

VOICE METRICS, LLC

Software as a Service (SaaS) Agreement

Welcome to Voice Metrics. Below you will find the legally binding terms between you and Voice Metrics as you use the Services (defined below) provided by Voice Metrics.

PLEASE READ THIS AGREEMENT AND INDICATE YOUR ACCEPTANCE BY e-SIGNING VIA ADOBE SIGN. ACCEPTANCE OF THIS AGREEMENT MEANS THAT YOU ARE BOUND BY THE TERMS HEREIN. SHOULD YOU REGISTER FOR A FREE TRIAL OR BE USING SOME OR ALL OF THE FREE SERVICES, THE APPLICABLE TERMS SHALL ALSO GOVERN SUCH FREE TRIAL OR USE OF THE FREE SERVICES. YOU ARE NOT PERMITTED TO USE

YOU MAY PRINT THIS LICENSE OR SAVE IT AS A FILE ON YOUR COMPUTER. A TRUNCATED VERSION OF THIS LICENSE IS INCLUDED AS A "README" FILE IN THE DOWNLOADABLE FILE CONTAINING THE PURCHASED SOFTWARE. THE LICENSE INCLUDED WITH THIS SOFTWARE PACKAGE IS SUBSTANTIVELY IDENTICAL TO THIS LICENSE.

IN THE EVENT YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY, ITS PERSONNEL, EMPLOYEES AND AFFILIATES TO THE TERMS SET FORTH HEREIN. IN SUCH EVENT, "YOU" SHALL REFER TO THE ENTITY AND ITS PERSONNEL, EMPLOYEES AND AFFILIATES. IF YOU DO NOT HAVE THE AUTHORITY, OR YOU DISAGREE WITH THE TERMS SET FORTH IN THIS AGREEMENT, YOU ARE NOT PERMITTED TO USE THE VOICE METRICS SOFTWARE OR SERVICES.

This SaaS Agreement (the "Agreement") is made effective by and between Voice Metrics, LLC ("VM") and you, the customer ("You" or "Customer"), as of the day of e-signature ("Effective Date") and in the event this Agreement's terms are amended in any way, your continued use of the Software or Services shall constitute your acceptance of such amended terms. For purposes of this Agreement, Subscriber and Licensor each will be referred to individually as a "Party" and together as the "Parties."

1. Definitions

"Agreement" means this SaaS Agreement.

"Documentation" means all written or published (whether online or offline) materials, binders, training disks, and other materials supplied by VM to describe the Service, other than the Service itself.

"Free Services" means any services which VM provides to You free of charge, except for such services included in the Trial Period or through Your Purchased Services.

"Intellectual Property Rights" means all proprietary information including, without limitation, patents, patent applications, trademarks, trade names, service marks, certification marks, collective marks, designs, processes, inventions, licenses, copyrights, know-how and trade secrets relating to the origin, design, manufacture, programming, operations, function, configuration, or service of the Licensed Product.

"Object Code" means machine-executable computer software prepared by compiling and linking the Service's source code.

"Permitted Use" means Your use of the Software and Service(s) in order to evaluate and analyze Licensee's Internal Data.

"Purchased Services" means the Services that You purchase from VM.

“Services” means the service or services selected and ordered by You, whether purchased or free through free services or free through the Trial Period, as provided by VM.

“Software” means the Voice Metrics platform as made available (together with restrictions and enabled permissions) to You through Your account by VM.

“Trial Period” means a 30 day time period from the Effective Date during which You are authorized to use particularly selected and approved components of the Service in a manner consistent with the terms of this Agreement.

“Upgrades” means, collectively, all upgrades, bug fixes, improvements, enhancements, additions and revisions made to the Software.

