

## TERMS OF USE

*Last Updated: November 07, 2023*

This Terms and Conditions (the "Terms") provides important information about your use of the iOS mobile software application allowing you, among other things, to upload, edit, publish, store, and share photos and images, and is an agreement between you and Polina Kravchenko (collectively, "Company", "we", "us", or "our"). We refer to all types of users collectively as "Users" or "you" for purposes of these Terms.

IF YOU CHOOSE TO USE THE APP, YOU MUST ACCEPT THESE TERMS AS PRESENTED TO YOU, WITHOUT CHANGES. BY ACCEPTING THESE TERMS AND BY CONTINUING TO ACCESS OR USE THE APP, YOU ARE ACCEPTING AND AGREEING TO THESE TERMS ON BEHALF OF YOURSELF OR THE ENTITY YOU REPRESENT, AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ACCEPT AND AGREE TO THESE TERMS ON BEHALF OF YOURSELF OR THE ENTITY YOU REPRESENT. IF YOU DO NOT AGREE WITH ANY OF THE PROVISIONS OF THESE TERMS, PLEASE DO NOT ACCESS OR USE THE APP.

THIS AGREEMENT SHALL BE EFFECTIVE ON THE DATE USER CLICKS A BUTTON INDICATING ITS ACCEPTANCE WITH THE TERMS AND CONDITIONS ("EFFECTIVE DATE"). IF ANY FUTURE CHANGE IS UNACCEPTABLE TO YOU, YOU SHOULD DISCONTINUE USING THE APP. YOUR CONTINUED USE OF THE APP WILL ALWAYS INDICATE YOUR ACCEPTANCE OF THESE TERMS AND ANY CHANGES TO IT.

### 1. ELIGIBILITY AND SCOPE

**1.1 General.** To use the App you must be, and represent and warrant that you are, at least 13 years of age and competent to agree to these Terms. If Company has previously prohibited you from accessing or using the App, you are not permitted to access or use the App.

**1.2 Location.** These Terms are applicable to all users regardless of geographical location.

### 2. ACCOUNT REGISTRATION AND USE

**2.1 Account Registration.** To access the App, you must register for an App account using your email and by creating a password. You agree to provide us with accurate, complete, and current registration information about yourself. It is your responsibility to ensure that your password remains confidential and secure. By registering, you agree that you are fully responsible for all activities that occur under your account. We may assume that any communications we receive under your account have been made by you.

**2.2 Unauthorized Account Use.** You are responsible for notifying us if you become aware of any unauthorized use of or access to your account. You understand and agree that we may require you to provide information that may be used to confirm your identity and help ensure the security of your account. Company will not be liable for any loss, damages, liability, expenses or attorneys' fees that you may incur as a result of someone else using your password or account, either with or without your knowledge and/or authorization, and regardless of whether you have or have not advised us of such

unauthorized use. You will be liable for losses, damages, liability, expenses and attorneys' fees incurred by the Company or a third party due to someone else using your account.

### **3. THE SERVICE AND PAYMENTS**

**3.1 Provision of the Service.** Company shall make the Service purchased available to the User pursuant to this Agreement during the applicable Billing Period, unless Service is provided on a trial basis. Company may update the content, functionality, and user interface of the Service from time to time in its sole discretion. Some features may not be available in your country or region.

**3.2. Subscription and Fees.** We offer subscription plans that provide access to the Service (the "Subscription"). You may purchase the Subscription through a third party, such as the iOS App Store. If you purchase the Subscription from a third party, separate terms and conditions with such third party in addition to these terms may apply to your access to the Service.

Your payment to the third party through which you purchased the Subscription will automatically renew and continue until terminated. You must cancel your Subscription before it renews in order to avoid paying the subscription fees for the next billing period (see "Cancellation and Refunds" below). We reserve the right to modify, terminate, or otherwise amend the subscription plans we offer from time to time. If you have purchased the Subscription, we will give you advance notice of significant changes to your plan.

Unless we specify that your Subscription includes use of the Service by multiple users, your Subscription is for a single user only, you may not share your Subscription with anyone else, and you may access and use your Subscription on up to ten devices on a single operating system.

