

Layar Terms and Conditions for Publishers and Developers

v7.1 (updated 04 April 2018)

DESCRIPTION OF SERVICES

We provide you as a developer ("**Developer**") or a publisher ("**Publisher**") with an augmented reality application, application programming interfaces ("**APIs**"), software development kits ("**SDKs**"), tools and other related means, services, features and functionalities (jointly: the "**Services**" or "**Optional Services**" as the case may be). The Optional Services have Additional Terms and Conditions which are included as attachments to these Terms. Where the term "Services" is used in this Agreement the corresponding clause applies also to all the Optional Services attached to this agreement. The Services enable you to exchange or provide content in the public space with our users ("**Users**") or users of third party services in the form of augmented reality layers that can be viewed using a compatible application ("**AR Browser**"). Augmented reality layers may contain content, including but not limited to text, pictures, graphics, 2D/3D models, videos and links, jointly referred as the "**Digital Content**", as well as images required for the detection and tracking of features to display content ("**Reference Images**"). A "**Layer**" is the aggregation of multiple Pages and their associated Digital Content (in which case we refer to it as a "**Vision Layer**" or "**Campaign**"), or just the aggregation of location-based Digital Content (in which case we refer to it as a "**Geo Layer**") to be provided as one entity to our users, typically an aggregation that reflects a physical product such as a magazine, or an aggregation representing a specific location-based service, as determined by the Publisher. The collection of all your content, encompassing the Digital Content and the Reference Images, is referred to as "**Third Party Content**". When adding content, it is important that you respect locations, intellectual property rights, privacy and the rights of third parties at all times.

1. ACCEPTANCE OF TERMS

- 1.1. Please read these Terms and Conditions ("**Terms**") carefully. These apply between you and Layar B.V., Vijzelstraat 20, 1017 HK Amsterdam, The Netherlands ("**Layar**" or "**We**") and Layar's affiliated companies. By using the Services in whichever form, through whatever technological means and wherever you are, you enter into an agreement with us and accept these Terms and any legal notices that Layar may post from time to time,

such as our Notice-and-take down Procedure, Payment Policy and Privacy Policy (see www.layar.com/legal) and – by continuing your use of the Services – all amendments that Layar implements and communicates to you. If you use any of the Optional Services, namely the Layar Creator, the Layar App Service or the Layar Connect API, please make sure you also read the Additional Terms in the attachments to this Agreement. By using any of the Optional Services, you are also bound to the Additional Terms for that specific Optional Service. You should save these Terms on a permanent data carrier – for later inspection – and print them before starting to use the Services.

- 1.2. You are only allowed to use the Services if you are 13 years or older. If you are between 13 and 18 years of age, please read these Terms together with your legal guardian(s), who must give permission for such access/use.
- 1.3. If you act on behalf of a company, you acknowledge that you are legally entitled to represent your company when accepting these Terms.

2. PUBLISHERS AND DEVELOPERS

2.1. General

- 2.1.1. Our Services distinguish between publishing and developing roles. A single person may have both roles and thus act as a Developer and a Publisher, in which case the specific terms apply.
- 2.1.2. Except for clauses in these Terms specifically aimed at Developers or Publishers, these Terms apply both to Developers and Publishers. When we refer to "You", we mean both Developers and Publishers.

2.2. Publisher

- 2.2.1. Natural persons and legal entities which, upon their request, are granted approval for publication by Layar or who perform other publishing activities, including editing, are considered Publishers. A request for publication of Third Party Content can be submitted to Layar through the Layar platform ("**Platform**").
- 2.2.2. In order to be granted and maintain approval for publishing Third Party Content and to obtain other Services, you must have a Publisher account and the relevant Third Party Content must meet all (technical) conditions mentioned at: www.layar.com. Approval for publication furthermore requires that the request thereto contains all required information mentioned in the

request for publication form in the Platform, which is provided to you automatically during the publication process.

2.2.3. Layar is entitled, at its sole discretion, to refuse a Publisher account.

2.2.4. Termination of (the parts of) an agreement with you leads to the automatic termination of your Publisher account and revocation of publication approval(s). Terms of termination are set forth in section 11 of these Terms.

2.3. Developer

2.3.1. Natural persons and legal entities which develop Third Party Content and use the relevant enabling Services to that extent are considered Developers.

2.3.2. A Developer account may be required to access certain areas of the Platform, for instance for testing purposes, or to obtain certain Services. A Developer account may be authorized by Layar or by a Publisher with whom the Developer cooperates.

2.3.3. Layar is entitled, at its sole discretion, to refuse a Developer account.

2.3.4. Unless we agree otherwise, termination of (the parts of) an agreement with you leads to the automatic termination of your Developer account. Terms of termination are set forth in section 11 of these Terms.

2.4. Information about you

As part of the registration process or as part of the continued use of the Services you may be required to provide information about yourself. You will provide accurate, correct and up-to-date information. You are solely responsible for maintaining the confidentiality and security of your Publisher or Developer account, including your passwords. Furthermore, you agree that you are entirely responsible for all activities that occur on or through your account. Please read our Privacy Policy.

3. MARKETING AND DISTRIBUTION ON BEHALF OF PUBLISHERS

3.1. Upon request for publication, the Publisher authorises and instructs Layar, which instruction Layar accepts upon approval for publication, to: (i) market the Digital Content; (ii) make the Digital Content available to Users on Publisher's behalf, e.g. by the mere conduit of Digital Content to Users and caching thereof; (iii) obtain orders for

access to Digital Content from Users on your behalf; (iv) allow and sublicense Users to access and use (copies of the) Digital Content; (v) use the Digital Content to enable Users to post or display content; (vi) make copies of, format, and otherwise prepare Digital Content for delivery to Users, including Users using any (3rd party) AR Browser that supports interoperability with the Platform and including adding security solutions; and (vii) use the Digital Content, including but not limited to screen shots and excerpts thereof, trademarks and logos associated therewith for promotional purposes.

- 3.2. The Publisher grants Layar a personal, non-assignable, worldwide, royalty-free and non-exclusive license to (i) store and process the Reference Images uploaded to the Platform to the extent necessary to provide the Services in accordance with these Terms and the Services in accordance to the Layar Terms & Conditions for End-Users; this right extends to the taking of fingerprints in order to detect and track Reference Images; (ii) enable the publication of the associated Digital Content on a supported mobile device when its User views the print copy or other (digital) reproduction of a Reference Image through the Platform; and (iii) make copies of, format, and otherwise prepare Reference Images for delivery to Users for the purpose of viewing the associated Digital Content. No other publishing rights are granted to Layar with regard to the Reference Images.
- 3.3. Layar will provide the hosting and publication service for each Vision Layer for a pre-determined period after the Layer has been published by You. Depending on the mode of publication, you will be notified of the period of publication of your Layer. If it isn't mentioned at the time of publication or agreed with you otherwise, the period of publication is at most 1 (one) year. After that period, Layar may unpublish the Digital Content.
- 3.4. The Publisher acknowledges and agrees that: (i) the Publisher shall be solely responsible for any Third Party Content and all claims and liabilities relating to the Third Party Content; (ii) Layar's efforts directed to marketing and making the Third Party Content available to Users are performed on the Publisher's behalf; and (iii) the Publisher's relationship with Layar is non-exclusive.

4. PROVISION OF THE SERVICES

- 4.1. You agree that the form and nature of the Services may change from time to time without prior notice to you. Such changes can include but are not limited to bug fixes, patches, modified functionalities, new versions of the Platform, and/or modifications in the provision of Optional Services, facilities and/or support.
- 4.2. You understand and accept that we may involve affiliated companies in providing the Services to you.

- 4.3. Layar provides the Services and all Optional Services with reasonable care and skill. You understand and accept that the Services are provided "as is" and "as available". Layar will always make a best effort to ensure its Services perform well and do not contain defects. But under no circumstances will we be obliged to provide you with corrections of the Services should defects in the Services arise.
- 4.4. You agree that we may provide you with written or electronic notices (e.g. by e-mail, regular mail, SMS, MMS, social media messages, or postings).
- 4.5. Layar provides the Services on the basis of a Fair Use Policy. Should your Digital Content generate an amount of traffic to Layar's servers such that this greatly impacts Layar's cost of operation, we reserve the right to throttle or temporarily disable access to your Digital Content. The threshold for such an event is when traffic to your Digital Content is more than 25% of all Layar traffic for repeated, prolonged periods of time over the course of multiple days. We will warn you at least 24 hours prior to taking such measures with the goal of reaching a common understanding on how to proceed.

5. USE OF THE SERVICES

- 5.1. You will be responsible for any content that you exchange, provide or upload, whether or not you connect to the Platform. You should always be aware of and pay cautious attention to the context and environment in which you exchange, provide or upload content. Third Party Content must always satisfy the following conditions: (i) full compliance with applicable laws and regulations, and, more in particular, that it shall not contain material that is offensive, degrading, indecent, libellous, obscene, pornographic or otherwise objectionable or material from other works protected by intellectual property rights, without the written consent of the owner of such rights, other than excerpts permitted legally; (ii) Third Party Content may not contain malware, malicious or harmful code, program or other internal components which could damage, destroy or adversely affect other software, hardware, data or services; (iii) if the Third Party Content includes links to other websites, content or sources, you must either own (the intellectual property rights to) all such content or have permission from the content owner to use it in your Third Party Content; (iv) if the Third Party Content contains pornographic, obscene, abusive, violent or any other explicit material that could be harmful to persons under the age of 18 years, you will ensure that this Third Party Content is not disclosed to nor accessed by Users under the age of 18 years. Prior to allowing Users to access Third Party Content, you shall: (a) adequately warn them that the Third Party Content contains the said harmful material, (b) verify their age, (c) block access if the Users are under the age of 18 years; and (d) you will refrain from harvesting or otherwise collecting information about others, including email addresses, without their consent.