2. License to Receive the Service; Use of the Service and Software

(a) Grant. VM, by and through the terms of this Agreement, hereby grants You a limited, non-exclusive, and non-transferable license, without the right of sublicense, to access and use the Software and Services during the term of this Agreement, in a manner consistent with the terms set forth herein and in a manner consistent with the type of account You have selected. All rights not expressly granted to You through this Agreement are reserved solely for VM.

(b) Permitted Use. Your permitted use of the Software and Services is dictated by the type of account You select. In the event you select a SaaS Integration Account, you shall be awarded all of the capabilities set forth in both the Developer Account and the Corporate Account, with the added limited license to embed the Software into your own service offering. Further, you shall be permitted to use and embed such Software into your own service offering and ‘white-label’ the Software in a manner which promotes your services and not VM. Notwithstanding the foregoing, as a SaaS Integration Account, you shall at all times maintain “Powered by Voice Metrics” wherever such language is placed throughout the Software and shall not move, remove, make hidden or invisible, minimize, or in any way manipulate such language without the prior express written approval of VM.

Any and all capabilities provided to You by and through Your selected account shall be subject to change in the event You change the account type you wish to purchase.

(c) Scope. The license provided to You through this Agreement does not extend beyond that which is set forth in the account type you have selected, unless and until You change your type of account, in which case permissions and restrictions will change and reflect Your newly selected account type. Unless otherwise expressly provided to You as a permitted usage of the Services as stated in Section 2(b) herein, You shall have no right pursuant to this Agreement to distribute the Services in whole or in part over the Internet, application integration, or via email or instant messaging via an Intranet, personal digital assistant, wireless application protocol, short message service or radio system. Nothing in this Agreement shall obligate VM to continue providing access to any Services beyond the date when VM ceases providing such Service to subscribers generally.

(d) Restrictions on Use. You agree You shall not edit, alter, abridge or otherwise change in any manner the content of the Services, including, without limitation, all copyright and proprietary rights notices. Further, You agree You may not, and may not permit others to:

- 1) create or enable the creation of derivative works, modifications, or adaptations of the Software or the Services;
- 2) decompile, reverse engineer, disassemble, decrypt, or in any way derive source code from the Software or Services;
- 3) copy, distribute, publicly display, transmit, sell, rent, lease or otherwise exploit the Services;
- 4) (4) distribute, sublicense, rent, lease, loan, or grant any third party access to and/or use of the Software or Services, to any third party.

- 5) use any robot, spider, other automatic device or program or manual process to monitor, copy or reproduce the Software or Services;
- 6) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of a third-party's privacy rights;
- 7) use the Services to interfere with or disrupt the capabilities and performance of the Services;
- 8) use the Services in attempts to gain unauthorized access to parts of the Software or Services which either (a) Your account is not permitted access to; or (b) is unauthorized by law or the terms of this Agreement;
- 9) use the Software or Services for any purpose inconsistent with the terms set forth herein.

(e) Subscriptions. Purchased Services are purchased on a monthly subscription basis. The pricing for Your selected Purchased Service(s) shall remain the same for one (1) full year, but may thereafter be adjusted, in the sole discretion of VM. In the event VM adjusts the pricing for any Purchased Service, VM shall notify you prior to such increase. Pricing is outlined on the last page of this agreement.

3. Trial Period

- (a)** VM may make particular components of the Services available to You free of charge for the duration of the Trial Period, unless and until (a) the Trial Period expires; (b) is earlier terminated by You or VM in each party's sole discretion; or (c) the start date of any Purchased Service ordered by You.
- (b)** Additional terms and conditions may be applicable and binding upon You during the Trial Period, dependent on what components of the Services you are granted free access to through the Trial Period. Such additional terms and conditions will be presented to and agreed to by you prior to the commencement of your Trial Period. Any such additional terms and conditions are incorporated herein by reference and shall be legally binding upon You and VM.
- (c)** VM reserves the right, in its sole discretion, to permanently delete any and all data entered by You into and through the Services. Accordingly, such data will be lost permanently, unless You purchase a subscription to the same components of the Services as those which were provided to You through the Trial Period, or export such data prior to the expiration of the Trial Period. Notwithstanding the foregoing, VM can permanently delete all data entered by You into and through the Services even if you begin using a Purchased Service should there be any period of time between the expiration or termination of the Trial Period and the start date of such Purchased Service(s).
- (d)** You shall not be permitted to use any data you export prior to the expiration of the Trial Period which is not permitted to be included or used in the components of the Services, or the account type for which you select thereafter the termination of the Trial Period.