**3.3. Payment Method.** Unless otherwise indicated, you are required to provide a credit card or other payment method that the third party through which you purchased the Subscription, accept to pay the applicable fee for the Subscription. Such third party will charge the payment method you've chosen a subscription fee plus any applicable taxes on a recurring basis corresponding to the term of your Subscription. You are solely responsible for any and all fees charged to the payment method you've chosen. We reserve the right to cancel your Subscription if we are unable to successfully charge your payment method.

**3.4. Billing Period.** The third party from who you purchased a Subscription will automatically bill you using the payment method you've chosen on the day you start your Subscription or the day your free Trial ends (see "Free Trials" below), as applicable, and on each recurring billing date thereafter. Your "billing period" is the interval of time between each recurring billing date and corresponds to the term of your Subscription (which is a "week", a "month", and a "year", or any other term). If your Subscription renews on a date not contained in a given month, then we will charge you on the last day of such month. The amount you are billed and billing date may vary to account for a free Trial, promotional offers, and changes in your Subscription or payment method. You authorize us to charge you for these varying amounts, if any.

**3.5. Cancellation and Refunds.** You can cancel your Subscription by signing in to your account and following the instructions for cancelling your Subscription or through your Apple App Store settings. If you cancel your Subscription, you will continue to have access to the applicable Service and any Content you created through the end of your current billing period. ALL PAYMENTS ARE NONREFUNDABLE. IF YOU CANCEL YOUR SUBSCRIPTION, OR IF YOUR ACCOUNT IS TERMINATED UNDER THESE TERMS, YOU WILL NOT RECEIVE A REFUND OR CREDIT, INCLUDING FOR PARTIAL PERIODS OF SERVICE.

**3.6. Free Trials.** From time to time, we may offer trials of Subscriptions for a specified period without payment or at a reduced rate (the "Trial"). We may determine your eligibility for the Trial, and withdraw or modify the Trial at any time without prior notice and with no liability, to the extent permitted under applicable law. For some Trials, we'll require you to provide your payment details to start the Trial. By providing such details, you agree that we may automatically begin charging you for a Subscription on the first day following the end of the Trial on a recurring monthly basis or another interval that we disclose to you in advance. TO AVOID PAYING THIS CHARGE, YOU MUST CANCEL THE APPLICABLE SUBSCRIPTION BEFORE THE END OF THE TRIAL. IF YOU RECEIVED YOUR TRIAL THROUGH A THIRD PARTY, YOU MUST CANCEL THE APPLICABLE SUBSCRIPTION THROUGH THE THIRD PARTY.

**3.7. Promotions.** We may, in our sole discretion, create promotional codes that may be redeemed for credit in your Account, or other features or benefits related to the Service, subject to any additional terms that we establish on a per promotional code basis ("Promo Codes"). Promo Codes may only be used once per person. Each benefit may only be redeemed once per Account. Promo Codes for duplicate benefits will be voided. Only Promo Codes sent to you through our communications channels are valid. You agree that Promo Codes: (i) must be used for the intended purpose, and in a lawful manner; (ii) may not be duplicated, sold, or transferred in any manner, or made available to the general public (whether posted to a public forum or otherwise), unless expressly permitted by us; (iii) may be disabled by us at any time for any reason without liability to us; (iv) may only be used pursuant to the specific terms that we establish for such Promo Code; (v) are not redeemable for cash, gift cards or cash equivalents; and (vi) may expire prior to your use.

**3.8 Future Features and Functionality.** User agrees that any purchases under this Terms are not contingent on the delivery of any future feature or functionality or dependent on any oral or written public or private comments made by the Company regarding future features or functionality. Company may release Improvements and other features and functionality in its discretion. Some features and functionality may be available only with certain versions of the Service.

