

1. INTERPRETATION

1.1 The following definitions apply to this Agreement:

“Agreement”: The Order and these Standard Terms.

“Authorised User(s)”: the maximum number of employee(s) or independent contractor(s) of the Customer who may access and use StoryStream on the Customer’s behalf, as nominated in the Order or in accordance with clause 3.2.

“Business Day”: any day which is not a Saturday, Sunday or public holiday in the UK.

“Content”: Customer Content and Third-Party Content.

“Customer Content”: any materials provided to Qubeeo by the Customer.

“Data Protection Legislation”: the GDPR and the Data Protection Act 2018, in each case as amended, replaced or updated from time to time;

“Effective Date”: the earliest of: (i) the date of signature of the Order by both parties; (ii) the date upon which the Customer is granted access to StoryStream; or (iii) if Qubeeo receives a purchase order from the Customer in respect of the Licence then the date upon which Qubeeo has acknowledged that PO by issuing an order acknowledgement or pro-forma invoice.

“Fees”: the fee payable by the Customer for the Licence, as set out in the Order.

“GDPR” the General Data Protection Regulation EU 2016/679 and references to article numbers shall be deemed to include equivalent provisions in the event the article number references are changed from time to time.

“Intellectual Property Rights”: all copyright and related rights, patents, rights to inventions, utility models, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how, methodologies and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection.

“Order”: the Qubeeo Order form or Customer’s order form for the Licence which is subject to these Standard Terms.

“Licence”: the licence granted under clause 4.1.

“Licence Term”: has the meaning set out in the Order.

“Project”: Customer’s project or purpose for which the Licence is granted and as set out in the Order.

“Renewal Term”: has the meaning set out in clause 12.1.

“Qubeeo”: Qubeeo Limited.

“Services”: services to be provided by Qubeeo as part of the Order or subsequently agreed by the parties.

“Social Network”: Twitter, Instagram, Facebook, YouTube, Vimeo, Slideshare, Flickr and any other social networks or online publishers which may be integrated with StoryStream from time to time in order to provide content.

“StoryStream”: Qubeeo’s proprietary online software application known as StoryStream as described in more detail in the Order, excluding any Content.

“Term”: the period from the Effective Date until the later of the expiry of the Licence Term or any Renewal Term.

“Territories”: the territories set out in the Order.

“Third Party Content”: any content of a third party, including user generated content provided by a Social Network, which is published or otherwise communicated or reproduced by the Customer’s (or, where the context permits, any other party’s) use of StoryStream.

1.2 In this contract, the terms “data controller”, “data processor”, “data subject”, “personal data”, “process”, “processing” and “sensitive personal data” have the meanings ascribed to them in the Data Protection Legislation.

1.3 A “person” includes a natural person, corporate or unincorporated body.

1.4 If there is a conflict between the Order or these Standard Terms, the following order of precedence shall apply: (i) any special conditions set out in the Order and expressed as overriding these Standard Terms; (ii) these Standard Terms; (iii) the terms and conditions of the Order.

2. SERVICES

2.1 Unless stated otherwise in these Standard Terms or the Order, Qubeeo is not obligated to offer any support, development or other services to the Customer.

2.2 Subject to clause 2.1, any additional services to be supplied by Qubeeo shall be set out in a separate statement of work or Order, and subject to these Standard Terms unless specified otherwise.

2.3 Qubeeo shall provide the Services using reasonable care and skill.

3. AUTHORISED USERS

3.1 The Customer’s access to StoryStream shall be limited to the Authorised User(s), who will be allocated a username and password by Qubeeo.

3.2 With Qubeeo’s consent, the Customer may change an individual nominated as Authorised User. In such case, Qubeeo shall issue a user username and password to the new individual nominated as an Authorised User and disable the username and password of the individual no longer nominated as an Authorised User.

3.3 The Customer shall, and shall procure that each Authorised User shall, keep its password confidential. Qubeeo shall not be liable for any losses or damage suffered by the Customer or third party due to the disclosure of any passwords.

