

**Every OnTime account and subscription is subject to the following service level agreement:**

Service Level Agreement ("SLA")

Last updated: January 1, 2018

Vesigo Studios is committed to providing a reliable, high-quality network to support its subscribers. The full terms of this Service Level Agreement include all terms set forth in the OnTime Terms and Conditions.

The following Exhibit(s) are part of this Agreement:

- Exhibit A: OnTime Terms and Conditions

1. Service Availability.

"Service Availability" is defined as the ability for the World, including major ISPs, to exchange IP packets with public servers owned and operated by Vesigo Studios. Service Availability is measured by sending "pings" to our servers at regular intervals. The response of the servers to the "pings" will confirm that the connection is still in place and the service is still available.

2. Service Availability Guarantee.

Vesigo Studios guarantees 99% Service Availability to its subscribers. In the event that a subscriber experiences the unavailability of service as a result of a failure of any component of the network controlled by Vesigo Studios, Vesigo Studios will issue a credit (Service Availability Credits) as described below. Service interruptions caused by planned network maintenance activities (Scheduled Maintenance) or service provided to the subscriber by a party other than Vesigo Studios are ineligible for availability guarantee compensation.

3. Scheduled Maintenance.

"Scheduled Maintenance" shall mean any maintenance to the Vesigo Studios equipment of which (a) subscriber is notified 24 hours in advance, and (b) that notice of Scheduled Maintenance is provided to subscriber's designated point of contact by a method agreeable to Vesigo Studios and subscriber (telephone or email). If a designated point of contact is not agreed upon in advance, the subscriber's primary email address will serve as the designated point of contact.

4. Service Availability Guarantee Process.

At the subscriber's request, Vesigo Studios will calculate the subscriber's "Network Unavailability" within a specific calendar month. "Network Unavailability" consists of the number of minutes that the network controlled by Vesigo Studios was not available to the subscriber because of a lack of ability for the World, including major ISPs, to exchange IP packets with public servers owned and operated by Vesigo Studios. Unscheduled outages will be counted as Network Unavailability if the subscriber contacts Vesigo Studios Customers Service in writing or

opens a trouble ticket with Vesigo Studios Customers Service within five days of the outage. Network unavailability will not include Scheduled Maintenance, or any unavailability resulting from (a) subscriber's applications, equipment, or facilities, (b) acts or omissions of subscriber, or any use or user of the service authorized by subscriber or (c) reasons of Force Majeure (as defined in the OnTime Terms and Conditions).

#### 5. Service Availability Credits.

Service Availability Credits for affected subscribers are determined in accordance with the following guidelines: For any "Network Unavailability" outage, the subscriber will receive a 10% credit (calculated as 10% of the monthly minimum cost of the subscription plan in use by the subscriber at the time of the Network Availability) on their next monthly bill for each full one (1) hour block of downtime. A single outage must be at least one (1) hour long to qualify as an outage. A maximum of 100% credit, or 10 full hours of outage, will be given in a single month's time.

#### 6. Normal Business Hours Technical Support Response.

Vesigo Studios strives to answer every support call. In the event that subscriber calls for support during normal business hours (Monday - Friday, 8:00 AM to 5:00 PM Pacific Time), and a qualified support engineer is not available, Vesigo Studios will return calls made to its central dispatch within one (1) business day of receiving the subscriber's call.

#### 7. Non-Business Hours and Emergency Technical Support Response.

If emergency response is required during non-business hours when the Service is unavailable due to "Network Unavailability", a subscriber may contact Vesigo Studios by telephone at 541-326-4200 or email at [clientservices@ontime360.com](mailto:clientservices@ontime360.com). A subscriber may expect a response from Vesigo Studios within one (1) to eight (8) hours. Emergency support calls that are not found to be in any way the fault of Vesigo Studios will be billed to the subscriber at the current standard rate.

#### 9. Cause for Termination by Subscriber.

Subscriber shall have the option to terminate their agreement with Vesigo Studios if the following occurs in regards to this Service Level Agreement:

- In any two consecutive months, Vesigo Studios has cumulative "Network Unavailability" outages that equal or exceed four (4) hours; or
- At any given time, Vesigo Studios has "Network Unavailability" outages that equal or exceed eight (8) consecutive hours; or
- According to the terms for termination set forth in the OnTime Terms and Conditions.