**3.9 Term and Termination of the Subscription.** The Subscription commences on the Effective Date and shall remain in effect until all Subscriptions to the Service granted in accordance with this Agreement have expired or been terminated. Either party may terminate this Subscription if the other party: (a) is in material breach of this Terms and Conditions and fails to cure such breach within twenty (30) days following receipt of written notice from the non-breaching party; or (b) ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within sixty (60) days. Upon expiration or termination of this Subscription for any reason, all Subscriptions and any other rights granted to User under this Terms and Conditions shall

immediately terminate, and Company may immediately deactivate User's account(s). In no event will any termination relieve User of the obligation to pay any fees accrued or payable to the Company. The following sections shall survive expiration or termination of Subscription: Sections 3.2 ("Subscription and Fees"), 3.9 ("Term and Termination of the Subscription"), 4 ("Our Intellectual Property Rights"), 5.2 ("Usage Restrictions"), 8 ("Limitation of Liability"), 9 ("Indemnification"), 10 ("Warranties"), 13 ("General Terms"), and 14 ("Definitions").

#### **4. OUR INTELLECTUAL PROPERTY RIGHTS**

The Service and App are owned and operated by the Company and contain materials (including all software, design, text, editorial materials, informational text, photographs, illustrations, audio clips, video clips, artwork and other graphic materials, and names, logos, trademarks and services marks) which are derived in whole or in part from materials supplied by the Company and its affiliates, as well as other sources, and are protected by copyright laws, international treaty provisions, trademarks, service marks and other intellectual property laws. You agree to abide by all applicable copyright and other laws, as well as any additional copyright notices or restrictions contained in the Service and App. You acknowledge that the Service and App have been developed, compiled, prepared, revised, selected, and arranged by the Company and others through the application of methods and standards of judgment developed and applied through the expenditure of substantial time, effort, and money and constitute valuable intellectual property of the Company and such others. You agree to notify the Company immediately upon becoming aware of any claim that the Service and App infringe upon any copyright, trademark, or other contractual, statutory, or common law rights. Any unauthorized use of any material contained on or through the Service and App may violate copyright laws, trademark laws, the laws of privacy and publicity and communications regulations and statutes.

#### **5. AI-FEATURES TERMS OF USE.**

The App integrates a third-party AI functionality into its App(s) and/or Web Services that enables Users to craft and disseminate bespoke AI-generated conceptual artworks. Users have the privilege to broadcast their artistry via several mediums, encompassing the Services, social media platforms, SMS, and email. The utilization of the AI alongside the Apps is subject to a compilation of binding legal agreements, inclusive of this "5. AI-Features Terms of Use" and the Privacy Policy, herein referred to collectively as the "Agreements." These Agreements are crafted to ensure coherence and to preclude any discrepancies or conflicts therein.

##### **5.1. Artworks.**

Users may employ the integrated AI tool to produce AI-derived conceptual art ("Artworks") from textual inputs ("Text Cues") or user-uploaded visuals ("Image Cues").

##### **5.2. Artwork Utilization.**

If you adhere to these Contracts, you may exploit the Artworks for lawful activities, including commercial endeavors. Any commercial exploitation you undertake is your responsibility and must align with the Stable Diffusion License and these Contracts. The Company disclaims all warranties related to the use of Artworks.

### **5.3. Prohibited Uses.**

The AI tool must not be used unlawfully or in ways that could cause harm or infringe upon the rights of others. No rights are provided for utilizing any individual's name, likeness, or personal information without permission; any such use is at your risk. You are forbidden from using the AI tool and associated Cues for creating offensive or illegal content. The Company reserves the right to remove such content or terminate your account at its discretion. You are also prohibited from reverse-engineering the AI tool or creating competing services. You agree to indemnify the Company as described herein for any use of the AI tool.

### **5.4. Ownership of Artworks.**

You accept that using the AI feature is at your risk and the Company makes no warranties about any Artworks or potential claims of ownership or copyrights from others. Applicable laws may not recognize your rights to any Artworks. Nevertheless, where allowed by law, you retain rights to your Cues and Artworks and grant the Company the relevant licenses as previously outlined. The Company will not sell your Artworks nor claim copyright against you or end-users, provided you follow the Contracts. If you breach the Contracts, you may forfeit rights to the Artworks, but the Company may offer a chance to rectify the violation. You acknowledge that similar Artworks could be independently created by others. Your rights are limited to the specific Artworks you produce.

