

**[Kodakit]**  
**Photographer Terms and Conditions**  
*(as of July 1, 2018)*

**1. GENERAL**

Kodakit (Singapore) Pte. Ltd., a private limited company formed under the laws of Singapore ("*Company*"), is the owner and operator of the Platform which is comprised of [www.kodakit.com](http://www.kodakit.com) and any related applications (including applications on mobile phones and devices ("*Mobile Apps*")) and includes their respective internet-based services, features, content, and functionality (the "*Service*" or "*Services*"). *Company* and its licensors, suppliers, affiliates, agents, directors, officers, employees, representatives, successors, and assigns (referred to collectively with *Company* as "*we*", "*us*", or "*our*") offer the Platform to provide a communications service by which a businesses ("*Clients*") seeking photography services can connect with an individual (or individual acting through a business entity) seeking to perform such photography services (a "*Photographer*"). For purposes herein, *Client* and *Photographer* are individually, a "*User*" and collectively, the "*Users*".

These Photographer Terms and Conditions of Service ("*Photographer Agreement*") are incorporated by reference into the Kodakit General Terms and Conditions ("*Terms*"). Each *Photographer* agrees to all terms and conditions of the *Terms* regardless as to whether referred to as a "*Photographer*" or "*User*". This *Photographer Agreement* is intended to ensure that all *Users* have a positive experience when using the Platform and forms the basis of the contractual understanding between *Photographer* and us for any engagement to perform photography services for the benefit of *Client*.

**2. DEFINITIONS AND GOVERNANCE**

Capitalized terms that are not defined in this *Photographer Agreement* shall have the meaning ascribed to such term in the *Terms*. If a request of *Company* and a *Client* are in conflict, *Photographer* agrees that *Company*'s request shall control.

**3. PHOTOGRAPHER SELECTION AND REVIEWS**

In some instances, *Clients* may use the Platform to review photographer profiles to directly select a photographer to perform photographic services. Alternatively, a *Client* may ask us to first determine a group of photographers that meet the initial criteria of the *Client* from which the *Client* will subsequently seek a *Photographer*. Photographers should expect that selections will be based upon *Reviews of Photographer* in performance of previous photographic services, including without limitation, with respect to promptness in performing services, professional presentation of *Photographer* while performing services, an ability to deliver *Work Product* that conforms with the specifications of a photography services order ("*PSO*"), and the amount of time required to edit *Work Product*.

**4. PHOTOGRAPHY SERVICES ORDERS**

From time to time, *Photographers* may receive communications from the *Service* with respect to an opportunity to provide photographic services for a *Client*. *Photographers* shall be required to promptly agree to perform such services via the *Service*, although such response does not guarantee *Photographer*'s engagement. Any acknowledgement that *Photographer* has been selected to perform photography services will be accompanied by a *PSO* that may set forth, among other things, a job number, location, appointments, file naming requirements, the minimum number of photos and other specifications for the photography services including the *Commissioned Photos*.

Photographer shall use best efforts to perform its services in accordance with the PSO and the Terms. The PSO may also set forth additional legal terms that apply to the photography services and by agreeing to perform the photography services Photographer is also agreeing to be legally bound by such additional terms. In the event of a conflict between the Terms and a PSO, the PSO shall govern but only with respect to Photographer's services provided pursuant to that PSO.

## **5. INDEPENDENT CONTRACTOR AND ENGAGEMENT**

Photographer agrees that, in the performance of services under this Photographer Agreement, Photographer shall at all times act as an independent contractor, and not as an employee or agent of Client or us. The services to be performed by Photographer are of the type and nature generally performed by Photographer in Photographer's usual line of business or expertise. Nothing contained herein shall be construed to create a joint venture, partnership, association, or other affiliation between Photographer and use or a Client, it being specifically agreed that the relationship is and shall remain that of independent parties. We shall neither have nor exercise any specific control or direction over the particular methods by which Photographer shall perform the photographic services required. Photographer represents, warrants, and covenants that Photographer will perform all work in a good workmanlike manner in accordance with the highest standards of the photographic services industry. Photographer has obtained and at all times will maintain in good standing all licenses, permits or other qualifications required to perform the photographic services in any jurisdiction in which services are to be performed hereunder.

The services to be performed under this Photographer Agreement will be performed entirely at Photographer's risk, and Photographer assumes all responsibility for the condition of tools and equipment used in performing such services.

