

## ENDVR SERVICES AGREEMENT

This Services Agreement (together with Order Forms, Change Orders, Statements of Work, exhibits, schedules, and amendments, the “**Agreement**”) is entered into as of May 28, 2020 (the “**Effective Date**”) by and between NewKnow Inc, a company incorporated under the laws of Canada with a registered office at 5530 St-Patrick, #2121, Montreal, QC, Canada, H3K 1X1 (“**ENDVR**”) and (“**Customer**”).

The Agreement is effective upon date of acceptance of terms, (the “**Effective Date**”).

### Recitals

**WHEREAS**, ENDVR offers a mobile application allowing End Users to enter missions to earn rewards as such missions are created from time to time by the Customer and a web application available to Customer to manage such missions through a software-as-a-service model that includes data hosting, maintenance and support (together, the “**Services**”);

**WHEREAS**, the Customer desires to enter in this Agreement to obtain the Services as described in an order form detailing the modalities of the services performed for Customer (the “**Order Form**”).

**NOW, THEREFORE**, the Parties agree as follows:

### 1. Definitions.

- 1.1 “**Abuses**” shall have the meaning ascribed to it under Section 3.1.
- 1.2 “**Administrators**” means a user authorized by Customer to use and administer the ENDVR Plus Services, including the Missions. Administrators shall not include ENDVR even if ENDVR performs Missions pursuant to a Statement of Work.
- 1.3 “**Affiliate**” is an entity that controls, is controlled by or shares common control with a party, where such control arises from either (a) a direct or indirect ownership interest of more than fifty percent (50%) or (b) the power to direct or cause the direction of the management and policies, whether through the ownership of voting stock by contract, or otherwise.
- 1.4 “**Anonymized Data**” means any Usage Data, Marketing Data, Customer Data and/or any data generated by the Services which has been processed through an industry-standard de-identification technology or method and which, as a result, no longer relates to an identified or identifiable natural person or to Customer. For clarity, Anonymized Data will not compromise any Personal Information. Anonymized Data includes aggregated data about the Services.
- 1.5 “**Business Day**” means Monday to Friday, excluding any Statutory Holidays.
- 1.6 “**Change Order**” shall have the meaning ascribed to it under Section 5.1.
- 1.7 “**Confidential Information**” means any and all information of a party (the “Disclosing Party”) which has or will come into the possession of the other party (the “Receiving Party”) concerning the business, properties, affairs or finances of the Disclosing Party, or of any person, firm, cooperation or other entity which the

Disclosing Party is under an obligation to keep confidential, including trade secrets, source code, algorithms, lists of customers, vendors, suppliers, agents and site visitors, business studies and analyses, specifications and uses of products and services; product research, sales, marketing and strategic plans and forecasts; product and availability information and any and all proposals, notes, projections, memoranda, reports, lists and records, whether written, printed or in digital format or otherwise, and shall include any and all other types of information which is identified by the Disclosing Party, either orally or in writing, as confidential at the time of disclosure to the Receiving Party, or which the Receiving Party ought to know by virtue of the circumstances in which it learned of such information, would constitute Confidential Information.

- 1.8 **“Customer Data”** means survey results and responses, Missions completion history, sales receipts submitted by End Users, store location and other Personal Information submitted to Customer through the Services. Customer Data excludes Anonymized and Usage Data.
- 1.9 **“Customer Materials”** means all information, content, data or any other materials disclosed or provided to ENDVR by the Customer pursuant to this Agreement, for the purpose of assisting ENDVR in the performance of the Services and its obligations under this Agreement.
- 1.10 **“Deliverable(s)”** shall have the meaning set forth under Section 6.3.
- 1.11 **“Documentation”** means the documentation, information, specifications and other documents relating to the Services as provided by ENDVR to Customer from time to time.
- 1.12 **“Effective Date”** has the meaning ascribed to it above.
- 1.13 **“ENDVR Data”** means the Personal Information of End Users submitted to ENDVR Data except for the purposes of completing Missions, Anonymized Data, Usage Data and Marketing Data.
- 1.14 **“End Users”** means the users of the ENDVR App that are participating in the Missions organized and managed by the Customer.
- 1.15 **“Excluded Improvements”** means any feature or module not included in the Included Improvements or in the specifications described as part of the Order Form or the Documentation initially provided to Customer. Excluded Improvements can be added to the Order Form by a Change Order.
- 1.16 **“Feedbacks”** shall have the meaning ascribed to it under Section 4.1.
- 1.17 **“Included Improvements”** means ongoing improvements that benefits all customers and those are part of ENDVR development roadmap and nature evolution of the Services. Included Improvements are available for all customers at no additional fee.
- 1.18 **“Intellectual Property”** means any and all intellectual property, including without limitation, works, inventions (whether patentable or not), discoveries, improvements, trade secrets, know-how, scientific formulae, data, information,

images, reports, results, analysis, software, models, research and development information, technical information, prototypes, specifications, patterns, drawings, algorithms, products, compositions, processes and protocols, methods, tests, devices, computer programs, trademarks and any and all proprietary rights provided under patent law, copyright law, trademark law, design patent or industrial design law, semiconductor chip or mask work law, or any other statutory provision or civil or common law principles applicable to the protection of intangible proprietary information or rights, including trade secret law, which may provide a right in any of the foregoing as well as any and all applications, registrations or other evidence of a right in any of the foregoing.