- 5.2. You will refrain from (re-)selling, trading, leasing, renting, loaning and distributing the Services, unless we agree otherwise and such activities will be subject to specific terms. You may not modify, copy, or create derivative works based on the Services, unless specifically agreed otherwise in written form.
- 5.3. You are entitled to stop publishing Third Party Content at any time.
- 5.4. As part of the Services, Layar may provide you with API's to establish a link between the Third Party Content and the Services. The use of any API provided by Layar is subject to these Terms. When an affiliated company provides you with an API as part of the Services, it may apply different or additional terms and conditions which you accept when using the API. If you use any API to process a User's data, you acknowledge and agree that you shall process those data only with the User's explicit prior consent and only when, and only for the limited purposes for which the User has given you permission.

6. LICENSE, USAGE FEES AND PAYMENT POLICY

6.1. Prices

Our pricing is based on fair usage and value for the customer. The prices mentioned on our website apply only for individuals and small businesses that fulfil **all** of the conditions stated below:

- (a) You or your company generate a yearly revenue of less than EUR 2 million. For the avoidance of doubt, if your company is part of a group of affiliated companies, the combined total yearly revenue for that group of companies must be less than EUR 2 million;
- (b) You or your company employ less than 10 people;
- (c) You're using the Services to serve an audience in no more than one country;
and
- (d) If you're using the Services on behalf of a customer, your customer also fulfils all of the above conditions

(together, the “**Conditions**”).

If you do not meet the above Conditions at any time, You agree to promptly contact us to request an appropriate pricing plan before publishing any Digital Content using our Services.

We may, at any time, request in writing (which includes via email) for you to provide evidence that you meet all the Conditions. If within five (5) working days of receiving such notice, you are not able to demonstrate to our reasonable satisfaction that you meet all of the Conditions or if we have reasonable grounds to believe you do not meet all of the Conditions, we reserve the right to suspend your use of the Services immediately upon notice (includes via email) until an appropriate pricing plan has been agreed and paid.

Unless otherwise stated explicitly and in writing, all prices are exclusive of tax and other levies.

We reserve the right to adjust the asked prices and charged fees at all times.

6.2. License and support fees

For some Services, such as the Layar App Service, we charge you a periodic license fee. Other Services, such as the Layar SDK, are offered for a one-time license fee and a periodic or per-update support fee. The fees will be set forth in a separate (electronic) communication form to you and/or on the Layar websites.

6.3. Subscriptions

We may charge you on a monthly basis or other basis for Optional Services we provide you, such as the Premium Account subscription for the Layar Creator. Our website will provide you with information as regards to the Services offerings, pricing and other special terms. By using the Optional Services you are deemed to have accepted the supplementary terms and conditions for the Optional Services.

6.4. Credits

Some of our Services, such as but not restricted to publishing Digital Content associated with Reference Images, are charged using one-time, prepaid credits (“Credits”).

If payment is made by means of Credits, we shall devalue the Credits balance with the amount due. It is impossible to purchase services in case of insufficient Credits.

The Credits are valid for one (1) year commencing on the date of purchase. Once this term of validity has expired, your Credits will lapse and become nonrefundable. You can retrieve your Credits balance via the website at all times. We are entitled to adjust the terms and

conditions with regard to the credits validity. We will announce such adjustments prior to the effective date on our website.

Credits are only valid for services and information mentioned on the website. They are not convertible into cash or otherwise.

6.5. Sponsored Program

- 6.5.1. At Layar's sole discretion you may be eligible for our "**Sponsored Program**", which allows you to receive Credits or Subscriptions for free or at a reduced cost. You may apply for the Sponsored Program on our website, by informing us on the type of Digital Content you intend to produce and the purpose for which you will use Sponsored Program ("**the Purpose**").
- 6.5.2. You agree that you will use any Credits or Subscription that has been awarded to you under the Sponsored Program in a manner consistent with the Purpose you indicated at the time of application.
- 6.5.3. Layar has the right at any time to review the Digital Content created under the Sponsored Program and, if deemed in conflict with the Purpose, to proceed to unpublish the Digital Content with immediate effect, after which Layar will inform you by email.

6.6. Payment Policy

By using the Services or any of the Optional Services and accepting the applicable license, credits or service fee, you acknowledge paying such fee to us in accordance with our payment terms.

- 6.6.1. All amounts payable by you for the Services ("**Fees**") are due either immediately in full by using the payment methods provided to you online on our website or within (15) Fifteen days after delivery of the Layar invoice without deduction or setoff. You will be responsible for the payment of any present or future sales, use, excise or other similar tax (excluding taxes based on Layar's net income) applicable to the Services. Fees paid for Services are non-refundable, except in the case of Layar's uncured material breach, in which case Layar will refund to you pre-paid amounts for Services not rendered as of the effective date of such termination. If you request credit or Layar cannot authenticate your identity, then you authorize Layar to obtain information regarding the Optional Services you are deemed to have accepted the supplementary terms and conditions for the Optional Services.
- 6.6.2. Layar does not accept payments by cheque.

- 6.6.3. We may charge you interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) on all late payments.

6.7. Temporary Suspension

- 6.7.1. Generally. We may suspend your or any User's right to access or use any portion or all of the Services or Optional Services immediately upon notice to you if we determine:
- (a) your use of or registration for the Services (i) poses a security risk to the Services, (ii) may adversely impact the Services or the systems or Content of any other Layar customer, (iii) may subject us, our affiliates, or any third party to liability, or (iv) may be fraudulent;
 - (b) you are in breach of this Agreement, including if you are delinquent on your payment obligations for more than seven (7) days; or
 - (c) you have ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of your assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding.
- 6.7.2. Effect of Suspension. If we suspend your right to access or use any portion or all of the Services and Optional Services:
- (a) you remain responsible for all fees and charges you have incurred through the date of suspension;
 - (b) you remain responsible for any applicable fees and charges for any Services to which you continue to have access, as well as fees and charges for in-process tasks completed after the date of suspension; and
 - (c) we will not erase any of Your Content as a result of your suspension, except as specified elsewhere in this Agreement.
 - (d) Layar is entitled to charge you additional fees and request additional terms to be met before reinstating the Services after a suspension
 - (e) Our right to suspend your or any User's right to access or use the Services is in addition to our right to terminate this Agreement pursuant to Section 7.2.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. You acknowledge and agree that Layar or Layar's licensors own all right, title and interest, including but not limited to intellectual property rights, in and to the Services. All intellectual property rights with regard to the Services will remain solely with Layar or its licensors. Conversely, all intellectual property rights with regard to the Third Party Content will remain solely with you or your licensors, subject to the provisions in this clause.
- 7.2. Unless we have agreed this in writing, or our guidelines explicitly permit this (such as our Best Practices Guidelines for Interactive Print), you are not allowed to use any logo or any other trademark, service mark, graphic owned by Layar or its licensors and used in connection with the Services. Moreover, you are not allowed to create an unfavourable impression with respect to our logos, trademarks etc. when you exchange, provide or upload Reference Images.
- 7.3. Layar grants you a worldwide, non-assignable, and non-exclusive right to use the Platform for the development and/or publishing of Third Party Content, under the following restrictions: (i) the license covers only those parts of the Platform, which Layar denoted as having Third Party Content development or publishing purpose and you will only use the relevant Platform area for such purpose; (ii) you may not reverse engineer, decompile or otherwise (attempt to) extract the source code of the software which Layar or its licensors provide you for Third Party Content development or publishing purposes, unless this is explicitly permitted; and (iii) you will not (sub)license or establish any security rights with regard to the relevant Platform parts.
- 7.4. Conversely, you grant Layar a perpetual, irrevocable, worldwide, royalty-free and non-exclusive license to disclose and reproduce the Third Party Content with the goal of enabling Layar to fulfil its contractual obligations towards you. This license includes but is not limited to the right to: (i) use the Third Party Content for administrative and demonstration purposes in connection with the marketing thereof; (ii) distribute the Third Party Content to Users; (iii) use the Third Party Content to make improvements; (iv) store and process the Third Party Content to the extent necessary to provide the Services. This right extends to the taking of fingerprints in order to be able to detect and track Reference Images. Whenever you upload content, such as Reference Images, you grant us the right to process such Reference Images as necessary for us to provide Services to our Users and you warrant that such consent includes consent from other rights holders in such Reference Images or underlying content.
- 7.5. As a Developer, you may elect to include a separate end user license agreement (the "**Developer EULA**") with the Third Party Content. Such Developer EULA can never and will never be allowed to prejudice Layar's rights under these Terms towards you, the Users and any third parties. You will indemnify Layar and hold Layar harmless against

and from any liability that might be allocated to Layar because of any Developer EULA or any breach by any party thereof.

- 7.6. If you infringe the intellectual property rights of Layar or of any other third parties, Layar may, at its sole discretion, terminate, suspend or deny access to and use of the Services.

8. PRIVACY

- 8.1. Layar represents that it conforms to the Privacy Policy which can be found at: layar.com/legal. Conversely, by entering into an agreement with Layar, you expressly accept the Privacy Policy.
- 8.2. With regard to the collection, processing, transmission or use of a User's personal data, including inter alia location data in connection with the User's use of the Third Party Content: (i) you understand and acknowledge that you, as the responsible party, are the data controller regarding these data; (ii) you and the Third Party Content provided by you must comply with all applicable privacy and data protection laws and regulations with respect to any collection, processing, transmission, or use of the User's personal information or data as well as his location data by, or in connection with the Third Party Content. In addition, the use of location data or any personal information or data should be limited solely as necessary to provide features or functionality for the Third Party Content; (iii) you shall implement appropriate technical and organisational measures to secure personal information or data against loss, unauthorised disclosure or access as well as against any form of unlawful processing; and (iv) you shall be responsible to obtain all consents based on statements or actions to signify agreement from the User required by applicable law. We also require that you obtain consent from the User before collecting, processing, transmitting or otherwise using his location data in any way. If any consent is withheld or withdrawn, the Third Party Content may not collect, process, transmit, or use the User's personal information or data as well as location data or perform any other actions for which the User's consent has been withheld or withdrawn.