### **5.5. Enhancing AI Safety and Development.**

By using the service, you grant the Company the right to utilize your Text and Image Cues to augment AI safety measures and refine its technology and services. Cues may be reviewed manually by staff or third-party contractors globally. Do not submit Cues you consider private or sensitive.

## **6. LICENSE AND USAGE RESTRICTIONS**

**6.1 Your License.** Subject to your compliance with these Terms, we grant you a limited, non-exclusive, non-sublicensable, non-transferable, and revocable license to access and use the Service and App only for your own internal use. Company may revoke this license at any time, in its sole discretion.

**6.2 Usage Restrictions.** All Users must comply with the following rules regarding acceptable use of the Service and App.

Disruption of the Service. You may not:

- access, tamper with, or use non-public areas of the Service and App, Company's computer systems, or the technical delivery systems of Company's providers;
- probe, scan, or test the vulnerability of any system or network or breach or circumvent any security or authentication measure;
- attempt to disrupt or overwhelm our infrastructure by intentionally imposing unreasonable requests or burdens on our resources (e.g. using "bots" or other automated systems to send requests to our servers at a rate beyond what could be sent by a human user during the same period of time); or

- interfere with or disrupt the access of any user, host or network, including, without limitation, by sending a virus, overloading, flooding, spamming, mail-bombing the Service and App;

Misuse of the Service and App. You may not utilize the Service to carry out, promote or support:

- any unlawful or fraudulent activities;
- the impersonation of another person or entity or the misrepresentation of an affiliation with a person or entity in a manner that does or is intended to mislead, confuse, or deceive others;
- activities that are defamatory, libelous or threatening, constitute hate speech, harassment, or stalking;
- the publishing or posting of other people's private or personal information without their express authorization and permission;
- the sending of unsolicited communications, promotions advertisements, or spam;
- the publishing of or linking to malicious content intended to damage or disrupt another user's browser or computer; or
- the promotion or advertisement of products or services other than your own without appropriate authorization.

User Content Standards Within the Service and App. You may not upload any User Content on the Service or App that:

- violates any applicable law, any third party's intellectual property rights, or anyone's right of privacy or publicity;
- is deceptive, fraudulent, illegal, obscene, pornographic (including child pornography, which, upon becoming aware of, we will remove and report to law enforcement, including the National Center for Missing and Exploited children), defamatory, libelous or threatening, constitutes hate speech, harassment, or stalking;
- contains viruses, bots, worms, or similar harmful materials; or
- contains any information that you do not have a right to make available under law or any contractual or fiduciary duty.

User shall not (a) make the Service available to, or use any Service for the benefit of, anyone other than the User itself; (b) rent, sublicense, re-sell, assign, transfer, distribute, time share, or similarly exploit the Service; (c) reverse engineer, copy, modify, adapt, hack the Service, or otherwise attempt to gain unauthorized access to the Service or its related systems or networks; (d) access the Service, the Documentation, to build a competitive product or service; (e) alter or remove, or permit any third party to alter or remove, any proprietary trademark or copyright markings incorporated in, marked on, or affixed to the Service; (f) allow Subscriptions to be shared or used by

more than one individual (except that Subscriptions may be reassigned to new Users replacing individuals who no longer use the Service for any purpose, whether by termination of employment or other change in job status or function); or (g) access or use the Service: (i) to send or store infringing, obscene, threatening, or otherwise unlawful material, including material violative of third-party privacy rights; (ii) in violation of applicable laws; (iii) to send or store material knowingly or intentionally containing software viruses, worms, Trojan horses or other harmful computer code, files, or scripts; or (iv) in a manner that interferes with or disrupts the integrity or performance of the Service (or the data contained therein).