- 1.19 “Marketing Data”** means any raw or aggregated data generated by running marketing campaigns such as the traits of the audiences targeted, the performance of the campaigns (conversion rate, impression, clicks, etc.), the breakdowns of the spend, as well as, in the event that an ad server is used, raw data of the ad server.
- 1.20 “Mission(s)”** means the campaigns prepared by Customer or by ENDVR, as the case may be, such as surveys, which lead to rewards for End Users.
- 1.21 “Order Form”** shall have the meaning assigned to it in the recitals.
- 1.22 “Personal Information”** means any information that would meet the definition of “personal information” (or similar nomenclature) under applicable laws and that is (a) submitted through the Services by Customer or Administrators or (b) collected by the Services about End Users or Administrators, as further defined under Exhibit 1.
- 1.23 “Professional Services”** means work performed by ENDVR for Customer pursuant to a Statement of Work, including custom features, creation and administration of Missions, as further described in a Statement of Work.
- 1.24 “Report” and “Report License”** shall have the meaning ascribed to them under Section 2.2.
- 1.25 “Statutory Holidays”** means:
- (a) New Year’s Day (January 1);
  - (b) Martin Luther King Day (3<sup>rd</sup> Monday in January);
  - (c) President’s Day (3<sup>rd</sup> Monday in February);
  - (d) Victoria Day (Monday between the 18th and 24th of May);
  - (e) Memorial Day (Last Monday in May);
  - (f) Saint-Jean-Baptiste Day (June 24);
  - (g) Canada Day (July 1);
  - (h) Independence Day (July 4);
  - (i) Labor Day (1st Monday in September);

- (j) Canadian Thanksgiving (2nd Monday of October);
- (k) Thanksgiving (4th Thursday in November);
- (l) Day-after Thanksgiving (Friday after Thanksgiving);
- (m) Christmas (December 25).

**1.26 “Security Breach”** means any act or omission that materially compromises the security, confidentiality or integrity of Personal Information or Confidential Information.

**1.27 “Services”** shall have the meaning assigned to it in the recitals.

**1.28 “Statement of Work”** means a document executed or approved by Customer, including through a purchase order, which describe work to be performed by ENDVR for Customer, including Deliverables, timeline and related fees.

**1.29 “Usage Data”** means data captured or generated by the Services about End Users and Administrators relating to their usage. This includes but is not limited to the navigation path, clicks, page views, errors occurrences, mouse and keyboard activity, as well as some attributes about End Users and Administrators such as browser name and version, operating system and country.

## **2. Grant of License.**

**2.1 Services.** Subject to the terms and conditions of this Agreement, including the payment of applicable fees, ENDVR grants to Customer, for the Term, a non-exclusive, non-sublicensable, non-transferable, revocable right and license to access and use (and to allow its Administrators to access and use) the Services for the intended purposes. All rights not expressly granted hereunder are reserved by ENDVR. Customer shall remain fully liable for the acts and omissions of Administrators. Neither Customer nor any of its Administrators shall sell, transfer, sublicense, publish, disclosure or otherwise make available the Services, or copies thereof, to any third party without the prior written consent of ENDVR, except as otherwise provided herein.

**2.2 Reports.** The Services may include the provision of reports or similar outputs by ENDVR to Customer or automatically through the Services (each a “**Report**”). ENDVR hereby grants Customer a non-exclusive, non-sublicensable, non-transferable, limited license to reproduce, print, download and use all such Reports solely in accordance with this Agreement and for Customer’s internal purposes (the “**Report License**”). The Report License shall survive the Term and the termination of this Agreement for any reason. For greater clarity, the Report License excludes the right to sell the outputs to third parties.

**2.3 ENDVR Data.** ENDVR is the sole owner of ENDVR Data. ENDVR hereby grants Customer a non-exclusive, non-sublicensable, non-transferable and irrevocable right and license to access and use ENDVR Data in accordance with this Agreement, including to generate Reports. All rights not granted herein are reserved by ENDVR. This license excludes the right to resell ENDVR Data.

**2.4 Customer Data and Materials.** Customer hereby grants ENDVR a non-exclusive, non-sublicensable, non-transferable, revocable (but only pursuant to this Agreement) right and license to access and use Customer Data and Materials, for the Term, in accordance with this Agreement, and as required to perform the Services and for ENDVR to assert and defend its legal rights.

**2.5 Customer Trademarks.** It is understood and agreed that any trademarks, distinctive designs, logos and works of authorship provided by Customer to ENDVR for the purpose of the Services (the “**Customer Trademarks**”) are the property of Customer and/or its Affiliates. Customer hereby grants to ENDVR a non-exclusive, royalty-free license and right to use, reproduce or otherwise display the Customer Trademarks, during the Term, solely for the purposes of this Agreement.

### **3. Acceptable Use**

**3.1** The Customer agrees to use the Services for lawful purposes only. The Customer represents and warrants that it will not use (or allow the use of) the Services in any manner:

3.1.1 that is prohibited by law or regulation or ENDVR’s policies made available to Customer online or otherwise;

3.1.2 that will disrupt third parties’ use or enjoyment of the Services, including if its use results in automated, constant and repeated requests for data other than as permitted under this Agreement (e.g. denial-of-service attacks) and has a negative effect on ENDVR or its systems or network (including abnormal usage that overloads servers on ENDVR’s network or causes portions of the ENDVR’s network to be blocked);

3.1.3 that uses the Services to create, transmit, distribute or store material that violates Intellectual Property, the privacy, publicity, or other personal rights of others, violate export control, impairs the privacy of communications, may be threatening, abusive or hateful, or constitutes or encourages conduct that would constitute a fraud or criminal offence or gives rise to civil liability;

3.1.4 that results in (i) the sharing of identifiers and passwords among Administrators or third parties and/or (ii) the distribution, disclosure or use of any of the Services in any format, to or by unauthorized third parties (i.e. other than Administrators), including through any time-sharing service, service bureau, network or by any other means;

3.1.5 that involves using any robot, spider, scraper, deep link or other similar automated data gathering or extraction tools, program, algorithm, or methodology to access, acquire, copy or monitor the Services or any portion of the Services or ENDVR data;

3.1.6 that involves decompiling, disassembling, or otherwise reverse engineering or attempting to reconstruct or discover any source code or ideas or algorithms of any of the Services underlying technology by any means whatsoever;

3.1.7 that involves penetrating ENDVR security, including, without limitation:

- (a) by posting or transmitting any file which contains viruses, worms, Trojan horses or any other contaminating or destructive features;
- (b) by interfering with the proper working of the Services;
- (c) by attempting to hack any security requirements or processes in the use of the Services;
- (d) by attempting to access any part of the Services (or any of their related systems, networks, servers or other equipment) which Customer is not authorized to access;
- (e) by attempting to disrupt in any manner the operation of the Services, its servers or network;
- (f) by manipulating identifiers in order to disguise the origin of any content transmitted on or to the Services, or the source of any content;
- (g) by modifying or altering the Services in any unauthorized manner.

