

## SERVICES AGREEMENT

### 1. The Services.

- 1.1. You, (the “**Client**”), hereby engage ArtinCam Ltd. (the “**Company**”), to provide it with those services described in the attached *Appendix A* (“**Services**”) and in the Purchase Order executed between the Company and the Client. The provision of the Services by Company shall be conditioned upon the execution of a valid Purchase Order between the Company and the Client, and shall be performed in accordance with the terms, conditions, requirements, descriptions, milestones and time-tables detailed in *Appendix A*.
- 1.2. In addition to the Services, the Company shall provide the Client with a module described in *Appendix B*, which shall enable the Client's end users to manually modify the images which they have uploaded to Clients’ website (the “**Module**”, and together with the Services, the “**Products**”). For the avoidance of doubt, it is clarified that the Module shall not be deemed part of the Services

### 2. Company Undertakings.

- 2.1. Company will comply with all applicable laws and regulations related to the performance of the Services and Products hereunder.
- 2.2. Company shall not have any authority to bind or obligate Client with respect to third parties in any matter whatsoever without the prior written permission of Client.

### 3. Client Undertakings.

- 3.1. Client shall comply with all applicable laws and regulations in the Client's use of and access to the Products, and Client shall not use the Products for any illegal or unauthorized purpose. Company shall not be responsible for any unauthorized or illegal use of the Products by any end user who uses Client’s website.
- 3.2. Client hereby undertakes that it has a right to use, modify, disclose and display any pictures which have been transferred to the Company for the provision of the Services. Client shall not attempt to reverse engineer, decompile, or otherwise derive the source code for the Products (and/or the software used to provide the Service).
- 3.3. Without prior written approval of the Company, Client shall not disclose or transfer any third party with the API provided to it by the Company. Client acknowledges that such disclosure or transfer may cause the Company substantial damages.

### 4. Payment Terms.

- 4.1. Payment terms shall be as set forth in the Purchase Order executed between the Client and the Company.
- 4.2. The records of the Company with respect to the Client or end user's use of the Products shall serve as *prima facie* evidence as to their accuracy.

### 5. Term and Termination.

- 5.1. This Agreement shall be in effect as of the Effective Date and shall remain in force until terminated pursuant to the terms of this Agreement.
- 5.2. Either party shall be entitled to terminate this Agreement for convenience at any time, by providing the other party with 30 days prior written notice.
- 5.3. Consequences of Termination. Upon termination of this Agreement for any reason:
  - 5.3.1. Client and any end user, which uses the Products through Client’s website, shall cease using the Products as of the termination date.
  - 5.3.2. Client shall pay Company any portion of the Consideration, which remains unpaid as of the date of termination of this Agreement.
  - 5.3.3. All rights and obligations set forth in Sections 4, 5, 6, 7 and 8, shall continue irrespective of such termination, cancellation or expiration.

### 6. Confidentiality.

- 6.1. During the term of this Agreement, either party (“**Receiving Party**”) may have access to information of the other party hereto (“**Disclosing Party**”) including without limitation concepts, techniques, processes, methods, designs, photographs, models, prototypes, computer programs, research materials, formulas, development or experimental work, work in progress, inventions, marketing plans, product plans, business strategies, forecasts, personnel information, know-how and trade secrets (the “**Confidential Information**”).
- 6.2. Receiving Party agrees to hold such Confidential Information as strictly confidential and not to disclose any such Confidential Information to any third party.
- 6.3. Receiving Party further agrees not to make any direct or indirect use of the Confidential Information except as shall be required for the performance of its obligations under this Agreement.
- 6.4. The restrictions specified in this Section 6 shall apply to all such Confidential Information whether written, oral, magnetic, optical or in some other form. Receiving Party understands and agrees that its confidentiality obligations under this Section 6 shall continue both during the term of this Agreement and after its termination, cancellation or expiration for any reason until such Confidential Information becomes generally available to the public through legitimate means.