### **6.3 AI-features Usage Restrictions.**

The AI functionality leverages the open-source software titled CreativeML Open RAIL-M, which is regulated by the SD ("Stable-Diffusion") License. Limitations are contingent upon the conditions stipulated within the SD License (accessible via <https://huggingface.co/spaces/CompVis/stable-diffusion-license>), which may be subject to modifications by the originator of this open-source license ("SD License"). The integrated AI functionality and/or any Derivatives (as defined in the SD License) must not be utilized in any manner that contravenes the intended scope of the restricted uses outlined in the SD License. The Company retains exclusive discretion to ascertain if a usage contravenes or is inconsistent with the SD License. You may operate the AI feature only in a lawful manner that is in strict adherence to both the SD License and the Contracts. The term 'use' encompasses the creation of any content (including but not limited to Artworks), utilizing or executing the AI feature.

**6.4 Violations of this Section.** In addition to any other remedies that may be available to us, Company reserves the right to take any remedial action it deems necessary, including immediately suspending or terminating your account or your access to the Service, upon notice and without liability for the Company should you fail to abide by the rules in this Section 5 or if, in Company's sole discretion, such action is necessary to prevent disruption of the Service for other users.

## **7. USER CONTENT AND FEEDBACK**

**7.1 User Content and Submissions on the Service.** The Service allows you to upload, edit, publish, store, any information, data, text, images, stickers, usernames, graphics, photos, or other materials (collectively, "User Content") and to share that User Content with others. Content submitted to the Service by Users is owned and controlled by the User as set forth in these Terms. Company maintains a limited, non-exclusive and non-transferrable (except in connection with the sale or transfer of its business) license to access, use, copy, reproduce, process, adapt, publish, transmit, host, and display User Content for the following limited purposes: (i) to maintain, provide and improve the Service; (ii) to prevent or address technical or security issues and resolve support requests; (iii) to investigate when we have a good faith belief, or have received a complaint alleging, that such User Content is in violation of these Terms; (iv) to comply with a valid legal subpoena, request, or other lawful process that meets the requirements of these Terms; and (v) as otherwise set forth in these Terms or as expressly permitted in writing by the User.

**7.2 AI-Generated Artwork Licensing Rights.** The AI feature, embedded within the App(s), empowers Users to generate "Artwork" utilizing artificial intelligence. This feature is public and enables the creation of content by Users. When you disseminate User

Content via the Services, including uploading "Image Cues," you endow the Company, its affiliates, and partners with a global, non-exclusive, fully-paid, royalty-free, perpetual, sublicensable, and transferable license to utilize, replicate, disseminate, create derivative works from, exhibit, broadcast, alter, publicly display, publish, perform, market, and otherwise exploit the User Content. This license applies across all existing and future media formats and channels worldwide, without any requirement for additional consent from you. Furthermore, you bestow upon the Company and its partners, including other users, the same range of rights to create additional images from and modify the "Image Cues" you provide.

**7.3 Feedback on the App.** The App may have certain features that allow you to submit comments, information, and other materials (collectively, "Feedback") to the Company and share such Feedback with other users, or the public. By submitting Feedback through the App, you grant Company a license to access, use, copy, reproduce, process, adapt, publish, transmit, host, and display that Feedback for any purpose. We reserve the right to remove any Feedback posted in public forums for any reason at our sole discretion.

**7.4 User Content and Feedback Representations.** You acknowledge and agree that you have all required rights to submit User Content and Feedback without violation of any third-party rights. You understand that Company does not control, and is not responsible for, User Content or Feedback, and that by using the Service, you may be exposed to User Content or Feedback from other users that is offensive, indecent, inaccurate, misleading, or otherwise objectionable. Please also note that User Content and Feedback may contain typographical errors, other inadvertent errors or inaccuracies. You agree that you will indemnify, defend, and hold harmless Company for all claims resulting from User Content or Feedback you submit through the Service. We reserve the right, at our own expense, to assume the exclusive defense and control of such disputes, and in any event you will cooperate with us in asserting any available defenses.

**7.5. Service Support.** The User may contact Company at [support@faceaiapp.com](mailto:support@faceaiapp.com) with the User's support queries. Company will respond to User's request within 10 (ten) working days after receipt of such request without any additional charge for the User.

## **8. PRIVACY**

For information about how we collect, use, and protect the data we collect from and about you, please see our [Privacy Policy](#) which is incorporated by reference into these Terms.