(collectively, "**Abuses**").

**3.2** Customer agrees and acknowledges that encouraging, aiding, authorizing or attempting to breach Section 3.1 is deemed committing an Abuse.

**3.3** Customer agrees and acknowledges that a breach of this Section 3 by Customer or an End User is a material breach of this Agreement. Notwithstanding the foregoing, the parties agree to negotiate in good faith to find other alternatives to a termination with cause, such as suspending the concerned End User's access to the Services and the imposition of disciplinary measures by Customer.

**3.4** Notwithstanding anything to the contrary in this Agreement, if ENDVR concludes, in its reasonable discretion, that an Abuse has occurred or that an Abuse is imminent, ENDVR shall have the right to immediately suspend access to the Services as reasonably necessary to protect its rights and interests. ENDVR shall inform Customer in writing without undue delay of such suspension and provide details of the Abuse. ENDVR will conduct an investigation on the Abuse and provide a summary of the results of this investigation to the Customer. Customer agrees to collaborate with ENDVR during such an investigation.

**3.5** A breach of this Section 3 shall entitle ENDVR to seek, in addition to any other rights and remedies hereunder or at law, injunctive or equitable relief, and such further relief as may be proper from a court of competent jurisdiction as set forth in this Agreement.

#### **4. Intellectual Property.**

**4.1** Each party is the owner of its respective Intellectual Property. The Services and the Documentation are the Intellectual Property of ENDVR. Notwithstanding

anything to the contrary, ENDVR shall also be the sole owner of any suggestions, enhancement requests, recommendations or other feedback provided by Customer, Administrators and End Users to ENDVR, so long as they relate to the Services ("**Feedbacks**"). Customer hereby assigns to ENDVR, without limitation of any kind, all of its rights, titles and interests therein. ENDVR hereby accepts such assignment.

## 5. Performance of the Services.

**5.1 Order Form.** The Services offered to Customer shall be described in an Order Form, which shall contain the pricing, functionalities and accesses relevant to the Services delivered to Customer. An Order Form is executed if signed or approved by Customer, including through the issuance of a purchase order. An Order Form shall have precedence over the Agreement. Order Form may only be amended through a change order executed by both parties, which shall have precedence over the Order Form and the Agreement (a "**Change Order**"). A Change Order may be executed by Customer through the issuance of a purchase order.

**5.2 Improvements.** Included Improvements are performed at ENDVR's sole discretion and are part of new releases or versions available to Customer at no additional fee. Excluded Improvements can be added by Customer to the Services pursuant to a Change Order. The following guidelines are applicable to ENDVR's determination of whether a feature or functionality is to be considered and Included or Excluded Improvement:

5.2.1 Excluded Improvements are not essential for the Services to be performed in accordance with this Agreement and the Documentation;

5.2.2 Excluded Improvements are subject to additional fees, and Customer may be required to enter into additional terms and conditions as part of the Change Order or otherwise;

5.2.3 Excluded Improvements shall not include maintenance and security requirements for the Services that should, by their nature, be available to all customers of ENDVR.

5.2.4 Excluded Improvements shall not include features described in the Order Form and already paid for by Customer.

**5.3 Implementation.** The Customer agrees and acknowledges that the implementation of both Included Improvements and Excluded Improvements may require collaboration between the parties to adjust the Services to perform in accordance with the Documentation. ENDVR shall provide advance notices of Included Improvements releases and shall notify Customer of any collaborative work to be performed or any expected impacts, if any. Notwithstanding the foregoing, ENDVR shall deploy reasonable efforts to minimize the impacts of any Included Improvements' release on Customer's operations.

**5.4 Software Requirements.** The Services are solely accessible online, and Customer shall procure and maintain all of the connections and software generally needed to access and use the ENDVR Web App. The App is available on mobile devices and is generally part of End Users user interface. The Customer is not

required to install and use the ENDVR App as part of the Services. ENDVR shall have no obligation to support older and unsecured browser versions, or to support older versions of the Services once the Included Improvements are implemented for Customer.

**5.5 Support and Service Level Agreement.** The support services and service levels commitments provided by ENDVR are set forth in Exhibit 2.

## **6. Professional Services**

**6.1** In the event of a conflict or discrepancy between this Agreement and a Statement of Work, the Statement of Work shall prevail.

**6.2** ENDVR represents and warrants that the Professional Services will be performed in a professional and workmanlike manner, and substantially in accordance with the requirements set forth in the relevant Statement of Work and Documentation.

**6.3** Upon completion and delivery of any deliverable identified as a “Deliverable” in a Statement of Work (hereinafter referred to as a “**Deliverable**”), Customer will have ten (10) Business Days to accept or refuse the Deliverable. Customer may refuse a Deliverable by providing a notice of non-compliance with the Statement of Work or Documentation to ENDVR, describing the reasons for the non-compliance. If the Deliverable is judged non-complaint by ENDVR in its reasonable discretion, ENDVR will, at no additional charge to Customer, correct the Deliverable so that it complies with the Statement of Work or Documentation. Upon submission of the corrected Deliverable, Customer will have ten (10) Business Days to accept or refuse based on the foregoing procedure which shall be repeated until the Deliverable is compliant. Notwithstanding the foregoing, Customer may elect to terminate a Statement of Work after three (3) non-complaint attempts regarding the same Deliverable. If the Statement of Work is terminated by Customer, ENDVR shall reimburse all fees paid in advance for the Statement of Work in proportion of the work that has not been performed or has been refused by Customer as non-compliant pursuant to this Section 6.3. The foregoing shall be Customer’s only remedy in case of a breach of the warranties set forth under Section 6.2 regarding a Deliverable or a Statement of Work.