## **6. COMMISSIONED PHOTOS**

Photographer shall upload the Commissioned Photos to the Platform no later than the date set forth in the PSO. Each Commissioned Photo shall be delivered in both a raw and .JPG file in landscape format that is in the pixel size set forth in the PSO. The .JPG file shall be edited, retouched, and processed form ready for publication. Such editing will include, without limitation, white balance correction, application of a standard filter and minor adjustments for overexposed or underexposed images. The subject matter of the Commissioned Photos shall consist of those areas set forth in the PSO. Upon the request of a Client or us, Photographer shall perform, at no additional cost, retouch services and other post production of images as each of them may determine is necessary to meet Client's specifications including those set forth in the PSO.

Upon the request of a Client or us, Photographer shall provide any and all works, images, tangible or digital images, sketches, files and photos, including all related negatives, transparencies or digital files, whether copyrightable or not, that have been authored or conceived of or reduced to practice in the course of Photographer's performance of the photographic services for Client, including without limitation, all embodiments thereof (e.g., Commissioned Photos), and all intellectual property rights relating thereto (collectively, "*Work Product*") to Client, or if not so requested promptly following written acceptance of the Commissioned Photos, Photographer shall promptly irreversibly destroy all Work Product, including any remaining outtakes of photographic services that do not result in edited .JPG files delivered via the Platform as Commissioned Photos. For the avoidance of doubt, Work Product shall be deemed to include any and all images and representations captured or rendered in or by any medium, format or method, all of which constitute Work Product

## **7. QUALITY**

Commission Photos must meet the quality standards consistent with the PSO, as determined by the Client or Company in each of their sole discretion.

## **8. OWNERSHIP OF WORK PRODUCT**

Photographer agrees that Client shall own all Work Product resulting from the photographic services performed by a Photographer and that all copyrightable works that constitute Work Product (including the Commissioned Photos) shall be deemed to have been specially ordered or commissioned by Client and Photographer hereby perpetually and irrevocably assigns to the Client upon creation the entire copyright, including all rental and lending rights whether vested, contingent or future in the Work Product (including any associated intellectual property rights), and all rights, title and interest (including a right of action) in the Work Product upon its creation whether now known or hereinafter created to which the Photographer is now or may be in the future entitled by virtue of, or pursuant to, any of the laws in force in any part of the world and to hold the same to Client, its successors, assignees and licensees absolutely, for the whole period of such rights for the time being capable of being assigned by the Photographer together with any and all renewals, revivals, reversions and extensions throughout the world.

At the request of Client or us, Photographer shall provide all assistance and execute all documents to assign such rights to Client, to perfect Client's ownership, and to protect Client's rights, in the Work Product (including all works-in-progress).

Notwithstanding anything to the contrary contained in this Photographer Agreement, we will ensure that Client grants to Photographer a sub-license to use, copy, reproduce, distribute, and create derivative works of the Work Product solely to perform retouching and post-production of the Work Product as requested by Client or us, as required by a PSO, and as may be reasonably necessary to conform the Work Product to the criteria of the Commissioned Photos required by Client or us.

## **9. MORAL RIGHTS WAIVER**

To the fullest extent permitted by applicable law, Photographer hereby irrevocably transfers and assigns to Client, and waives and agrees never to assert, any and all Moral Rights (as defined below) that Photographer may have in or with respect to any Work Product, during and after the term of this Photographer Agreement, and any contribution thereto, and hereby agrees that Client and its successors and assigns shall have all rights flowing from such assignment, transfer and waiver including, without limitation, for any and all past, present or future uses now known or hereinafter discovered and Photographer agrees to execute all further documentation, if any, necessary to implement or reflect this assignment, transfer and waiver. Notwithstanding the generality of the foregoing, Photographer hereby irrevocably and unconditionally waives the right to be identified as the author of the Work Products and waives all rights to which Photographer may be entitled by applicable law in relation to the title vested in Company and its successors and assigns and their respective uses of the Work Product.

*"Moral Rights"* mean any rights to claim authorship of a work, to object to or prevent the modification or destruction of a work, to withdraw from circulation or control the publication or distribution of a work, and any similar right, existing under judicial or statutory law of any jurisdiction in the world, or under any treaty, regardless of whether or not such right is called or generally referred to as a "moral right."

## **10. DESIGNEE**

Photographer agrees and acknowledges that Client is the intended owner of the Work Product, however, we as a service provider to Client shall have the right to enforce against Photographer any right created, transferred or assigned to Client under this Photographer Agreement or the Terms as if the same was created, transferred or assigned to us.

