this Agreement. If Customer has actual knowledge that any Customer Content infringes the intellectual property or other rights of a third party or violates any applicable laws or regulations, Customer shall remove such Customer Content from Customer's origin server. During the Term, Customer grants to Company a limited, non-exclusive, royalty-free license to use the Customer Content solely for all reasonable and necessary purposes contemplated herein and for Company to perform the Subscription Services as contemplated hereunder.

- 12.13 Customer Data. Customer has (or on or prior to the deployment date of the Service shall have all rights to Customer subscriber data to the extent necessary for Company to lawfully provide the Service for use by Customer and its subscribers.
- 12.14 Acceptable Use Policy. Company does not monitor Customer's Content or use of the Company Subscription Services. Customer will comply with the Company Acceptable Use Policy ("AUP") located on <https://www.synamedia.com/policy-centre/>. Company may investigate any complaints and violations or suspected violations of this Letter Agreement regarding the Customer Content or violations of the AUP that comes to Company's attention. If Company reasonably determines there is a breach of this Agreement regarding the Customer Content or a violation of the AUP, Company may take action without liability to remedy the violation (e.g., remove violating Customer Content, or restricting, suspending, or terminating Customer's access to the Subscription Services). Company will make commercially reasonable efforts to notify Customer before taking such actions so that Customer can attempt remedy the issue. However, Company reserves the right to act immediately and without liability to Customer if Company reasonably believe that allowing such Customer Content or use of the Subscription Services would expose Company to civil, regulatory or criminal liability. Customer will indemnify, defend and hold harmless Company, affiliates, vendors and third parties from any and all third-party claims, liability, damages and/or costs (including, but not limited to, attorneys' fees) arising from Customer's Content and Customer's violation of the AUP.
- 12.15 Equipment. Customer shall purchase and provide the equipment necessary for Company to provide the Subscription Service and all Company services in connection with the Service. For all equipment that is used as part of the Service, Customer will, at all times, retain title to the equipment. With respect to Software Subscription Services, prior to Customer's use of the Software Subscription Services, Customer must have a license server installed, operational and capable of communicating with Synamedia's back-office systems. Synamedia shall have no liability for Customer's failure to comply with this provision.
- 12.16 Audit. Customer shall keep full, true, and accurate records and accounts, in accordance with generally-accepted accounting principles, of each Service purchased and deployed, Resold, or distribute.
- 12.17 Support Services. With respect to VIVID cloud based subscription services, Synamedia will provide support services ("Support Services") to Customer during the Subscription Term under an Order in accordance with Attachment B, attached hereto. Orders for support services for software subscription services shall include Platinum support Services and shall be in accordance with and governed by the terms of the Technical Support Agreement found at [www.synamedia.com](http://www.synamedia.com). Synamedia may offer additional professional support services under a separate statement of work executed by the Parties.
- 12.18 Force Majeure. Except for the obligation to pay monies due and owing, neither party shall be liable for any delay or failure in performance due to events outside the defaulting party's reasonable control, including without limitation acts of God, earthquake, labor disputes, industry-wide shortage of supplies where such supplies are necessary for the performance of Subscription Services under this Agreement, actions of governmental entities, riots, war, fire, epidemics, or other circumstances beyond its reasonable control. The obligations and rights of the excused party shall be extended on a day to day basis for the time period equal to the period of the excusable delay.