3.4 The Customer warrants its use of StoryStream shall not violate any applicable law, regulation or terms of use of any Social Network from time to time in force (including any terms of use applicable to the use of Third-Party Content).

4. LICENCE OF STORYSTREAM

4.1 Qubeeo hereby grants the Customer a licence to use StoryStream subject to and in accordance with the terms of this Agreement.

4.2 The Customer shall, and shall procure that Authorised Users shall, comply with the terms of any end user licence agreement applicable to the use of StoryStream which is notified to the Customer and/or the Authorised Users from time to time.

4.3 The Licence is granted in the Territory for the Licence Term and any Renewal Term and is granted subject to the terms and conditions of this Agreement.

4.4 The Licence is revocable, non-perpetual, non-exclusive, non-transferable and non-sublicensable.

4.5 The Licence is granted for the Project only.

4.6 The Licence is granted to the Customer only and not to any subsidiary or holding company of the Customer, unless otherwise stated in the Order.

4.7 The Customer shall not use StoryStream to:

4.7.1 provide services to third parties; or

4.7.2 build a product or service which competes with StoryStream.

4.8 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, StoryStream and shall notify Qubeeo promptly of any such unauthorised access or use.

5. LICENCE OF CUSTOMER CONTENT

5.1 The Customer hereby grants Qubeeo a royalty-free revocable, non-exclusive, non-transferable and sublicensable Licence in the Territory for the Term to use the Customer Content to the extent necessary to provide StoryStream.

5.2 Qubeeo shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Customer Content and shall notify the Customer promptly of any such unauthorised access or use.

6. CHARGES AND PAYMENT

6.1 Qubeeo shall invoice the Customer for the Fees on or about the Effective Date and on or about the first day of any Renewal Term, or otherwise in accordance with any payment dates set out in the Order. Invoices are due and payable 30 days after the invoice date. In addition to any other rights or remedies of Qubeeo, if the Customer fails to make any payments in accordance with this Agreement:

