

Terms of Use of VoiceTransact System.

1. Background

1.1 Voice Commerce Limited ("VCL") has developed a proprietary software platform (patent pending) known as "Voice Transact" incorporating voice biometric technologies that enables payments and financial transactions and other processes which require confirmation of identity to be processed and authorised using voiceprints.

1.2 VCL will grant You a limited licence to integrate with the Voice Transact system utilising the Platform (as defined below) and the creation by You of test accounts for a limited period and only for the purpose of evaluating the systems viability as a business tool for You and Your customers.

1.3 Following this evaluation process should You wish to proceed to a full pilot trial of the system and/or use it commercial You will need to enter into a further agreement with us. Meanwhile Your evaluation may proceed on Your agreement to these terms and conditions.

1.4 These terms and conditions form the conditions on which Voice Commerce Limited ("VCL", "We", "Us") will grant to You (the entity whose details have been submitted to Us through the Join Us page of the VoiceTransact website) the limited licence for the evaluation.

2. Agreed terms

Definitions and interpretation

In this Agreement, unless the context otherwise requires, the following definitions shall apply:

"Agreement" means this Agreement (including any schedule or annexure to it and any document referred to in it or in agreed form);

"Documentation" means the operating manuals, user instructions, technical literature and all other related materials whether in electronic or in eye-readable form supplied to You by us for aiding the evaluation and use of the Platform;

"Group" means in relation to a party, its Subsidiaries, its Holding Company and any Subsidiaries of such Holding Company. A company is a **"Subsidiary"** of another company, (it's **"Holding Company"**) if that other company directly or indirectly through one of its Subsidiaries: (i) holds or controls a majority of the voting rights in it; or (ii) has a right to appoint or remove a majority of its board of directors or equivalent.

"Platform" means the computer, network and telecommunications hardware, software and data bases that provide the functions and features of VCL's Voice Transact Services, and as may be more specifically described in the Documentation;

"Voice Transact Services" means our biometric voice identification services; and

"VCL Site(s)" means VCL's premises where the Platform is installed.

In this Agreement the terms "Platform" and the "Documentation" include any modified or replacement versions made available from time to time.

In this Agreement, unless the context otherwise requires:

words in the singular include the plural and vice versa;

a reference to a statute or statutory provision includes:

any subordinate legislation (as defined in Section 21(1), Interpretation Act 1978) made under it;

any repealed statute or statutory provision which it re-enacts (with or without modification); and

any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it whether such statute or statutory provision comes into force before or after the date of this Agreement;

a reference to:

any party includes its successors in title and permitted assigns;

clauses and schedules is to clauses of and the schedule to and of this Agreement;

the table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement.

3. Availability of Evaluation Platform

VCL shall make the facilities of the Platform available to You from the VCL Site with effect from Your confirmation of Your acceptance of these terms and conditions for a limited period of fourteen calendar days.

4. Evaluation

4.1 VCL grants to the Company a personal, non-transferable, non-assignable, non-exclusive licence to evaluate the Platform (including the Documentation) on the terms and conditions of this Agreement.

4.2 During the term of this Agreement You shall evaluate the Platform and Documentation diligently, shall report promptly to VCL all faults and problems You discovers with the Platform and the Documentation and shall co-operate with VCL's personnel in diagnosing and correcting any such faults and problems.

4.3 The Platform and the Documentation shall be used by You solely to perform an internal evaluation of the Platform and the Documentation and for no other purpose whatsoever. In the course of that evaluation You may process Your own data and retain the benefit of that processing but VCL shall have no liability whatsoever for any errors or defects in connection with it.

4.4 During the course of the evaluation, You shall be entitled to operate and maintain a maximum of five test accounts. You shall not be entitled to make any commercial use of the Platform or of any data generated as a result of such processing.

4.5 Following evaluation of the Platform, You shall be entitled at any time upon written notice to VCL to commence commercial use of the Platform on entering into its standard commercial terms a copy of which is available on request.

4.6 On receipt of notice from You of Your desire to commence commercial use of the Platform VCL shall (subject to Your meeting any application requirements VCL may in its discretion require and subject to the parties entering into a commercial licence agreement) grant to You a personal, non-transferable, non-assignable, non-exclusive licence to use the Platform (including the Documentation).

5. Title and Risk

5.1 You hereby acknowledge and agree that the Platform and the Documentation are confidential and proprietary to VCL and title to both shall remain with VCL at all times.

5.2 Risk in the Platform and the Documentation shall remain with VCL but You shall take all reasonable steps to safeguard the Platform and the Documentation from unauthorised access by Your personnel or any third parties under its control.