- 12.19 Product Changes. Modifications which do not affect the compliance of a Product with the terms of this Agreement or which Company deems necessary to comply with specifications, changed safety standards or governmental regulations, to make the Product non-infringing with respect to any patent, copyright or other proprietary interest, or to otherwise improve the Product may be made at any time by Company at no additional charge without prior notice to or consent of Customer, and such altered Product shall be deemed fully conforming.
- 12.20 Compliance with Laws. Customer shall obtain all licenses, permits and approvals required by any government applicable to the purchase of Subscription Services, and shall comply with all applicable laws, rules, policies and procedures including requirements applicable to the purchase and use of the Subscription Services under laws and regulations, of any government or other competent authority where the Subscription Services are to be Resold or used, including without limitation the U.S. Foreign Corrupt Practices Act (collectively "Applicable Laws"). Customer will indemnify and hold harmless Company for any claim arising from or relating to a violation or alleged violation of any Applicable Laws.
- 12.21 Intellectual Property Rights. In connection with Customer's use of the Subscription Service, Synamedia may provide Customer with software, scripts, customizations to templates, code extending the functionality of third-party applications licensed to Synamedia, documentation, and other data that Synamedia has developed or may develop at its own expense before and during the Term (the "Synamedia Proprietary Material"). The Synamedia Proprietary Material is the property of Synamedia and its third-party licensors, and accordingly, Customer may not use the Synamedia Proprietary Material other than in connection with the access and use of the Subscription Service in strict accordance with the terms and conditions of this Agreement. This Agreement does not convey to Customer any ownership right or license to use, sell, exploit, copy or further develop Synamedia's Confidential Information, Synamedia Proprietary Material or other intellectual property ("Synamedia Intellectual Property"), including patents, copyrights, trademarks, trade names and trade secrets, and nothing herein will be deemed or interpreted to grant any license to, or transfer any ownership of, any Synamedia Intellectual Property rights to Customer, whether by implication, estoppel, or otherwise, including as may arise out of or in connection with providing the Subscription Service to Customer, except as expressly stated in Section 4.0.
- 12.22 Survival. Sections 5.0 (Price and Payment Terms), 6.0 (Term and Termination), 8.0 (Limitation of Liability), 9.0 (Waiver of Consequential and other Damages), 11.0 (Confidential Information) and 12.0 (General) shall survive the expiration or termination of this Agreement.
- 14.22 Headings. Headings of sections have been added only for convenience and shall not be deemed part of this Agreement.

## ANNEX A - Glossary of Terms

Term	Definition
Authorized Users	Means collectively, those individuals or entities who are authorized by Customer to access the VIVID Portal and use the Subscription Service and have been supplied user identifications and passwords by Customer or Synamedia.
Content	All artwork, videos, digital media, metadata, logos, branding elements and other media assets used or provided by Customer for use with the Subscription Services.
Fee(s)	Means the fee and expenses set forth in any Order or otherwise agreed to in writing, to be paid by Customer pursuant to this Agreement.
Key performance indicator (KPI)	Parameters that measure the performance of the Subscription Services
On-Prem	Short for “on premises” and are typically the data plane elements that are part of infinite video platform and are located on the Customer’s premises in Customer’s private cloud.
Public Cloud	A network of remote servers hosted on the Internet and used to store, manage, and process data in place of local servers or personal computers.
Subscriber	Subscriber is a registered user with provisioned access to the Service. Subscriber is also the metric by which some of the Fees are billed. There can be multiple users in a Subscriber account, e.g., parents, children. Subscriber is not equal to household as multiple Subscriber accounts can exist in a household. A Subscriber is deemed to be any Subscriber registered for the Service and applicable subscription fees will apply to all Subscribers regardless of active usage in the billing period.
Subscription Services	Subscription Services are defined as: (i) the cloud-based subscription service offerings that are comprised of different service elements, such as ingest, transcoding, encryption and delivery that enables the creation and delivery of certain services directly to consumers and are offered as a subscription software-as-a-service and accessed by Authorized Users through the VIVID Portal; and (ii) software subscription services.
Subscription Term Period	The period set out in the Order by which Customer uses the Service and starting from the Subscription Commencement Date set forth in the Order or agreed upon by the parties. has submitted an order for the purchase of the Subscription Service from Synamedia.
Support Services	Maintenance and support services for the Subscription Services

<b>Term</b>	<b>Definition</b>
VIVID Portal	A web-based portal where Customer can configure, activate, modify and operate the Subscription Services for VIVID cloud-based subscription services.

## **Attachment A**

### **VIVID Subscription Service Specifications**

Synamedia's VIVID Software Defined Video Workflow is a Service Provider grade media processing solution exposing processing and delivery workflows offered as "WaaS - Workflow as a Service, also known as the Subscription Service.