## 11. GENERAL CONDUCT AND PROHIBITIONS

When using the Service and performing any photographic services for the benefit of Client, a Photographer shall:

- make accurate representations about skills, experience, availability and qualification;
- set clear expectations about timing and any other details that are relevant to completing the photography services;
- be responsive to communications from Client or us, particularly those that are time sensitive, as those photographers first to respond are often the photographers engaged to perform the photographer services;
- act in a polite and courteous manner;
- present yourself in a professional manner including with appropriate dress; and
- complete the photography services the Photographer has contracted to perform, and do so in a professional and timely manner.

To ensure a high-quality Client experience, Photographer agrees not to:

- cancel an engagement for photography services without prior communication and approval from a Client or us;
- cancel last minute as this provides a poor experience for Client;
- arrive late for projects or miss agreed-upon timelines;
- display unprofessional or unbecoming communication or behavior in any form;
- contact Client regarding a negative review, accept a reduced payment or forfeit a payment in exchange for a positive review or to avoid a negative review;
- contact third parties related to or regarding Client including, but not limited to, Client's friends, family, place of employment or attempt to damage Client's reputation on social media platforms like Facebook, Twitter, LinkedIn and Yelp;
- disrespect the privacy and confidentiality of others, including owners and residents of properties that are the subject matter of Commission Photos;
- ignore communications from our support team; or
- violate the spirit of payments on the Platform in any way to facilitate an "off platform" payment.

In addition, Photographer shall not distribute, display or make available any Work Product to a third party, including without limitation, any representatives of the subject matter of Commissioned Photos (e.g., lessee or occupants of a subject matter property). In no event shall the Work Product include any name, person or trademark unless Photographer has received any and all necessary written authorizations and releases for inclusion of the same.

## **12. LEGAL COMPLIANCE**

Photographer will ensure full compliance with applicable laws and regulations. Photographer agrees not to engage in bribery or corrupt practices, more in particular not make or offer to make, in connection with this Photographer Agreement, any payment, gift or transfer of anything of value: (i) to or for the use or benefit of any government official or government employee (including employees of government-owned entities or corporations); or (ii) to any political party (including its officials or candidates); (iii) to any commercial party, person or entity or (iv) to an intermediary for payment to any of the foregoing, in order to induce the recipient to do or omit to do an act in violation of the lawful duty of such recipient, to obtain or retain business or to secure any improper advantage or to induce the improper performance of a relevant function or activity with regard to any activities on Photographer's behalf as contemplated by this Photographer Agreement. Breach of this provision by Photographer entitles us (i) to terminate this Photographer Agreement with immediate effect and (ii) to be indemnified against any fine, penalty or claim the other may from time to time suffer as a result of such breach.

## **13. PROMOTION**

Without the prior written permission of Client and us, Photographer shall not display the Work Product (including any Commissioned Photos) for personal promotion. Should Client or Company grant such written permission, any Work Product used shall contain the watermark or copyright noticed required by Client.

## **14. REPRESENTATIONS AND WARRANTIES**

Photographer represents and warrants to Client and us that, (i) the Work Product is Photographer's original work and are not copies of any existing works, (ii) Photographer is not aware of any claims challenging the authorship of the Work Product, Photographer's rights in the Work Product, or the legality of the Work Product or their content, (iii) to the best of Photographer's knowledge, the performance of its respective obligations under this Photographer Agreement will not violate any agreement between any person, firm or organization or any law or governmental regulation, (iv) Photographer is not subject to any economic or trade sanctions or equivalent issued by national, foreign or international governmental bodies or authorities and (v) Photographer will perform the services hereunder in (a) a professional and workmanlike manner with due care and diligence and to the highest standards of quality as is customary in the photographer industry; (b) compliance with the terms and conditions of this Photographer Agreement and the PSO including any specifications including therein; and (c) accordance with all applicable professional standards for Photographer's field of expertise.

## **15. PHOTOGRAPHER FEE**

Photographer's total compensation for performing the photography services shall be the Photographer Fee set forth in the applicable PSO. We will cause the Photographer Fee set forth in the PSO to be remitted to Photographer in the time period set forth in the PSO. If such payment is conditioned upon acceptance of the Commissioned Photos, Photographer agrees and acknowledges that Client and Company reserve the right to accept or reject Commissioned Photos at their respective reasonable discretion based upon conformance with the criteria set forth in the PSO. In no event shall Photographer be entitled based on photographer services rendered hereunder to any benefits and shall not be entitled to participate in any benefit plan of a Client or us.

