



SaaS Subscription Agreement

This SaaS Subscription Agreement is entered into and effective as of the Effective Date by and between Showpad, Inc., a Delaware company having its registered office at 301 Howard Street, Suite 1800, San Francisco, CA 94105, USA ("Showpad"), and

Effective Date:	...
Company Name:	...
Country/State of incorporation	...
Company address:	...
	...
Country	...
acting on behalf of itself as well as its affiliated companies, and hereafter referred to as "Customer"	

1. PREAMBULE

1.1. Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

1.2. Where relevant, a reference in this Agreement to the Customer should be construed as equally including a reference to the Customer's Users.

Capitalized terms shall have the meaning as per Exhibit A.

The order of precedence shall be as follows:

- (i) This SaaS Subscription Agreement;
- (ii) The Exhibits to this SaaS Subscription Agreement;
- (iii) The Order Form;
- (iv) The Purchase Order.

whereby the higher ranked document shall prevail over the lower ranked document in case of contradiction, inconsistency and/or discrepancy. No other terms and conditions shall apply, even if the same have not been expressly rejected.

2. LICENSE

2.1. Subject to payment of the applicable Fees, and subject to ongoing compliance with the terms and restrictions as set forth under this Agreement, Showpad hereby grants Customer a personal, object code only, limited, non-exclusive, non-assignable, non-transferable license (without the right to grant sublicenses) to use the Licensed Product, and allow usage of the Licensed Product by its Users, during the Subscription Term, for Customer's own business purposes, and Customer Data.

2.2. All rights and Intellectual Property Rights in or to the Licensed Product (including all copies, modifications, extensions and derivative works thereof) are reserved by Showpad and Showpad's licensors, as appropriate.

2.3. Customer acknowledges and agrees that it shall not:

- i) reverse compile, disassemble, or reverse engineer the Licensed Product, or frame, embed or mirror the Licensed Product elsewhere;
- ii) reproduce, modify, adapt, translate, or create derivative works of, or based upon, the Licensed Software or any portion thereof;
- iii) use, access, or exploit the Licensed Product in any way other than as explicitly allowed under this Agreement (including by building a competitive product or service, or copy any ideas, features, functions or graphics of the Licensed Product);
- iv) remove, obscure or alter the respective copyright statements;
- v) in general, use the Licensed Product in such a way which Showpad, acting reasonably, deems incompatible with the normal use thereof.

3. LICENSED PRODUCT

3.1. Customer confirms that the subscriptions to the Licensed Product is neither contingent upon the delivery of any future functionality or features, nor dependent upon any oral or written public comments made by Showpad with respect to (potential) future functionality or features.

3.2. Showpad reserves the right, at any time, to change the Licensed Product and its features (including occasional deprecation and removal of certain features and functionality). In case of such change, Showpad will use commercially reasonable efforts to notify Customer of any such change which Showpad believes is likely to have a material, adverse impact on Customer's, via the then-current email address indicated in the Showpad billing center. In case Customer does not agree with such change, Customer must notify Showpad within thirty (30) calendar days, in which case parties shall apply the dispute resolution procedure as applicable under this Agreement. In absence of such timely notification Customer is deemed to agree with the change.

3.3. Customer understands and acknowledges that:

- i) In Case Customer or its Users provide Showpad with any Feedback,

Customer shall have deemed granted Showpad a royalty-free, transferable, worldwide, assignable, irrevocable, perpetual license to incorporate and/or otherwise use such Feedback in any way it sees fit (including in or relating to the (the operation of) the Licensed Product), without any right for the Customer to receive any compensation therefore. Customer understands that it is not obliged to provide for any Feedback.

- ii) Showpad does not provide for any (custom) deliverables and/or any services under this Agreement, which would qualify as work-made-for-hire.
- iii) Customer may choose to activate or use certain Third Party Products to work with the Licensed Product, whereby the use of such Third Party Products is subject to the Showpad Third Party Products Policy.
- iv) The licensed Product may be subject to limitations, failures, delays, and/or other matters inherent to the use of the internet, electronic communications and/or Devices. Showpad is under no circumstance responsible or liable for any damage, loss of liabilities arising therefrom, or issues not caused by, or under the control of, Showpad;
- v) The way the Customer Data is manipulated by the User through the Licensed Product may lead to unexpected results, loss or corruption of Customer Data or other unpredictable results, damages or (un)intended exposure to third parties, and that Showpad does not bear any responsibility or liability thereto.

3.4. Usage of the Licensed Product is limited per User to a maximum of three (3) Devices.

3.5. The number of Users is limited to the number of Users as ordered.

3.6. User Accounts may be reassigned by the Customer to new Users replacing former Users who no longer require ongoing use of their user Account.

3.7. The number of User subscriptions purchased cannot be decreased during the relevant Subscription Term. Unless otherwise agreed upon, additional Users subscriptions may be ordered by the Customer during the then current Subscription Term to the extent:

- i) the term of the additional User subscriptions is coterminous with the expiration of the then current Subscription Term;
- ii) pricing for the additional User subscriptions shall be the same as that for the pre-existing User subscriptions (excluding any one-off rebates), prorated for the remainder of the then current Subscription Term.

3.8. The features/functionality of the Licensed Product, the level of "customer success coaching", as well as the additional options to the Licensed Product as ordered, shall be in line with the product overview as available through www.showpad.com.

4. CUSTOMER DATA

4.1. As between Showpad and Customer, all Customer Data is and shall remain the property of Customer, and Customer retains any and all rights, title and interest (including Intellectual Property Rights) in and to the Customer Data, including all copies, modifications, extensions and derivative works thereof.