4. Free Services

- (a)** Certain capabilities and services are free of charge to You irrespective of the type of account you select. Such Free Services shall have certain limits, which shall be disclosed to You prior to Your use of any of the Free Services.
- (b)** VM may, in its sole discretion, terminate Your access to any and all of the Free Services, without advance notice to You. You agree that VM is not liable to you or any third party for any reason, which is a direct or indirect result of such termination. Unless otherwise required by law, VM shall not retain any data or information You have entered into the Services, or give You the reasonable opportunity to retain such data or information. Accordingly, You are solely responsible for backing up or exporting any and all data and information You have entered into the Services.

5. Fees and Payment

(a) Fees. In exchange for the license granted above, commencing on the Effective Date, You agree you shall pay VM for the Fees associated with the account type and Term (monthly or annually) You selected, and agree You shall pay such Fees each renewal term thereafter until termination pursuant to Section 13(c) herein.

(b) Payments and Invoices.

- 1) You are permitted to choose the payment method You will use to pay for the Purchased Services. You are responsible for providing VM valid, current and complete payment information. Any and all payment methods available to you by VM will be provided to you when you are submitting your payment information. By submitting a payment method to use, You hereby authorize VM to use such payment method and charge such payment method in accordance with the payment terms attributed to the Purchased Services.
- 2) Payments shall be invoiced and paid in advance by You to VM, either annually or monthly in accordance with your selected payment schedule.
- 3) VM may use third-party payment service providers which may carry additional fees when processing payments. VM is not responsible for any additional fees assessed as a result of using such third-party payment service providers and disclaims all liability with respect to such fees. Further, such third-party service providers may also impose separate and distinct terms and conditions on you. It is solely your responsibility to review these terms and conditions prior to submitting payment through such third-part payment service provider.
- 4) You hereby authorize VM to retain and store the information pertaining to your payment methods and charge such payment method in accordance with this Agreement and the agreed to pay schedule.
- 5) You are permitted to purchase the Purchased Services at an annual rate, which may include a discount, or a monthly rate. Should You select annual rate, You shall be responsible for paying for a twelve (12) month period for which you will be permitted access to and use of the Purchased Services. Should you select monthly rate, the payment method You provided to VM shall be automatically billed at the monthly rate assessed to the Your account on the same day each month (i.e. should you order your Purchased Services on June 5, you shall be billed and automatic payment will be drawn on the 5th of every month thereafter for the term of the Agreement and any renewal term entered into between You and VM thereafter). No access shall be permitted to the Purchased Services until payment is cleared. VM is not responsible for any delay in the processing of Your payment, resulting in a delay or restriction of Your access to the Purchased Services.
- 6) Your rate for the Purchased Services will be attributed to the account type You select. VM will not increase the amount owed for each Purchased Service without advance notice to You, but is nevertheless able to, in its sole discretion, change any amounts owed for any Purchased Services or any type of account. Any increase to the rates owed for any Purchased Service shall begin the term immediately following the term in which advance notice by VM was provided to You.

(c) Late Payments. Should You use a payment method or provide VM with payment information that results in the inability of VM to collect any payment owed (i.e. Your payment method has insufficient funds or the payment information is incomplete and a transaction cannot be conducted), or payment for the Purchased Services is late, through no fault of VM, You agree that VM reserves the right to suspend or terminate Your account and any access to the Services, including Purchased Services and Free Services. In the alternative, VM, without limiting its rights or remedies attributed to Your late payment, VM shall be entitled to interest from due date of such payment. Both parties agree that the rate of interest on overdue invoices shall be 1.5 per cent per month.