Photographer may be required to establish an account with the third party payment service provider ("PSP") we have retained to facilitate payments to photographers. In establishing such account, Photographer will be required to register and agree to any applicable legal terms that are required by the PSP. Photographer represents to us that Photographer has reviewed and agreed to all legal terms of the

PSP. Please note that we are not a party to any agreement of Photographer with the PSP and as such we do not have any obligation or liability under such agreement.

All payments of Photographer Fee will be made in the local currency of the Photographer's domicile or registration country with the PSP after taking into consideration any rate of currency exchange.

## **16. CANCELLATION**

Photographer agrees and acknowledges that an appointment to perform photography services pursuant to a PSO previously confirmed by Client ("Scheduled Appointment") may be cancelled at any time. In general, if a cancellation by Client occurs more than 24 hours prior to the Scheduled Appointment then Photographer will not be entitled to a Photographer Fee, but the Photographer will be provided with a first right of refusal for the rescheduled Scheduled Appointment if any. Photographer, however, may be entitled to receive a payment equal to 50% of the Photographer Fee if a cancellation by Client occurs less than 24 hours prior to the Scheduled Appointment, or 50% of the Photographer Fee if (a) Photographer timely arrives at a Scheduled Appointment and is prohibited from performing the photographer services by the Client or a representative of the subject matter premises, or (b) Photographer timely arrives at a Schedule Appointment and the Client or a representative of the subject matter premises has not arrived after 30 minutes. Photographer may be entitled to receive the aforementioned payments even if the Scheduled Appointment has been rescheduled and Photographer is to perform the pertinent photographer services.

Notwithstanding the above, actual compensation for cancellation may vary from job to job, depending on Client's arrangement with Kodakit. Photographer will be notified by Kodakit in advance the structure of compensation for cancellation.

## **17. TERMINATION.**

We may terminate this Photographer Agreement at any time and for any reason or no reason upon written notice to Photographer. Upon termination of this Photographer Agreement and unless otherwise agreed in writing, Photographer shall promptly cease performance of any services performed pursuant to a PSO and promptly deliver all Work Product, including works in progress. Upon termination of this Photographer Agreement, we shall pay Photographer any pro rata amounts that are due and payable for Commissioned Photos prepared by Photographer prior to the date of termination, unless we terminated the Photographer Agreement for Photographer's breach.

Notwithstanding the generality of our foregoing right to terminate this Photographer Agreement, the following shall be grounds for immediate termination by us of this Photographer Agreement and Photographer's participation in the Service:

- impersonating any other person or falsification of identity;
- sharing login credentials with any other person;
- not performing the work in a manner reasonably deemed to be professional; or
- creating and operating more than one Account, under any circumstances.

## **18. CONFIDENTIAL INFORMATION**

"*Confidential Information*" means confidential and proprietary information of Client and us, whether or not designated or labeled as confidential or proprietary, in written, graphic, verbal or machine readable

form, including, without limitation, technical data, trade secrets or know-how, research, product plans, products, services, suppliers, customer lists and customers, prices and costs, markets, software, developments, inventions, laboratory notebooks, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, licenses, finances, budgets or other business information, but does not include information which (i) becomes generally available to the public other than by breach of this Photographer Agreement by Photographer; (ii) is disclosed to Photographer by a person who is not under an obligation of confidence to Client or us, as the case may be; or (iii) is required to disclose pursuant to a judicial, arbitral or governmental order or other compulsion or operation of law, provided that Photographer, to the extent not prohibited by law, provides Client or us with prompt written notice of such order, cooperates with Client and us to seek (and comply with) a protective order or other limitation of disclosure, and discloses no more Confidential Information than is strictly necessary by the terms of such order.

Photographer shall preserve the confidentiality of Confidential Information from unauthorized use or disclosure using appropriate safeguards and not less than a reasonable standard of care. Photographer shall use the Confidential Information only to carry out its obligations under this Photographer Agreement. The obligation to maintain the Confidential Information in confidence shall survive indefinitely despite the termination or expiration of this Photographer Agreement.