4.2. Customer is solely and fully responsible (including in respect of the consequences thereof) for its as well as its the Users' compliance with the provisions of this Agreement, including strict adherence to the Acceptable Use Policy.

4.3. Apart from the explicit responsibilities of Showpad under this Agreement, Customer shall have sole responsibility and liability for the Customer Data (including but not limited to the accuracy, quality, integrity, legality, reliability, management, or relevance, of the Customer Data, or granting access thereto).

4.4. Customer acknowledges and agrees that:





- i) Certain features of the Licensed Product may require access to the Customer Data in order to allow automatic processing of the Customer Data by the Licensed Product to the benefit of the Customer (e.g. to generate thumbnails or previews);
- ii) Customer is responsible for ensuring that master copies of the Customer Data are stored on Customer's own systems.
- iii) Showpad may itself, or allow third parties on its behalf to, scan, analyze, and/or process the Customer Data in an aggregate way, in order to gather/retrieve Functional Information. Showpad shall be entitled to use the Functional Information for any reason it sees fit. Any Functional Information is and shall remain the property of Showpad, and Showpad retains any and all rights, title and interest (including Intellectual Property Rights) in and to the Functional Information, including all copies, modifications, extensions and derivative works thereof.

4.5. Notwithstanding the provisions here above, unless access to the Customer Data and/or User Accounts is explicitly granted by the Customer (e.g. through the Customer administrator's section of the Licensed Product), Showpad warrants that it, nor any of its representatives, have access to the Customer Data or the User Accounts.

5. WARRANTY

5.1. Subject to the terms of this Agreement and subject to the normal intended use of the Licensed Product by the Customer, Showpad warrants towards the Customer that the Licensed Product shall during the Subscription Term perform materially in accordance with such documentation as customarily provided, published and/or made available by Showpad with the Licensed Product.

5.2. EXCEPT TO THE EXTENT EXPRESSLY STATED UNDER THIS AGREEMENT, SHOWPAD AND ITS LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND ("AS-IS" WARRANTY), WHETHER EXPRESS, STATUTORY OR IMPLIED, REGARDING THE LICENSED PRODUCT, OR ANY MATTER WHATSOEVER UNDER OR RELATED TO THIS AGREEMENT. SHOWPAD AND ITS LICENSORS EXPRESSLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, MEETING THE CUSTOMER'S EXPECTATIONS OR REQUIREMENTS, ERROR-FREE OR UNINTERRUPTED USE AND/OR NON-INFRINGEMENT.

5.3. NOTWITHSTANDING ANYTHING TO THE CONTRARY, SHOWPAD MAKES NO WARRANTY REGARDING THE QUALITY OF ANY PRODUCTS, SERVICES, OR INFORMATION/ANALYTICS, INCLUDING IN RESPECT OF THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY THEREOF. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM SHOWPAD OR THROUGH THE LICENSED PRODUCT, WILL CREATE ANY ADDITIONAL WARRANTIES.

5.4. Unless otherwise explicitly agreed upon, Customer's exclusive remedy for breach of warranty under this article, is that Showpad will use such commercially reasonable efforts to modify the Licensed Product to such extent that it meets the provisions of section 5.1.

6. ORDERING, FEES & PAYMENT

6.1. Customer shall pay the applicable Fees and in the currency as stated in the respective pricing exhibit or in absence of an agreed pricing in the pricing exhibit, the pricing as offered by Showpad to Customer in a Showpad quote or Order Form. Except as otherwise agreed upon, Fees are based on the number of licenses purchased, not actual usage.

6.2. Fees are payable in advance (unless otherwise specifically agreed upon), and are in all circumstances non-refundable and non-cancellable.

6.3. In absence of an Order Form, Customer shall issue Purchase Orders in writing under this Agreement confirming the order made under, and in line with the provisions of this Agreement. Any Purchase Order shall be subject to Showpad's acceptance. Showpad may reject Purchase Orders which are not in line with the provisions of this Agreement, which are incomplete and/or in case of other imperative business reasons.

6.4. Unless where otherwise specifically and mutually agreed upon, the per-unit pricing for the Licensed Product as applicable during the initial Subscription Term shall apply equally for any renewal thereof (with the exclusion of one-off rebates, which one-off rebates are awarded to Customer for the initial Subscription Term only), unless Showpad has given the Customer written notice of a pricing increase at least thirty (30) calendar days before the end of the then-current Subscription Term, in which case the pricing increase shall be effective upon renewal and thereafter.

6.5. Where applicable, Customer commits to provide Showpad with such valid Purchase Order in time for Customer to meet its payment obligations.

6.6. Invoices are due net thirty (30) calendar days from invoice date.

6.7. Customer is responsible for maintaining complete and accurate billing and contact information, and update such appropriately.

6.8. Unpaid Fees will be increased with an interest rate equal to 10% per year the overdue amounts, or the maximum rate as allowed by law, as well as reasonable attorneys' fees. Repeated situations of unpaid Fees may lead Showpad to condition future subscription and/or renewals to payment terms shorter than those originally applicable. The above is without any prejudice to Showpad's rights under this Agreement or applicable law.

6.9. If Customer's account is thirty (30) calendar days or more overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any of its other rights or remedies, Showpad, without any liability whatsoever, reserves the right to suspend the access to the Licensed Product until such amounts are paid in full, provided that Showpad shall have escalated this issue to the Customer and advised Customer of its intention to suspend access prior to the suspension.