(d) Taxes. You will be responsible for, and will promptly pay or reimburse VM for, the payment of all sales, use, excise, value-added or similar taxes, assessments, or duties (or other similar charges) imposed by any governmental agency (including any interest and penalty imposed thereon as a result of any act or omission of Licensor that is in accordance with the direction or request of Subscriber) that are based on or with respect to any Services or goods provided by VM to You, or the amounts payable to VM therefore.

6. Professional Services

During the term of this Agreement, You may request VM to perform computer professional services in the nature of Software development, customization add-in, documentation and/or integration services (hereinafter, "Professional Services"). Upon receipt of a request, VM may provide You with a written proposal, and when the parties agree to all requirements of the proposed Professional Services, a Task Order for the Professional Services, shall be executed by the parties. All Task Orders shall set out the terms of such Professional Services and shall be subject to the terms and conditions of this Agreement. Services performed by VM are not exclusive to You, and VM may perform services of any type or nature for any other person or entity at any time.

7. Proprietary Rights and VM Licenses

- (a) VM Rights.** Subject to the limited rights expressly granted to You through this Agreement, VM reserves all of VM's right, title and interest in and to the Services, all content, the Documentation, Software, and any components thereof, including all of VM's related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.
- (b) License to Host Your Data and Applications.** You agree that your use of the Services grants VM a worldwide, non-exclusive, royalty-free, sublicense-able, transferrable license to host, copy, use, prepare derivative works of and display any of your content, data, intellectual property, in connection with and in order to fulfill VM's duties and obligations to ensure the Services properly operate and function. Further, such license shall apply to any and all marketing and promotional materials of all or any portion of VM, its Software or Services, in and across any and all mediums and formats. Aside from the limited license provided to VM by You through this Section 7(b), VM acquires no right, title or interest from You or Your licensors under this Agreement in or to any of Your data.

8. Confidentiality

- (a)** "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party") pertaining to the Disclosing Party's business or technical information, whether it is received, accessed or viewed by the Receiving Party in writing, visually, electronically or orally. Confidential Information shall include, without limitation, marketing and business plans, databases, specifications, prototypes, sketches, models, drawings, specifications, samples, computer Software (source and object codes), designs, layouts, content, forecasts, identity of or details about actual or potential customers or projects, lists of sponsors, techniques, inventions, discoveries, know-how and trade secrets. "Confidential Information" also includes all such business or technical information of any third party that is in the possession of the Disclosing Party. Notwithstanding the foregoing, any information disclosed by the Disclosing Party to the Receiving Party will be considered Confidential Information of the Disclosing Party, only if such information (a) is conspicuously designated as "Confidential" or "Proprietary" or would reasonably be regarded as being of a confidential nature, or (b) if provided orally or visually, is identified as confidential at the time of disclosure, or would reasonably be regarded as being of a confidential nature.
- (b)** The Receiving Party agrees that it will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to keep all Confidential Information of the Disclosing Party confidential and, except as permitted by this Section 8, or with the express prior written consent of the Disclosing Party, will not (i) disclose or permit the disclosure of any Confidential Information to any person or entity (including, without limitation, any of its employees, agents, representatives or affiliates), (ii) use or permit the use of the Confidential Information in any way which may be directly or indirectly detrimental to the other party, or (iii) use or permit the use of Confidential Information for any purpose other than in connection with the relationship between the parties as it is set forth in this Agreement.
- (c)** All Confidential Information is and shall remain the property of the Disclosing Party. By disclosing information to the Receiving Party, the Disclosing Party does not grant any express or implied right to the

Receiving Party to or under the Disclosing Party's patents, copyrights, trademarks or trade secret information.