## 7. **Intellectual Property**

- 7.1. The Company owns and shall retain all rights, including intellectual property rights in and to the Services (including any Documentation), including any updates, enhancements, modifications or improvements made thereto. Client acknowledges exclusive ownership rights in the Service and Related Services.
- 7.2. Protection of Rights. The Client shall cooperate fully with the Company, at the Company’s expense, in protecting the Company’s proprietary rights, including intellectual property rights in the Services, including by providing affidavits or oral testimony in proceedings meant to protect Company’s said rights and informing the Company of infringement, or potential infringement, of the Company’s intellectual property rights, and assisting the Company, at the Company's expense, in legal and other proceedings.
- 7.3. Client hereby grants to Company and its affiliates a non-exclusive, non-transferrable, royalty-free, license to access, use, retain, copy, adjust, create derivative works of, and reproduce the User Content for the purpose of: (i) performing the Services in accordance with the terms of this Agreement; and (ii) analyzing and using such User Content to improve and enhance the Company’s products. For purposes of this Agreement “**User Content**” means all photos, data and content provided to Company by Client or its affiliates in any form.
- 7.4. It shall be clarified that besides using the User Content for the aforementioned purpose Company or any third party shall have no right to use such User Content in any matter or way.

## 8. **Disclaimer of Warranties.**

- 8.1. THE PRODUCTS ARE PROVIDED ON AN "AS IS", "AS AVAILABLE", AND "WITH ALL FAULTS" BASIS. THE COMPANY MAY MAKE IMPROVEMENTS AND/OR CHANGES TO THE PRODUCTS AT ANY TIME, WITH OR WITHOUT NOTICE. THE COMPANY DOES NOT REPRESENT OR WARRANT THAT THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE PRODUCTS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS (THE "**DEFECTS**"). COMPANY WARRANTS TO PROVIDE THE SERVICES AND PRODUCTS ACCORDING TO INDUSTRY STANDARDS AND UNDERTAKES TO TAKE REASONABLE ACTIONS IN ORDER TO REMEDY WITHIN REASONABLE TIME SUCH DEFECTS.
- 8.2. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW THE PARTIES DISCLAIM, ALL OTHER REPRESENTATIONS AND WARRANTIES WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND WHETHER ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR TRADE USAGE.

- 8.3. Client acknowledges that the Client's sole and exclusive remedy for any failure or nonperformance of the Products shall be to terminate this Agreement.
- 8.4. The Company does *not* represent to the Client that the Enhanced Images, as such term is defined in Appendix A, are compliant with the Client's policies, terms and conditions with respect to end user content, and disclaims any responsibility in the event that such content: (i) infringes, misappropriates or violates a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy; (ii) violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (iii) is fraudulent, false, misleading or deceptive; (iv) is defamatory, obscene, pornographic, vulgar or offensive; (v) promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (vi) is violent or threatening or promotes violence or actions that are threatening to any other person; (vii) promotes illegal or harmful activities or substances; or (viii) is considered by the Client to be in violation of the Client's terms and conditions, or otherwise considered by the Client to be inappropriate.