## EXHIBIT A

### OnTime Terms and Conditions

Please read these Terms and Conditions ("Terms" or "Terms and Conditions") carefully before using the www.ontime360.com website, OnTime desktop applications including OnTime Management Suite and OnTime Dispatch, and OnTime mobile applications (together, or individually, the "Service") operated by Vesigo Studios, LLC ("us", "we", or "our").

Your access to and use of the Service is conditioned upon your acceptance of and compliance with these Terms. These Terms apply to all visitors, users and others who wish to access or use the Service. Every OnTime account and subscription is subject to these Terms. For reference, a Definitions section is included at the end of these Terms and Conditions.

By accessing or using the Service you agree to be bound by these Terms. If you disagree with any part of the terms then you do not have permission to access the Service.

By (I) using, accessing, and/or logging in to OnTime 360; (II) trying or evaluating OnTime 360 products or services; or (III) having an account with Vesigo Studios, you ("User"), on behalf of yourself individually and on behalf of the organization, entity, or company by which you are employed or for whom you provide services, agree to the Terms and Conditions (the "Agreement") governing your use of Vesigo Studios' software service and all related services (hereinafter collectively the "Service"). If you are entering into this agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to these terms and conditions, in which case the terms "you" or "your" shall include such entity. If you do not have such authority, or if you do not agree with these terms and conditions, you may not use the service. If you do not agree to be bound by this agreement, you must decline the acceptance of this agreement.

#### 1. Permitted Usage and Restrictions

Vesigo Studios hereby grants User a non-exclusive, non-transferable, right to use the Service, solely for User's own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to User are reserved by Vesigo Studios.

User agrees not to (a) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way; (b) modify or make derivative works based upon the Service or the Content; (c) create Internet "links" or hyperlinks to the Service (with the exception of links to User's customer ordering page, hosted by Vesigo Studios) or "frame" or "mirror" any Content on any other server, wireless device, or Internet-accessing device; and (d) reverse engineer the Service for any purpose whatsoever, including without limitation to (i) build a competitive or similar product or service; (ii) build a product using similar ideas, features, functions or graphics of the Service; or (iii) copy, imitate, or otherwise replicate or attempt to duplicate ideas, features, functions or graphics of the Service. Vesigo Studios reserves the right to restrict, control, limit, suspend, interrupt, cancel, disconnect, and otherwise terminate User's access and/or use of the Service, the Content, and all components of the Vesigo Studios software service, at any time and without any prior notice, for any reason, or for no reason at all, subject to Vesigo Studios' sole and absolute discretion, provided however, that Vesigo Studios will provide a pro-rated refund of pre-paid charges charged to User. Vesigo Studios further reserves the right to interrupt, discontinue, temporarily or permanently, at Vesigo Studios' sole and absolute discretion, User's

access and/or use of the Service, the Content, and/or the Vesigo Studios software services, at any time and without any prior warning to User.

## 2. Communications

By creating an Account on our Service, you agree to subscribe to newsletters, marketing or promotional materials and other information we may send. However, you may opt out of receiving any, or all, of these communications from us by following the unsubscribe link or instructions provided in any email we send. An exception includes transactional emails related to your account, such as payment receipts and scheduled service notifications.

## 3. Purchases

If you wish to purchase any product or service made available through the Service ("Purchase"), you may be asked to supply certain information relevant to your Purchase including, without limitation, your credit card number, the expiration date of your credit card, your billing address, and your shipping information.

You represent and warrant that: (a) you have the legal right to use any credit card(s) or other payment method(s) in connection with any Purchase; and that (b) the information you supply to us is true, correct and complete.

The Service may employ the use of third party services for the purpose of facilitating payment and the completion of Purchases. By submitting your information, you grant us the right to provide the information to these third parties subject to our Privacy Policy.

We reserve the right to refuse or cancel your order at any time for reasons including but not limited to: product or service availability, errors in the description or price of the product or service, error in your order, or other reasons.

We reserve the right to refuse or cancel your order if fraud or an unauthorized or illegal transaction is suspected.