- (d) Neither party shall be deemed to make or have made any representation or warranty as to the accuracy or completeness of any Confidential Information, and neither Party nor any of their respective officers, directors, employees, representatives or agents shall have any liability to the other Party resulting from the use of the Confidential Information by the other Party.
- (e) The Receiving Party is permitted to disclose Confidential Information to such of its employees, attorneys and advisors (the "Authorized Representatives") who need to know such Confidential Information for the purpose of the Receiving Party's ability to fulfill its duties and obligations as set forth in this Agreement, as well as to properly utilize the Services. The Receiving Party agrees to inform those of its Authorized Representatives to whom it wishes to disclose any of the Confidential Information of the existence of these confidentiality provisions. Further, the Receiving Party shall be responsible for the breach of this Section 8 by any of its Authorized Representatives.

9. Representations and Warranties

(a) Representations and Warranties.

- 1) You represent that You have validly entered into this Agreement, have the ability and authority to enter into this Agreement, and have the legal power to do so.
 - 2) Further, You warrant to VM that:
 - i. Should You have a SaaS Integration Account, You will bear sole responsibility for any alterations, modifications, additions, redactions or integrations of the Services in Your Services or offerings, which may render the Services unusable or the ability to use the Services in the manner in which You intend to use it is inhibited,
 - ii. You will carry out your obligations in accordance with good industry practice, and
 - iii. You intend to use the Services for the sole purpose as set forth in this Agreement, within the parameters of Your selected account, the permissions granted thereto and restrictions placed thereon;
- (b) Any breach of a warranty within Section 9(a) shall be considered a material breach by You and remedies provided to VM are those set forth in the "Termination" provisions set forth herein.

10. Disclaimers and Warranties

VM MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AND LICENSEE HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING THE SOFTWARE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, YOU ACKNOWLEDGE AND AGREE THAT YOU ARE LICENSING THE SOFTWARE AND SERVICES ON AN "AS IS" BASIS WITH ALL FAULTS AND WITHOUT ANY EXPRESS, IMPLIED OR STATUTORY WARRANTIES WHATSOEVER INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ENFORCEABILITY, NON-INFRINGEMENT, OR ARISING FROM COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE. YOU ACKNOWLEDGE AND AGREES THAT THE SOFTWARE AND SERVICE(S), THE CONTENTS THEREIN, AND ANY ACCOMPANYING DOCUMENTATION ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND VM DOES NOT MAKE ANY AND HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, ENDORSEMENTS, GUARANTEES, OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

11. Limitation of Liability

LICENSOR AND ITS SUBSIDIARIES, AFFILIATES, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES AND LICENSORS (“THE PARTIES”) WILL NOT BE LIABLE (JOINTLY OR SEVERALLY) TO YOU, YOUR AUTHORIZED USERS, OR ANY THIRD PARTY, FOR INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST SAVINGS AND LOST REVENUES (COLLECTIVELY, THE “EXCLUDED DAMAGES”), WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, EVEN IF ANY OF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN ANY OF THE EXCLUDED DAMAGES, AND IRRESPECTIVE OF ANY FAILURE OF AN ESSENTIAL PURPOSE OF A LIMITED REMEDY. IN NO EVENT WILL THE LIABILITY OF THE PARTIES ARISING OUT OF ANY CLAIM RELATED TO THIS AGREEMENT EXCEPT FOR INTELLECTUAL PROPERTY INFRINGEMENT OR THE SUBJECT MATTER HEREOF EXCEED THE AGGREGATE AMOUNT PAID BY YOU FOR THE SERVICE(S) GIVING RISE TO LIABILITY IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IF ANY APPLICABLE AUTHORITY HOLDS ANY PORTION OF THIS SECTION TO BE UNENFORCEABLE, THEN THE PARTIES’ LIABILITY WILL BE LIMITED TO THE FULLEST POSSIBLE EXTENT PERMITTED BY APPLICABLE LAW. YOU WILL INDEMNIFY, DEFEND AND HOLD HARMLESS VM FOR ANY LOSS, DAMAGE OR COST IN CONNECTION WITH ANY CLAIM OR ACTION WHICH MAY BE BROUGHT BY ANY THIRD PARTY AGAINST VM RELATING TO ANY BREACH OF THIS AGREEMENT BY YOU.