Photographer acknowledges that we have received and in the future will receive from third parties said third parties' confidential information (including from a Client or a Client's customers), subject to a duty to maintain the confidentiality of such information and to use it only for certain limited purposes. Photographer will treat such information as Confidential Information hereunder and shall not, directly or indirectly, use, make available, sell, disclose or otherwise communicate to any third party, other than in the assigned duties and to the extent needed to be known, as applicable, any such confidential information.

Photographer understands and agrees that a breach of this section may cause irreparable harm to Client or us, and monetary damages may be inadequate to compensate Client or us. Any breach by Photographer of this section shall entitle Client or us to seek equitable relief, including but not limited to specific performance or injunctive relief without requirement of bond, in addition to remedies otherwise available at law or in equity.

## **19. INDEMNIFICATION**

Photographer shall defend, indemnify, and hold harmless us and our affiliates (including, without limitation, Kodakit (Singapore) Pte, Ltd.) and their respective customers (including Client), and each of their directors, officers, employees, agents and customers (including, without limitation, Client), from and against all third-party claims, costs, liability, loss, damages, expenses, or judgments arising out of or relating to (i) any breach of this Photographer Agreement by Photographer, (ii) any alleged infringement by Photographer or the Work Product of the intellectual property rights of any third party, (iii) Photographer performing services and creating the Work Product at the subject matter properties including, without limitation, claims for damages caused by Photographer on a subject matter property; or (iii) any alleged negligence, unlawful or tortious act or omission, or willful misconduct by Photographer during the term of this Photographer Agreement. Photographer's obligations under this section shall survive termination or expiration of this Photographer Agreement.

## **20. EXPENSES AND REIMBURSEMENT**

Unless expressly set forth in a PSO, we shall not and a Client shall not have any obligation to pay for any out of pocket expenses incurred by Photographer in connection with the photography services, including, without limitation, any transportation, materials or service costs of Photographer.

## **21. INSURANCE**

Photographer shall maintain continuous insurance coverage that is reasonable and adequate to protect against all applicable risks and to enable it to meet its obligations created by this Photographer Agreement and by law. Upon our request Photographer shall promptly provide proof of such coverage to Client within fifteen (15) business days of the date hereof.

## **22. SAFETY**

If, for any reason, Photographer feels unsafe or uncomfortable when performing photography services, Photographer should professionally and politely leave the premises and remove yourself from the situation. If necessary, Photographer should contact the local law authorities first. A Photographer should not complete any tasks that would put Photographer at risk financially or physically. Photographer shall follow all guidelines, laws and restrictions for any sites or venues Photographer visits or utilizes when performing photographic services.

## **23. GOVERNING LAW**

This Photographer Agreement will be governed by and construed in accordance with the laws of Singapore and the parties submit to the non-exclusive jurisdiction of the courts of Singapore to hear any disputes, which arise out of, under, or in connection with this Photographer Agreement. For purposes of clarity, the Dispute Resolution provisions contained in the Terms also applies to this Photographer Agreement.

## **24. THIRD PARTY BENEFICIARY**

Photographer agrees and acknowledges that Client is a third party beneficiary of this Agreement, entitled to enforce the terms hereof as if a party hereto.

## **25. ASSIGNMENT**

We may assign this Photographer Agreement including any the terms and conditions incorporated by reference, in whole or in part, at any time with or without notice to you. You may not assign this Photographer Agreement.

## **26. TERMS**

This Photographer Agreement is incorporated in and form part of the [Terms](#). Capitalized terms not otherwise defined shall have the meanings set forth in such Terms.

## **Annex to KodakIt Agreements Compliance with Privacy and Security Laws**

### **Recitals:**

KodakIt and the Photographer (the “Vendor”) have one or more agreements (collectively, “the Agreements”) pursuant to which the Vendor provides services to KodakIt (collectively, the “Services”) that may entail the processing of Personal Information (as defined below).

U.S. and international privacy, security and security breach notification laws impose specific obligations on KodakIt with regard to its vendor relationships. In particular, some Privacy Laws (as defined below) require companies to have contracts containing specific provisions relating to privacy, security and breach notification.

Each of the Agreements contains provisions requiring each party to comply with all applicable laws. This Annex documents the data protection requirements imposed upon the parties by the Privacy Laws, and supersedes any, to the extent in conflict with, previously agreed upon terms related to Privacy Laws. This Annex is hereby incorporated by reference into each Agreement in order to demonstrate the parties’ compliance with the Privacy Laws.