The customer can operate the day-to-day live video services configuration and operations through the VIVID Portal. The Subscription Service is hosted by Synamedia on behalf of the Customer in a Public Cloud account and supported in accordance with Attachment B, Synamedia Service Description.

The Subscription Services provide a video processing solution, ingesting content from the source to delivery of media to Subscriber and/or Subscribers' End Customer devices.

## **1. 0 Roles and Responsibilities**

### **1.1 Customer Responsibilities**

Customer will: (a) administrator the Subscription Service using the VIVID Portal User; (b) install the necessary products and obtain uplink internet capacity to ingest content into the workflow; (c) be solely responsible for the nature, quality and accuracy of the Customer Content; (d) ensure that the Customer Content (including the storage or transmission thereof) complies with this Agreement and any and all applicable laws and regulations; (e) promptly handle and resolve any notices and claims relating to the Customer Content; (f) promptly handle and resolve any notices sent to Customer by any person claiming that any Content violates any person's rights, including take-down notices pursuant to the Digital Millennium Copyright Act and any other notices; and (g) maintain appropriate security, and protection of its computer, laptop and other computing devices accessing the Subscription Service.

Synamedia shall have no liability to Customer or any third party as a result of (a) any unauthorized disclosure or access to Customer's account or Customer Content as a result of Customer's or an Authorized User's misuse of the Subscription Service or loss or theft of any Authorized User's password or username; or (b) any deletion, destruction, damage or loss of Customer Content caused by or at the direction of Customer or an Authorized User.

Where applicable, Customer will: (a) provide the content management system (CMS), (b) digital rights management (DRM) environment and (c) Client applications and players; and

Customer shall provide (a) Content and sources, (b) Upload bandwidth between the contribution site and the Internet; and (3) The hardware, networking and software required to host the on premise SRT Gateway functionality.

Where the parties agree that the Subscription Services will be deployed in the Customer's cloud account, the Customer shall be responsible for providing Synamedia access to Customer's cloud account and Customer shall pay all cloud usage fees in accordance with the terms of contract between Customer and its chosen cloud provider and Synamedia shall not be a party to such agreement.

### **1.2. Synamedia Responsibilities**

Synamedia will: (a) host the Subscription Service on an infrastructure in the public cloud, and monitoring the Workflow(s); (b) provide availability in accordance with Attachment B as it relates to the VIVID Portal, user interface and API;; (c) provide Subscription Service uptime in accordance with Attachment B unless Synamedia and Customer agree otherwise in writing; (d) implement commercially reasonable administrative and technical measures, including disaster recovery procedures, for the Subscription Service; pay Synamedia's public cloud usage fees for the Subscription Service where Customer purchases the Subscription Service utilizing Synamedia's cloud provider.

## **2. VIVID Subscription Service – Standard Offering**

### **2.1 Subscription Service Workflow Types and Interfaces**

Details pertaining to the Subscription Service's workflows can be found at [www.Synamedia.com](http://www.Synamedia.com).

## **2.2 Subscription Service Workflow Components**

The software defined video Subscription Service workflows' architecture are comprised of the following components.

## **Attachment B VIVID Support Service Description**

This Attachment B describes the Support Services for VIVID cloud-based subscription services only and is not applicable to software subscription services. The Support Services set forth herein have three major components: customer operations, service delivery and service assurance as described in further detail below. The terms of Attachment B are incorporated into the Agreement between Customer and Synamedia. Capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Agreement.

### **Overview**

High Level/ Low Level design customer operations covers the pre-sales phase of the implementation of the Subscription Services in a cloud environment, prior to commercial launch by Customer. The initial project to deploy the Subscription Services is led by a Synamedia project manager whose responsibilities include:

- Analysis of on-premises equipment requirements and deployment, as necessary

The Customer on-boarding phase of the project is addressed in a statement of work ("SOW") at a separate cost. The SOW will address the Customer requirements and associated timelines. The integration services may include integration with the Customer's back-office systems, such as billing and/or Subscriber management or integration/deployment of media/data plane elements.