## **7. Fees, Payments, Billings**

**7.1** Customer agrees to pay the applicable fees for the Services in accordance with the Order Form and any Change Order., and the applicable fees for the Professional Services in accordance with the Statement of Work. Customer shall pay any invoices within thirty (30) days of the invoice date (the “**Payment Due Date**”) unless stated otherwise in an Order Form or a Statement of Work. Each invoice shall be for the activities performed during the previous month, unless stated otherwise in a Change Order or a Statement of Work.

**7.2** Customer shall be responsible for the payments of any rewards granted as a result of approved Missions completed by End Users, including, without limitation, any cash rewards offered by Customer. Upon the termination of the Agreement for any reason, Customer agrees that all such fees related to approved Missions shall be paid to End Users until the termination date.

- 7.3** ENDVR reserves its right to request a deposit from Customer as necessary to provide the Services, and as set forth in an Order Form or a Change Order. Such deposits are used to pay rewards to End Users who complete Missions as approved from time to time by Customer, and shall not be used for any other purposes, unless indicated otherwise in an Order Form or a Change Order. If the deposit is not used entirely within the Subscription Term, ENDVR may reimburse this deposit or provide Customer with a credit on future invoices, at Customer's discretion.
- 7.4** ENDVR may, in addition to any other rights it has under this Agreement or at law, charge one and a half percent (1.5%) interests per month, corresponding to eighteen percent (18%) annually, on any amounts due and unpaid after the Payment Due Date, and until payment in full is received by ENDVR together with all interests accrued until the date of full payment.
- 7.5** ENDVR may make different payment options available to Customer as agreed upon from time to time or as set forth in the Order Form or Statement of Work. If Customer pays by credit card, Customer hereby authorize ENDVR to charge any applicable fees as set forth in the Order Form or Statement of Work to Customer's credit card based on the credit card information shared by Customer. In the event that a payment is denied, ENDVR will inform you and you agree to provide an alternative form of payment or update your payment information as soon as possible. You represent and warrant that you are authorized to use the credit card information that you provide and that such credit card information is accurate and truthful. You are responsible for any fees resulting from refused or denied payments, and you agree to pay such fees as invoiced to you.
- 7.6** Except as otherwise set forth in this Agreement, the fees for the Services or Professional Services are non-refundable. The foregoing shall not apply if ENDVR proceeds with a refund resulting from a discrepancy discovered in previous billing amounts, in which case, ENDVR shall offer a credit to Customer corresponding to the discrepancy on the upcoming invoice.

## **8. Taxes.**

- 8.1** If ENDVR is required by applicable laws or by administration thereof to collect taxes from Customer, Customer shall pay such taxes to ENDVR concurrent with and in addition to the payment of any consideration payable pursuant to this Agreement unless Customer qualifies for an exemption from any such applicable taxes, in which case Customer shall, in lieu of payment of such applicable taxes to ENDVR, deliver to ENDVR such certificates, elections, or other documentation required by applicable laws or the administration thereof to substantiate and effect the exemption claimed by Customer. Where ENDVR is not required by law or by administration thereof to collect applicable taxes, Customer shall pay such taxes directly to the appropriate taxing authority and shall provide evidence of such payment to ENDVR upon request.
- 8.2** Customer shall make all payments under this Agreement without any deduction or withholding for or on account of any taxes ("**Tax Deduction**") unless a Tax Deduction is required by Applicable Laws. If a Tax Deduction is required by applicable laws: then (i) where such Tax Deduction relates to any tax other than an income tax imposed on ENDVR's net income, the relevant amount payable by

the Customer hereunder shall be increased to the amount that would, following any required Tax Deduction, resulting in ENDVR receiving the amount that would have been received if no Tax Deduction were required, (ii) Customer shall, promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction), notify ENDVR accordingly, and (iii) Customer shall timely remit the amount of such Tax Deduction to the appropriate taxing authorities. Customer will use commercially reasonable efforts to mitigate, reduce, or eliminate any Tax Deduction (including, but not limited to, by taking advantage of any reduced rate of tax provided for by any applicable international agreement for the avoidance of double taxation then in force).

## 9. Term; Renewal; Effect of Termination

**9.1 Term.** This Agreement shall enter into force on the Effective Date and continue in full force until ended by the parties in accordance with this Section 9 (“**Term**”).

**9.2 Subscription Term.** The Services shall begin at the date indicated in the Order Form and continue in full force until the end date indicated in Order Form (the “**Subscription Term**”). Each Subscription Term renews automatically for subsequent periods of twelve (12) months, unless a party notifies the other party that it does not intend on renewal the then-current Subscription Term at least sixty (60) days before the end of the then-current Subscription Term or otherwise terminates this Agreement in accordance with this Section 9.2.

**9.3 Termination for Convenience.** Each party may terminate this Agreement, an Order Form or a Statement of Work by providing the other party with a ninety (90) days prior written notice of termination. If this Agreement is terminated, any active Order Forms or Statement of Work shall end automatically. If an Order Form or a Statement of Work is terminated, this Agreement shall survive until terminated by either party. ENDVR reserves its rights to enforce early termination fees in accordance with applicable laws and such as to account for any costs and damages to ENDVR resulting from the early termination by Customer. Such early termination fees shall be agreed in advance in an Order Form, a Change Order or a Statement of Work.

**9.4 Termination for Cause.** Either party may terminate this Agreement, an Order Form, a Change Order or a Statement of Work for cause: (i) upon a thirty (30)-days prior written notice of a material breach of this Agreement to the other party, if such breach remains uncured at the expiration of such period; or (ii) immediately upon written notice, if the other party becomes the subject of a petition in bankruptcy or any other proceeding(s) relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

### 9.5 Effects of Termination.

9.5.1 Upon termination of an Order Form for any reason, the Customer shall pay all fees due for the Services performed until the date of termination, including any rewards due to End Users for the Missions completed and approved, as set forth under Section 7.2, and any applicable early termination fees, if any, as set forth in an Order Form, Change Order or Statement of Work.