## 4. Availability, Errors and Inaccuracies

We are constantly updating product and service offerings on the Service. We may experience delays in updating information on the Service and in our advertising on other web sites. The information found on the Service may contain errors or inaccuracies and may not be complete or current. Products or services may be mispriced, described inaccurately, or unavailable on the Service and we cannot guarantee the accuracy or completeness of any information found on the Service.

We therefore reserve the right to change or update information and to correct errors, inaccuracies, or omissions at any time without prior notice, and in our sole discretion.

## 5. Contests, Sweepstakes and Promotions

Any contests, sweepstakes or other promotions (collectively, "Promotions") made available through the Service may be governed by rules that are separate from these Terms & Conditions. If you participate in any Promotions, please review the applicable rules as well as our Privacy Policy. If the rules for a Promotion conflict with these Terms and Conditions, the Promotion rules will apply.

## 6. Responsibility for User Communications

User is solely responsible for the content of all visual, written and audible communications sent, received, communicated, or delivered using the Service and the Content. User agrees to refrain from sending, transmitting, and communicating unsolicited material, including without limitation e-mail communications outside User's business entity, company, or organization, and to further refrain from using, manipulating, or implementing the Service in any manner for such unauthorized and/or unlawful purpose. User further agrees not to use the Service to communicate objectionable, offensive, obscene, unlawful, or unreasonable message(s) or material, including but not limited to material that is harassing, libelous, threatening, obscene, indecent, would violate the intellectual property rights of any party, or is otherwise unlawful under any jurisdiction of the United States of America, or that would give rise to civil and/or criminal liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation, in any jurisdiction of the United States of America.

## 7. Account Information and Data

Vesigo Studios does not own any data, information or material that User may from time to time submit to Vesigo Studios and/or the Service in the course of using the Service. User, not Vesigo Studios, bears sole and exclusive responsibility for the accuracy, quality, integrity, legality, reliability, safekeeping, appropriateness, intellectual property ownership, and right to use of all customer data ("Customer Data"). Vesigo Studios shall not be responsible or liable for the deletion, correction, alteration, modification, destruction, damage, loss of any Customer Data under any circumstances. Any and all Customer Data that may from time to time be stored on the servers, computers, networks, or devices of Vesigo Studios is not subject to confidentiality. User warrants that no privileged or confidential information will be relayed, stored, communicated, maintained, kept, or transmitted through the Content. User assumes all risks associated with any data and Customer Data, including without limitation the data uploaded to, downloaded from, stored on, transmitted to, or communicated through Vesigo Studios, including without limitation the Content, which risks include but are not limited to risk of destruction, risk of publication, risk of alteration, risk of loss, and risk of manipulation by Vesigo Studios and by any third parties that may from time to time have access to record(s) that may from time to time be uploaded to, downloaded from, stored on, transmitted to, communicated, transmitted, maintained, kept, stored, or otherwise handled by Vesigo Studios including without limitation the Service.

## 8. Third Party Interactions

During use of the Service, User may enter into correspondence with, purchase goods and/or services from, or participate in promotions of advertisers or sponsors showing their goods and/or services through the Service. Any such activity, and any terms, conditions, warranties or representations associated with such activity are solely between User and the applicable third-party. Vesigo Studios and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase or promotion between User and any such third-party. Vesigo Studios does not endorse any websites on the Internet, including without limitation websites that are linked through or from the Service or the OnTime 360 website. Vesigo Studios provides these links to User only as a matter of convenience, and in no event shall Vesigo Studios or its licensors be responsible for any content, products, or other materials on or available from such websites. Vesigo Studios provides the Service to User pursuant to the terms and conditions of this Agreement. User recognizes, however, that certain third-party providers of ancillary software, hardware and/or services may require User's agreement to additional and/or different or agreement(s) or other terms prior to User's use of or access to such software, hardware or

services, which may from time to time be required in connection with User's use of the Service. Such agreement(s) are between User and the applicable third party.

## 9. Content

Our Service allows you to post, link, store, share and otherwise make available certain information, text, graphics, videos, or other material ("Content"). You are responsible for the Content that you post on or through the Service, including its legality, reliability, and appropriateness.

By posting Content on or through the Service, You represent and warrant that: (i) the Content is yours (you own it) and/or you have the right to use it and the right to grant us the rights and license as provided in these Terms, and (ii) that the posting of your Content on or through the Service does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person or entity. We reserve the right to terminate the account of anyone found to be infringing on a copyright.