Depending on the Customer needs, Synamedia can provide through a fully executed SOW for an additional fee, installation of appropriate on-prem equipment to transfer encoded content to the cloud using SRT technology. Alternatively, the Content Provider used by the Customer may have specific feeds to a public cloud that the Customer can use for ingest into the Subscription Services. Such services would be defined under a separate SOW.

### ***Service Level Management***

During the deployment of the Subscription Services, the Synamedia Customer Success Manager and the Customer shall conduct service review meetings at agreed upon intervals. The Service review participants should include both technical and managerial representatives from Synamedia and Customer.

### ***Service Delivery***

By utilizing the VIVID Portal, the customer defines and configures the Subscription Service using a set of pre-defined (templated) workflows and selects appropriate consumption models such as 24/7, events based or disaster recovery.

Synamedia will be responsible for the channels and associated application deployment in the public cloud, to complete the workflow as defined by the Customer using the VIVID Portal.

Synamedia will also provide maintenance, updates, and bug fixes in furtherance of delivering the Subscription Services, following an agile delivery methodology. The deployment of any new features may be subject to a separate fee. Ongoing enhancement may also include tools for monitoring the Subscription Services.

Certain configuration services may be contracted by Customer under a separate SOW.

### ***Change Management - Software Installation & Upgrades***

As part of the Subscription Service, Synamedia's Support Services includes a delivery process that will give the Customer access to the most recent releases of software being developed using agile software development practices. Synamedia will perform quality assurance testing on all major and minor releases internally before general release to the Customer and will ensure that such releases do not remove critical functionality from the Subscription Service or materially degrade the performance of the Subscription Service. These regular software updates include new product roadmap items as well as bug fixes. Synamedia will be responsible for the installation of the software related to the Synamedia components in the Synamedia will provide at least forty-eight (48) hours advance written notice to Customer prior to the delivery of any proposed release.

In conjunction with the Support Services, the Customer will be provided with access to a web-based service desk. The Service Desk can be used by Customer to request change freeze windows, i.e. embargo windows. It is expected that embargo windows will have a clearly defined start and end date. These embargo window requests must be provided at least 5 weeks in advance of the start of the embargo window. The request will be reviewed, and Synamedia will make reasonable efforts to accommodate the request.

Customer acknowledges that Synamedia may need to perform emergency maintenance without providing advance notice.

**Service Assurance**

The Support Services include a dedicated service assurance function provided on a 24x7x365 basis. The service assurance function monitors and detects issues with the Subscription Services and takes corrective action on an as needed basis.

In the event of a Customer raised incident, Service Assurance can be reached via the methods outlined in “**Table 1 Service Assurance Component Availability**” and in greater detail during the on-boarding process. Service Assurance acts as the single point of contact for case management and resolution. The priority of Service Assurance is to maximize the availability of the Synamedia components comprising the Subscription Services. During an incident, focus is initially on restoration of the Synamedia component(s). Once the Synamedia component is restored, Synamedia will conduct a root-cause analysis and may recommend longer-term corrective action.

**Table 1 Service Assurance Component Availability**

Service Component	Supported Production Environment Coverage	Supported Non-Production Environment Coverage
Service Desk (Web based / Access over Portal)	24 x 7 (Priority 1 and Priority 2 only)  8 x 5 (All other priorities)	8 x 5 (Priority 2, Priority 3, and Priority 4 incidents)
Telephone support	24 x 7 (Priority 1 and Priority 2 only)	Not applicable
Remote support	24 x 7	8 x 5
Onsite support	Priority 1 (as agreed and subject to separate service contract)	Not applicable

**Table 1 Service Assurance Component Availability**

There are several main activities of the Service Assurance function. They are described in the sections below.