7. TAXES.

7.1. Unless otherwise stated in writing, the Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases under this Agreement.

7.2. If Showpad would have the legal obligation to pay or collect Taxes for which Customer is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Showpad with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Showpad is solely responsible for taxes assessable against it based on its income, property and employees.

8. SECURITY & DATA PRIVACY

8.1. Showpad will maintain and implement throughout the Subscription Term industry standard reasonable security measures as well as business continuity and disaster recovery plans, as detailed in the SLA.

8.2. Showpad represents that it uses industry standard virus programs or methods in order to avoid Malicious Code within the Code of the Licensed Product.

8.3. The Showpad Privacy Policy shall apply to this Agreement.

8.4. Provided that Showpad adheres to its obligations under this Agreement in respect of security, Customer's access to and, use of the Licensed Product is at Customer's own risk. Showpad will not be responsible or liable for any deletion, corruption, correction, damage, destruction or loss of Customer Data or harm to Customer's computer system that does not arise from a breach by Showpad of its obligations under this Agreement.

9. DEFECT SUPPORT

9.1. Showpad will provide defect support for the Licensed Product in accordance with the SLA, as long as Customer is entitled to receive support under the applicable Subscription Term and this Agreement.

10. INDEMNIFICATION

10.1. Showpad shall defend, indemnify and hold Customer harmless in full from and against all claims, demands, suits, or proceedings ("Claims") made or brought against Customer by a third party alleging i) a breach by Showpad of its obligations under applicable data protection laws and regulations, not caused by Customer's own acts or omissions; or ii) that the use of the Licensed Product as contemplated hereunder infringes the intellectual property rights of a third party, and pay for such amounts resulting therefrom (including reasonable attorney's fees) as awarded in a final judgement of a court of competent jurisdiction or final settlement agreement.

10.2. Customer shall defend, indemnify and hold Showpad harmless in full from and against all Claims made or brought against Showpad by a third party alleging i) a breach by Customer of its obligations under applicable data protection laws and regulations; ii) that the Customer Data infringes the intellectual property rights of, or has otherwise harmed, a third party, that iii) Customer's use of the Licensed Product in violation of this Agreement infringes the Intellectual Property Rights of, or has otherwise harmed, a third party, iv) that the Customer or one of its Users has acted in violation with this Agreement or with applicable law, and pay for such amounts resulting therefrom (including reasonable attorney's fees) as awarded in a final judgement of a court of competent jurisdiction or final settlement agreement.

10.3. The indemnification obligations under this article are subject to the indemnified party i) promptly giving written notice of the Claim to the indemnifying party, ii) giving the indemnifying party sole control of the





defense and settlement of (that part of) the Claim for which the indemnifying party has an obligation to indemnify, iii) providing the indemnifying party, at its cost, all reasonable assistance in respect of the Claim, and iv) not negotiating, settling or compromising any such Claims without the prior written consent of the Indemnifying party, which consent is not unreasonably to be withheld or delayed.

10.4. If any aspect of the Licensed Product is found by a court of competent jurisdiction or in settlement or, in Showpad's reasonable opinion is likely to be found to infringe upon a third party Intellectual Property Right, Showpad shall at its expense and at its sole discretion, either i) obtain for Customer the right to continue using the Licensed Product in accordance with this Agreement, ii) modify the items in question to no longer be infringing, or iii) replace such item in question with a non-infringing functional equivalent. If, after all commercially reasonable efforts, Showpad determines in good faith that options i), ii) and iii) are not feasible, Showpad will remove the infringing item(s) from the Licensed Product and refund to Customer on a pro rata basis any Fees paid by Customer for such infringing element(s) that are unused as of the removal date.

10.5. Showpad will have no obligation or liability for any Claim to the extent arising from: i) the combination, operation or use of the Licensed Product with any product, device, software or service not supplied by Showpad or which component has been activated/used at the sole risk of Customer, ii) the unauthorized alteration or modification by Customer of the Licensed Product, iii) Showpad's compliance with Customer's designs, specifications, requests, or instructions, or iv) any other Claim resulting from causes not under the responsibility or control of Showpad, or for which Customer is obliged to indemnify Showpad.

10.6. THE FOREGOING ARE THE SHOWAD'S SOLE OBLIGATIONS IN CONNECTION WITH THIS AGREEMENT WITH RESPECT TO ITS INDEMNIFICATION OBLIGATIONS.

11. LIMITATION OF LIABILITY

11.1. EXCEPT FOR i) MATTERS FOR WHICH A PARTY HAS AN INDEMNIFICATION OBLIGATION TOWARDS THE OTHER UNDER THIS AGREEMENT, ii) MATTERS FOR WHICH BY LAW LIABILITY CANNOT BE LIMITED OF EXCLUDED, OR iii) CUSTOMER'S PAYMENT OBLIGATIONS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY SHALL EXCEED THE AMOUNTS PAID UNDER THIS AGREEMENT DURING A 12 MONTH PERIOD PRECEDING THE INCIDENT GIVING RISE TO LIABILITY WITH A MAXIMUM OF 25,000,00 (twenty five thousand) USD.

11.2. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, DAMAGES DUE TO LATE DELIVERY, OR FOR ANY INDIRECT (WHICH INCLUDES BUT IS NOT LIMITED TO I) ANY FINANCIAL DAMAGES AS A RESULT OF PROPERTY DAMAGES, AND/OR II) ANY PURELY FINANCIAL DAMAGES), SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, INCLUDING LOSS OR CORRUPTION OF DATA AS WELL AS OTHER UNPREDICTABLE DAMAGE OR LOSS.