- 6.1.1 interest shall accrue on such due amounts at an annual rate equal to 3% over the then current base lending rate of Barclays Bank at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment; and
- 6.1.2 Qubeeo may immediately suspend the provision of, or the Customer's access to, StoryStream or any other Services until the outstanding payments are made.
- 7 PROPRIETARY RIGHTS
- 7.1 Qubeeo and/or its licensors own all Intellectual Property Rights in StoryStream. Qubeeo does not grant the Customer any Intellectual Property Rights in respect of StoryStream or any related content or materials unless expressly provided in this Agreement.
- 7.2 Qubeeo warrants that the Customer's licence of StoryStream in accordance with this Agreement will not infringe the Intellectual Property Rights (other than patent rights) of any third party. So far as Qubeeo is aware, Qubeeo warrants that the Customer's use of StoryStream in accordance with this Agreement will not infringe the patent rights of any third party.
- 7.3 The Customer warrants that the Customer and/or its licensors own all Intellectual Property Rights in the Customer Content. The Customer does not grant Qubeeo any Intellectual Property Rights in respect of the Customer Content or any related content or materials unless expressly provided in this Agreement.
- 7.4 The Customer warrants that Qubeeo's use of the Customer Content in accordance with this Agreement will not infringe the Intellectual Property Rights of any third party.
- 7.5 To the extent that Qubeeo and/or Twitter authorise the Customer to incorporate a Twitter feed into a public display environment, the Customer hereby undertakes to comply with the terms applicable to such incorporation (Twitter Terms) and notified to the Customer by Qubeeo, as if Customer were a party to such terms. The Customer acknowledges that the supply of any Social Network service or content via or in connection with StoryStream shall also be subject to the terms and conditions of such Social Network's applicable service terms in force which the Customer undertakes to comply with.
- 7.6 Customer shall not and shall procure that its Authorised Users shall not, modify, adapt, create derivative works from, deconstruct, reverse engineer, decompile or disassemble in any manner StoryStream, or any part of it without the prior written permission of Qubeeo, except insofar as it is expressly entitled to do so by the Copyright, Designs and Patents Act 1988 or other applicable law. All Intellectual Property Rights arising from such activity shall vest in Qubeeo, and to the extent that they do not, Customer hereby assigns, and agrees to procure the assignment, including by way of present assignment of present and future copyright, of all Intellectual Property Rights (including any waiver of moral rights) in the product of such activity to Qubeeo, and notify and deliver up to Qubeeo copies of all such materials.
- 8 SOCIAL NETWORKS
- 8.1 To the extent that Qubeeo and/or Social Network authorise the Customer to incorporate Content into a Storyboard for public display on website or screen the Customer hereby undertakes to comply with the terms applicable to such incorporation and notified to the Customer by Qubeeo, as if Customer were a party to such terms. The Customer acknowledges that the supply of any Social Network service or content via or in connection with StoryStream shall also be subject to the terms and conditions of such Social Network's applicable service terms in force which the Customer undertakes to comply with.
- a) Twitter Terms of Service available at <https://twitter.com/tos>
- b) Facebook Terms of Service available at <https://www.facebook.com/terms>
- c) Instagram Terms of Service available at <https://twitter.com/tos>
- d) YouTube Terms of Service available at <https://www.youtube.com/t/terms>
- e) Google privacy policy available at <https://policies.google.com/privacy>
- 9 THIRD PARTY CONTENT
- 9.1 The Customer acknowledges and agrees that Qubeeo is a mere conduit for all Third-Party Content which is published by the Customer's use of StoryStream or the deployment of StoryStream. Qubeeo is in no way involved with the information contained in any Content. Qubeeo does not:
- 9.1.1 initiate the transmission of Third-Party Content;
- 9.1.2 select the receiver of any transmitted Third-Party Content; or
- 9.1.3 select or modify the information contained in any Third-Party Content (other than technical manipulations which take place in the course of the transmission of the Third-Party Content and which do not alter the integrity of the information contained in the Third-Party Content).
- 9.2 The Customer shall, on obtaining actual knowledge, awareness or suspicion that:
- 9.2.1 the Third-Party Content is unlawful, illegal or relates to unlawful or illegal activities;
- 9.2.2 the Third-Party Content or the publication of Third-Party Content by the Customer's use of StoryStream constitutes infringement of any other person's rights, including rights of privacy, confidentiality or any Intellectual Property Rights; or
- 9.2.3 any Third-Party Content is defamatory, libellous or malicious; act expeditiously to remove or disable access to that Third-Party Content.
- 9.3 Any Intellectual Property Rights in the Third-Party Content shall remain with its owners or licensors.
- 9.4 Notwithstanding the foregoing, where Qubeeo expressly agrees to supply Customer with content curation services, then any provisions of that agreement which conflict with this clause 8 shall prevail only to the extent of such conflict.
- 10 CONFIDENTIALITY
- 10.1 In this clause, "Confidential Information" means any information that is clearly labelled or identified as confidential or ought reasonably to be treated as being confidential, and for the avoidance of doubt includes all technical, commercial or financial know how, inventions, methodologies, concepts, business plans or confidential customer information supplied by the Customer to Qubeeo and in the case of Qubeeo StoryStream constitutes Qubeeo's confidential information. Confidential Information excludes any information which:
- 10.1.1 is or becomes publicly known other than through a breach of this Agreement or other obligation of confidentiality (excluding compilations of otherwise public information in a form not publicly known);
- 10.1.2 was in the receiving party's lawful possession before the disclosure;
- 10.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- 10.1.4 is independently developed by the receiving party and that independent development can be shown by written evidence; or
- 10.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 10.2 Each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party unless that third party is subject to an equivalent duty of confidentiality. Neither party shall use the other's Confidential Information for any purpose other than the implementation of this Agreement.

- 10.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees, agents or independent contractors in breach of the terms of this Agreement.
- 10.4 This clause 9 shall survive termination of this Agreement.