**Service Desk**

Customer may contact Synamedia regarding technical operations of the Subscription Service via the Service Desk. The Service Desk can be reached via the Service NOW website for non-critical questions or for system-impacting Priority 1 concerns for the following purposes including but not limited:

- To report an incident related to the Synamedia components that comprise the Subscription Services
- To ascertain the status of a previously logged incident
- To research or query issues regarding the Subscription Services
- To discuss an action plan or escalate an incident with the Synamedia support manager

## Service Desk Contact and Response

Support Services Contact	Response Times
In-Application online support, accessible through the Portal and available in Service Now	Refer to <b>Table 2 (Incident Priorities) and Table 3 (Target Response Times)</b>

### Incident Management

Service Assurance will be responsible for overseeing all activities related to Incidents opened by either Synamedia or the Customer. This includes Incident detection and recording, triaging Incidents to the appropriate Subscription Services components, engaging the appropriate engineering teams, communication of Incident status, and closing the Incident when resolved.

### Incident Priorities

Synamedia classifies incidents into four priorities, dependent on the impact on the Customer's ability to use the Subscription Services as set out in **Table 2 Incident Priorities**.

#### Table 2 Incident Priorities

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<b>Priority 1</b>	<b>Emergency/Critical</b> - means a Service is down or there is a critical impact to the Customer's business operation. The Customer and Synamedia both will commit fulltime resources to resolve the situation.
<b>Priority 2</b>	<b>Major</b> means operation of a Subscription Service is severely degraded or significant aspects of the Customer's business operation are negatively impacted by unacceptable Service performance. The Customer and Synamedia both will commit full-time resources during standard business hours to resolve the situation.
<b>Priority 3</b>	<b>Medium</b> - means operational performance of a Service is impaired, although most business operations remain functional. Customer and Synamedia both are willing to commit resources during standard business hours to restore service to satisfactory levels.
<b>Priority 4</b>	<b>Low/Minor</b> - Requests for information.

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**Note:** Incidents cannot be raised for known issues that are subject to a "Waiver". A "Waiver" means any mutually agreed upon exceptions to functionality of the Service.

### Response and Time to Restore

Based on the assigned priority, the Service Assurance team will provide the target response times specified in **Table 3** and the target time to restore times specified in **Table 4** (collectively, these target times are referred to as "**Service Levels**")



**Table 3 Target Response Times**

Incident Priority	Hours	Initial Response	Service Level Target	Update Response
Priority 1	24 x 7	15 mins	95%	4 hours, then every 8 hours
Priority 2	24 x 7	30 mins	95%	8 hours, then every 48 hours
Priority 3	8 x 5	Next Business Day	N/A	5 Business Days, then every month
Priority 4	8 x 5	5 Business Days	N/A	Not applicable

Service Level Target – 95% of Priority 1 and Priority 2 Incidents are responded to in the timeframes in this table.

“**Initial Response**” means: For P1 and P2 Incidents, the time elapsed from the occurrence of an actionable P1 or P2 Incident as indicated in Company’s Service Desk system until the time Company sends an automated electronic notification to Customer.

**Table 4 Target Time to Restore**

Incident Priority	Target Time to Restore	Service Level Target
Priority 1	3 hours	95%
Priority 2	6 hours	95%
Priority 3	Two Business Days	N/A
Priority 4	As available	N/A

Service Level Target – 95% of Priority 1 and Priority 2 Incidents are restored in the timeframes in this table.

Note: “**Time to Restore**” means the time period commencing upon the creation of an Incident in Company’s Service Desk system and ending when Company provides, as applicable (i) remote restoration, or (ii) the technical information which, when implemented, will restore the affected service or site to usable level of functionality.

### Escalation

For Priority 1 incidents Synamedia follows an escalation procedure to notify key personnel within the company, as shown in the below table, **Table 5 Priority 1 Escalation**.

**Table 5 Priority 1 Escalation**

Escalation Stage	Timing (T = Logging of Incident)	Company Contact	Customer Contact
1st escalation	T + 2hrs	Support Manager	Technical Manager
2nd escalation	T + 4hrs	Services Technical Director	Technical Director

Escalation Stage	Timing (T = Logging of Incident)	Company Contact	Customer Contact
2 <sup>nd</sup> escalation – 2 <sup>nd</sup> alert	T + 6hrs	Services Technical Director	Technical Director
3 <sup>rd</sup> escalation	T + 8hrs	VP Services	CEO/Board

### **Service Availability**

#### **Uptime Guarantee**

The Synamedia Services will provide a minimum Service Availability of 99.9% during each calendar month of the Subscription Term (the “**Uptime Guarantee**”).