### **1. Definitions.**

- (a) “EEA Personal Data” means that subset of Personal Information consisting of personal data (as defined in GDPR) pertaining to residents of the European Economic Area (EEA) and Switzerland.
- (b) “GDPR” means Regulation (EU) 2016/679, the General Data Protection Regulation.
- (c) “Internal Control Report” means a Type II Service Organizational Control (SOC) report (based on the SSAE 16 or ISAE 3402 model) or any successor report thereto.
- (d) “Personal Information” means any and all data (regardless of format) that (i) identifies or can be used to identify, contact or locate a natural person, or (ii) pertains in any way to an identified natural person.
- (e) “Privacy Laws” means all applicable U.S. and international laws that regulate the Processing of Personal Information. In particular, “Privacy Laws” includes the GDPR and other applicable laws that specify privacy, security or security breach notification obligations that affect the Personal Information or the provision of the Services by Vendor.
- (f) “Processing” means any operation or set of operations which is performed upon Personal Information, whether or not by automatic means, such as collection, compilation, use, disclosure, duplication, organization, storage, alteration, Transfer, transmission, combination, redaction, erasure, or destruction.
- (g) “Security Breach” means a “personal data breach” (as defined in the GDPR), a “breach of the security of a system” or similar term (as defined in any other applicable Privacy Law or any other event that compromises the security, confidentiality or integrity of the Personal Information.
- (h) “Sensitive Information” means that subset of Personal Information, consisting of those data elements which have been classified by law as deserving additional privacy and security

protections. Sensitive Information consists of: (i) all government-issued identification numbers, (ii) all financial account numbers (including payment card information) whether associated with a natural person or a legal person, (iii) individual medical records, genetic and biometric information, (iv) all data obtained from a U.S. consumer reporting agency (such as employee background investigation reports, credit reports, and credit scores), (v) user account credentials, such as usernames, passwords, security questions/answers and other password recovery data, and (vi) data elements that constitute Special Categories of Data under the GDPR, namely EEA Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

- (i) "Services" means any and all services that KodakIt requests the Vendor to perform under the Agreement or any other contract or agreement that involves Processing of Personal Information.
- (j) "Subprocessor" means any third party that provides any services to Vendor and that may have access (including inadvertent access) to any unencrypted Personal Information.
- (k) "Transfer" means to disclose or otherwise make the Personal Information available to a third party (including to any affiliate or Subprocessor of Vendor), either by physical movement of the Personal Information to such third party or by enabling remote access to the Personal Information.

## **2. General Obligations.**

- (a) Vendor shall only Process or Transfer Personal Information as authorized by KodakIt and as necessary to perform the Services.
- (b) Vendor shall promptly inform KodakIt in writing: (i) if it cannot comply with any material term of its agreement with KodakIt regarding the Services (if this occurs, Vendor shall use reasonable efforts to remedy the non-compliance, and KodakIt shall be entitled to terminate Vendor's further Processing of Personal Information); (ii) of any request for access to any Personal Information received from any third party or government official (including any law enforcement agency) unless it is explicitly prohibited by law from notifying KodakIt of the request. Vendor understands that it is not authorized to respond to these requests, unless explicitly authorized by KodakIt or the response is legally required under a subpoena or similar legal document issued by a government agency that compels disclosure by Vendor.
- (c) Each party must use reasonable efforts to stay informed of the legal and regulatory requirements for its Processing of Personal Information. Vendor's Processing shall comply with all Privacy Laws that are applicable to the Processing.
- (d) Once per year upon request, Vendor shall provide KodakIt with copies of applicable Internal Control Reports. KodakIt understands that the responses and Internal Control Reports contain Confidential Information of the Vendor, and it shall not disclose the Internal Controls Reports other than to its auditors and advisors in connection with verifying Vendor's compliance with KodakIt's security and privacy program requirements.
- (e) If the Personal Information will include EEA Personal Data, Vendor and KodakIt shall ensure adequate protection for the EEA Personal Data. Effective May 25, 2018, each party shall comply with the provisions of GDPR and other Privacy Laws applicable to it, as a "controller" or a

“processor” (as defined in GDPR. In the event of any Transfers of EEA Personal Data, the parties shall document adequate protection for the EEA Personal Data using another approved means in accordance with section 3(c) below.

- (f) Vendor shall reasonably cooperate with KodakIt in responding to inquiries, incidents, claims and complaints regarding the Processing of the Personal Information or as otherwise needed for KodakIt or Vendor to demonstrate compliance with the Privacy Laws.