- 9.5.2 Upon termination of an Order Form, Customer shall have access to the administrative account(s) associated with the Services for a grace period of thirty (30) days from the date of termination to extract and delete Customer Data. After this delay, ENDVR may delete all Customer Data without further notice, and Customer agrees and understands that such Customer Data may not be retrieved by ENDVR.
- 9.5.3 If the Order Form is terminated for cause, ENDVR shall reimburse any fees paid in advance for the Services that have not been performed after the termination date.
- 9.5.4 The following sections shall survive the Term for a period of five (5) years after the date of termination: 2.2, 4.1, 9.5, 10, 14, 15, 16, 17 as well as Exhibit 1 to the extent required for the administration of Personal Information and any definitions related to the foregoing.
- 9.6 The Customer expressly waives the applicability of Articles 1468, 1469, 1473 and 2125 to this Agreement.

## 10. Confidential Information

- 10.1 **Exclusions.** Confidential Information shall not include information which the Receiving Party can demonstrate: (i) is readily available to the public in the same form through no fault of the Receiving Party; (ii) did not originate from the Disclosing Party and was lawfully obtained by the Receiving Party in the same form from an independent third party without any restrictions on disclosure; or (iii) did not originate from the Disclosing Party and was in the possession of the Receiving Party in the same form prior to disclosure to the Receiving Party by the Disclosing Party.
- 10.2 **Intellectual Property.** The Receiving Party acknowledges and agrees that the Confidential Information is proprietary information of the Disclosing Party, and may constitute Intellectual Property of the Disclosing Party, whether or not any portion thereof is or may be validly copyrighted or patented.
- 10.3 **Obligations.** The Receiving Party shall only use the Confidential Information of the Disclosing Party for the purposes set forth in this Agreement, including to defend its rights and interests, and shall protect such Confidential Information with at least the same degree of care and confidentiality, but not less than a reasonable standard of care and confidentiality, which the Receiving Party utilizes for its own Confidential Information. The Receiving Party shall take commercially reasonable steps as necessary to prevent the unauthorized access and disclosure of the Disclosing Party's Confidential Information, such as enforcing access on a need-to-know basis.
- 10.4 **Permitted Disclosure.** The Receiving Party shall be authorized to disclose the Confidential Information to its Affiliates, third-party service providers, auditors and consultants as necessary to perform the Services or for exercising its rights and obligations. The Receiving Party shall ensure that all such recipients are under appropriate non-disclosure agreement or a similar obligation such as attorney-client privilege. The Receiving Party shall also be allowed to disclose Confidential Information if approved in writing by the Disclosing Party.

- 10.5 Legal Disclosure.** The Receiving Party shall be authorized to disclose Confidential Information if required by Applicable Laws, or by the administration thereof, including through warrants and subpoenas. In the event such disclosure is required, and if permitted by Applicable Laws, the Receiving Party shall advise the Disclosing Party prior for making such disclosure and give the Disclosing Party a reasonable chance to contest the requested legal disclosure, unless such delay would put the Receiving Party in breach of Applicable Laws. In any cases, the Receiving Party shall not disclose more Confidential Information than it is required to do under Applicable Laws, or the administration thereof.
- 10.6 Termination.** Upon the termination of this Agreement for any reason, the Receiving Party shall, at the Disclosing Party's option, (i) return the Confidential Information without undue delay and/or (ii) securely destroy the Confidential Information without undue delay, and in accordance with industry's best standards. Upon request, the Receiving Party shall confirm in writing that the Confidential Information has been returned and/or deleted. Notwithstanding the foregoing, the Receiving Party is authorized to keep a copy of the Confidential Information as required for business continuity purposes, pursuant to international retention schedules, and for legal, auditing or financial reasons.

## **11. Personal Information**

- 11.1 Limited Collection Use and Disclosure.** Each party shall comply with applicable laws in the collection, use and disclosure of Personal Information. The parties agree that they may not sell, use, collect or disclose Personal Information for any purpose other than as permitted in this Agreement. Each party shall process Personal Information in accordance with its respective privacy policy as amended from time to time, and each party shall be responsible for ensuring this privacy policy complies with applicable laws.
- 11.2 Collaboration.** Each party shall make commercially reasonable efforts to support the other party's efforts to comply with applicable laws, including answering promptly and diligently any requests for information by the other party, including to respond to individual's right requests, to perform privacy impact assessments or other risk-based analysis.
- 11.3 Data Sharing Agreement.** The provisions of Exhibit 1 shall apply to the sharing of Personal Information pursuant to this Agreement.
- 11.4 European Union.** As it relates to Personal Information subject to the *General Data Protection Regulation* (End Users' Personal Information) and shared between the parties as described under Exhibit 1, the parties agree that they are joint controllers of such Personal Information. Customer agrees and acknowledges that by providing missions to End Users located in the European Union, it must comply with the requirements of the *General Data Protection Regulation* and all other applicable laws. For the avoidance of doubts, Personal Information about Administrators is not subject to Exhibit 1, and ENDVR is a sole controller for the purpose of processing End User Personal Information to deliver the Services (including to provide support).

**11.5 Data Location.** The Personal Information is hosted in Canada, but may be collected, used and disclosed in the United States or elsewhere by third-party service providers.

## **12. Security Breach**

**12.1 Obligation to Notify.** Each party shall notify the other party without undue delay and no later than seventy-two (72) hours upon this party becoming aware of a Security Breach, providing the other party with sufficient information to allow this party to meet its obligations to report or inform an individual or the authorities (the “**Security Breach Notification**”).