12. Indemnification

(a) Your Infringement Indemnity. You, at Your own expense, will defend, indemnify, and hold VM harmless from and against any and all third party claims for damages (whether ordinary, direct, indirect, incidental, special, consequential, or exemplary), judgments, liabilities, fines, penalties, losses, claims, costs, and expenses including, without limitation, reasonable attorneys’ fees, finally awarded by a court of competent jurisdiction, after all rights of appeal are exhausted, against VM which directly relate to a claim, action, lawsuit, or proceeding made or brought against VM by a third party alleging the infringement or violation of such third party’s registered patent, trade secret, copyright, or trademark (each a “Licensor Claim”) by way of VM’s use of any of Your Content that You have provided or made available to VM pursuant to Your use of the Services, to which VM uses in the provision of any Services.

(b) VM Infringement Indemnity. VM, at its expense, will defend, indemnify, and hold You harmless from and against any and all third party claims for damages (whether ordinary, direct, indirect, incidental, special, consequential, or exemplary), judgments, liabilities, fines, penalties, losses, claims, costs, and expenses including, without limitation, reasonable attorneys’ fees, finally awarded by a court of competent jurisdiction, after all rights of appeal are exhausted, against You which directly relate to a claim, action, lawsuit, or proceeding made or brought against You by a third party alleging the infringement or violation of such third party’s registered patent, trade secret, copyright, or trademark (each a “Subscriber Claim”) by way of Your use of the Service(s) that VM provides to You, except in such cases where Your indemnification of VM under Section 12(a) applies.

13. Term; Termination

(a) Term. This Agreement shall become effective on the date You first accept it and shall continue until all of Your subscriptions have terminated or expired.

(b) Term Length Variations. The term for Your Purchased Services shall be set by the type of payment schedule you select (monthly payment or annual payment) as set forth in Section 5 herein. Your subscriptions shall automatically renew for subsequent like terms until terminated by VM or You.

a. Monthly Term:

- i. In the event you select to purchase the Services monthly, this Agreement, as amended from time to time, shall be effective from the date you first agree to this Agreement and shall automatically renew each month on that same day and shall continue to automatically renew in this manner each subsequent month thereafter until termination by You or VM in accordance with Section 13(c) herein.