### **3. Confidentiality, Data Access and Transfers.**

- (a) Consistent with the confidentiality provisions of the Agreement, KodakIt Information is considered Confidential Information of KodakIt and Vendor must maintain all KodakIt Information in strict confidence.
- (b) Prior to allowing any employee or contingent worker to Process any KodakIt Information, Vendor shall (i) require the individual to execute an enforceable confidentiality agreement, and (ii) provide the individual with appropriate privacy and security training. Vendor will also monitor its employees and contingent workers for compliance with the privacy and security program requirements.
- (c) Vendor shall not Transfer the Personal Information to any Subprocessors or other third parties unless such Processing is required to perform the Services. Upon request, Vendor shall provide KodakIt with a list of all such Subprocessors.

Vendor shall ensure that each such Subprocessor has entered into a written contract that contains protections for the Personal Information that are materially the same as the ones contained herein.

Vendor shall not Transfer the Personal Information across any national borders or permit remote access to the Personal Information from any Subprocessor or other third party outside of the country unless Vendor has the prior written consent of KodakIt for such Transfer. Vendor understands that KodakIt must authorize all such cross-border transfers, including by use of approved Transfer mechanisms. Notwithstanding the preceding, KodakIt authorizes Vendor to make routine Transfers of Personal Information in the normal course of business on its corporate systems to itself in other countries and to its affiliates, which are under common ownership with Vendor. To the extent that these Transfers include any EEA Personal Data, Vendor agrees to comply with the provisions paragraph (d) below.

- (d) With regard to Transfers of EEA Personal Data, if any, the parties shall assure adequate protection for the EEA Personal Data by (one of): (i) entering into approved EU Standard Contractual Clauses (Processors), (ii) the Vendor’s certification to EU-US and/or Swiss-US Privacy Shield Program, (iii) the Vendor’s approved set of Binding Corporate Rules for Data Processors. In the event that EU authorities or courts determine that the Transfer mechanism selected above is no longer an appropriate basis for Transfers, Vendor and KodakIt shall promptly take all steps reasonably necessary to demonstrate adequate protection for the EEA Personal Data, using another approved mechanism. Vendor understands and agrees that KodakIt may terminate the Transfers as needed to comply with the EEA Privacy Laws.

### **4. INFORMATION SECURITY REQUIREMENTS.**

- (a) Vendor shall have implemented and documented appropriate administrative, technical and

physical measures to protect Personal Information against accidental or unlawful destruction, alteration, unauthorized disclosure or access. Vendor will regularly test and monitor the effectiveness of its safeguards, controls, systems and procedures. Vendor will periodically identify reasonably foreseeable internal and external risks to the security, confidentiality and integrity of the Personal Information, and ensure that these risks are addressed.

- (b) To the extent required by applicable Privacy Laws or as provided in the Agreements, Vendor shall submit its data processing facilities for audit at least annually, which shall be carried out by an independent auditor designated by Vendor in a manner designed to validate Vendor's controls against an established security standard (such as ISO 27001). In the event that any such audit reveals material gaps or weaknesses in Vendor's security program, Vendor shall promptly notify KodakIt, and KodakIt shall be entitled to terminate Vendor's Processing of Personal Information until such issues are resolved. Vendor shall also reasonably cooperate with any audits conducted by any regulatory agency that has authority over KodakIt as needed to comply with applicable law.
- (c) Vendor will promptly and thoroughly investigate all allegations of unauthorized access to, use or disclosure of the Personal Information. Vendor will notify KodakIt within 48 hours of determining that a Security Breach impacts Personal Information. This notification must be made via email to [WW-CISO-Mail@KodakIt.com](mailto:WW-CISO-Mail@KodakIt.com). Vendor shall provide KodakIt with all information about the Security Breach reasonably needed by KodakIt to assess its incident response obligations.
- (d) When the Vendor ceases to perform Services for KodakIt (and at any other time, upon request), Vendor will either (i) return the Personal Information (and all media containing copies of the Personal Information) to KodakIt, or (ii) purge, delete and destroy the Personal Information. If Vendor is required by applicable law to retain any Personal Information, Vendor shall (i) ensure the continued confidentiality and security of the Personal Information, (ii) securely delete or destroy the Personal Information when the legal retention period has expired, and (iii) not actively Process the Personal Information other than as needed for to comply with law.