11 LIMITATION OF LIABILITY

- 11.1 This clause 11 sets out Qubeoo's entire liability (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer arising out of or in connection with :
- 11.1.1 this Agreement and any Services;
  - 11.1.2 any use made by the Customer of StoryStream or any part of it;
  - 11.1.3 any Content; and
  - 11.1.4 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 11.2 Except as expressly and specifically provided in this Agreement the Customer assumes sole responsibility for its use of StoryStream, for the results of, or conclusions drawn from, such use and for any publication of Content.
- 11.3 StoryStream is provided "as is" to the fullest extent permissible pursuant to applicable law. Save as set out in this Agreement Qubeoo disclaims all warranties and conditions express or implied, including, but not limited to, implied warranties of satisfactory quality and fitness for a particular purpose, in relation to StoryStream, its use and the results of such use.
- 11.4 All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are excluded from this Agreement to the fullest extent permitted by law.
- 11.5 Nothing in this Agreement excludes the liability of Qubeoo:
- 11.5.1 for death or personal injury caused by Qubeoo's negligence;
  - 11.5.2 for fraud or fraudulent misrepresentation; or
  - 11.5.3 any liability to the extent not capable of limitation or exclusion by law.
- 11.6 Subject to clause 11.5, Qubeoo shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent), restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar loss, or pure economic loss, or for any special, indirect or consequential loss costs, damages, charges or expenses however arising out of or in connection with this Agreement and any Services.
- 11.7 Subject to clause 10.5, Qubeoo's aggregate liability for all claims in total however arising whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising out of or in connection with this Agreement and any Services shall be limited to 125% of the Fees paid.

12 DATA PROTECTION

- 12.1 If Qubeoo processes any personal data on the Customer's behalf under this Agreement, it is intended that the Customer shall be the data controller and Qubeoo shall be a data processor.
- 12.2 If the Customer provides any personal data to Qubeoo, the Customer shall ensure that it is entitled to do so and that Qubeoo may lawfully process that personal data on the Customer's behalf as envisaged under this Agreement and may transfer that personal data outside of the EEA.
- 12.3 in the event Qubeoo processes personal data as processor the following shall apply:

- 12.3.1 The parties shall set out the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects in the Order (which may be updated by the parties in writing from time to time);
- 12.3.2 Qubeoo shall comply with the obligations of a processor set out in the data protection addendum entered into by the parties, or in the event no addendum is entered into, Article 28(3) of the GDPR and this Agreement shall be deemed to include those obligations and impose them on Qubeoo;
- 12.3.3 The Customer consents to Qubeoo engaging sub-processors in relation to the personal data; and
- 12.3.3.1 in particular, the Customer consents to the engagement of the sub-processors listed in Order; and
- 12.3.3.2 Qubeoo shall inform the Customer of any intended changes concerning the addition or replacement of such processors.
- 12.3.4 The Customer shall reimburse Qubeoo for all costs, expenses and time (at the Qubeoo's standard rates) incurred in connection with the fulfilment of the Qubeoo's obligations under this clause 12 and such invoices shall be paid in accordance with this Agreement.
- 12.3.5 The Customer shall (at its own cost) provide assistance requested by Qubeoo in relation to the fulfilment of Qubeoo's obligation to cooperate with any relevant authority under Article 31 GDPR. Notwithstanding any other provision of this Agreement, Qubeoo shall be entitled to respond to and provide all relevant information in respect of requests or orders issued by such supervisory authority.

13 TERM AND TERMINATION

- 13.1 This Agreement shall commence on the Effective Date and, unless otherwise terminated in accordance with this clause 12 or clause 13, shall continue for the Licence Term and shall automatically renew for successive periods each equal in duration to the Licence Term (a "Renewal Term").
- 13.2 Either party may terminate this Agreement on not less than 60 days written notice to the other party, such termination to only take effect on expiry of the Licence Term or the relevant Renewal Term then in effect.
- 13.3 Qubeoo may by written notice terminate and/or suspend (in whole or in part this Agreement (in addition to any other rights it may have) if in the case of clause 12.3.1-12.3.3 Qubeoo has reasonable grounds to suspect that the Customer has failed to adequately respond to an allegation that:
- 13.3.1 the Content is unlawful, illegal or relates to unlawful or illegal activities;
  - 13.3.2 the Content or the publication of Content by the Customer's use of StoryStream constitutes infringement of any other person's rights, including rights of privacy, confidentiality or any Intellectual Property Rights; or
  - 13.3.3 any Content is defamatory, libellous or malicious; or
  - 13.3.4 the Customer has failed to pay any of the Fees or other sums due in relation to this Agreement.
- 13.4 This Agreement can be terminated by written notice by a party if the other party:
- 13.4.1 is in material breach of this Agreement, and if remediable, fails to remedy such breach within 30 days of a written request to do so; or
  - 13.4.2 ceases trading (or threatens to cease trading); is subject to an order for winding up; has an administrator or liquidator appointed (or such appointment is entitled or is requested in good faith); is the subject of a bankruptcy petition or order; becomes insolvent; is incapable of paying its debts as they fall due; makes any arrangement with its creditors for the payment of its debts.