- ii. For example, should you select to pay monthly for Your account and the Services, and Your account is activated on the 5th day of June, the term shall automatically renew on the 5th day of July and shall automatically renew on the 5th of each month thereafter until termination pursuant to this Agreement.
 - b. Annual Term:
 - i. In the event you select to purchase the Services annually, this Agreement, as amended from time to time, shall be effective from the date you first agree to this Agreement and shall be valid for twelve (12) consecutive months thereafter. At 11:59:59 PM Eastern Standard Time on the final day of the 12th month, this Agreement shall automatically renew for an additional 12 month term and shall automatically renew every 12 months thereafter until termination by You or VM in accordance with Section 13(c) herein.
 - ii. For example, should you select to pay annually for Your Account and the Services, and Your account is activated on the 5th of June, the Term shall automatically renew at 11:59:59 PM, Eastern Standard Time on the 4th of June the following year and shall continue to renew in this manner until termination pursuant to this Agreement.
 - c. The examples provided herein are not actual terms for which You and VM are bound. They are simply included to provide clarity as to the dynamic of each type of term.
- (c) Termination.** This Agreement, aside from those provisions expressly stated as provisions which survive termination of this Agreement, the relationship between You and VM and the licenses granted hereunder shall terminate in any of the following manners:
- a. You may terminate this Agreement at any time, without notice to VM by deactivating Your account;
 - b. VM may immediately terminate this Agreement provided there is cause, such as system misuse, non-payment for over 90 days, or damage to brand reputation. In other cases of termination by VM, VM will provide you with 90 days notice prior to stopping the service;
 - c. Either party may terminate if the other party commits a breach of any provision of this Agreement and fails to remedy such breach within thirty (30) days of receiving written notice thereof by the non-breaching party ("Notice of Breach"). Notwithstanding anything to the contrary contained in this Agreement, if Subscriber receives any notice of late payment under this Agreement in any form, written or electronic, from Licensor including any business division (e.g., Licensor' Credit Department), such notice will be deemed to be a Notice of Breach. The party giving such notice may then deliver a second written notice to the breaching party terminating this Agreement, in which event this Agreement, and the licenses granted hereunder, will terminate on the date specified in such second notice; or
 - d. If a receiver is appointed over any assets of either party or if either party makes any arrangement with its creditors or becomes subject to an administration order or goes into liquidation or anything equivalent to the foregoing under any jurisdiction or ceases to carry on business, the other may terminate by giving written notice with immediate effect.
- (d) Payment to/Refunds From VM Upon Termination.** Termination pursuant to Section 13(c) herein does not preclude your obligation to pay any outstanding Fees to VM. Any Fees owed by You upon termination shall be due immediately and shall be subject to the same payment terms set forth in Section 5 herein. Notwithstanding the foregoing, in the event termination occurs during a term, VM will refund You an amount proportionate to the time remaining for the then-current term.
- (e) Effect of Termination.** You have thirty (30) days from the date of termination to submit a written request to VM for VM to make your data available for export or download. After the applicable 30 day period, VM no longer has any responsibility to maintain Your data, and will thereafter be permitted to permanently delete or destroy such data, together with any and all copies thereof then left on the Software or otherwise in VM's possession or control, unless such deletion or destruction is legally prohibited.

14. Waiver of Jury Trial; Waiver of Class Action Lawsuit

YOU AND VM HEREBY ACKNOWLEDGE AND AGREE THAT EACH AND BOTH, COLLECTIVELY AND INDEPENDENTLY, IS IRREVOCABLY AND UNCONDITIONALLY WAIVING ANY RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR IN RELATION TO THIS AGREEMENT, THE SOFTWARE OR ANY SERVICE(S) PROVIDED TO YOU BY VM.

YOU AND VM HEREBY ACKNOWLEDGE AND AGREE THAT EACH AND BOTH, COLLECTIVELY AND INDEPENDENTLY, IS IRREVOCABLY AND UNCONDITIONALLY WAIVING ANY RIGHT TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION LAWSUIT, CLASS-WIDE ARBITRATION OR ANY OTHER REPRESENTATIVE PROCEEDING AS TO ALL CLAIMS, DISPUTES OR CONTROVERSIES ARISING OUT OF OR IN RELATION TO THIS AGREEMENT, THE SOFTWARE OR ANY SERVICE(S) PROVIDED TO YOU BY VM.

You specifically consent to personal and exclusive jurisdiction by and venue in the State and Federal courts of Franklin County, Ohio in connection with any dispute between You and VM arising out of or involving this Agreement, any provisions herein, the Software or any service(s) provided to You by VM.

15. Surviving Provisions

The provisions titled Fees, Proprietary Rights and VM Licenses, Confidentiality, Disclaimers and Warranties, Limitations of Liability, Indemnification, Surviving Provisions, and General Provisions shall survive any termination of this Agreement.