9. YOUR WARRANTIES AND INDEMNIFICATIONS

- 9.1. You represent and warrant that: (i) your use of the Services is and will be in strict compliance with all applicable laws and regulations (including, without limitation, any local laws or regulations); (ii) you have the right to enter into this agreement, to reproduce and disclose the Third Party Content and to authorise Layar to market and distribute the Third Party Content to Users; (iii) your use of the Services will not infringe or misappropriate the intellectual property rights of any third party.

- 9.2. To the maximum extent permitted by law, you acknowledge and agree to indemnify and hold harmless Layar, its affiliated companies, its contractors, its licensors and their respective directors, officers, employees and agents from and against any and all claims and expenses, including attorneys' fees, arising from third party claims, violations of your agreement and any applicable laws or regulations including any privacy and data protection laws and regulations that relate to your activities as Developer or Publisher. 'Applicable laws and regulations' include laws and regulations in any jurisdictions in which your Third Party Content may be offered or made available.
- 9.3. You indemnify us from and hold us harmless against any and all claims from third parties that the Third Party Content is in contravention of any (international) laws, regulations, in breach of any intellectual property rights or is otherwise considered unlawful.
- 9.4. For the avoidance of doubt, it is expressly agreed indemnity provided by You under these Terms and Conditions shall not apply to the extent any third parties claim that any Services provided by Layar to You infringe the patent rights or other intellectual property rights of such third party.

10. LAYAR'S LIABILITY AND WARRANTIES

- 10.1. Layar provides the Services and all Optional Services with reasonable care and skill. You understand and accept that the Services are provided "as is" and "as available". Layar disclaims all warranties of any kind, whether express or implied, and including warranties: (i) of merchantability, fitness for a particular purpose and non-infringement; and warranties that (ii) the Services are error free or that access thereto is uninterrupted; and (iii) the content or other information obtained through the Services is correct and reliable.
- 10.2. You agree that neither Layar, nor its affiliated companies, suppliers or its licensors are liable to you for any form of damages or loss which may be incurred by you or any third parties directly or indirectly resulting from the use of the Services. Unless and to the extent that damages are the direct result of wilful intent or gross negligence of Layar, Layar accepts no liability for any direct, indirect and consequential damages and loss of business, loss from interruption of the use of the Services or the loss or corruption of data obtained or used through the Services whether based on contract, unlawful act (including negligence), or otherwise arising from or relating to the Services, even if Layar or its affiliated companies, suppliers or licensors have been informed or should have known of the possibility of such damages. In any event, the maximum aggregate liability of Layar, its affiliated companies, suppliers or licensors for any and all damages arising from the Services shall be a refund of the amount paid by you to Layar, if any.

- 10.3. Layar represents that its Services shall comply with the iOS Developer Program License Agreement in effect on the date these Terms were last updated, as listed on the first page of these Terms.

11. TERMINATION

- 11.1. You are entitled to terminate any agreement with Layar at any time by suspending or deleting your Developer or Publisher account (if applicable).
- 11.2. Layar is entitled to terminate the agreement with you, wholly or in part, if Layar is obliged to do so by law or through an order of any competent authority;
- 11.3. Termination for Breach. Either party has the right to terminate this Agreement if the other party materially breaches any representation, warranty, covenant or agreement made by it hereunder or otherwise fails to perform any of its material obligations hereunder which breach or failure has not been cured. The breaching party will have the following time to cure such breach: (i) sixty (60) days after receiving written notice thereof from the other party if such breach can be cured within such sixty (60) day period, or (ii) a reasonable time if such breach cannot be cured within such sixty (60) day period but (a) the breach is capable of cure, (b) the breaching party commences to effect a cure within such sixty (60) day period, and (c) the breaching party diligently pursues such cure.
- 11.4. Termination for Cessation of Business or Insolvency. Either party may terminate this Agreement immediately: (i) if the other party ceases to do business, or otherwise terminates its business operations or (ii) if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other party and not dismissed within thirty (30) days.
- 11.5. Termination for Convenience by Layar. Layar may terminate this Agreement at any time for its convenience, for any reason or no reason, effective 90 days after providing the other party with written notice of its intent to terminate, except if you are using one of the Optional Services for which other terms of Termination may apply.
- 11.6. Termination of the Agreement by Layar has immediate effect. We will store your account information for a reasonable amount of time needed for administrative purposes. We will also provide Users access to the Third Party Content for a period of at least ninety (90) days upon termination in order to allow You to notify your Users in due time, except in case of Termination by Layar for Breach as cited in 11.3 or under lawful obligation as cited in 11.2.

- 11.7. You understand and accept that upon termination of the Agreement, with the exception of a Termination by You for Breach as cited in 11.3, you will have to stop using the Services immediately and you shall immediately settle any outstanding invoices. You understand that any unused Credits shall immediately lapse and become non-refundable upon termination of the Agreement.
- 11.8. All provisions of the Agreement that are intended to survive the termination, by nature or because such has expressly been provided for in the Agreement, shall survive such termination. These provisions include, but are not limited to, provisions regarding intellectual property, warranty disclaimers, indemnity and limitations of liability and applicable law. You acknowledge and consent that – whatever the ground of termination – the Reference Images will remain stored and processed on our systems in accordance with 3.2.

12.MISCELLANEOUS

- 12.1. These Terms and the use of the Services are governed by the laws of the Netherlands. Any disputes relating thereto will be held before the competent court in Amsterdam, the Netherlands.
- 12.2. If any provision of the Terms is held invalid or unenforceable, that provision will be construed to reflect the parties' original intent. Despite the invalidity or non-enforceability of such provision, all other provisions will remain in full force and effect.
- 12.3. You agree that if Layar does not exercise or enforce any legal right or remedy, this will not constitute a formal waiver of Layar's rights.
- 12.4. Layar agrees that if You do not exercise or enforce any legal right or remedy, this will not constitute a formal waiver of Your rights.
- 12.5. We may at any time and without giving notice to you assign our rights under any agreement with you. You may not assign your rights under Agreement to another party without the prior written consent of Layar. Layar is entitled to attach conditions to its consent, including but not limited to the condition that your successive party consents to and agrees to be bound by the provisions of the Agreement.
- 12.6. You are only permitted to deviate from these Terms upon prior written agreement with us.

13.CHANGES

- 13.1. Layar reserves the right, at its sole discretion, to modify or replace any part of the Terms and Conditions at any time. Current versions of these Terms and Conditions will be made available through layar.com/legal as amended from time to time.
- 13.2. It is your responsibility to check the Terms and Conditions periodically for changes. The continued use of or access to the Services following the posting of any changes to the Terms and Conditions constitutes acceptance by you of those changes.
- 13.3. Layar may offer new Services and/or change existing Services. Such new and/or changed Services shall be subject to these Terms and Conditions. In this respect Layar specifically refers to article 1.1 hereof.

Attachment 1 (to the Terms)

Additional Terms and Conditions for Layar Creator Service

The following terms are in addition to the Terms of the Agreement and apply to any use by you of the Layar Creator. The “**Layar Creator Services**” include, but are not limited to hosting services, including storage of your content and Software as a Service (“**SaaS**”). When we provide you with the Layar Creator Services, our service consists of the remote placing and maintaining at your disposal of content (including software) that you upload, whether or not you connect to the Platform software via the internet or any other electronic communications network, without us providing you with any physical data medium.

DEFINITIONS

“**Layar Platform**” means the most current version of Layar’s web-based software platform for the hosting of the augmented reality application, APIs, software development kits (including the Layar Creator), tools, and other related means, services, features and functionalities, and any patches, updates, upgrades, or improvements which may be made to any of foregoing (or any component thereof).

“**Associated Content**” means those portions of the Digital Content linked by you to a Reference Image contained in the Layar Platform.

“**Page**” is the term used in the Layar Creator to denote a Reference Image.

“**Campaign**” means the aggregation of multiple Pages and their Associated Content. A Campaign can have different statuses: Draft, Published or Archived. Only Published Campaigns are publicly online and their Digital Content can be accessed by end-users. Campaigns are in Draft status until they are published; when the publishing period ends (either due to Expiry or due to a voluntary action by you), their status becomes Archived.

“**Expiry date**” refers to the date at which a Campaign will be automatically moved to the Archived state when a certain publishing period, i.e. the time since the Campaign was first published, has lapsed.

“**Subscription**” refers to a periodic fee we may charge for additional services offered as part of the Layar Creator. You may choose to subscribe for such additional services, at which

point you will be periodically charged the subscription fee, as agreed by you at the time of subscription.

RECITALS

1. Provision of the Services

- 1.1. We shall not be obliged to provide you with a physical data carrier containing the content within the context of SaaS, or the software we may use in the provision of the Layar Creator Services to you.
- 1.2. When providing you with the Layar Creator, we will make every effort to ensure that these Services are provided with due care. We provide the Layar Creator on the basis of a best efforts obligation.
- 1.3. You acknowledge that we may continue to provide the Layar Creator using new or amended versions of our (other) Services. We are, however, under no obligation to maintain, change or add certain features or functionalities of the Services specifically for you, and you accept that we reserve the right to reject any modification you request.
- 1.4. In addition to the exclusion of warranties set forth in these Terms, you agree that we cannot warrant that the Layar Creator Services provided to you are free of defects and will operate without interruptions. We shall always use reasonable efforts to fix any defects in the Layar Creator Services within a reasonable period of time. We may install temporary solutions, program bypasses or problem-avoiding restrictions.