12. TERM & TERMINATION

12.1. This Agreement commences on the Effective Date and continues for the Subscription Term, and will, except otherwise indicated in the Order Form, automatically be extended by twelve (12) months' periods upon expiry of the then current Subscription Term, unless the one Party gives the other Party notice of non-renewal in writing at least thirty (30) calendar days before the expiry date of the then Current Subscription Term.

12.2. In the event that i) a petition in bankruptcy is filed by or against Customer, or ii) Customer is declared bankrupt, or iii) Customer becomes insolvent or his credit becomes impaired in the reasonable opinion of Showpad, or iv) proceedings are initiated by or against Customer seeking appointment of a receiver, reorganization, liquidation, dissolution, debt rearrangement or any other similar relief, or v) if Customer fails to perform, comply with or fulfil at any time any material obligation or condition hereunder, which breach remains uncured for fifteen (15) days after notification thereto, Showpad, at its discretion and without any liability whatsoever, shall have the right to either suspend the performance of its obligations until the Customer performs his obligations, or to terminate the Agreement with immediate effect.

12.3. In no event shall any termination relieve the Customer of the obligation to pay any Fees payable to Showpad for the period prior to the

effective date of termination.

12.4. Customer is solely responsible for guarding, securing and retrieving the Customer Data from the Licensed Product. Showpad will not be obligated to retain any Customer Data for longer than thirty (30) days after any expiration or termination of the Agreement or Subscription Term. Showpad will make available to Customer all Customer Data in comma separated value (.csv) format along with attachments in their native format.

12.5. Any term of this Agreement which is expressed or by its nature intended to survive expiration or termination of the Agreement, including but not limited to terms governing liability of the parties, termination consequences, fees and payment for the Licensed Product, governing law and dispute resolution, confidentiality and the interpretation of this Agreement, shall survive termination of the Agreement.

13. CONFIDENTIALITY

13.1. The one party ("Receiving Party") shall not disclose or use any Confidential Information received from the other party ("the Disclosing Party") for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission.

13.2. Confidential Information shall not encompass information that i) is or becomes generally available to the public through no act or failure to act by the receiving Party; or ii) was already in the receiving Party's possession at the time of its disclosure as shown by the receiving Party's prior written records; or iii) is subsequently disclosed to the receiving Party on a non-confidential basis by a third Party without violating any obligation of secrecy relating to the information disclosed; or iv) is independently developed by the receiving Party without making use of or relying upon the Confidential Information.

13.3. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own confidential information of like kind (but in no event using less than reasonable care). This obligation shall exist while this Agreement is in force and for a period of three (3) years thereafter.

13.4. The Receiving Party shall have written agreements with its employees and the members of its personnel to whom Confidential Information shall be made available, and such written agreements shall have terms at least as restrictive as those contained herein.

13.5. If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

13.6. If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate or have failed.

14. MARKETING

14.1. Customer agrees to allow Showpad to publicly reference Customer as a customer in accordance with this Agreement. Customer hereby grants Showpad the worldwide right to use and depict Customer's business name, trademarks and logos as a customer reference and/or in case studies, conform Customer's reasonable trademark guidelines (if any).

14.2. Additionally, Customer may be requested to participate in Showpad's website marketing, press releases, videos, webinars, conferences and/or to have periodic calls with Showpad to discuss marketing initiatives, subject to prior approval, which approval shall not unreasonably be withheld or denied by Customer. Participation in the aforementioned activities shall not place an unreasonable burden on the Customer's time and resources.

15. GENERAL

15.1. The parties to this Agreement are independent contracting parties. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

15.2. All notices under this Agreement shall be in writing and shall be deemed to have been given upon: i) personal delivery; ii) the second business day after mailing through overnight courier; iii) the second business day after sending by confirmed facsimile; or iv) the second business day after sending by email. Unless as otherwise specifically communicated to the other Party, notices to Showpad shall be addressed to the attention of its legal department; Notices to Customer can be sent by email to the email address indicated in the Customer's billing center (which Customer must maintain up to date).

15.3. No failure or delay by either party in exercising any right under this





Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

15.4. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

15.5. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld or delayed). Notwithstanding the foregoing, (a) either party may assign this Agreement in its entirety together with all rights and obligations hereunder, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party, and (b) Showpad will consent to Customer's assignment of one or more licensed to a divested entity or acquirer (a "Divestiture Assignee") in connection with an asset or business unit divestiture by Customer, provided the Divestiture Assignee has first accepted the terms of this Agreement (whether by signature or electronically), and provided that pricing for any additional User subscriptions ordered by the Divestiture Assignee shall be subject to agreement by Showpad and the Divestiture Assignee. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

15.6. Except for payment obligations, neither Party shall be liable to the

other for default or delay in the performance of any of its obligations under this Agreement and/or any Purchase Order due to Force Majeure, except that rights and liabilities which accrued prior to such termination shall continue to subsist. The Party prevented by Force Majeure shall promptly notify the other Party of the onset thereof and detailing the nature of the Force Majeure and - later on - of the cessation of the Force Majeure. The Party prevented by Force Majeure shall use its reasonable efforts to mitigate the effects of the Force Majeure on the affected Parties and to expedite the cessation thereof.

15.7. This Agreement, constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter.

15.8. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted.

15.9. This Agreement may be executed in counterparts, which taken together shall form one legal instrument.

16. GOVERNING LAW & DISPUTE RESOLUTION

16.1. This Agreement shall be governed by and construed in accordance with California law, excluding its conflict of laws principles.