## **9. LIMITATION OF LIABILITY**

EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 9 ("INDEMNIFICATION"), IN NO EVENT SHALL EITHER PARTY'S OR ITS AFFILIATES' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR UNDER ANY OTHER THEORY OF LIABILITY) EXCEED THE TOTAL AMOUNT PAID OR PAYABLE BY USER HEREUNDER IN THE 12 MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY.

IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES, OR LOSS OF USE, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

COMPANY DOES NOT WARRANT, ENDORSE, GUARANTEE OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SERVICE AND WEBSITES OR ANY WEBSITE FEATURED OR LINKED TO THROUGH THE SERVICE AND WEBSITES, AND COMPANY WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICE AND WEBSITES. COMPANY WILL NOT BE LIABLE FOR THE OFFENSIVE OR ILLEGAL CONDUCT OF ANY THIRD PARTY.

## **10. INDEMNIFICATION**

YOU AGREE TO INDEMNIFY, DEFEND, AND HOLD COMPANY AND ITS RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, MEMBERS, SHAREHOLDERS, CONTRACTORS, OR REPRESENTATIVES (AND ALL SUCCESSORS AND ASSIGNS OF ANY OF THE FOREGOING), HARMLESS FROM AND AGAINST ANY CLAIM OR DEMAND, INCLUDING WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND DISBURSEMENTS, MADE BY ANY THIRD PARTY IN CONNECTION WITH OR ARISING OUT OF YOUR USE OF THE SERVICE, YOUR CONNECTION TO THE SERVICE, YOUR VIOLATION OF THIS TERMS OR COMPANY'S PRIVACY NOTICE, YOUR VIOLATION OF AN APPLICABLE LAW, YOUR SUBMISSION OF USER CONTENT TO THE SERVICE, AND/OR YOUR VIOLATION OF ANY RIGHTS OF ANOTHER INDIVIDUAL OR ENTITY. WE RESERVE THE RIGHT, AT OUR OWN EXPENSE, TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF SUCH DISPUTES, AND IN ANY EVENT YOU WILL COOPERATE WITH US IN ASSERTING ANY AVAILABLE DEFENSES.

## **11. WARRANTIES**

**11.1 By Company.** Company warrants that during the applicable Billing Period (a) the Service shall perform materially in accordance with the applicable Terms; and (b) Company shall not materially decrease the functionality of the Service.

**11.2 By User.** User warrants that (a) this agreement is legally binding upon it and enforceable in accordance with its terms; (b) it has obtained all legally required consents and permissions from respective owners for the submission User Content to the Service; and (c) the transfer and processing of User's Data under the Agreement is lawful.

**11.3 Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS SECTION, TO THE FULLEST EXTENT PERMITTED BY LAW, THE PROFESSIONAL SERVICES, SERVICE, AND ALL RELATED COMPONENTS AND INFORMATION ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND, AND COMPANY AND ITS AFFILIATES EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. USER ACKNOWLEDGES THAT COMPANY DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE.

COMPANY IS NOT RESPONSIBLE FOR AND DISCLAIMS ALL LIABILITY RELATED TO DELAYS, DELIVERY FAILURES, INTERCEPTION, ALTERATION, OR OTHER DAMAGE RESULTING FROM MATTERS OUTSIDE OF ITS CONTROL, INCLUDING PROBLEMS INHERENT IN THE USE OF THE INTERNET, MOBILE AND PERSONAL COMPUTING DEVICES, TRANSMISSION OF ELECTRONIC COMMUNICATIONS OVER THE INTERNET OR OTHER NETWORKS, AND THIRD PARTY HOSTING SERVICE PROVIDERS.

## **12. EXCLUSIONS AND LIMITATIONS**

Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages such as above. Accordingly, some of the above limitations may not apply to you. If you are a New Jersey resident, or a resident of another state that permits the exclusion of these warranties and liabilities, then the limitations specifically do apply to you.