**12.2 Content of Notification.** The Security Breach Notification shall minimally include (i) a description of the nature of the Security Breach; (ii) the types and categories of Personal Information or Confidential Information concerned; (iii) a description of the likely consequences of the Security Breach; and (iv) a description of the measures taken or proposed to be taken by the breached party to address the Security Breach, including, where appropriate, measures to mitigate possible adverse effects. To the extent that such information is not available at the time of the Security Breach Notice, the breached party shall follow up as the information becomes available to complete its full disclosure of the Security Breach Notice without undue delay.

## **13. Insurance**

During the Term and for a period of three (3) years thereafter, each party shall obtain and maintain in full force sufficient insurance coverage to meet its obligations under this Agreement. Without limiting the generality of the foregoing, such insurance shall minimally include commercial general liability and cyber risks and liabilities with no limitations or restrictions on coverage for claims arising from unauthorized access to systems or data or for services rendered over public or private networks.

## **14. Representations and Warranties**

**14.1 Mutual Representations and Warranties.** Each party represents and warrants to the other that: (i) it has the full power and legal authority to enter into this Agreement and perform its obligations hereunder and the consent of a third party is not necessary for this Agreement to be binding on the parties; and (ii) each person signing this Agreement on behalf of an entity is duly authorized to bind such entity.

**14.2 Customer Warranties.** Customer represents and warrants that (i) it has all rights and titles on Customer Trademarks and Intellectual Property published, used or reproduced as part of the Services or Professional Services or otherwise used by ENDVR at Customer’s requests or for the purpose of this Agreement; (ii) it complies with all applicable laws when publishing and administering missions, including, without limitation, those affecting the performance of contests, advertising, influencers, competition, and relationships with End Users and their Personal Information.

**14.3 Disclaimer.** To the maximum extent permitted by law and except as set forth in This Agreement, ENDVR does not warrant that the Services or Professional

Services will be uninterrupted or error free, nor does it make any warranty as to the results that may be obtained from the use of the Services or Professional Services. Except as otherwise provided in this Agreement, the Services, Professional Services and the Documentation, as well as any third-party content, are provided “as is”, “as available” and “where is”. Except as set forth in this Agreement or as required by applicable laws, ENDVR makes no representations, conditions, warranties or guarantees, express or implied, including regarding the accuracy, reliability, or completeness of the Reports or ENDVR Data, and expressly disclaims any and all implied warranties of merchantability, fitness for a particular purpose, title and non-infringement. The Customer hereby waives any legal warranty except as otherwise provided in this Agreement.

**14.4 Disclaimer – Account Credentials.** Customer is responsible for ensuring that Administrators are keeping their credentials to access the Services confidential and secured, including by following information security best practices regarding passwords. If accounts are compromised as a result of the unauthorized use of Administrators credentials, ENDVR shall not be responsible for any damages resulting from this unauthorized use, and Customer shall be responsible for notifying concerned individuals or the authorities as required under applicable laws, and notwithstanding anything to the contrary in Exhibit 1.

**15. Indemnification**

The Customer agrees to indemnify, defend and hold harmless ENDVR, and its Affiliates and customers, and their respective directors, shareholders, employees, agents and representatives, successors and permitted assigns, harmless from and against any and all third party claims, suits, actions, proceedings, damages, costs, liabilities, losses, fines, penalties, and expenses resulting from a breach of Section 14.2.

**16. Limitation of liability**

With the exception of claims pursuant to Section 15 and to the maximum extent permitted by law: (a) neither party will be liable to the other party or its affiliates, employees, subcontractors or agents for any loss of profits or special, indirect, incidental, consequential or exemplary damages in connection with this Agreement, even if it is aware of the possibility of the occurrence of such damages and (b) the total liability of either party to the other party for any damages under this Agreement, whether arising by statute, contract tort or otherwise, will not exceed the amounts paid or payable by (and not otherwise refunded to) Customer to ENDVR under this Agreement in the twelve (12) months period preceding the event which gave rise to such claim.

**17. Miscellaneous**

**17.1 Interpretation.** Any amendment to this Agreement must be in writing and executed by both parties. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach. If any part of this Agreement is held to be invalid or unenforceable, that part will be severed, and the rest of the Agreement will remain in force. This Agreement describes the entire understanding and agreement of the parties and supersedes all oral and written agreements or understandings between them related to its subject matter.

- 17.2 Publicity.** Each party may use the other's name, logo or other marks or issue press releases regarding the Services subject to the other party's prior review and approbation, which shall not be unreasonably retained or delayed. Notwithstanding the foregoing, Customer agrees that ENDVR may use Customer Trademarks on its promotional material (including its website(s)) to promote the Services. Neither party may make a public statement regarding the content of this Agreement which shall be considered Confidential Information of both parties.
- 17.3 Force Majeure.** ENDVR is not liable or in default for any delay or failure of performance resulting from a situation beyond its control, such as acts of God, acts of a civil or military authority, ransomware attack, denial-of-services and distributed-denial-of-services (unless caused by negligence), acts of a public enemy (including terrorism), war, fire, flood, storms, earthquakes, explosions and pandemic, including, without limitation, COVID-19 and any related events (a "Force Majeure"). In the event of a Force Majeure, ENDVR shall inform the other party of the situation without undue delay and keep the other party reasonably informed in the circumstances. The Subscription Term and other delays regarding the Services and Professional Services shall be extended for the amount of time corresponding to the Force Majeure.
- 17.4 Independent Contractors.** The parties are independent contractors, and this Agreement does not create any agency, partnership, joint venture, employee-employer or **franchisor**-franchisee relationship between them.
- 17.5 Assignment.** Except to an Affiliate in the context of a *bona fide* corporate reorganization, sales of assets or a merger and acquisition, neither party may assign or transfer any part of this Agreement without the other party's written consent, which may not be unreasonably withheld.
- 17.6 Governing Laws and Jurisdictions.** This Agreement, including its interpretation and effect, is governed by the laws applicable in the Province of Quebec, Canada, without regard to its conflict of law provisions. Both parties hereby agree to submit to the exclusive jurisdiction of the courts located in the judicial district of Montreal, Quebec, in respect to any claim, proceeding or action relating to or otherwise arising out of this Agreement or the Service howsoever arising.
- 17.7 Language Provision.** The parties acknowledge that they have required this Agreement and all related documents to be prepared in English only. *Les parties reconnaissent avoir demandé que le présent contrat ainsi que tous documents qui s'y rattachent soient rédigés uniquement en langue anglaise.*