- 13.5 Any termination is without prejudice to either party's accrued rights or remedies.
- 13.6 On termination of this Agreement for any reason all licences granted under this Agreement shall immediately terminate.
- 13.7 The accrued rights and remedies of the parties, and clauses 1, 3.3, 7, 8, 9, 10, 12.7, 14, 16, 17, 19, 20 and 21, shall survive termination of this Agreement for any reason.
- 14 FORCE MAJEURE**  
No party shall be in breach of this Agreement nor liable for any failure to perform its obligations under this Agreement if that failure is a result of circumstances beyond its reasonable control, including as a result of any act or omission of the Social Networks (a "Force Majeure Event"). If a Force Majeure Event continues for a continuous period of six months, the unaffected party may terminate this Agreement by giving 30 days' written notice to the other party.
- 15 PROMOTION**  
Each of the parties may refer to the other party as its customer or supplier (as applicable) on its websites, in its marketing materials and in negotiations with third parties, unless notified otherwise by the other party.
- 16 WAIVER**  
A waiver of any right under this Agreement is only effective if it is in writing.
- 17 SEVERANCE**  
17.1 If any provision (or part of a provision) of this Agreement is found to be invalid, unenforceable or illegal under applicable law in any jurisdiction, it shall be deemed modified (in that jurisdiction only) to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted in that jurisdiction. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.  
17.2 If any provision or part-provision of this agreement is invalid, illegal or unenforceable under applicable law in any jurisdiction and subject to deletion under clause 16.1, the parties shall negotiate in good faith to reinstate such provision (in that jurisdiction only) so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 18 ENTIRE AGREEMENT**  
18.1 This Agreement constitutes the whole agreement between the parties and supersedes all previous agreements, representations and arrangements between the parties (either oral or written) with regard to its subject matter. Any alternative terms and conditions proposed by the Customer, including, without limitation, any purchase order terms or related supplier terms supplied by the Customer (whether before or after the date this Agreement) are hereby excluded and shall not apply. The parties confirm that they have not entered into this Agreement on the basis of any representations that are not expressly incorporated in this Agreement. Each party irrevocably and unconditionally waives any rights it may have to claim damages and/or to rescind this Agreement for any misrepresentation in relation to the subject matter of this Agreement whether or not contained in this Agreement or for breach of warranty not contained in this Agreement unless such misrepresentation or warranty was made fraudulently.
- 18.2 This Agreement may only be amended or supplemented in writing and signed by an authorised representative of both parties.
- 19 ASSIGNMENT**  
The Customer shall not assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement, without the prior written consent of Qubeeo.
- 20 THIRD-PARTY RIGHTS**  
This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and (where applicable) their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 21 NOTICES**  
21.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in the Letter (or such other address as may have been notified).  
21.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivered outside business hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received 2 Business Days after posting.
- 22 GOVERNING LAW AND JURISDICTION**  
This Agreement shall be governed by, and construed in accordance with, the laws of England and Wales and the parties irrevocably submit to the non-exclusive jurisdiction of the English Courts. Nothing in this clause shall limit the right of Qubeeo to take proceedings against Customer in any other court of competent jurisdiction where the Customer has assets in such jurisdiction, nor shall the taking of proceedings in any one or more such jurisdictions preclude the taking of proceedings in any other such jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.