16. Miscellaneous

- (a) Notice.** All notices to a party hereunder shall be in writing and provided to the other party in one of the following permitted methods: (a) personal delivery (which shall be deemed delivered when handed to the other party); (b) delivered by certified mail, return receipt requested (which shall be deemed delivered on the date the receiving party confirms receipt thereof); (c) overnight courier service (which shall be deemed delivered on the second day thereafter deposited with such overnight courier service, so long as it is properly addressed; or (d) electronic mail (which shall be deemed delivered upon dispatch so long as it is properly addressed to latest email address provided by the receiving party).
- (b) Amendment.** This Agreement may not be amended except in a writing executed by authorized representatives of VM.
- (c) Assignment.** This Agreement is not transferable, assignable, delegable, or sublicenseable by You in whole or in part, without the prior written permission of VM. This Agreement will be binding upon and inure to the benefit of the parties and their respective successors, trustees, administrators, and assigns.
- (d) No Joint Venture; Partnership.** This Agreement does not create a partnership or joint venture between You and VM and except as expressly provided in this Agreement, neither You or VM shall enter into or have authority to enter into any engagement or make any representations or warranties on the other party's behalf nor will they seek to otherwise bind or oblige the other party in any way.
- (e) Binding Effect and Third-Party Beneficiary.** Except if specifically stated in this Agreement, neither party, nor any of their respective employees or agents, will have the power or authority to bind or obligate the other party. No third party is a beneficiary of this Agreement.
- (f) Waiver of Rights.** Except where specifically stated to the contrary, all remedies available to either party for breach of this Agreement under this Agreement, at law, or in equity, are cumulative and nonexclusive. A waiver or failure of either party at any time to require performance by the other party of any provision hereof will not affect the full right to require such performance at any time thereafter.
- (g) Injunctive Relief.** If You breach Section 2 of this Agreement, VM will be entitled, in addition to any other rights available under this Agreement or at law or in equity, to apply for immediate injunctive relief without any requirement to post a bond or other security and You acknowledge and agree to not contest such application.

- (h) **Severability.** If any provision or portion thereof of this Agreement or its application in a particular circumstance is held to be invalid or unenforceable to any extent in any jurisdiction, such provision or portion thereof will, as to such jurisdiction only, be ineffective to the extent of such unenforceability, all other provisions and portions thereof of this Agreement will not be affected thereby and will be valid and enforced to the fullest extent permitted by law.
- (i) **Choice of Law and Venue.** This Agreement will be construed and enforced in accordance with the laws of the State of Ohio, without reference to its rules of conflicts of laws. The sole jurisdiction and venue for any litigation arising out of this Agreement will be an appropriate federal or state court located in Franklin County, Ohio.
- (j) **Force Majeure.** Any failure or delay by VM in the performance of its obligations pursuant to this Agreement will not be deemed a default or breach of the Agreement or a ground for termination to the extent such failure or delay is due to computer or Internet or telecommunications breakdowns, denial of service attacks, fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil unrest, rebellions or revolutions in the United States or any nation where the obligations under this Agreement are to be executed, strikes, supplier and third party failure, lockouts, or labor difficulties, or any similar cause beyond the reasonable control of VM.
- (k) **Entire Agreement.** This Agreement contains the final and entire agreement of the parties and supersedes all previous and contemporaneous verbal or written negotiations, understandings, or agreements regarding the Agreement's subject matter.

Pricing

The pricing outlined below is for a Voice Metrics **SaaS Integration Account** for **Alexander Mann Solutions**.

Allows AMS to have a published Skill and Action, powered by **Voice Metrics**.

Individual AMS Client implementation and end-user license will be quoted and billed separately.

Custom-Branded Alexa Skill AND Custom-Branded Google Action	\$799 (one-time) and \$ 149 /mo.
--	---

Includes Ongoing Maintenance and Software Upgrades to the Voice Metrics Custom-Branded AMS Skill, and continued certification of the AMS Skill by Amazon and Google. Includes ongoing customer support to AMS for assistance with implementing Voice Metrics for AMS Clients.

Total Billed (Pre-Paid - 12 Months)	\$ 2,587.00
--	--------------------