

IMPORTANT – PLEASE READ CAREFULLY

This End-User License Agreement (hereinafter referred to as “the agreement”) is a legal agreement between you (either an Individual or a single entity and hereinafter referred to as “the user”) and Viotalk, LLC (hereinafter referred to as “the company”) for its Viotalk.com Video Communication System (hereinafter referred to as “the service”) which includes software and may include associated media, printed materials, “online” or electronic documentation and internet based services.

IMPORTANTLY, minors can only use the service by having their parent or legal guardian sign up to use the service and enter into the agreement. The Company may require that the registrant provide sufficient information to indicate that the registrant is an adult.

By clicking on "I agree to the usage terms and privacy policy", the user agrees to be at least 18 years of age, and that the user agrees to be bound by all of the terms and conditions of the agreement.

The Company may elect at its sole discretion to monitor some, all, or none of the areas of the service for adherence to the agreement or for any other reason.

## 1. ACCOUNT INFORMATION

1.1 Registration. The user agrees to provide the service with ongoing, accurate, complete, and updated registration information.

1.2 User Account. When the user registers online to use the service, the user will receive a password and an account (hereinafter referred to as "user account"). The user can have multiple user accounts. The user is entirely responsible for any and all activities performed through the user account. If the user permits someone else to use the user's user account, the user must ensure that they comply with the agreement, and the user agrees to be liable for all liabilities arising from such use. The user agrees to notify the company immediately of any unauthorized use of the user account or compromise of password or any other breach of security.

1.3 Passwords. Upon registration as a user of the service, the user will select a password. The user is responsible for maintaining the confidentiality of password and the user agrees to be liable for all liabilities resulting from compromise of password of in any nature. For security reasons the company recommends the user to change password periodically. At no time should the user respond to an online request for a password, except when prompted by the service. The company's employees will never ask for the user's password online.

1.4 Viotalk.com ID. Upon registration as a user of the service, the user is requested to choose an available Viotalk.com ID (hereinafter referred to as “the ID”) for identification on the service network including administrators and customer support staff of the service. The user may not select or use a different ID(unless registered in the user's name), or a name which violates any third party's trademark rights, copyrights or any other proprietary rights, which is or may be illegal, which may cause confusion, or which the company deems in its sole discretion to be vulgar or otherwise

offensive. The Company reserves the right to freeze or block any such vulgar or otherwise offensive IDs, or to require deletion thereof.

1.5 Former Users. The users whose accounts have been terminated by the company may not access the service in any manner or for any reason whatsoever without an express written permission from the company. Active Users may not knowingly allow users who have been terminated to use their accounts.

## 2. SERVICE LICENSE AND CHARGES FOR USE OF THE SERVICE.

2.1 License. Subject to the terms and conditions set out in the agreement, the company grants you a non-exclusive, non-transferable license to install the service's software on a computer, and to use the service for the purpose of engaging in video-conferencing sessions implemented through the service operated by the company.

2.2 Service Restrictions. The user may not use the service for any purpose other than engaging in video-conferencing sessions implemented through the service operated by the company. The user may not make any alterations or modifications to the service. The user may not sublicense, rent or lease the service or transfer or assign the license granted pursuant to this agreement or any interest therein. The user may not reverse engineer, reverse compile, reduce to human perceivable form or disassemble the service. The user may not make any copies of the service, except for copies made strictly for backup purposes. The user may not transmit the service over a network. The user may not use the service to gain unauthorized access to its system.

2.3 Intellectual Property Rights in Service. The user acknowledges and agrees that, except as set out in the agreement, any and all copyright, moral rights, patent rights and other intellectual property rights in the service are owned by the company. The user may not remove any copyright or other proprietary or product identification notices contained in or displayed by the service, or contained in any written material which may relate to the service. The user also acknowledges and agrees that the service has been developed in part by, and may include service licensed by, third party licensors and any violation of the provisions of the agreement may incur legal liability to those third party licensors in addition to the company.

2.4 Charges. Users of service are charged for services provided in accordance with the service plan level to which they subscribe.

## 3. USER PRIVACY

It is company's policy to respect the privacy of its users. Please refer to the company's privacy policy at <http://www.viotalk.com/privacypolicy> for more information. The user agrees that the company may access and disclose any information about the user or user's account as stated in the privacy policy. The company may amend its privacy policy from time to time and the user's continued use of the service constitutes agreement to this Privacy Policy and any future revisions. However, the company will make reasonable efforts to notify the user and obtain consent before implementing revisions that may be materially less restrictive on use or disclosure of personal information the user has provided to the company. If the user intends to use the service in the European Union or in other regions with laws governing data collection and use that may differ from United States law,

please note that the personal information the user provides will be transferred to the United States for use by the company and its affiliates for any of the purposes described in this privacy policy. By using the Viotalk.com Video communication system and providing us with your personal information, the user consents to the transfer and use of personal information.