6. Your Obligations

6.1 You shall:

6.1.1 keep confidential and not disclose the existence, features, capabilities or contents of the Platform or the Documentation or the results of Your evaluation of it or this Agreement to any third party except to Your employees who are directly involved in the evaluation and have a specific need to know the information concerned (such confidentiality and non-disclosure obligations to survive the termination of this Agreement);

6.1.2 ensure that Your employees observe and comply with the confidentiality and non-disclosure obligations contained in clause 6.1.1;

6.1.3 keep access to the Platform and the Documentation in Your exclusive control and safeguard them from access by any unauthorised person;

6.1.4 except as expressly provided in this Agreement, not use, reproduce, dispose of, deal with, sub-licence, transfer, rent, lease, loan, modify, adapt, alter, create derivative works of, reverse engineer, decompile or disassemble (save as permitted by law) the whole or any part of the Platform or the Documentation;

6.1.5 indemnify VCL (and each company in VCL's Group) against any loss or damage to the Platform arising as a result of Your wilful misconduct, recklessness or gross negligence or that of Your employees or any breach of the terms of this Agreement;

6.1.6 not incorporate the Platform or the Documentation or allow them to be incorporated in any other product or documentation;

6.1.7 not change, remove or obscure any labels, plates, notices, insignia, lettering or other markings which are on or embodied in the Platform or the Documentation; and

6.1.8 not Yourself nor in conjunction with any firm, company or person for three months after termination of this Agreement for any reason, offer to employ or engage or otherwise endeavour to entice away from VCL (or any company in VCL's Group) anyone employed or engaged by VCL (or any company in VCL's Group) with whom the Company had direct dealings with during the continuance of and in connection with this Agreement.

7. Our Obligations

7.1 We shall:

7.1.1 set up the Platform to provide the Voice Transact Services for the purposes set out in this Agreement;

7.1.2 maintain the Platform at the VCL Sites; and

7.1.3 allow You remote access to the VCL Site for the purposes of integration with the Platform as contemplated in this Agreement.

8. Feedback

In consideration for the grant of the limited licence made by Us to You in accordance with the terms of this Agreement and for the purpose of further research and development of the Platform (including Documentation), You agree to report to VCL Your findings and results from Your evaluation ("Feedback"). Feedback includes, without limitation, materials as well as ideas or know how (whether presented orally, in written form or otherwise). With respect to such Feedback, You grant to VCL, under all of its intellectual property rights, the worldwide, non-exclusive, perpetual, irrevocable, royalty-free rights (i) to use, copy and modify Feedback and to create derivative works thereof; (ii) to make (and have made), use, import, sell, offer for sale, lease or otherwise distribute any products or services of VCL containing Feedback; and (iii) to sub-license the foregoing rights to the extent a licence is necessary for using any such products or services of VCL.

9. Term and Termination

This Agreement shall continue for a period of fourteen (14) days from and including the date of Your agreement to its terms following which it shall automatically terminate.

10. Service Levels

10.1 As a result of the developmental nature of the technology on which the Platform is based We cannot and do not warrant that it (or the Documentation) is either is free from faults or defects it is therefore provided "AS IS".

10.2 Subject to clause 10.4 You shall use the Platform and the Documentation at Your own risk and in no event shall VCL be liable to You for any loss or damage of any kind arising from Your use of or inability to use the Platform or the Documentation, or from faults or defects in either whether caused by negligence or otherwise.

10.3 Subject to clause 10.4 We shall not be liable for any incidental or special damages, losses or expenses (including without limitation lost profits, lost business or loss of data) arising directly or

indirectly under this Agreement or from the use of the Platform or the Documentation, whether or not We were advised or aware of the possibility of such damages, losses or expenses.

10.4 Nothing in this Agreement seeks to limit or exclude Our liability for death or personal injury caused by Our negligence or anything else for which We cannot at law limit or exclude.

10.5 The express terms of this Agreement are in lieu of all warranties, conditions, undertakings, terms and obligations implied by statute, common law, trade usage, course of dealing or otherwise all of which are excluded to the fullest extent permitted by law. We do not warrant that any of Our Group's applications for patents will proceed to grant.

11. Entire Agreement

11.1 This Agreement sets out the entire agreement and understanding between the parties in respect of the subject matter of this Agreement.

11.2 You acknowledge that You have entered into this Agreement in reliance only upon the representations and warranties specifically contained or incorporated in this Agreement and, save as expressly set out in this Agreement, We shall have no liability in respect of any other representation, warranty or promise made prior to the date of this Agreement unless it was made fraudulently.

12. Assignment

12.1 This Agreement shall be binding on and enure for the benefit of the successors in title of the parties but, except as set out in clause 12.2, shall not be assignable by any party without the prior written consent of the other.

12.2 We may assign the benefit of this Agreement to any of companies within Our Group.

13. Invalidity

To the extent that any provision of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

14. Exclusion of third party rights

Unless expressly provided in this Agreement, no term of this Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

15. Governing Law and Jurisdiction

15.1 This Agreement shall be governed by and construed in accordance with English law.

15.2 Each of the parties irrevocably submits for all purposes in connection with this Agreement to the exclusive jurisdiction of the courts of England.