2. Hosting and Publication

- 2.1. While providing you with the Layar Creator Services, Layar agrees to (i) store and host the Reference Images uploaded by you to the Layar Platform to the extent necessary to provide the Services in accordance with this Agreement, and (ii) enable the publication of the Associated Content on a mobile device when its User activates any of the widgets or buttons created by You (using the Layar Creator) on the print copy of a Reference Image in the Layar Platform.
- 2.2. Your Campaigns will be hosted and published for a fixed period of time, the Publishing Period, during which end-users will be able to view the Digital Content published as part of the Campaign. The Expiry date of your Campaigns will be displayed in the Layar Creator in your Campaign overview.

- 2.3. At the time of publication, Layar will clearly indicate the Publishing Period of your Campaign, depending on the choices you make (e.g. publishing for free may give you a shorter publishing period than publishing as 'Pro' campaign using Credits).
- 2.4. If you published a Campaign prior to the Effective Date of these current Terms, the Expiry Date will be 1 (one) year after the last Page published as part of your Campaign prior to the Effective Date. Any Pages added to your Campaign and published after the Effective Date will not affect the Expiry Date.
- 2.5. After the Expiry date, your campaign will be archived, meaning Layar will unpublish the Digital Content and make it inaccessible to end-users. This applies for all Pages included in your campaign, regardless whether they were added and published at a later date.
- 2.6. Once archived, you may choose to re-publish your Campaign, at which point a new Expiry date will be set. Layar may restrict you to re-publish your Campaign under certain conditions only, including but not restricted to setting a fee for publication or requiring you to spend Credits for each Page in the Campaign.
- 2.7. Layar is not responsible for warning you in anticipation of one of your Campaigns expiring.
- 2.8. Layar may change the Publishing period and the terms for re-publishing at any time. Such changes will not affect the Expiry date of Campaigns published prior to the change.

3. Subscription Services

- 3.1. Certain features of the Layar Creator are only accessible as part of a (paid) Subscription, such as our Premium Account for the Layar Creator. The features offered as part of a Subscription will be published on the website. By applying for a Subscription plan on the Layar website, you agree to the Terms set forth in this section.
- 3.2. The special features will be activated as soon as Layar has been able to verify your payment of the fee for the first period of the subscription, or has decided that you qualify for early activation in which case you should fulfil due payment according to our Payment Policy (clause 6.6 of our general Terms).
- 3.3. If during the term of your subscription, you create Digital Content using any of the special features offered by your subscription, that Digital Content will remain available within your Campaigns after your subscription is terminated.
- 3.4. Layar may offer various subscription periods, e.g. one month, six months and one year, with their respective prices. The available subscription periods are published on our website.

- 3.5. A Subscription is entered on the basis of auto-renewal: Unless you terminate your subscription according to the terms set forth in clause 3.8 below, Layar will renew your subscription automatically. You acknowledge that you will be invoiced for the new period as soon as your subscription has renewed. Layar will either withdraw the subscription fee from your authorised credit card/bank account or request you to fulfil the invoice according to our Payment Policy (clause 6.6 of the general Terms).
- 3.6. If the subscription period is 3 (three) months or longer, you may terminate your subscription by giving us notice by emailing to help@layar.com at least 1 (one) calendar month prior to the next renewal date of your subscription. Failure of giving us such notice will automatically renew your subscription with the same period. If the subscription period is shorter, you may cancel your subscription at any time, and your subscription will remain valid until the next renewal date, upon which it will end.
- 3.7. Likewise, you may switch to a different subscription period by giving us the same advance notice as stated in 3.5. Note that you may only switch to one of the subscription periods that we offer at that moment, as published on our website.
- 3.8. Layar reserves the right to change the subscription fees and subscription periods offered at any time. Such changes will come into effect for your subscription on the next renewal date.
- 3.9. Layar reserves the right to change the set of features that come with a subscription at any time.
- 3.10. In the case that Layar changes the subscription fees in a way that is disadvantageous to you, your subscription will stop to auto-renew at the next renewal date and you will be given the option to renew your subscription or change your subscription. Without any action on your part, your subscription will terminate in such an event.
- 3.11. Layar may terminate your subscription at its own discretion, giving you notice prior to the next renewal date of your subscription with the same notice periods defined in 3.8.
- 3.12. You are responsible to ensure that due subscription fees are in the possession of Layar within due dates as set forth by our Payment Policy (clause 6.6 of the general Terms). Failing to do so will result in an immediate suspension of the features and rights associated with your subscription, until you have fulfilled your payment obligations with Layar. Such suspension does not relieve you from your obligation to settle the due fees for the renewal of your subscription, as stated in our Temporary Suspension clause 6.7 of the general Terms.

4. Security

- 4.1. Layar will maintain conformance with industry standards of data security and will maintain a formal, comprehensive, data security program that includes reasonable security procedures and practices that are appropriate to the nature of the stored content and are reasonably designed to (a) ensure the security, confidentiality and integrity of the Digital Content; (b) protect against threats or hazards to the security, confidentiality or integrity of the Digital Content; (c) prevent unauthorized access to, destruction, use, modification or disclosure of the Digital Content, and (d) provide for prompt notice to You of any unauthorized access to any Digital Content.

5. Your use of the Layar Creator

- 5.1. You shall be responsible for the management, which includes monitoring settings, the use of the Layar Creator and the manner in which the results obtained through the use of the Layar Creator are used. To the extent necessary, you shall be responsible for the installation, set up, parameterization and tuning of any (auxiliary) software required on your own hardware and operating environment and to achieve the required interoperability.

6. Support

- 6.1. We are not responsible for data conversion of content or Third Party Content which may be required when you use the Layar Creator. Nor do we provide back-up service as part of the Layar Creator.
- 6.2. As part of the Layar Creator Services we may issue advice in any form we deem fit. We may impose conditions in relation to the qualifications and the number of contacts who are eligible for support. We cannot guarantee the accuracy, completeness or timeliness of responses or support provided. Except where agreed otherwise in writing, support shall only be provided on working days during our standard business hours.

Attachment 2 (to the Terms)

Additional Terms and Conditions for the Layar Connect Service

As part of the Services we may offer you access to the Layar Connect API, which you can find on our website. The Layar Connect Service includes, but is not limited to hosting services, including storage of your content and Application Service Provision ("**ASP**"). When we provide you with ASP, our Service consists of the remote placing and maintaining at your disposal of content (including software) that you upload, whether or not you connect to the Platform software via the internet or any other electronic communications network, without us providing you with any physical data medium.

RECITALS

1. We shall not be obliged to provide you with a physical data carrier containing the content within the context of ASP, or the software we may use in the provision of the Layar Connect Service to you.
2. When providing you with the Layar Connect Service, we will make every effort to ensure that these Services are provided with due care and in accordance with the arrangements and procedures agreed with you or as communicated by us, where applicable. We provide the Layar Connect Services on the basis of a best efforts obligation, unless we have explicitly agreed to achieve a specific service level result with you.
3. Unless we agree otherwise, you shall be responsible for the management, which includes monitoring settings, the use of the Layar Connect Services and the manner in which the results obtained through the use of the Layar Connect Services are used. To the extent necessary, you shall be responsible for the installation, set up, parameterization and tuning of any (auxiliary) software required on your own hardware and operating environment and to achieve the required interoperability.
4. We are not responsible for data conversion of content or Third Party Content which may be required when you use the Layar Connect Services. Nor do we provide back-up service as part of the Layar Connect Services.

5. In your use of the Layar Connect Services, we may issue advice in any form we deem fit. We may impose conditions in relation to the qualifications and the number of contacts who are eligible for support. We cannot guarantee the accuracy, completeness or timeliness of responses or support provided. Except where agreed otherwise in writing, support shall only be provided on working days during our standard business hours.
6. If the Layar Connect Service includes the provision of disk or specific infrastructure space, then you shall not exceed the agreed space.
7. Should we enter into a service level agreement ("SLA"), then any periods of decommissioning announced in advance due to maintenance work or to circumstances outside of Layar's sphere of influence will not be taken into account when assessing availability. The assessment will be based on the Services as a whole during the term of the SLA. Unless you provide evidence the contrary, the availability and service level measured by Layar shall be conclusive.
8. You acknowledge that we may continue to provide the Layar Connect Service using new or amended versions of our (other) Services. We are, however, under no obligation to maintain, change or add certain features or functionalities of the Services specifically for you, and you accept that we reserve the right to reject any modification you request.
9. In addition to the exclusion of warranties set forth in these Terms, you agree that we cannot warrant that the Layar Connect Service provided to you are free of defects and will operate without interruptions. We shall always use reasonable efforts to fix any defects in the Layar Connect Service within a reasonable period of time. We may install temporary solutions, program bypasses or problem-avoiding restrictions.

Attachment 3 (to the Terms) Additional Terms and Conditions for the Layar App Service

As part of our Services we may offer you our Layar App Services. In order to use our Layar App Services, a separate Layar App Service Agreement (the “Agreement”) will be made between You and Layar. The following terms are in addition to the terms of the Agreement and apply to any use of the Layar App Service. The Layar App Service includes, but is not limited to Layar offering you a “Whitelabel Layar App” developed for you by Layar.

1. DEFINITIONS

In addition to the terms defined elsewhere in this Agreement, capitalized terms used shall have the respective meanings set forth below:

- 1.1. "Layar App": The "Layar App" is Layar's own app, published in various app stores, which forms the basis for creating the Whitelabel Layar App.
- 1.2. "Layar SDK": The parts of the Layar App software included in the Whitelabel Layar App are denoted as the "Layar SDK". They encompass all features of the Layar App that allow end-users to scan objects, let the software recognize the object that is scanned and display the Digital Content associated with the recognized object (collectively, the "Vision Features"). The features of the Layar App that are not included in the Layar SDK are: The ability to open and display geo layers and any functionality that would require the user to login with a Layar account. A bug fix update to the Layar App automatically implies an update to the Layar SDK if the update affects the Vision Features. A feature update to the Vision Features of the Layar App may imply an update to the Layar SDK, to be decided at Layar's sole discretion.
- 1.3. "Whitelabel Layar App": Layar will develop and deliver for your approval a branded app integrating all the features and functionality of its latest version of the Layar SDK. Layar shall incorporate the branding in accordance with your instructions; provided that the Whitelabel Layar App will contain a watermark “Powered by Layar” and a “Credits page”.
- 1.4. "Associated Content” means those portions of the Digital Content linked by you to a Reference Image contained in the Layar Platform.
- 1.5. "Effective Date” refers to the date at which you enter into the separate Layar App Service Agreement with us.