## 9. **Limitation of Liability.**

- 9.1. EXCEPT FOR LOSSES OR DAMAGES ARISING OUT OF A PARTY'S FRAUD, WILLFUL MISCONDUCT, OR OTHER DAMAGES THAT CANNOT BE DISCLAIMED UNDER APPLICABLE LAW (THE "EXCEPTIONS"), TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, IN NO EVENT SHALL THE COMPANY OR THE CLIENT BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE, DATA, GOODWILL, OR OTHER ECONOMIC ADVANTAGE), ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE PRODUCTS (INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE PRODUCTS, OR FOR ANY INTERRUPTION, INACCURACY, ERROR, OR OMISSION), WHETHER BASED ON A CLAIM OR ACTION OF CONTRACT, TORT, OR OTHERWISE, EVEN IF THE COMPANY OR CLIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY.
- 9.2. EXCEPT FOR DAMAGES AND LOSSES ARISING OUT OF THE EXCEPTIONS IN SECTION 9.1, IN NO OTHER EVENT, SHALL THE COMPANY'S AND THE CLIENT'S TOTAL CUMULATIVE LIABILITY TOWARDS EACH OTHER OR ANY OTHER PARTY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE PRODUCTS (INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE PRODUCTS, OR FOR ANY INTERRUPTION, INACCURACY, ERROR, OR OMISSION), WHETHER BASED ON A CLAIM OR ACTION OF CONTRACT, TORT, OR OTHERWISE, EXCEED THE CONSIDERATION ACTUALLY PAID BY THE CLIENT TO THE COMPANY IN THE THREE (3) MONTHS PRECEDING THE CIRCUMSTANCES FIRST GIVING RISE TO THE CLAIM OF LIABILITY.
- 9.3. EACH PARTY SHALL NOT BE LIABLE FOR ANY CLAIMS MADE SUBJECT OF A LEGAL PROCEEDING AGAINST THE OTHER PARTY MORE THAN TWO (2) YEARS AFTER ANY SUCH CAUSE OF ACTION FIRST AROSE.

## 10. **Miscellaneous.**

- 10.1. This Agreement does not create a joint venture, partnership or other association between the parties hereto.
- 10.2. The Purchase Order, preamble and the appendices to this Agreement constitute inseparable parts hereof. These terms shall be binding upon the Company only after the execution of a valid Purchase Order between the Company and the Client. The headings in this Agreement are for purposes of reference only, are not a material part hereof and shall not be used in its interpretation.
- 10.3. Neither party may assign or delegate its rights or duties to a third party without the prior written consent of the other party, which may be withheld for any reason. Notwithstanding the foregoing, the Company may freely assign this Agreement and its rights and obligations to any affiliated company, and/or in connection with a merger, a sale of all (or substantially all) of Company's assets,

or similar event, provided that such assignment does not prejudice Client's rights hereunder.

- 10.4. This Agreement, along with the Purchase Order executed between the Parties, constitute the full and entire understanding and agreement between the parties hereto and replaces any previous agreement and/or communications between the parties hereto. This Agreement may only be amended, modified or varied in a written instrument executed by both parties hereto. No failure, delay or forbearance of either party in exercising any power or right hereunder shall in any way restrict or diminish such party's rights and powers under this Agreement or operate as a waiver of any breach or non-performance by either party of any of the terms or conditions hereof.
- 10.5. For the purposes of this Agreement, notices and all other communications provided for in the Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or sent (if by e-mail, notices and other communication to the Client shall be sent to the contact information provided by the Client in the Purchase Order or otherwise, and notices to the Company shall be sent to [info@camera51.com](mailto:info@camera51.com)), provided that the recipient confirmed the receipt of such notice, or certified mail, return receipt requested, postage prepaid, addressed to the respective addresses set forth on the first page of this Agreement or last given by each party to the other. Such notice, demand or other communication shall be deemed given (i) if sent by email - upon receipt of confirmation as set forth above, (ii) at the expiration of seven (7) days from the date of mailing by registered mail or (iii) immediately if delivered by hand. Such address shall be effective unless notice of a change in address is provided to the other party.
- 10.6. This Agreement, its performance and interpretation shall be governed by the laws of the State of Israel, without giving effect to its conflict of laws provisions. The competent courts and tribunals situated in Tel Aviv, Israel shall have sole and exclusive jurisdiction in any dispute or controversy arising out of or relating to this Agreement.

## Appendix A

### The Services

Automatic removal of background from images (the “**Processed Images**”, and together with the Module Images shall be referred to as “**Enhanced Images**”).

Upon receipt of the Enhanced Images, the Client's end users may elect whether to (i) use the Enhanced Images as received, (ii) further enhance them manually as described in Appendix B below, or (iii) discard the Enhanced Image and use the original image.