16.2. Parties shall first try to settle any dispute between them amicably and in good faith negotiations, within a thirty-day period.

16.3. Any action seeking interpretation, enforcement and/or ending of this Agreement or any provision hereof shall be brought exclusively before any of the competent courts within the State of California, County of San Francisco. Each party hereby agrees to submit to the jurisdiction of such courts.

Each party represents that it has the legal power to enter into this Agreement, and that this Agreement has been duly authorized, executed and delivered and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms. **IN WITNESS WHEREOF, the parties have executed this Agreement and by signing this Agreement each party acknowledges receipt of an original.**

<p>For Customer</p> <p>Name:</p> <p>Function:</p> <p>Date:</p> <p>Signature:</p>	<p>For Showpad</p> <p>Name:</p> <p>Function:</p> <p>Date:</p> <p>Signature:</p>
---	--

EXHIBITS:

- a. **Definitions**
- b. **Fees**
- c. **Service Level Agreement (SLA)**
- d. **Acceptable Use policy**
- e. **Third party product policy**





EXHIBIT A **Definitions**

1. "Agreement" means this SaaS subscription agreement together with any and all of its exhibits, addenda as well as such documents added thereto or incorporated therein by reference.
2. "Confidential Information" shall encompass, without limitation, any and all Customer Data, pricing, business, financial, marketing, commercial and/or technical information, know-how, trade secrets, inventions, processes, software programs (in source code or compiled form), hardware and software product information and research provided to the receiving Party, irrespective whether provided in writing, in printed form, in electronic form, orally, pictorially, or observed visually, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.
3. "Customer Data" means all such electronic data or other electronic information, belonging to or controlled by the Customer (including Private Data) and as submitted by the Customer or its Users for processing by the Licensed Product.
4. "Device" means a hardware computing device, consisting at least out of a processing unit, memory and datapath, capable of sending and/or receiving input to and/or output from its central processing unit. Devices shall include such items like mobile phone(s), tablet(s), desktop PC, as well as laptop PC).
5. "Feedback" means any suggestions, User posts, comments, enhancement requests, recommendations or any other feedback (in any form) made by the Customer or its Users in respect to the Licensed Product.
6. "Fees" shall mean the fees payable for the Licensed Product as detailed in Exhibit b.
7. "Force Majeure" shall mean any unforeseeable and/or exceptional situation or event beyond the reasonable control of a Party, which prevents that Party from performing its obligation(s) under the Contract, for as long as such event was not due to error or negligent act(s) or omission(s) on the part of that Party and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a genuine case of force majeure.
8. "Functional Information" means any technical data, analytical data, functional data and/or metadata, related to, or resulting from (the processing of) the Customer Data and/or the usage made thereof. Functional Information shall not include any personal information or Customer Data itself.
9. "Intellectual Property Rights" shall mean any patents, rights to inventions, utility models, supplementary protection certificates, author rights (copyrights) and related rights, trademarks, trade names, domain names, logos, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all assignments, applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
10. "Licensed Product" means the Showpad content enablement solution made available as "Software as a Service", consisting out of i) an online web-based back-end that stores, analyses, manages, distributes and/or processes Customer Data as well as ii) the interacting Showpad front-end client (e.g. the Showpad mobile application) and/or Web-Interface (e.g. plugins), that allow for the retrieval, consultation, distribution and/or management of the Customer Data, as made available via <http://www.showpad.com>, showpad.biz and/or other designated websites or app stores.
11. "Malicious Code" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.
12. "Order Form" means the sales order document for Customer's purchase from Showpad that is executed by both parties under the terms of this Agreement. Order Forms shall as of their full execution, be deemed incorporated herein and to form an integral part of this Agreement.
13. "Purchase Order" means the ordering document for Customer's purchase from Showpad that is issued by Customer under the terms of, and in line with, this Agreement.
14. "SaaS" or "Software as a Service" is the software licensing and delivery model in which software is centrally hosted by a licensor and made available to the users of the software in question over a network connection, and which software is licensed on a subscription basis by allowing users to login remotely to the hosted software.
15. "Service Level agreement" or "SLA" means the service level as set forth in Exhibit c to this Agreement.
16. "Showpad Acceptable Use Policy" means the policy as set forth in Exhibit d to this Agreement
17. "Showpad Privacy Policy" means the then current privacy policy as set forth in www.showpad.com/
18. "Showpad Third Party Products Policy" means the policy as set forth in Exhibit e to this Agreement.
19. "Subscription Term" means the term during which Customer and the Users are authorised to use the Licensed Product as ordered under this Agreement and as confirmed in the Customer purchase order, starting as of the User Launch Date.
20. "Third Party Product" mean such third party product or service which enhance, or add functionality to, the Licensed Product, and/or provide additional or increased customer experience by interacting with the Licensed Product through the public API of the Licensed Product, whereby the use of such Third Party Products is subject to the provisions of the Showpad Third Party Products Policy.
21. "Users" means Customer's employees, consultants, contractors or agents, or any other individuals, who are each authorized by Customer to use the Licensed Product for Customer's own business purposes, and for whom subscriptions to the Licensed Product have been ordered and paid, and who have been supplied user identifications, login credentials and/or passwords by Customer (or by Showpad at Customer's request) to access the respective User Account.
22. "User Account" means the User's individual account on the Licensed Product.
23. "User Launch Date" means the date on which the initial configuration of the licensed Products for the Customer by Showpad is finished, upon which date Users may start using their User accounts a "live" environment.