2. LICENSES

2.1. Whitelabel Layar App

- 2.1.1. Within a timeframe agreed between You and Layar, Layar will develop and deliver for your approval a branded app (in accordance with your branding instructions) integrating all the features and functionality of its latest version of the Layar SDK (the Whitelabel Layar App), solely for the publication of your Digital Content on the mobile devices of Users of the Layar Platform and for no other purpose. You and Layar shall agree on the approval and delivery protocols for the Whitelabel Layar App.

Except for modifications requested by You as outlined in 2.1.4 of these Additional Terms, all costs in connection with the development and maintenance (e.g., bug fixes) of the Whitelabel Layar App shall be borne by Layar. The Whitelabel Layar App shall include the following unique branding features:

- App icon
 - ‘Splash’ (opening) screen
 - Instruction page & app store description
 - Screenshots in app stores
 - Your branding
- 2.1.2. The Whitelabel Layar App will contain a watermark “Powered by Layar” and a “Credits page” that includes a list of credits for some of the technologies used in the app.
- 2.1.3. Upon your approval of the Whitelabel Layar App, Layar will submit such app, as “publisher of record” to the Apple App Store and Google Play Store. Layar hereby agrees to the Terms and Conditions set forth by these app stores. Layar will assist you with all necessary materials should you wish to submit the app in any other app store supporting the Apple iOS or the Android platforms, but will not act as the “publisher of record” for these stores nor agree to their Terms and Conditions, unless explicitly agreed otherwise by the parties. Unless

otherwise agreed in writing by the parties, the Whitelabel Layar App shall be available for downloading without charge to the end user.

- 2.1.4. Layar will not be held responsible or liable for the process of approval of the app in the app stores. Layar will make every effort to ensure that the process is entered with due care. Layar will assist the process on the basis of a best efforts obligation. You are aware and acknowledge that the approval process may entail rejections and delays. You agree that neither Layar, nor its affiliated companies, suppliers or its licensors are liable to you for any form of damages or loss which may be incurred by you or any third parties directly or indirectly resulting from delays in the approval process.
- 2.1.5. During the Term of the Agreement, (i) Layar shall maintain the functionality of the Whitelabel Layar App, including fixing all “bugs”, and (ii) upon your request, Layar will make modifications to the assets (App icon, Splash opening screen, Instruction page & app store description, Screenshots in app stores, branding) of the Whitelabel Layar App. Planning and resourcing for such modifications to be agreed between Layar and You. The cost for such modifications is to be borne by You, pricing of which is to be agreed between Layar and You in a separate Agreement at the time of purchase of the Layar App Service by You.

3. USER SUPPORT

Layar shall provide its standard online support to Users of the Layar Platform in connection with their use of the Digital Content. Layar will refer any User inquiries about content or about the Whitelabel Layar App to You for handling. You will provide a user support address (link, e-mail address), also to be included in the app store details of the ‘Whitelable Layar App’ app.

4. TERMS OF USE; PRIVACY

- 4.1. Layar Obligations. Layar shall insure that the terms of use and privacy protocols implemented by Layar and its employees, contractors and vendors comport with all applicable laws and regulation. Layar shall not use or disclose personally identifying information regarding any end user of the Whitelabel Layar App for any purpose other than maintaining and providing end user services and than providing the Layar App Service to You. For the avoidance of doubt, this paragraph shall prohibit Layar from transmitting its own or any third party advertisements, solicitations or marketing communications to end users of the Whitelabel Layar App via email, text, telephone, mail or other means of personal delivery without the end users prior consent to receive such

materials. Layar additionally agrees that the Digital Content will not be associated with any advertisements.

- 4.2. Your Obligation. With regard to the collection, processing, transmission or use of a User's personal data, including inter alia location data in connection with the User's use of the Digital Content: (i) You acknowledge that you, as the responsible party, are the data controller regarding these data; (ii) You and the Digital Content must comply with all applicable privacy and data protection laws and regulations with respect to any collection, processing, transmission, or use of the User's personal information or data as well as his/her location data by, or in connection with the Digital Content. In addition, the use of location data or any personal information or data should be limited solely as necessary to provide features or functionality for the Digital Content; (iii) You shall implement appropriate technical and organizational measures to secure personal information or data against loss, unauthorized disclosure or access as well as against any form of unlawful processing; and (iv) You shall be responsible to obtain all consents based on statements or actions to signify agreement from the User required by applicable law. Layar also requires that You obtain consent from the User before collecting, processing, transmitting or otherwise using his/her location data in any way. If any consent is withheld or withdrawn, You may not collect, process, transmit, or use the User's personal information or data as well as location data or perform any other actions for which the User's consent has been withheld or withdrawn.
- 4.3. If you use the Layar Creator Services in order to create the Associated Content the Additional Terms & Conditions for the Layar Creator Service (Attachment 1) apply.
- 4.4. Financials. In consideration of the Services rendered and the licenses granted herein by Layar, you agree to pay Layar the fees set forth on our website or as otherwise agreed between you and Layar.

5. TRADEMARK LICENSES

- 5.1. Layar Trademark License to You. Subject to Your compliance with the terms and conditions of this Agreement, Layar hereby grants You a non-exclusive license, to use the name, trademarks and logos, in the format provided by Layar ("Layar Marks"), in connection with your and your distributors' marketing and promotion of the Whitelabel Layar App and the Digital Content on the Layar Platform. You acknowledge and agree that Layar owns the Layar Marks and that any and all goodwill and other proprietary rights that are created by or that result from your use of the Layar Marks, inure solely to the benefit of Layar. You shall submit to Layar for Layar's review and approval each new proposed use of a Layar Mark, such approval not to be unreasonably withheld in light of the rights granted hereunder.

- 5.2. Your Trademark License to Layar. Subject to Layar's compliance with the terms and conditions of this Agreement and upon separate approval by You in writing, You hereby grant to Layar a non-exclusive license, during the Term, to (i) use the name, trademarks, and logos, in the format provided by You ("Your Marks") solely in connection with Layar's marketing and promotion of your Digital Content and (ii) use the Digital Content, including but not limited to screen shots and excerpts thereof, trademarks and logos associated therewith for general promotional purposes; Layar acknowledges and agrees that you own Your Marks and that any and all goodwill and other proprietary rights that are created by or that result from Layar's use of Your Marks inure solely to Your benefit.

6. OWNERSHIP; RIGHTS TO INTELLECTUAL PROPERTY

- 6.1. Intellectual Property. As agreed between the parties (i) You shall solely own all your Digital Content and Your Marks, and you may reserve all Intellectual Property Rights with respect to such Intellectual Property (collectively, the "Your IP") and (ii) Layar shall solely own all Intellectual Property embodied in the Layar Platform and the Layar Marks, and reserves all Intellectual Property Rights with respect to such Intellectual Property (collectively, the "Layar IP"). To the extent any rights to Your IP would otherwise vest in Layar or any of its affiliates, or any of its or their respective employees or contractors, Layar hereby assigns (and shall cause its affiliates and its and their respective employees and contractors to assign) to You all right, title and interest in and to Your IP. To the extent any rights to the Layar IP would otherwise vest in You, any of your affiliates, or any of your or their respective employees or contractors, You hereby assign (and shall cause your affiliates and your and their respective employees and contractors to assign) to Layar all right, title and interest in and to the Layar IP. Neither party shall have the right to exploit any Intellectual Property Rights of the other party except as specifically provided in this Agreement or as otherwise may be agreed in a written agreement signed by both parties.

7. REPRESENTATIONS, WARRANTIES AND INDEMNITIES

- 7.1. Layar provides the Layar App Service with reasonable care and skill and will make every effort to ensure that the Whitelabel Layar App and the Layar Platform software are and will remain free of any software virus, worm, virus macro, Trojan Horse, or other such component designed to permit unauthorized access, to disable, erase, or otherwise harm or maliciously alter software, hardware or data.
- 7.2. You understand and accept that the Layar App Service is provided "as is" and "as available". Layar disclaims all warranties of any kind, whether express or implied, and including warranties: (i) of merchantability, fitness for a particular purpose and non-infringement; and warranties that (ii) the Services are error free or that access thereto

is uninterrupted; and (iii) the content or other information obtained through the Services is correct and reliable.

- 7.3 You agree that neither Layar, nor its affiliated companies, suppliers or its licensors are liable to you for any form of damages or loss which may be incurred by you or any third parties directly or indirectly resulting from the use of the Layar App Service. Unless and to the extent that damages are the direct result of wilful intent or gross negligence of Layar, Layar accepts no liability for any direct, indirect and consequential damages and loss of business, loss from interruption of the use of the Layar App Service or the loss or corruption of data obtained or used through the Layar App Service whether based on contract, unlawful act (including negligence), or otherwise arising from or relating to the Layar App Service, even if Layar or its affiliated companies, suppliers or licensors have been informed or should have known of the possibility of such damages.
- 7.4. Your Representations and Warranties. You represent and warrant that (i) the Digital Content will always satisfy the following conditions: (a) fully comply with applicable laws and regulations, and shall not contain material that is offensive, degrading, indecent, libellous, obscene, pornographic or otherwise objectionable or material from other works protected by Intellectual Property Rights, without the written consent of the owner of such rights, other than excerpts permitted legally, (b) will not contain malware, malicious or harmful code, program or other internal components which could damage, destroy or adversely affect other software, hardware, data or services, (c) if the Digital Content includes links to other websites, content or sources, you will either own the Intellectual Property Rights to all such content or have permission from the content owner or otherwise be entitled to link to it from the Digital Content, (d) if the Digital Content contains pornographic, obscene, abusive, violent or any other explicit material that could be harmful to persons under the age of 18 years, you will ensure that this content is not disclosed to nor accessed by Users under the age of 18 years; (ii) you have the unencumbered right and authority to enter into this Agreement and to confer the rights granted hereunder; and

this Agreement does not conflict with or violate any other agreement or obligation binding you, or conflict with your corporate documents including your organization and governing documents; (iv) your use of the Layar App Service is and will be in compliance with Layar's instructions and all applicable laws and regulations (including, without limitation, any local laws or regulations in your country, state, city or other governmental area regarding online conduct and acceptable content and the transmission of technical data); and (iv) your use of the Layar App Service will not infringe or misappropriate the Intellectual Property Rights of any third party.