You retain any and all of your rights to any Content you submit, post or display on or through the Service and you are responsible for protecting those rights. We take no responsibility and assume no liability for Content you or any third party posts on or through the Service.

## 10. Accounts

When you create an account with us, you guarantee that you are above the age of 18, and that the information you provide us is accurate, complete, and current at all times. Inaccurate, incomplete, or obsolete information may result in the immediate termination of your account on the Service.

You are responsible for maintaining the confidentiality of your account and password, including but not limited to the restriction of access to your computer and/or account. You agree to accept responsibility for any and all activities or actions that occur under your account and/or password, whether your password is with our Service or a third-party service. You must notify us immediately upon becoming aware of any breach of security or unauthorized use of your account.

You may not use as a username the name of another person or entity or that is not lawfully available for use, a name or trademark that is subject to any rights of another person or entity other than you, without appropriate authorization. You may not use as a username any name that is offensive, vulgar or obscene.

You agree to provide Vesigo Studios with accurate, complete, and updated registration information, and to notify us promptly of any changes in such information. Changes to your account information, including contact and billing information, current email address, etc., can be made by submitting it writing to Vesigo Studios using one of the contact methods available on the web site at <http://www.ontime360.com>. It is your responsibility to keep your information current with us. All invoices and important notices will be sent using the information you have provided, therefore not receiving these documents due to invalid or incomplete address information will not be deemed a valid excuse for any reason.

We reserve the right to refuse service, terminate accounts, or cancel orders in our sole discretion.

## 11. Billing

Vesigo Studios invoices for setup, the prorated amount of the remaining calendar month, and the next calendar month's fees upon execution of this Agreement. Vesigo Studios will invoice you monthly in advance for the monthly minimum charge and in arrears for usage charges for the duration of the relationship. Except as provided below, monthly service and certain other charges are billed one month in advance and there is no proration of such charges if service is terminated on other than the last day of the calendar month.

Vesigo Studios' fees and charges are billed exclusive of applicable taxes, levies, and duties imposed by taxing authorities and governmental agencies, for which User shall be solely responsible. User represents that User shall promptly pay all applicable taxes, levies, and/or duties that may arise in connection with User's use of the Service. User agrees to provide Vesigo Studios with complete and accurate billing and contact information at the time of registration and commencement of use of the Service. User represents that any and all billing and contact information provided to Vesigo Studios is complete and accurate. User shall notify Vesigo Studios in writing within seven (7) business days of any change to User's billing and/or contact information. User's billing and/or contact information includes without limitation User's full legal name (individual or entity), physical street address, e-mail address, contact person, telephone number, and credit card, debit card, or bank account information of an authorized billing contact. If the contact information User provided to Vesigo Studios is false or has been fraudulently or wrongfully obtained, Vesigo Studios reserves the right to terminate User's access to the Service in addition to asserting any and all other legal remedies available to Vesigo Studios including without limitation seeking injunctive, monetary, and equitable relief. Unless Vesigo Studios in its sole and absolute discretion determines otherwise, Users will be billed and charged in U.S. dollars and subject to U.S. payment terms and pricing schemes ("U.S. Customers"). In the event that User disputes, or disagrees with any fee, charge, billing, or invoice, User must notify Vesigo Studios in writing within thirty (30) days of the charge date of any such disputed fee or charge. User's failure to timely provide written notice to Vesigo Studios shall constitute a waiver of a right to dispute the validity of the charge and further shall constitute User's acceptance of the fees, charges, and amounts charged as accurate and legitimate charges with respect to User. User's failure to dispute any amount charged to User's credit card, debit card, bank account, or charge card, shall constitute User's expressed consent to the validity and accuracy of the amount charged. Vesigo Studios offers a thirty (30) day money-back guarantee, as follows and subject to the following terms: User may within thirty (30) days of the initial charge date, request a refund of (I) User's first monthly Service fee; and (II) User's setup fee; provided however that User must timely submit a written refund request to Vesigo Studios.