EXHIBIT B
Fees

Fees to be inserted here.

In absence of any Fees mentioned here the pricing shall apply as offered by Showpad to Customer in a Showpad quote or Order Form.





EXHIBIT C
Service Level Agreement

I. Hosting Services Obligations

A. Security

Showpad shall establish and maintain safeguards and controls against the destruction, loss, or alteration of End User Data and Personal Data; establish and maintain safeguards against unauthorized access to the hosting infrastructure, End User Data and Personal Data; and establish and maintain network and internet security procedures, protocols, security gateways and firewalls with respect to Showpad Software.

B. Intrusion Detection

Showpad will maintain an intrusion detection system ("IDS") designed to detect malicious behaviors that can compromise the security of the hosting infrastructure and Showpad Service. This includes network attacks against vulnerable services, data driven attacks on Showpad Services, host based attacks such as privilege escalation, unauthorized logins and access to sensitive files, and viruses.

C. Back-ups

Showpad will back up all of the End User Data and Personal Data on a daily basis onto electronic storage medium, and shall store all such backups in an environment that is separate from the location of the hosting infrastructure. End User Data and Personal Data that has been backed up will be encrypted in transit and stored securely. Backups will be performed as follows: (a) daily backups will be completed and retained for 7 days, (b) weekly backups will be completed and retained for 5 weeks and (c) monthly backups will be completed and retained for 3 months.

D. Disaster Recovery

Showpad will maintain a disaster recovery plan that documents the procedures to follow in the event of a disaster that is expected to result in an extended interruption in the Hosting Services. Showpad will maintain a disaster recovery site that is capable of serving the Showpad Service as an alternate hosting infrastructure production site until the primary site is fully recovered, which such recovery must occur within forty eight (48) hours. The disaster recovery site will be located in a location that is sufficiently distant from the primary site so as to minimize the risk that a disaster would affect both sites. The hosting infrastructure database will be backed up to a secure off-site storage location nightly. Backup data of the hosting infrastructure database will be physically available to both the production and disaster recovery sites and shall ensure that no greater than twenty-four (24) hours of data is lost in connection with any incident. In the event of any catastrophic event that prevents Showpad's performance of the Hosting Services, Showpad will execute the disaster recovery plan without any additional charge to Customer.

II. Service and Support

Escalation procedures are built into Showpad's 24x7x365 monitoring system, and any system issues have automated escalation.

Critical Severity issues as described in IV are immediately escalated to senior management.

In the case of a system down condition attributable to Showpad, Showpad may utilize other means of communication for both reporting of errors and conditions.

Customer acknowledges and agrees that:

- i) access to the Customer Data and/or User Accounts may be required in order for Showpad to be able reproduce the defect in question and/or to respond to a defect support request of the Customer; and
- ii) absence of such access as stated here above and/or any other reasonable assistance, may lead to the fact that the defect cannot be solved, in which case Showpad shall have no liability to the Customer.

III. Performance Guarantees

A. General

This section describes the service levels offered by Showpad to Customer.





B. Availability Guarantee

The Showpad software will be available at least 99.9% of the time, as measured on a calendar month basis by Showpad, subject to the exclusions set forth below and also excluding planned downtime and any time necessary to implement Upgrades (“Uptime Guarantee”). Upgrade implementation downtime will be not greater than two (2) hours bi-weekly and will happen at a regularly scheduled time during the period: Saturdays or Sundays only, between 6AM and 12PM CET. Actual scheduled downtime for Upgrade implementation will normally not exceed thirty (30) minutes. A mechanism will be put in place by which Customer is notified of scheduled down time expected to be over one (1) hour, at least two (2) weeks before it occurs.

In exceptional cases where it would be impossible to schedule the upgrades or maintenance during the above mentioned period, Showpad will inform the Customer of this exceptional intervention at least two (2) weeks in advance.

C. Measuring Availability

For purposes of this Exhibit, (a) a “week” means the period of time beginning at 12:00 a.m. Monday and ending at 11:59 p.m. on the following Sunday, CET Time and (b) a “month” means the period of time beginning at 12:00 a.m. on the first day of each calendar month and ending at 11:59 p.m. on the last day of the calendar month, CET Time.

IV. Issue Response Time

An incident ticket is assigned a priority number based on the nature of the issue. Showpad's policy is to respond to all Customer cases as follows:

Severity Level	Definition	Response
P1 - Critical	A Critical Severity issue has significant to critical business impact on a production system, resulting in the Showpad Service being down, functioning at a significantly reduced capacity, or preventing any End User to login.	Showpad agrees that it will provide a response by a qualified member of its staff to begin to diagnose and to correct a Critical Severity fault within 2 hours after notification by Customer on a 24x7 basis. Showpad will use commercially reasonable efforts to resolve Critical Severity faults as soon as possible.
P2 - High	A High Severity issue has some business impact on a production system, resulting in one or more significant features of the Showpad Service being unavailable.	Showpad agrees that it will provide an initial response by a qualified member of its staff to begin to diagnose a High Severity fault within 8 business hours of notification by Customer. Showpad will use best efforts to resolve High Severity faults within 5 days.
P3 - Low	A Low Severity issue has no impact on the quality, performance, or significant functionality of the Showpad Service (for example general usage question, feature request, or password error).	Showpad agrees that it will provide an initial response by a qualified member of its staff to begin to diagnose a Low Severity fault within 2 business days of notification by Customer. Showpad will use best efforts to resolve Low Severity faults within 30 days.