8. EXCLUDED AND LIMITED LIABILITY

- 8.1. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS, PROFITS OR THE LIKE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, SUCH PARTY'S PERFORMANCE HEREUNDER, THE USE OR INABILITY TO USE THE LAYAR PLATFORM, THE DIGITAL CONTENT, OR ANY INTERRUPTION OR DISRUPTION OF OR BY ANY OF THE FOREGOING, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE).
- 8.2. In any event, the maximum aggregate liability of Layar, its affiliated companies, suppliers or licensors for any and all damages arising from the Layar App Service shall be a refund of the amount paid by You to Layar during the year preceding notification of such damage, if any.
- 8.3. In any event, the maximum aggregate liability of You, your affiliated companies, suppliers or licensors for any and all damages arising from the Layar App Service shall be a refund of the amount paid by You to Layar during the year preceding notification of such damage, if any.
- 8.4. Layar's liability because of an imputable failure to perform this Agreement shall in all cases only arise if You immediately and properly provides a written notice of default to Layar, with a reasonable time period for remedying the failure being given and Layar still imputably failing to perform its obligations after that period as well. The notice of default must contain a description of the breach which is as complete and specific as possible, so that Layar can respond adequately.
- 8.5. Notwithstanding anything to the contrary herein, the exclusions and limitations of liability set forth in Section 8.1 and 8.2 shall not apply to the Parties' respective obligations under these Terms to the extent that acts or omissions of a Party constitute fraud, wilful misconduct, or the misappropriation of the other Party's Intellectual Property rights.

9. TERM; TERMINATION

- 9.1. Term. The term of this Agreement (the "Term") shall commence on the Effective Date and continue for one (1) year, and automatically renew for additional one (1)-year periods, unless terminated as set forth herein.
- 9.2. Termination for Convenience by You. You may terminate this Agreement at your sole discretion at any time giving written notice to Layar at least one (1) month prior to the

expiration of the then-current one-year period. You are not entitled to any reimbursement of license fees paid or credits that you may have purchased if the termination date is prior to the then-current license renewal date.

- 9.3. Termination for Convenience by Layar. Layar may terminate this Agreement at the end of each annual period, and upon ninety (90) days written notice to You prior to the expiration of the then-current one-year period.
- 9.4. Termination for Breach. Either party has the right to terminate this Agreement if the other party materially breaches any representation, warranty, covenant or agreement made by it hereunder or otherwise fails to perform any of its material obligations hereunder which breach or failure has not been cured. The breaching party will have the following time to cure such breach: (i) sixty (60) days after receiving written notice thereof from the other party if such breach can be cured within such sixty (60) day period, or (ii) a reasonable time if such breach cannot be cured within such sixty (60) day period but (a) the breach is capable of cure, (b) the breaching party commences to effect a cure within such sixty (60) day period, and (c) the breaching party diligently pursues such cure.
- 9.5. Termination for Cessation of Business or Insolvency. Either party may terminate this Agreement immediately upon written notice to the other: (i) if the other party ceases to do business, or otherwise terminates its business operations or (ii) if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other party and not dismissed within thirty (30) days.

Attachment 4 (to the Terms)

Layar Software Development Kit License Agreement

As part of our Services we may offer you our Layar Software Development Kit (the “Layar SDK”). We supply the Layar SDK in various forms. In order to use our Layar SDK, a separate Layar SDK Agreement (the “Agreement”) will be made between You and Layar, the date at which this Agreement is made effective being referred to as the “Effective Date”. The following terms are in addition to the terms of the Agreement and apply to any use of the Layar SDK.

1. LEGAL RELATIONSHIP

- 1.1. The Layar Software Development Kit (the "Layar SDK") and any associated documentation, software code, Application Programming Interface ("API"), or other materials (together the "Layar SDK Services"), which Layar provides for the purpose of allowing natural persons and legal entities who/which develop applications (the "Developers") to include a so-called augmented reality player (the "Layar Player") into applications developed by such Developers (the "Developer Apps"), are subject to the present legal license agreement (the "SDK License Agreement") between you and Layar. By including the Layar Player into the Developer Apps, end-users of these Developer Apps (the "End Users") are able to access so-called augmented reality layers (the "Layers") including accompanying information such as metadata.
- 1.2. Unless otherwise agreed in writing with Layar, the SDK License Agreement between you and Layar consists of these Terms and Conditions, the privacy policy of Layar (the "Privacy Policy") as amended from time to time and all updates of the Terms and Conditions.
- 1.3. You are only allowed to use the Layar SDK after having accepted the SDK License Agreement. You can either accept the SDK License Agreement by (i) clicking to accept or agree to this License Agreement, where this option is made available to you (e.g. by clicking to accept when opening an account with Layar (an "Account")), or (ii) by actually accessing or using any part of the Services. With regard to the latter you acknowledge and agree that Layar will treat your access or use of a Service as the acceptance of the SDK License Agreement and the applicability of the SDK License Agreement to the Services.

- 1.4. It is important that you read the SDK License Agreement carefully before accessing or using the Services. You should read the SDK License Agreement with your parent or guardian if you are between the age of 13 and 18.
- 1.5. You are only allowed to use the Layar SDK if you are 13 years or older. You will need permission from your parent or guardian to use the Layar SDK Services if you are between the age of 13 and 18.
- 1.6. By entering into the SDK License Agreement you declare that you accept all terms and conditions which apply in the relation between Layar and End Users as well as between Layar and third party Layer developers and publishers, including but not limited to the "Layar Terms and Conditions for End Users" as amended from time to time, the present "Layar Terms and Conditions for Developers and Publishers" as amended from time to time and relevant legal notices relating thereto, including future updates thereof, which terms and conditions can be found at: layar.com/legal. Should this SDK License Agreement be contradictory to the aforementioned terms and conditions, then SDK License Agreement shall prevail with respect to the specific Service.

2. INTELLECTUAL PROPERTY

2.1. General

- 2.1.1. You acknowledge and agree that Layar or Layar's licensors own all right, title and interest, including but not limited to intellectual property rights, in and to the Layar SDK Services.
- 2.1.2. The Layar logo and all other trademarks, service marks, graphics and logos used in connection with the Services are trademarks or registered trademarks of Layar or its licensors.
- 2.1.3. The SDK License Agreement does not transfer any intellectual property rights from Layar or its licensors to you or third parties. All intellectual property rights with regard to the Services will remain solely with Layar or its licensors.
- 2.1.4. Furthermore the SDK License Agreement does not transfer any intellectual property rights from you or your licensors to Layar. All intellectual property rights with regard to the Developer Apps will remain solely with you or your licensors.
- 2.1.5. You may not use the Layar SDK in any other way than the use which is explicitly permitted in this Agreement. You agree to observe the restrictions

with regard to your use of the Services which have been set out in these Terms and Conditions.

2.2. SDK License

2.2.1. Layar gives you a worldwide, non-assignable, royalty-free and non-exclusive license to add and make use of the Layar SDK in your Developer Apps. Subject to the restrictions listed below in clause 2.2.2, You are in no way restricted in the functionalities you want to provide in your app besides the functionality provided by the Layar SDK. You may build your own features, broaden the functionalities provided by the Layar SDK, provide your own branding and texts and choose any UI you wish to provide around the functionality provided by the Layar SDK.

2.2.2. This license is limited by the following restrictions:

- (a) you are not entitled to use the Layar SDK in any other way than as intended by Layar or its licensors and as appears from the SDK License Agreement and the information specifically provided by Layar or its licensors for those parts;
- (b) you are not entitled to use the Layar SDK in violation of the SDK License Agreement or any applicable law, regulation or case law, or any right of any person, including but not limited to intellectual property rights, privacy rights, or personality rights;
- (c) you are responsible for using the Layar SDK in a responsible manner, without jeopardising yourself or any third party in any way. Without prejudice to the generality of the foregoing, you acknowledge and agree not to engage in any activity which interferes with, disrupts, damages, or makes unauthorised access of the Services, devices, servers, networks or other properties or services of Layar or any other third party;
- (d) you will only use the regular development functionalities of the Layar SDK;
- (e) you may not reverse engineer, decompile or otherwise extract or attempt to extract the source code of the software which Layar or its licensors provide you for development purposes;
- (f) you will refrain from selling, trading, reselling, leasing, renting, loaning, licensing, sublicensing and distributing the Layar SDK, except when packaged as integral part of your Developer Apps.;

- (g) your Developer App shall not:
 - (1) adversely impact the stability of any information, tools, software, products and systems provided by Layar (the "Layar Platform");
 - (2) adversely impact the performance of any other applications using the API's provided by Layar or Supporting Companies;
- (h) you may not work around any technical limitations and restrictions in the Layar SDK. In particular you may not intercept and make changes to any network API request made by the Layar SDK, nor intercept and make changes to any network API response received by the Layar SDK. Further you may not change any functionality of the Layar SDK except for the user interface elements explicitly exposed to you for customization and except for the callback APIs exposed to you by the Layar SDK for the specific purpose of customizing the behavior of the Layar SDK;
- (i) you may not remove, change in position or cover with other graphics the “powered by Layar” watermark;
- (j) you may not remove the functionality to open the “credits” page listing the credits for some of the technologies from 3rd parties used in the Layar SDK or remove access to that page by any means;
- (k) if your license agreement with Layar includes removal of the “powered by Layar” watermark, you agree to provide users with a link inside your app to the following “credits” page or to reproduce inside your app the exact contents of that page at the time you download the Layar SDK:
<http://www.layar.com/aboutplayerapp/about-open-source/>;

and

- (l) you may not use the Layar SDK in a manner that exceeds reasonable request volume, or otherwise constitutes excessive or abusive usage.