## **13. APPLICABLE LAW AND VENUE**

Please note that these Terms, and their subject matter and formation, are governed by the laws of England and Wales. However, if you are a resident of any European or non-European country you will benefit from, any mandatory provisions of, and legal rights available to you under, the laws of that country. Nothing in these Terms affects your rights as a consumer or data subject to rely on any such local law mandatory provisions and legal rights.

You can contact Company at [support@faceaiapp.com](mailto:support@faceaiapp.com) if you have any complaints or disputes about the Services. You and Company shall use best efforts to settle any dispute, claim, question, or disagreement directly through consultation and good faith negotiations, which shall be a precondition to either party initiating a lawsuit or other form of complaint. If we do not reach an agreed-upon solution within a period of 90 days from the time informal dispute resolution is pursued, to the extent permitted by applicable law, all controversies, disputes, demands, counts, claims or causes of action between you and Company arising out of, under, or related to the Services shall be submitted to the exclusive jurisdiction of the courts of England and Wales.

## **14. GENERAL TERMS**

**14.1. No waiver.** If we fail to insist that you perform any obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived such rights and will not mean that you do not have to comply with your obligations. If we do waive a failure or breach by you, we will only do so in writing and that will not mean that we automatically waive any future failure or breach by you.

**14.2 Severability.** Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

**14.3 No Assignment.** Neither this agreement nor any of the rights and licenses granted under this Terms and Conditions may be transferred or assigned by either party without the other party's express written consent (not to be unreasonably withheld or delayed); provided, however, that Company may assign this agreement upon written notice without the other party's consent to an Affiliate or to its successor in interest in

connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the non-assigning party. Any other attempt to transfer or assign this agreement will be null and void. Subject to the foregoing, this Terms and Conditions shall bind and inure to the benefit of the parties, their respective successors, and permitted assigns.

**14.4 Force Majeure.** Company shall not be liable for delayed or inadequate performance of its obligations hereunder to the extent caused by a condition that is beyond Company's reasonable control, including but not limited to natural disaster, civil disturbance, acts of terrorism or war, labor conditions, governmental actions, interruption or failure of the Internet or any utility service, failures in third-party hosting services, and denial of service attacks (each a "Force Majeure Event"). Company shall be relieved from its obligations (or part thereof) as long as the Force Majeure Event lasts and hinders the performance of said obligations (or part thereof).

**14.5 Beta Access.** User may be invited to participate in review and testing of pre-release versions of new and beneficial tools and Service enhancements which may be identified to User as "alpha," "beta," "preview," "pre-release," "early access," or "evaluation" product or services (collectively, the "Beta Tests" and such pre-release functionality, the "Beta Product"). User acknowledges and understands that its participation in Beta Tests is not required and is at User's own risk, and that Beta Products are made available on an "as is" basis without warranties (express or implied) of any kind, and may be discontinued or modified at any time. Beta Products are for evaluation and testing purposes, not for production use, not supported, not subject to availability or security obligations, and may be subject to additional terms. Company shall have no liability for any harm or damage arising out of or in connection with Beta Products.

**14.6 Modifications.** Company reserves the right at any time to modify or discontinue, temporarily or permanently, the Service (or any part thereof), with or without notice. You agree that Company shall not be liable to you or any third party for any modification, suspension or discontinuance of the Service.

**14.7 Notices.** We may deliver notice to you by e-mail, posting a notice on the Service or any other method we choose and such notice will be effective on dispatch. If you give notice to us, it will be effective when received and you must use the following physical or email address: (1) Ukraine, Kyiv; or (2) [support@faceaiapp.com](mailto:support@faceaiapp.com)

## **15. DEFINITIONS**

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means either: (a) ownership or control of more than 50% of the voting interests of the subject entity; or (b) the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract, or otherwise.

"User Data" means information submitted by User through the Service, including all associated messages, attachments, photos, images, files, and other similar content.

“Documentation” means Company’s then-current online user guides, as updated from time to time, and made accessible from within the “Help” feature of the Service.

“Intellectual Property Rights” means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

“Improvements” means new features, functionality, enhancements, upgrades, error corrections and bug fixes to the Service made generally available by Company with or without additional charge.