#### 4. RESTRICTION ON CONTENT TRANSMITTED

The term "content" includes all communications, text, audio, video, graphics, sounds, and other material. The user may not use the service to transmit any content which:

harasses, threatens, embarrasses or causes distress, causes unwanted attention or discomfort upon any other person, includes sexually explicit images or other content, is offensive or harmful to minors, includes any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, or hateful material, including but not limited to material based on a person's race, national origin, ethnicity, religion, gender, sexual orientation, disablement or other such affiliations, impersonates any person or the appearance or voice of any person, utilizes a false name or identity or a name or identity that the user is not entitled or authorized to use, contains any unsolicited advertising, promotional materials, or other forms of solicitation, contravenes any application law or government regulation, violates any operating rule, regulation, procedure, policy or guideline of the service as published from time to time on the company website, may infringe the intellectual property rights or other rights of third parties, including trademark, copyright, trade secret, patent, publicity right, or privacy right, distributes service or other content in violation of any license agreement or defaces the service.

In addition, if the company becomes aware that the user is using the service to transmit any other content which the company considers inappropriate, the company may notify the user to advise that transmission of such content through the service is prohibited. The prohibitions set out in the section will apply to such content immediately upon such notification. The company shall also have the right to block the user's use of the service. Such action may be immediate and without notice. The user acknowledges that the company does not monitor or edit the content which the user transmits to others using the service, and accepts no responsibility what-so-ever for that content. If the user witnesses any transmission of prohibited content by others, the company encourages the user to contact customer service at [support@viotalk.com](mailto:support@viotalk.com).

#### 5. OTHER RESTRICTIONS ON USE

The user may not use the service to:

- (i) Harvest or otherwise collect information about others, including email addresses, without their consent, or
- (ii) Attempt to gain unauthorized access to the service's other user accounts, computer systems or networks connected to the service, through password mining or any other means. The company reserves the right to exercise whatever means it deems necessary to prevent unauthorized access to the service, including, but not limited to, technological barriers, IP mapping, and direct contact with the user's Internet Service Provider (ISP).

## 6. INDEMNIFICATION

The user will indemnify and hold the company, its officers, directors, employees, shareholders, agents, licensors and subcontractors, harmless from and against any and all liabilities, losses, damages, costs and expenses (including legal fees and expenses) associated with any claims, action or proceeding brought against the company or its officers, directors, employees, shareholders, agents, licensors and subcontractors that may arise from the user's breach of the agreement, or from any use which the user makes of the service or service's system. The company shall have the right to control the defense, settlement, adjustment or compromise of any such claim, action or proceeding using counsel selected by the company. The company will use reasonable efforts to notify the user of any such claim, action, or proceeding upon becoming aware of it. Without limiting the generality of the preceding paragraph, the user agrees that the indemnity provided in this section shall include and apply to any liabilities, losses, damages, costs and expenses arising from the content the user transmits to others using the service.

## 7. DISCLAIMER OF WARRANTY

To the maximum extent allowed by law, the company, its officers, directors, employees, shareholders, agents, licensors and subcontractors disclaim any and all warranties, representations, covenants, and conditions as set out below. No advice or information, whether oral or written, obtained by the user from the company or through the service shall create any warranty not expressly stated herein.

7.1 Service used "as is" and "as available" and "with all faults". The user expressly agrees that use of the the service and all services distributed by the company in connection therewith are at the user's sole risk. The service and all services distributed by the company are provided on an "as is" and "as available", "with all faults" basis and without warranties or conditions of any kind, either express or implied.

7.2 The company is not responsible for products or services. The user acknowledges that the company does not control in any respect any information, products or services offered by third parties through the service. The company does not endorse, warrant or guarantee any product or service offered through the service by any third party. The company will not be a party to or in any way monitor any transaction between the user and third-party providers of products or services. The company will not bear any responsibility for the products, services, or actions of any third parties.

7.3 No warranties of quality. Without limiting any other provision of this section 7 and in addition to all other provisions of this section 7, to the fullest extent permitted by applicable law, the company expressly disclaims all warranties and conditions of any kind, either express or implied, including without limitation any implied warranties or conditions of merchantability, fitness for a particular purpose, non-infringement of third party rights, and those arising from a course of dealing or usage of trade, with respect to the service and all services distributed by the company in connection therewith. The company makes no warranty that the service or its system will meet your requirements, or that the service will be uninterrupted, timely, secure, or error free. The company does not make any warranty or representation as to the use or the results that may be obtained from the use of the service. The user acknowledges that the service and its system may be subject to operating errors or defects including, but not limited to loss of data, delays, non-deliveries, errors,

system down time, miss-deliveries, network or system outages, file corruption, or service interruptions. No such event shall constitute a breach of this or any other contract on the part of the company, even if caused by the negligence or gross negligence of the company or any of its employees, agents, licensors or subcontractors.

7.4 No warranty relating to content received through the service. The user acknowledges that the company does not monitor or edit the content which you receive from others through the service, and accepts no responsibility or liability for that content regardless if such content is transmitted to the user in breach of the terms of this agreement.

The company makes no warranty with respect to the content the user may receive through the service. In particular, without limiting the generality of the foregoing, the company makes no warranty that such content will be free of any of the other types of content listed under section 4 above or any virus, worm, Trojan horse, time bomb, cancelbot, or other destructive program.