2.3. Developer EULA

- 2.3.1. You may include a separate written end user license agreement (the "Developer EULA") to the Developer App that will govern the End Users rights to access the Developer App or Third Party Content. However, a Developer EULA shall not and will never be allowed to prejudice this SDK

License Agreement and Layar's position and rights towards you, End Users and third parties.

- 2.3.2. You hereby acknowledge and agree that a Developer EULA shall apply solely between you and the End Users and shall comply with all applicable laws and regulations.
- 2.3.3. You will indemnify Layar and hold Layar harmless against and for any liability that might be allocated to Layar because of any Developer EULA or any breach by any party thereof.

2.4. Copyright infringement

If you infringe the intellectual property rights of Layar or other parties, Layar may, in its discretion, terminate or deny access to and use of the Layar SDK Services, notwithstanding and without prejudice to any other rights Layar or any other party may have.

3. PROVISION OF THE LAYAR SDK SERVICES

- 3.1. Your Layar SDK license allows you to use the Layar SDK in one (1) Developer App. Your Developer App must be registered on the Layar Platform and may consist of different versions of the same app for different mobile platforms (e.g. one version for iOS and one version for Android). Your Developer App will be identified on the Layar Platform by its unique ID, as defined by the specific platform (e.g. the iOS Bundle Identifier or the Android Package Name).
- 3.2. In order to use the Layar SDK in conjunction with our APIs you will be assigned an OAuth key and secret (jointly referred to as “Keys”) that must be provided to the Layar SDK when using it in your Developer Apps. The same Keys can be used in the same Developer App on various platforms (e.g. iOS and Android), but not in different Developer Apps on the same platform. You will refrain from using the Keys in any other app than the one for which the Keys were issued. Layar has the right to discontinue the Layar SDK Services immediately and without prior notice if your app is in violation of this clause.
- 3.3. Your Keys will unlock access to either Vision layers or Geo layers or both, depending on the terms of the separate Agreement you have made with Layar. Only content published by one or more Publisher Accounts that are associated with your Keys can be viewed through the Layar SDK. These Publishers are determined by the terms of the Agreement.

- 3.4. If you have been provided with a trial period by Layar, your Keys will expire upon expiry of the trial period. Your Developer Apps will not function when the Keys have expired. You are not allowed to publish any of your Developer Apps to a public App Store (e.g. to the Apple App Store or to Google Play) without having received the final Keys that are valid for at least one (1) year.
- 3.5. You agree that upon termination of this SDK License Agreement the Keys will also expire and as such, you agree to withdraw your Developer Apps from any public App Store or to update your Developer Apps in such a way that the Layar SDK is removed from them. You must never have an app published to a public app store which embeds the Layar SDK without a valid set of Keys.
- 3.6. You agree that the form and nature of the Layar SDK Services may change from time to time without prior notice to you. Such changes can include but are not limited to bug fixes, patches, modified functionalities and new versions of the Layar SDK and related Services.
- 3.7. Your license fee will allow you to receive updates to the Layar SDK during one (1) year after the Effective Date, unless this SDK License Agreement is terminated before the first year (see clause 14). Such updates can include but are not limited to bug fixes, patches and modified functionalities. You are solely responsible for updating your apps to use the updated Layar SDK. You understand and accept that Layar will only fix bugs and defects against the latest version of the Layar SDK and not maintain separate versions of the Layar SDK.
- 3.8. Past the one year period after the Effective Date, Layar will charge you an additional support fee if you wish to receive updates of the Layar SDK. The fee will be set forth in a separate (electronic) communication form to you and/or on the Layar websites.
- 3.9. You understand and accept that Layar may involve subsidiaries and affiliated companies (the "Supporting Companies") in providing the Layar SDK Services to you. These Supporting Companies will then be providing those Layar SDK Services to you on behalf of Layar.
- 3.10. Under no circumstances will Layar be obliged to provide you with corrections of the Layar SDK should defects in the Layar SDK arise.
- 3.11. You agree that Layar may provide you with notices regarding the Layar SDK Services through any customary means of communication, e.g. by e-mail, regular mail, SMS, MMS, social media messages, postings on or through Layar's websites.

4. APIs

- 4.1. As part of the Layar SDK Services, Layar or its Supporting Companies may provide you with APIs to establish a link between the Developer App and the Layar Platform. The use of any API provided by Layar is subject to this SDK License Agreement and existing Layar policies which can be found at: layar.com/legal as amended from time to time. When a Supporting Company provides you with an API as part of the Layar SDK Services, it may apply different or additional terms and conditions which you hereby accept.
- 4.2. If you use any API provided by Layar or its Supporting Companies, you acknowledge that the data, content, and information made available through these APIs may be protected by intellectual property rights which are owned by Layar, the Supporting Companies, their licensors, or those parties that provide the data, content, and information.
- 4.3. If you use any API to process End User's data, you acknowledge and agree that you shall process data only with the End User's explicit prior consent and only when, and only for the limited purposes for which the End User has given you permission to do so.

5. ACCOUNT

- 5.1. Opening an Account may be necessary to gain access to the Platform or certain parts thereof.
- 5.2. Layar is always entitled to refuse or close an Account at its sole discretion.
- 5.3. As part of the registration process and as part of the continued use of the Services you may be required to provide information, such as your name, address, email address, country. You agree and warrant that all information you provide in that respect will always be accurate, correct and up-to-date.
- 5.4. You understand and accept that you are solely responsible for safeguarding the confidentiality and security of your Account, including but not limited to keeping your passwords confidential.
- 5.5. You acknowledge and agree that you are solely and entirely responsible for all activities that occur on or through your Account.
- 5.6. You understand and accept that you are only authorised to access Accounts created by yourself and only to the extent that – and as long as – Layar allows you to do so.
- 5.7. You agree that, should you become aware of any unauthorised use of your Account or your passwords, you will immediately notify Layar at: help@layar.com.

6. THIRD PARTY CONTENT

- 6.1. If you use the SDK to be able to run Third Party Content in the Developer Apps, you agree that Layar is not responsible for such Third Party Content. You understand that all Third Party Content which can be accessed or used by you or End Users is the sole responsibility of the party from which such Third Party Content originated and that Layar is not liable for any loss or damage that you or End Users may experience as a result of the use or access of the Third Party Content.
- 6.2. You acknowledge that Layar shall not monitor and review the Third Party Content on compliance with the SDK License Agreement, except for a limited test to see if the Third Party Content contains technical limitations which prevent granting approval for publication. However, Layar reserves the right to screen, filter, adapt, refuse, or delete (parts of) the Third Party Content whenever it deems necessary and at its sole discretion.
- 6.3. Should Layar establish that the Third Party Content is not compliant with the existing policies, including by not limited to the Layar Terms and Conditions for Developers and Publishers as amended from time to time, then Layar is entitled to block access thereto for End Users.

7. LIABILITY AND WARRANTIES

7.1. Exclusion of warranties

- 7.1.1. The Services are provided "as is" and "as available"; Layar does not provide any guarantees in this respect. Layar, its Supporting Companies, its suppliers and licensors hereby expressly disclaim all warranties of any kind, express or implied, including but without limitation:
 - (a) warranties of merchantability, fitness for a particular purpose and non-infringement;
 - (b) warranties that the Services are error free or that access to the Services is continuous or uninterrupted;
 - (c) a warranty that your use of the Services lives up to your expectations or will meet your requirements; and
 - (d) a warranty that your use of the Services occurs without interruptions, delay, errors and/or safety risks.

- 7.1.2. The above-mentioned disclaimer of warranty also applies to (later) information obtained by you from Layar or through a Service, even if it is obtained in the form of an advice from Layar. No such information will create a warranty.

7.2. Limitation of liability

7.2.1. Layar is not liable for and disclaims any and all responsibility with regard to:

- (a) any and all damage suffered by you or third parties directly or indirectly resulting from the use of the Layar SDK;
- (b) any and all costs directly or indirectly arising from the interruption of the use of the Layar SDK Services and/or the loss or corruption of data obtained or used through the Layar SDK Services;
- (c) any and all damage or costs directly or indirectly resulting from or in relation to the access and/or use of any of the Developer Apps and/or Third Party Content by you or End Users; and
- (d) any and all damage or costs directly or indirectly resulting from product warranties, End User assistance and product support with respect to the Developer Apps and/ or Third Party Content.

7.2.2. Layar has no liability for any failure or delay of the Layar SDK Services due to matters beyond its reasonable control.

8. YOUR WARRANTIES AND INDEMNIFICATIONS

8.1. Warranties

You represent and warrant that:

- (a) your use of the Layar SDK is and will be in strict accordance with the SDK License Agreement and all applicable laws and regulations (including, without limitation, any local laws or regulations in any country, state, city or other governmental area you live or conduct business in regarding online conduct and acceptable content and the transmission of technical data);
- (b) you have the right to enter into this SDK License Agreement, to add the Layar Player to the Developer Apps, and to reproduce, disclose and provide access to the Third Party Content;

- (c) you comply and shall continue to comply with any applicable export and import laws and regulations;
- (d) your use of the Layar SDK does not and will not infringe or misappropriate the intellectual property rights of any third party.