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date first written above.**

**NEWKNOW INC. (ENDVR.IO)**

**CUSTOMER**

By: \_\_\_\_\_

By: Signed electronically

Name Stephen Gendron

Name: Signed electronically

Title: Co-CEO

Title: Signed electronically

**EXHIBIT 4**  
**CONTROLLER-TO-CONTROLLER AGREEMENT**

1. The parties acknowledge that the Personal Information collected pursuant to this Agreement is the property of ENDVR, and ENDVR desires to share such Personal Information with Customer in accordance with this Agreement. ENDVR shall assume responsibilities for the Personal Information processed within the Services, and Customer shall assume responsibilities for its subsequent processing of Personal Information, such as through extraction or aggregation.
2. The following Personal Information is shared between the parties:
  - End Users identification information;
  - End Users response to missions, including any material attached such as pictures and documents;
  - End Users employer and location;
  - End Users shipping information if a product is ordered as a reward.

Such Personal Information may be included in Reports or otherwise accessible to Customer through the Services. Such Personal Information may also be aggregated by Customer or ENDVR, and if such aggregation involves re-identification risks, such aggregated data shall continue to be considered Personal Information pursuant to this Agreement, and both parties shall continue to comply with applicable laws regarding the processing of such Personal Information until secure deletion or adequate de-identification.

3. ENDVR shall assume the following responsibilities regarding the Personal Information:
  - 3.1 collecting consents and applying legal bases to the collection of Personal Information through the Services;
  - 3.2 implementing privacy-by-design and privacy-by-default requirements in the Services;
  - 3.3 publishing its privacy policy on the ENDVR App and ENDVR Web App to notify individuals of how it processes their Personal Information. ENDVR shall be responsible for ensuring that its privacy policy complies with applicable laws;
  - 3.4 implementing organizational and technical controls to ensure that Personal Information is adequately protected taking into consideration the risks implied by the processing within the Services;
  - 3.5 responding to individual rights requests regarding Personal Information that are lodged through support requests or otherwise addressed directly to ENDVR;
  - 3.6 acting as the main point of contact for End Users and Administrators regarding their privacy inquiries, complaints, requests or otherwise;
  - 3.7 notifying any Security Breach involving Personal Information resulting directly from the use of the Services to End Users, Administrators and the relevant authorities.
4. Customer shall assume the following responsibilities regarding the Personal Information:

- 4.1 providing its own privacy policy in its missions to ensure that End Users are informed of how the Personal Information will be processed by the Customer while it is under its custody and control. Customer shall be responsible for ensuring that this privacy policy complies with applicable laws;
  - 4.2 implementing organizational and technical controls to ensure that Personal Information is adequately protected taking into consideration the risks implied by the processing once Personal Information are under the control of the Customer, such as when they are extracted from the Services;
  - 4.3 responding to individual rights requests regarding Personal Information that are addressed directly to Customer;
  - 4.4 notifying any Security Breach involving Personal Information resulting directly from Customer's use of the Personal Information outside of the Services to End Users, Administrators and the relevant authorities.
5. Both parties shall be responsible for the following responsibilities regarding the Personal Information:
  - 5.1 ensuring that their respective third parties have entered into contractual commitments restricting secondary use and ensuring provisions substantially similar to those set forth in this Agreement;
  - 5.2 limiting collection, use and disclosure to what is required to achieve the purpose of the processing in accordance with the principles of purpose limitation and data minimization as generally described in applicable laws;
  - 5.3 ensuring that the processing is subject to a lawful basis under applicable laws and ensuring that no secondary processing occurs in the absence of a lawful basis;
  - 5.4 establishing appropriate data retention schedules to ensure that Personal Information is securely deleted or anonymized when not required anymore for the purpose;
  - 5.5 complying with individual privacy rights requests, such as the right to opposition, portability, withdrawal of consent, and access, if required by applicable law, including by notifying its respective third parties when required;
  - 5.6 managing any required register of processing or documentation for its own processing activities in accordance with the law;
  - 5.7 ensure that cross border data transfers and data location comply with applicable laws, including Arts. 44 seq. of the *General Data Protection Regulation* regarding adequate safeguards, if applicable.
6. Indemnity; Limitation of Liability

Each party shall indemnify the other against all costs, expense, including legal expenses, damages, loss, including loss of business or profits, liabilities, demands, claims, actions or proceedings which a party may incur arising of any breach of this Exhibit 1 howsoever arising for which the other party may be liable.

**7. Third Party Beneficiary**

End Users are third party beneficiaries of Exhibit 1, but solely to the extent that applicable laws require such Exhibit 1 to be enforceable by End Users.

**8. Governing Law**

This Exhibit 1 shall be governed by and construed in accordance with applicable privacy laws and each party hereby submits to the non-exclusive jurisdiction of the appropriate courts.

**EXHIBIT 1**  
**SUPPORT, MAINTENANCE AND SERVICE LEVEL AGREEMENTS**

1. **Definitions.** The capitalized words in this Exhibit 2 not defined below shall have the meaning set forth in the Agreement.
  - 1.1 “**Emergency Hours**” shall mean hours which are not Regular Business Hours.
  - 1.2 “**Incident**” shall have the meaning set forth under Section 5.1 of this Exhibit 2.
  - 1.3 “**Incident Management Process**” shall have the meaning set forth under Section 5.1 of this Exhibit 2.
  - 1.4 “**Scheduled Maintenance**” shall have the meaning ascribed to it under Section 3.1 of this Exhibit 2.
  - 1.5 “**Services Availability Target**” shall have the meaning ascribed to it under Section 3.4 of this Exhibit 2.
  - 1.6 “**Regular Business Hours**” shall mean Monday to Friday, 9 AM to 5 PM EST, excluding Statutory Holidays, unless indicated otherwise in the Documentation shared with Customer from time to time.
  