**Support:** The Company shall use reasonable efforts to provide technical support for both the Services and the Products, to the Clients and Client's end users during regular business hours for the purpose of resolving errors in the Services in a timely manner as shall be agreed upon between the Company and the Client.

#### **Service Level**

1. In this Service Level section, the following terms shall have the meanings given below:
  - a. "**Business Hours**" means Sunday through Thursday, 9:00 a.m. through 19:00 p.m. GMT+3 (Israel time), excluding public holidays in Company's jurisdiction.
  - b. "**Critical Defect**" means that the Program is not available.
  - c. "**Defect**" means a Critical Defect, Major Defect or Minor Defect, as applicable.
  - d. "**Defect Category**" means the categorization of a Defect as a Critical, Major, Minor Level or Enquiries.
  - e. "**Enquiries**" means information enquiries from the Client.
  - f. "**Initial Response**" means a response provided by the support personnel of Company that does not necessarily include a workaround or a solution of the Defect.
  - g. "**Major Defect**" means that important functions of the Program are not available.
  - h. "**Minor Defect**" means that minor functions of the Program are not available.
  - i. "**Support Services**" means the services to be provided under this SLA.
  - j. "**Uptime**" means the total period in minutes during which the Program is available for access and use during any measured period.
  - k. "**Workaround**" means actions and procedures, which circumvent or overcome the impact of a Defect.

#### **Supply of Support Services**

2. Company hereby undertakes to supply the Support Services to the Client in compliance with all the provisions of the Agreement and with applicable professional and industry standards, in order to maintain the Program fully operational throughout the term of the Agreement.
3. Company shall maintain its best efforts that the Products shall be fully available for access and use at an Uptime percentage of at least 99%, as measured over any calendar month.
4. Company will appoint a Technical Account Manager ("TAM"), who shall have the following roles and responsibilities: (i) act as the single point of contact for all issues concerning the Support Services; (ii) be responsible for providing status reports of open service tickets and for following up on open issues; (iii) in case the TAM cannot provide the required information or assistance he/she will make sure some other relevant person from Company's organization will provide such service.
5. Company will operate a help-desk, which will receive all Defect reports and service calls during Business Hours. After Business Hours and during public holidays in Company's jurisdiction the help desk shall receive Defect reports only by Email. The help-desk will be available 24 hours a day, all year long. There will at all times be an appropriately qualified support specialist on call/email to deal with Critical and Major Defects. The help-desk may be contacted by e-mail, as follows:

Email address: [info@malabi.co](mailto:info@malabi.co)

### **Services Free of Charge**

6. Other than as specified in the Agreement, all Support Services to be provided shall be provided to the Client free of charge and free of any other costs and expenses, and Company shall not be entitled to reimbursement of expenses of any kind.

### **Defect Solution**

7. The Company shall be solely entitled to categorize each Defect as a Critical Defect, Major Defect or Minor Defect, according to its reasonable discretion.
8. No Defect shall be considered resolved unless the Client has confirmed, in writing, that it is solved.
9. The following Workaround and resolution times shall apply:

<b>Defect Category</b>	<b>Initial Response during Business Hours</b>	<b>Initial Response during Non-Business Hours</b>	<b>Resolving Time during Business Hours</b>	<b>Resolving Time during Non-Business Hours</b>
Critical*	30 minutes	30 minutes	4 hours	8 hours
Major*	30 minutes	30 minutes	8 hours	24 hours
Minor	30 minutes	N/A	24 hours	N/A
Enquiries	8 hours	N/A	N/A	N/A

\* With respect to Critical and Major Defects, Company shall provide constant work until a Workaround is available.

## Appendix B

### Module

A module, which allows the Client's end user to manually enhance the original image or the Enhanced Image. The images processed through the Module shall be referred to herein as the "**Module Images**", and together with the Processed Images shall be referred to as "**Enhanced Images**".