8.2. Indemnifications

To the maximum extent permitted by law, you acknowledge and agree to indemnify and hold harmless Layar, its Supporting Companies, its contractors, its licensors and their respective directors, officers, employees and agents from and against any and all claims and expenses, including attorneys' fees, arising from (i) a violation of this SDK License Agreement (ii) any application or functionality developed by the SDK that infringes any intellectual property right, and/or (iii) a violation of any applicable laws or regulations, including any privacy and data protection laws and regulations, and those laws and regulations in any jurisdictions in which your Developer Apps may be developed, offered or made available.

9. EXCLUDED AND LIMITED LIABILITY

- 9.1. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS, PROFITS OR THE LIKE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, SUCH PARTY'S PERFORMANCE HEREUNDER, THE USE OR INABILITY TO USE THE LAYAR PLATFORM, THE THIRD PARTY CONTENT, OR ANY INTERRUPTION OR DISRUPTION OF OR BY ANY OF THE FOREGOING, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE).
- 9.2. In any event, the maximum aggregate liability of Layar, its affiliated companies, suppliers or licensors for any and all damages arising from the Layar App Service shall be a refund of the amount paid by you to Layar during the year preceding notification of such damage, if any.
- 9.3. In any event, the maximum aggregate liability of You, your affiliated companies, suppliers or licensors for any and all damages arising from the Layar App Service shall be a refund of the amount paid by you to Layar during the year preceding notification of such damage, if any.

- 9.4. Layar's liability because of an imputable failure to perform this Agreement shall in all cases only arise if You immediately and properly provides a written notice of default to Layar, with a reasonable time period for remedying the failure being given and Layar still imputably failing to perform its obligations after that period as well. The notice of default must contain a description of the breach which is as complete and specific as possible, so that Layar can respond adequately.
- 9.5. Notwithstanding anything to the contrary herein, the exclusions and limitations of liability set forth in Section 9.1 and 9.2 shall not apply to the Parties' respective obligations under these Terms to the extent that acts or omissions of a Party constitute fraud, wilful misconduct, or the misappropriation of the other Party's Intellectual Property rights.

10.PRIVACY

10.1.General

- 10.1.1. The Privacy Policy of Layar can be found at: [layar.com/legal](https://www.layar.com/legal). The Privacy Policy explains how Layar handles the personal data of Developers and End Users and how their privacy is protected by Layar.
- 10.1.2. By accepting this SDK License Agreement, you expressly consent to the current and future use of your personal data in accordance with the Privacy Policy as amended from time to time.

10.2.End User privacy

- 10.2.1. Notwithstanding section 10.1 of these Terms and Conditions, you acknowledge and agree that Layar merely provides the underlying infrastructure to facilitate and provide access to the Layers and Third Party Content by End Users.
- 10.2.2. With regard to the collection, processing, transmission or use of End User's personal data, including *inter alia* location data in connection with the End User's use of the Developer Apps, Layar SDK and Third Party Content :
- (a) you understand and acknowledge that you, as the responsible party, are the data controller regarding these data;
 - (b) you and the Layar SDK functionality included in the Developer App provided by you must comply with all applicable privacy and data protection laws and regulations with respect to any collection, processing, transmission, or use of the End User's personal information or data as

well as his location data by, or in connection with the Layar SDK functionality included in the Developer App;

- (c) you shall implement appropriate technical and organisational measures to secure personal information or data against loss, unauthorised disclosure or access as well as against any form of unlawful processing;
- (d) you shall be responsible to provide End User with all information required under applicable law. Where you or the Layar SDK functionality included in the Developer App will obtain personal information or data directly from the data subject, you shall provide the aforementioned information prior to obtaining the said personal information or data. Where personal data are obtained by you or the Layar SDK functionality included in the Developer App in another manner, you shall provide the aforementioned information at the time the said data are recorded by you or the Layar SDK functionality included in the Developer App or when it is intended to supply the data to a third party, on the first occasion that the said data are supplied; and

you shall be responsible to obtain all consents from the End User required by applicable law.

Apart from this, you must obtain consent from the End User before collecting, processing, transmitting or otherwise using his location data in any way. If any consent is denied or withdrawn, the Layar SDK functionality included in the Developer App may not collect, process, transmit, or use the End User's personal information or data as well as location data or perform any other actions for which the End User's consent has been denied or withdrawn.

11. CONFIDENTIALITY

11.1. You acknowledge and agree that the Services were developed at considerable time and expense by Layar and contain valuable trade secrets and confidential proprietary information of Layar. Accordingly, You agree to maintain the Layar SDK Services in strict confidence and except where expressly provided, you: (i) will not disclose or provide access thereto to any person or; (ii) use the Layar SDK for any purpose not expressly authorized hereby, or permit or authorize any other person to do so.

11.2. The restriction referred to in the previous subsection shall not apply (i) to the extent that such information is in the public domain or hereafter falls into the public domain through no fault of yours, or (ii) if disclosure is required by applicable law or by court.

12.SUPPORT

12.1. Layar is not obligated to provide any technical or other support for the Layar SDK provided to you. However, if Layar chooses to provide any support to you, your use of such support will be governed by this SDK License Agreement.

13.CHANGES

13.1. Layar reserves the right, at its sole discretion, to modify or replace any part of the Terms and Conditions at any time. Current versions of these Terms and Conditions will be made available through layar.com/legal as amended from time to time.

13.2. It is your responsibility to check the Terms and Conditions periodically for changes. The continued use of or access to the Services following the posting of any changes to the Terms and Conditions constitutes acceptance by you of those changes.

13.3. Layar may offer new Services and/or change existing Services. Such new and/or changed Services shall be subject to the SDK License Agreement. In this respect Layar specifically refers to article 1.6 hereof.

14.TERMINATION

14.1. Term

The term of this SDK License Agreement (the “Term”) shall commence on the Effective Date and continue indefinitely, unless terminated as set forth herein.

14.2. Your right to terminate

You may terminate this SDK License Agreement at your sole discretion at any time giving written notice to Layar at least one (1) month prior to the date you wish to terminate. You are not entitled to any reimbursement of license fees paid or credits that you may have purchased.

14.3. Layar’s right to terminate

Layar may terminate this Agreement:

- (a) for convenience at its sole own discretion after the first year of this agreement, and upon ninety (90) days prior written notice to You;
- (b) if you fail to make payment of the license fee for using the Layar SDK within the applicable payment period;

- (c) with immediate effect if you are in violation of the terms of usage for the Keys as stipulated in section 3.2 of this SDK License Agreement;
- (d) if Layar is obliged to do so by Law;

14.4. Termination for Breach.

Either party has the right to terminate this SDK License Agreement if the other party materially breaches any representation, warranty, covenant or agreement made by it hereunder or otherwise fails to perform any of its material obligations hereunder which breach or failure has not been cured. The breaching party will have the following time to cure such breach: (i) sixty (60) days after receiving written notice thereof from the other party if such breach can be cured within such sixty (60) day period, or (ii) a reasonable time if such breach cannot be cured within such sixty (60) day period but (a) the breach is capable of cure, (b) the breaching party commences to effect a cure within such sixty (60) day period, and (c) the breaching party diligently pursues such cure.

The notice period and cure time does not apply in case you are found to be in breach of section 3.2 of the SDK License Agreement.

14.5. Termination for Cessation of Business or Insolvency.

Either party may terminate this Agreement immediately upon written notice to the other: (i) if the other party ceases to do business, or otherwise terminates its business operations or (ii) if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other party and not dismissed within thirty (30) days.

14.6. General

- 14.6.1. Termination of the SDK License Agreement by either party has immediate effect.
- 14.6.2. You understand and accept that upon termination of the SDK License Agreement you will have to stop using the Layar SDK immediately, except if termination is by Layar for convenience as stipulated in section 14.3.(a), in which case you may continue to use the Layar SDK for a period of one (1) year after having been notified of termination.
- 14.6.3. All provisions of the SDK License Agreement that are intended to survive the termination, by nature or because such has expressly been provided for in the SDK License Agreement, shall survive such termination. These provisions include, but are not limited to, provisions regarding intellectual property, warranty disclaimers, indemnity and limitations of liability and applicable law.

15. APPLICABLE LAW

This SDK License Agreement and the use of the Services is governed by the laws of the Netherlands. Any dispute relating thereto will be brought before the competent court in Amsterdam, the Netherlands without prejudice to the right of appeal to the appellate court [*gerechtshof*] and that of appeal to the Supreme Court [*Hoge Raad*].

16. MISCELLANEOUS

- 16.1. If any provision of the SDK License Agreement is held invalid or unenforceable, that provision will be construed to reflect the parties' original intent. Despite the invalidity or unenforceability of such provision, all other provisions of the SDK License Agreement will remain in full force and effect.
- 16.2. You will cooperate with Layar and provide information requested by Layar to assist Layar in investigating or determining whether there has been a breach of any other provision of this SDK License Agreement. You hereby authorize Layar to cooperate with: (i) law enforcement authorities in the investigation of suspected criminal violations; and (ii) third parties in investigating acts in violation of this SDK License Agreement. Such cooperation may include Layar providing your username, IP address or other personal data.
- 16.3. You agree that if Layar does not exercise or enforce any legal right or remedy under the SDK License Agreement, this will not constitute a formal waiver of Layar's rights and that those rights or remedies will still be available to Layar.
- 16.4. Layar agrees that if You do not exercise or enforce any legal right or remedy under the SDK License Agreement, this will not constitute a formal waiver of Your rights and that those rights or remedies will still be available to You.
- 16.5. Layar may at any time and without giving notice to you assign its rights under the SDK License Agreement. You may not assign your rights under SDK License Agreement to another party without the prior written consent of Layar. Layar is entitled to attach conditions to its consent, including but not limited to the condition that your successive party consents to and agrees to be bound by the provisions of the SDK License Agreement.