V. Exclusions

Notwithstanding the foregoing, Showpad shall have no obligation to resolve any inaccessibility or deviation caused by (a) modification of the Licensed Product by anyone other than Showpad, (b) use of the Licensed Product for





any purpose other than intended, (c) misuse or incorrect use of the Licensed Product, (d) malfunction of any Device or Customer hardware, (e) inaccessibility or malfunctioning of any telecommunications services, or (f) any other cause not under the responsibility of Showpad.





EXHIBIT D
Acceptable Use Policy

By creating/using User Accounts and/or by placing, storing and/or submitting Your data/content (“Customer Data”) into or on the Showpad SaaS Solution, you (“You” or “Your”), including the users authorized by you (“Users”) acknowledge and agree that this Acceptable Use Policy (“AUP”) shall apply in full.

The examples described in this AUP are not exhaustive. We may modify this Policy at any time by posting a revised version on Showpad’s Site. By using the Showpad SaaS Solution, You agree to the latest version of this AUP.

1. Compliance with laws

You shall comply with all applicable laws and regulations in connection the use of the Showpad SaaS Solution (including without limitation all data protection laws and regulations that may apply to you (e.g. as being the data controller), and the laws and regulations concerning the protection of intellectual and industrial property rights).

2. User Accounts

You are solely and fully responsible (including in respect of the consequences thereof) for:

- Creating and managing User Accounts;
- Ensuring that no false or misleading personal information about a User is being used for the User Account;
- all use or abuse made by the User of the User Account;
- any acts that occur in or are performed under the User Accounts;
- the safe handling, storage, confidentiality and proper usage of the User Accounts, including in respect of the User identifications, login credentials and/or passwords.

You shall use such generally accepted, reasonable and applicable knowledge, techniques, practices, technology and/or methodologies that have a proven reliably in the applicable field of industry to prevent unauthorized access to the Showpad SaaS Solution by its Users, as well as to prevent unauthorized access to the User Accounts by any third party. You shall notify Showpad promptly of any such unauthorized access or use, and employ all such means to immediately stop any such unauthorized use or misuse.

Each User shall have a designated User Account. No User shall allow any other party, or share with any party, access to the Showpad SaaS Solution through such User’s own User Account.

3. Customer Data

By using the Showpad SaaS Solution in respect of the Customer Data, you understand that such Customer Data is to be:

- (2) used and/or processed by the Showpad SaaS Solution; and/or
- (3) made accessible to Your Users and/or third parties as allowed by You or Your Users, through the Showpad SaaS Solution.

3.1 No Illegal, Harmful, or Offensive Use or Customer Data

You may not use, encourage, promote, facilitate or instruct others to use, the Showpad SaaS Solution for:

- any illegal, harmful or offensive use, or to transmit, store, display, distribute or otherwise make available illegal, harmful, or offensive Customer Data (including activities that may be harmful to Showpad’s reputation, offering or disseminating fraudulent goods, services, schemes, or promotions (e.g., make-money-fast schemes, ponzi and pyramid schemes, phishing, or pharming), as well as practices violating general good conduct).
- Customer Data that infringes or misappropriates the intellectual property or proprietary rights of others.
- Customer Data that is defamatory, misleading, obscene, abusive, invasive of privacy, or otherwise objectionable, including Customer Data that constitutes pornographic content, indecent content, or content that contains extreme acts of violence, or advocate hatred against any person or group of people based on their race, religion, ethnicity, sex, gender identity, sexual preference, disability, or impairment;
- Customer Data or other computer technology that may damage, interfere with, overloads, surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms, time bombs, or cancelbots.

3.2 No Security Violations

You may not use the Showpad SaaS Solution to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a “System”). Prohibited activities include:





- Accessing or using any System without permission, including attempting to probe, scan, or test the vulnerability of a System or to breach any security or authentication measures used by a System.
- Forging TCP-IP packet headers, e-mail headers, or any part of a message describing its origin or route. This prohibition does not include the use of aliases or anonymous remailers.

3.3 No Network Abuse

You may not engage in any activities which are considered to be abuse of network or abuse of network connections. Prohibited activities include:

- Monitoring or crawling of a System that impairs or disrupts the System being monitored or crawled.
- Inundating a target with communications requests so the target either cannot respond to legitimate traffic or responds so slowly that it becomes ineffective (Denial of Service (DoS)).
- Interfering with the proper functioning of any System, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks, or flooding techniques.
- Operating network services like open proxies, open mail relays, or open recursive domain name servers.
- Using manual or electronic means to avoid any use limitations placed on a System, such as access and storage restrictions.

3.4 No E-Mail or Other Message Abuse

You will not distribute, publish, send, or facilitate the sending of unsolicited mass e-mail or other messages, promotions, advertising, or solicitations (like “spam”). You will not alter or obscure mail headers or assume a sender’s identity without the sender’s explicit permission. You will not collect replies to messages sent from another internet service provider if those messages violate this AUP or the acceptable use policy of that provider.

3.5 No unintended use of the Showpad SaaS Solution

The Showpad SaaS Solution are intended to act as a “content activation platform” (not for instance as a backup service). Consequently, You are responsible for ensuring that master copies of Your Customer Data are stored/backed-up on Your own systems.

4. Showpad Monitoring and Enforcement

You are solely responsible for exercising supervision and control over the Users, the User Accounts, the Customer Data, as well as the Users’ or third Parties’ compliance with Your policies and procedures.