“**Service Availability**” means the percentage of time of a particular month (based on 24-hour days for the number of days in the calculated month) that the Service is available for use by Customer, calculated as follows:

$$\text{Service Availability \%} = 100 \times \frac{(\text{Total Minutes in Month} - \text{Minutes Downtime in Month})}{\text{Total Minutes in Month}}$$

Service Availability demarcation is referred per type of Service and documented on Synamedia product website.

“**Downtime**” means a period of time where the Service is unavailable for use by Customer. Downtime excludes Authorized Downtime. Authorized Downtime defined herein.

#### **Authorized Downtime**

“**Authorized Downtime**” means downtime of the Subscription Service matching following conditions:

- i. Scheduled maintenance, upgrades or modifications related to the Service. For scheduled maintenance, the Customer has received reasonable prior notice from Synamedia;
- ii. Caused by or resulting from an Excluded Issue;
- iii. Due to Customer's breach of its obligations under the Agreement;
- iv. Required by law or regulation as determined by Synamedia in its reasonable discretion
- v. Intentionally caused by Synamedia in its reasonable discretion as being necessary to protect the Service and/or Service customers from unauthorized access to the Subscription Service or a hacking or other cyber-attack on the Service; and
- vi. Downtime as a result of Customer's private or third-party cloud network.

#### **Excluded from the Service SLA**

The following issues that may impact the Subscription Service are outside the scope of Support Services under this SLA (“**Excluded Issues**”):

- i. Issues arising from or relating to Subscription Services, applications or products not provided by Synamedia;
- ii. Custom integration scripts (other than those provided directly or indirectly by Synamedia) that use Synamedia APIs;
- iii. Issues with channel sources (eg satellite feeds) or other sources related to peripheral equipment outside of, but required for, the operation of the Service, other than any source provided directly or indirectly by Synamedia;

- iv. Issues with the CONNECT, other than any system, hardware, hypervisor or network provided directly or indirectly by Synamedia;
- v. Bandwidth (open internet or direct link) degradation between Customer's contribution site and ingest of the Service;
- vi. Last mile issues to Customer's Affiliate subscribers (e.g. network degradation or stability, Customer applications, and Customer video decoding and decryption),
- vii. Use of the Subscription Service by Customer that is in breach of this Agreement, including through configuration changes performed by Customer via the VIVID Portal user interface and/or APIs
- viii. Issues relating to Customer's internal network for content acquisition or connectivity disconnection and/ or degradation between the contribution site and the Internet;
- ix. Synamedia Software Defined Appliances used in the end-to-end solution where the Subscription Service is only part of the solution workflow.
- x. Any type of On Prem integration activities (need to be covered by separate Synamedia SOW); and
- xi. Any type of On Prem support services which would be contracted for under a separate Synamedia contract.

### **Operational Requirements**

#### **Remote Support and VPN Requirements**

The ability to connect into Customer's on-premises live video environment using a continuous secure virtual private network ("VPN") communications link provided and approved by Customer is mandatory. It will enable Synamedia to run diagnostics of the Synamedia components of the Subscription Service remotely.

Synamedia must have the capability to monitor the status of various components of the system. This provides valuable information that Synamedia engineers can analyse to facilitate the rapid diagnosis and resolution of Incidents should they occur. Customer is responsible for providing the VPN access interface.

#### **Monitoring and Logging**

Synamedia's Service Assurance involves a 24 x 7 x 365 monitoring capability that is directly integrated into the Subscription Service, known as the Cloud Operations / VIVID NOC, There is a continuous stream of monitoring information that is analysed with a goal of reacting to events and resolving Incidents before Subscribers are impacted.

This monitoring capability includes availability and capacity management. Company continuously looks at system performance and will adjust the system as necessary and/or provide insight as to necessary system expansion requirements.