The user expressly acknowledges that as used in this section 7, the company includes its officers, directors, employees, shareholders, agents, licensors and subcontractors.

## 8. EXCLUSION OF DAMAGES

In no event will the company, its officers, directors, employees, shareholders, agents, licensors and subcontractors be liable for any damages, including without limitation any:

special, indirect, or consequential damages;  
lost profits, lost savings, business interruption, or loss of business  
information; loss of privacy, loss of reputation, or emotional distress; or  
any other pecuniary or non-pecuniary loss or damage of any nature whatsoever;

In each case, in connection with the service, service's system or with any other product or service provided by the company, or resulting from the use or the inability to use the service, or from any content transmitted through the service or from any goods or services purchased or obtained or transaction entered into through or from the service, or from unauthorized access to or alteration of the user's transmissions, data, or account, even in the event of the fault, tort (including negligence), strict liability, breach of contract, or breach of warranty of the company, and even if the company has been advised of the possibility of such damages.

The company's entire liability and the user's exclusive remedy with respect to use of the service and all services distributed by the company shall be the replacement of any service developed by or for the company which is found to be defective, using media chosen by the company. The company shall have no monetary liability for any reason in connection with the user's use of the service. The user expressly acknowledges that as used in this section 8, the terms the company includes the company's officers, directors, employees, shareholders, agents, licensors and subcontractors.

## 9. PROPRIETARY RIGHTS TO CONTENT

The user acknowledge that: (a) the service may permit access to content that is protected by copyrights, trademarks, service marks, patents, rights of publicity, or other proprietary rights owned by the company or third parties (collectively, "rights"), (b) these rights are valid and protected in all media existing now or later developed, and (c) except as is explicitly provided otherwise, the user's use of content shall be governed by generally applicable copyright and other intellectual property laws. Applicable laws may prohibit the user from making a copy of audio or video content through the service without the permission of all parties to the conversation or participants in the video. Other than as specified above, the user may not modify, copy, reproduce, republish, upload, post, transmit, sell, publish, broadcast, create derivative works from, perform, or distribute in any way content available through the service.

## 10. TERMINATION

Either the user or the company may terminate the user's account and the agreement at any time with or without cause. The user's only remedy with respect to any dissatisfaction with (i) the service, (ii) any agreement term, (iii) any policy or practice of the company in operating the service, or (iv) Content transmitted through the service, is to terminate the user's account. The user's notice of termination will be effective upon receipt by the company or upon receipt of confirmation if confirmation is requested. Upon termination of the agreement for any reason, the user agrees to destroy all tangible and intangible embodiments or copies of the service in possession.

## 11. MODIFICATION OF SUA

The company reserves the right, at its discretion, to revise the agreement at any time, and such revisions will be effective immediately upon the posting of the revised agreement on the company's website. The user agrees to review the agreement periodically to become aware of such revisions. If any such revision is unacceptable to the user, only remedy is to terminate the user account as provided in Section 10. The user's continued use of the service and/or the service following posting of the revised agreement on the company's website shall be conclusively deemed to be acceptance of all such revisions.

## 12. GENERAL PROVISIONS

12.1 If any provision of the agreement is held to be unenforceable or contrary to law for any reason, such provision shall be reformed only to the extent necessary to make it enforceable and such decision shall not affect the enforceability (i) of such provision under other circumstances, or (ii) of the remaining provisions hereof under all circumstances.

12.2 The section headings contained in the agreement are for the purposes of convenience only and are not intended to define or limit the contents of said sections, and have no legal or contractual significance.

12.3 The company and you are independent contractors under the agreement.

12.4 The company's failure to enforce at any time any of the provisions of the agreement shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the right of any party to enforce each and every such provision thereafter. The express waiver by the company of any provision, condition or requirement of the agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement. Notwithstanding anything else in the agreement, no default, delay or failure to perform on the part of the company shall be considered a breach of the agreement if such default, delay or failure to perform is shown to be due to causes beyond the reasonable control of the company.

12.5 The user acknowledges that has read the agreement, understood it, and agreed to be bound by its terms and conditions. This agreement, the company's privacy policy represents the complete and exclusive statement of the agreements concerning the service between the user and the company and supersedes all prior agreements between the parties regarding the service.

### 13. WARRANTY

This service is provided "as is" and any expressed or implied \* warranties, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title and non-infringement are disclaimed. In no event shall the company or its contributors be liable for any direct damages in excess of \$1,000, nor for any indirect, incidental, special, exemplary, or consequential damages (including, but not limited to procurement of substitute goods or services; loss of use, data, or profits; or business interruption) however caused and on any theory \* of liability, whether in contract, strict liability, or tort \* (including negligence or otherwise) arising in any way out of the use of this service, even if advised of the possibility of such damage.

### 14. GOVERNING LAW

In enforcing, interpreting and for all other purposes, the agreement will be governed by the substantive laws of the State of Utah and in the event of a dispute arising hereunder, the user agrees to be bound by the exclusive jurisdiction of the federal and state courts located in Salt Lake City, State of Utah.