2. **Customer Support.**
  - 2.1 E-mail technical support is available at [hello@endvr.io](mailto:hello@endvr.io). ENDVR policy is to respond to all e-mail inquiries within two (2) Business Days.
  - 2.2 Upon contacting support, the Customer will be required to provide identifying information and a full description of the problem or request including error messages and other troubleshooting information as requested by technical support personnel.
  - 2.3 Technical support services performed during Emergency Hours will be invoiced at \$175/hour. Additional fees, such as travelling expenses, may be charged if a technical expert is required at Customer’s premises, subject to Customer’s written preapproval.
  
3. **Maintenance and Availability.**
  - 3.1 **Scheduled Maintenance.** ENDVR reserves four (4) hours of server unavailability per month for maintenance purposes (the “**Scheduled Maintenance**”). ENDVR shall attempt to minimize impacts on Customer by performing Scheduled Maintenance during hours of low activity. However, Customer agrees and acknowledges that ENDVR may have clients worldwide and that it may not be possible to accommodate all time zones. ENDVR will provide the Customer with a reasonable notice prior for performing Scheduled Maintenance. Scheduled Maintenance shall not count towards the Services Availability Target.
  - 3.2 **Emergency Maintenance.** Under certain circumstances, ENDVR may need to perform emergency maintenance, such as security patch installation. ENDVR may not be able to provide the Customer with advanced notice in case of emergency

maintenance. Emergency Maintenance does not count towards the Services Availability Target.

- 3.3 **Services Suspension.** ENDVR may suspend access to the Services, such as for Customer's acts or omissions, including any negligence, willful misconduct, nonpayment, Abuses or otherwise as permitted in this Agreement (each a "**Suspension Period**"). Suspension Periods shall not count towards the Services Availability Target.
- 3.4 The Services will be available on a 24-hours basis, seven (7) days a week, and thirty (30) or 31 days a month, except for the month of February, which has 28 or 29 days. The Services availability shall be of 99.8% ("**Services Availability Target**"). ENDVR shall determine in its own reasonable discretion the meaning of availability, provided that critical functionalities must be available for access and use for the Services to be considered available.
- 3.5 The Services Availability Target is calculated using the following formula: availability percentage = number of hours of Services obtained during the month / (number of hours during the month – (Scheduled Maintenance + Emergency Maintenance + Suspension Period)) x 100.

#### 4. **Remedy for Breach of Services Availability Target**

- 4.1 If the Services Availability Target is not met, ENDVR shall issue a credit to Customer on Customer's next invoice (the "**Service Credit**"). Such Service Credits shall be determined as follows:

<b>Actual Availability</b>	<b>Service Credit (% of Total Monthly Invoice)</b>
Between 99.8% and 98%	5% of monthly fees
< 98.0%	10% of monthly fees

- 4.2 The Service Credit(s) shall be Customer's sole remedy for a breach of the Services Availability Target. Notwithstanding the foregoing, repetitive and severe breaches of the Services Availability Target may be considered a material breach of this Agreement and Customer may terminate the Agreement with cause in such circumstances.
- 4.3 The Service Credit(s) are non-applicable if the breach of the Services Availability Target is caused by a Force Majeure Event, an Internet service interruption caused by Customer's Internet service provider, an electrical service interruption at the Customer's site, failure of Customer's equipment, and actions of Customer executed without prior consent from ENDVR where such actions have a direct impact of the Services Availability Target.

#### 5. **Incident Management**

- 5.1 ENDVR shall implement and maintain an incident management process substantially similar to this Section 5 to minimize the impacts of incidents on Customer's business operations (the "**Incident Management Process**"). Such

incidents may result from support requests lodged by Customer, Administrators and End Users or may be identified by ENDVR on its own (an “**Incident**”).

- 5.2 Upon becoming aware of an Incident, ENDVR shall classify the Incident based on its severity, and generally as described in the following table:

High	Interruption (or imminent interruption) of a key system, network or application with a critical impact on the Services availability and functionalities. Customer has no access to the Services.
Medium	Some components may be unavailable, unusable or difficult to use. There may be partial Services interruption, but a workaround or a stopgap solution is available. Customer is partially affected with impacts on functionalities.
Low	Maintenance of some components may be required but can be deferred to upcoming Included Improvements or solved with pre-identified alternatives or solutions.

- 5.3 ENDVR shall respond to each Incident in accordance with its severity and provide regular updates to Customer. Such reporting shall continue until the earliest moment of (i) the resolution of the Incident; (ii) the implementation of a workaround or non-permanent solution allowing Customer to access and use the Services materially in accordance with the Documentation.

- 5.4 If ENDVR materially fails to follow the procedure described in this Section 5, the Customer may request to trigger corrective measures (“**Notice of Corrective Measures**”). Upon reception of the Notice of Correction Measures, ENDVR shall (i) promptly investigate the cause of the non-compliance; (ii) provide, within fourteen (14) days to the Customer a report detailing the reasons for the breach of procedure, as well as a plan of the corrective measures that will be implemented by ENDVR to correct the situation and (iii) ensure that the Customer is informed of the progress in implementing the corrective measures. Except in repetitive and severe breach of the Incident Management Process, in which case Customer may opt to terminate the Agreement with cause, this Section 5.3 shall be Customer’s sole remedy in case of a breach of the Incident Management Process.

## 6. End Users Support

Subject to Exhibit 1, ENDVR shall be the first line of support for End Users regarding the Services, except if such requests are specific to the Customer’s activities and practices such as questions on products offered as rewards (including delivery), or limitations on rights to participate in a store imposed by Customer. ENDVR may request information from time to time to Customer to respond to End Users requests, and Customer agrees to collaborate in good faith to respond within a reasonable delay to ENDVR.