#### **Reporting Capabilities**

Company will provide KPI/metrics reports to the Customer. These typically cover performance and usage metrics. These reports will be delivered on a monthly schedule or can be provided on-demand to a distribution list specified by the Customer. A sample list of KPI's and metrics is provided in Table 7 below. Note that they are dependent upon the Subscription Service selected and not all of the following KPIs are applicable to all installations.

**Table 6 Reported Key Performance Indicators (KPIs)**

KPI	Description
Linear Channel present	Channel can be successfully viewed by end user device, with acceptable quality at the point of egress
Linear channel acceptable quality	Channel shows no large visual artefacts at the point of egress
Linear Pause/rewind/FF	The client application can download segments in the past as per pre-defined replay buffer (x hours)
Linear event start time	Upon proper configuration of the channel and invoking the launch button, a new channel is available at egress after max 180 s

Disaster recovery	After manually activating the restore function, a failed channel will be available after X s, (X=TBD)
Availability Platinum	99.9%

- a) All applicable KPIs are reported on a monthly basis, unless otherwise agreed with Customer
  - i) Data is generally collected continuously.
- b) All applicable KPI's are measured within the Services Control Plane unless otherwise noted.
- c) Assumptions are:
  - i) Live Video is operational at the input to the Company data plane.
  - ii) Metadata is present and correct.

## 1 Exceptions

The Support Services and the Service Levels shall not include the correction of any Incident due to:

- d) Customer's neglect or misuse of the Subscription Services or its failure to operate the Subscription Services for the purposes for which it was designed;
- e) Any accident, disaster, or other force majeure cause affecting the Subscription Services including without limitation fire, flood, water, wind, lightning, transportation, vandalism or burglary;
- f) Customer's failure, inability or refusal to afford Company's personnel access to the Subscription Services;
- g) Any fault in any attached or associated third party equipment (whether or not supplied by Company or forming part of the Subscription Services);
- h) The provision, renewal or repair of supplies for use in association with the Subscription Services;
- i) Sending non-compliant data to any interface of the Subscription Services.
- j) Hardware replacement, repair, support and maintenance services which shall be covered under the applicable Hardware support agreement.

## 2 Additional Obligations of Customer

In addition to any obligations noted previously, Customer shall also:

- a) Maintain the Media Plane location/s in a manner consistent with the specific site requirements identified during delivery of the Serviced and generally provide a suitable environment for the operation and maintenance of the Subscription Services, cables and fittings associated therewith and the electricity supply at the Media Plane location(s). To this end, Customer shall observe such reasonable directions with respect to the operating environment of the Subscription Services as Company may specify from time to time provided any such new directions given by Company after the date of this Agreement do not create any material financial or operational burden on Customer
- b) Provide Company with all reasonable co-operation to facilitate Company's efficient discharge of its obligations under these Support Services and, in particular, but without limitation, provide accurate

information concerning the Subscription Services, make available Customer owned spares, and any other matters arising that Company reasonably considers pertinent to its provision of the Support Services from time to time.

- c) Take all reasonable precautions to safeguard the health and safety of Company staff and sub-contractors while working with the Subscription Services or any other equipment, which belongs to Customer or is located at any of the Customer location(s).
- d) Keep and operate the Subscription Services in a proper and prudent manner in accordance with Company's operating instructions and ensure that only competent trained employees are allowed to operate the Subscription Services. Subscription Services operation includes the day to day exercising of the system APIs, either via automated interfaces or supplied user interfaces, in order to modify the system data to effect changes based on business requirements. Examples of this would include adding new linear content, defining new offers, updating channel logos etc.
- e) Implement data-security for the network and its interface with the Company components.
- f) Ensure any necessary support agreements are in place for third party equipment (not included as part of the Support Services).
- g) Be responsible for renewal of third-party support contracts on-going.
- h) Provide remote access (VPN) to the Subscription Services for Company personnel.
- i) Certify that only competent and trained personnel, or persons working under their direct supervision, shall be responsible for diagnosing Incidents.

**EXHIBIT 1**  
**AFFILIATES**