Showpad reserves the right, but does not assume any obligation or responsibility whatsoever in respect of:

- monitoring or investigating, i) any of Your User’s access to, or use of the Showpad SaaS Solution (including the management of the User Accounts) or ii) any of third parties authorized by You or Your Users to access the Customer Data;
- notify You of any misuse of the Showpad SaaS Solution or non-compliance under this AUP; or
- policing or enforcing the terms of the license(s) or permission(s) You have chosen to offer to the third parties in respect of the Customer Data, or responsibilities related to the rights, access or license granted by You to third parties in respect of the Customer Data.

Showpad may however:

- investigate violations of this AUP or misuse of the Showpad SaaS Solution;
- remove, disable access to, or modify any Customer Data or resource that violates this AUP or any other agreement Showpad has with You for use of the Showpad SaaS Solution; or
- may report any activity that Showpad suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Our reporting may include disclosing appropriate user information. Showpad also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this AUP.

5. Reporting of Violations

If You become aware of any violation of this AUP, You will immediately notify Showpad and provide Showpad with assistance, as requested, to stop or remedy the violation.





EXHIBIT E
Third Party Products Policy

1. SCOPE

This Third Party Products Policy (the “Policy”) is offered by Showpad, and applies in all circumstances where You (as being the administrator/licensee for the Showpad content enablement SaaS solution (the “Licensed Product”)) (“You” / “Your”) have requested and/or activated certain “Third Party Products” (i.e. such third party product or service which enhance, or add functionality to, the Licensed Product, and/or provide additional or increased customer experience, including such products or services which are interacting with the Licensed Product through the public API of the Licensed Product) for Your electronic data or other electronic information, belonging to You or under Your control, as submitted by You or Your Authorised Users for processing by the Licensed Product (“Customer Data”).

2. ACKNOWLEDGEMENT

You acknowledge and accept that:

- i) You have done Your own assessment as to Your need for the Third Party Product in question and that You use it at Your own risk;
- ii) To the extent use of the Licensed Product requires use of any Third Party Products or services (e.g., Microsoft Dynamics, Salesforce.com, Adobe Acrobat, web browser, ...) such products and services may require You to agree to separate legal terms and commercial conditions with such third party. Any such Third Party Products and services, and any terms associated therewith, are solely between You and the relevant third party. Except where explicitly otherwise agreed upon, Showpad does not support, or endorse or make any representations or warranties regarding, any such Third Party Products or services, and in no event will Showpad have any liability whatsoever in connection therewith;
- iii) The Third Party Product may contain certain features that require access to Your Customer Data in order to allow (automatic) processing of the Customer Data on the Licensed Product through the Third Party Product;
- iv) Such Third Party Products may, or allow other parties to, scan, analyze, gather, process, and/or use any technical data, analytical data, functional data and/or metadata, related to, or resulting from (the processing of) the Customer Data and/or the usage made thereof (the “Functional Data”) for any reason such third party sees fit;
- v) To the extent such Third Party Product is processing Personally identifiable information (“PII”), such processing is subject to the Privacy Policy of the Third Party in question;
- vi) The Third Party Product may not provide for a level of security which is providing for at least the same level of security/confidentiality as Showpad offers on its Licensed Product;
- vii) Links to such websites or resources of the Third Party do not imply any endorsement by Showpad of such websites or resources or the content, products, or services available from such websites or resources, nor provide for any endorsement or responsibilities in respect of the availability or accuracy of such websites or resources; or the content, products, or services on or available from such websites or resources.
- viii) Showpad has given You sufficient information in order for You to make a well-informed assessment in respect of the above statements.

3. WARRANTY

3.1 The only warranty Showpad provides towards You in respect of the Third Party Product is that Showpad warrants having in place and/or maintaining a documented public API to the Licensed Product which may allow Third Party Products – to the extent required by such Third Party Product - to interact with the Licensed Product through the public API, in line with such generally accepted, reasonable and applicable knowledge, techniques, practices, technology and/or methodologies.

3.2 Except as stated under 3.1 above, SHOWPAD DOES NOT PROVIDE FOR OR MAKES ANY WARRANTY WHATSOEVER UNDER ANY CIRCUMSTANCES, IMPLICITLY OR EXPLICITLY, TOWARDS YOU IN RESPECT OF THE THIRD PARTY PRODUCT AND YOU HEREBY REFRAIN FROM MAKING ANY SUCH WARRANTY CLAIMS TOWARDS SHOWPAD, AND YOU AGREE THAT SHOWPAD DISCLAIMS ANY SUCH WARRANTIES.

TO THE EXTENT APPLICABLE, ONLY THE WARRANTY AS SPECIFICALLY PROVIDED BY SUCH THIRD PARTY (IF ANY) SHALL APPLY DIRECTLY TOWARDS YOU, IN ABSENCE OF WHICH THE THIRD PARTY PRODUCT AND ANY SERVICES PERFORMED OR PROVIDED BY THE THIRD PARTY PRODUCT ARE PROVIDED BY SUCH THIRD PARTY ON AN "AS IS" AND “AS AVAILABLE” BASIS.





4. LIABILITY

TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL SHOWPAD BE LIABLE FOR i) PERSONAL INJURY, ii) ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR iii) ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OF OR INABILITY TO USE THE THIRD PARTY PRODUCT, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, OR OTHERWISE) AND EVEN IF SHOWPAD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU. In no event shall Showpad's total liability to You for all damages exceed the amount of fifty dollars (\$50.00). The foregoing limitations will apply even if the above stated remedy fails of its essential purpose.