## 12. Payment

You agree to remit payment to Vesigo Studios by credit card via instructions on the web site at <http://www.ontime360.com>. If you have questions about billing issues, an e-mail can be sent to [billing@ontime360.com](mailto:billing@ontime360.com) or you may contact our business office at 541-326-4200. At our discretion, accounts that are not properly and completely paid may be shut down and may incur penalties or reconnection charges.

## 13. Non-Payment and Suspension

In addition to all other rights granted to Vesigo Studios herein and/or by operation of law, Vesigo Studios reserves the right to suspend and/or terminate this Agreement and User's access to the Service and/or the Content, at Vesigo Studios' sole and absolute discretion in the event that

User's account becomes delinquent. A User account enters "delinquent" status if payment for the use and/or access to the Service and/or Content is not made before 12:00 a.m. Pacific Time on the date on which it is due. Delinquent charges are subject to immediate suspension and/or termination at Vesigo Studios' sole and exclusive option, without prior notice to User. User agrees to continue to be bound by the terms of this Agreement throughout the duration of any suspension and/or termination of this Agreement for any reason including without limitation termination for non-payment. If User or Vesigo Studios terminate this Agreement, User consents to a charge to User's credit card, debit card, and/or a debit from User's bank account in the sum of the final balance payable to Vesigo Studios as at the time of termination as determined by Vesigo Studios and in accordance with Vesigo Studios' standard billing practices and procedures and in accordance with this Agreement. Vesigo Studios reserves the right to impose a reconnection fee to restore use of the Service or access to the Content or the Service, at Vesigo Studios' sole and absolute discretion, in the event User's Service and/or access to the Content shall become suspended or terminated at any time for any reason including without limitation for non-payment. User agrees and acknowledges that Vesigo Studios has no obligation to retain and/or store Customer Data or any information uploaded to or transmitted through or to the Service, and that any and all Customer Data may be irretrievably deleted and purged from all systems and/or databases in the custody, possession, or control of Vesigo Studios in the event that User's account is delinquent thirty (30) days or more.

You remain responsible for paying your monthly service fee if your service is suspended for nonpayment.

#### 14. Term; Cancellation by User; Termination by Vesigo Studios

(a) Term. This Agreement shall be effective as of earliest of (i) the time that User subscribes to the Service; (ii) the time that User accesses the Service; (iii) the time that User accesses the Content; or (iv) the time that User downloads or uploads any information to or from Vesigo Studios. The Initial Term will be determined at the time of subscribing or registering for access to the Service, or as otherwise mutually agreed upon, commencing on the date User agrees to subscribe to the Service. Upon the expiration of the Initial Term, this Agreement will automatically renew for successive renewal terms at Vesigo Studios' then current fees, until termination. A free trial period shall not exceed 14 days, except upon the prior approval of Vesigo Studios. User's access to the Service shall expire, and the free trial period shall terminate automatically, upon the expiration of 14 days from the date of commencement of the free trial period, unless otherwise approved in advance by Vesigo Studios.

(b) Cancellation by User. You may cancel the Service at any time with 30-days written notice. Service will be terminated at the end of the following billing cycle. For example, if you terminate service by submitting written notice on May 10th, this agreement would remain in effect until the end of the billing cycle 30 days later, on June 30th. Your only right and sole remedy with respect to any dissatisfaction with any (i) TAC term, or policy or practice of Vesigo Studios or (ii) software feature or functionality or change therein, or (iii) amount or type of fees or billing methods, or change therein, is to terminate relationship. Vesigo Studios is not responsible for lost files or data due to cancellation, suspension, or account termination.

(c) Termination by Vesigo Studios.

i. Vesigo Studios may terminate a free trial User's access to the Service and/or the Content at any time subject to its sole and absolute discretion, without notice to User.



ii. If User breaches any of the Terms and Conditions, Vesigo Studios may, in its sole discretion and without prior notice, immediately terminate this Agreement and any licenses granted thereunder, suspend your account, and/or bar your access to the Service. Such termination, suspension, or loss of access will not prejudice Vesigo Studios' right to damages or any other remedy available at law or in equity.

iii. Vesigo Studios may, at any time, without cause, and in its sole discretion, terminate this Agreement by giving User at least 30 days' written notice.

#### 15. Pricing

You are responsible for all charges associated with connecting to Vesigo Studios', servers and Service. You agree that any internet connection, or wireless device service charges incurred are your responsibility. The current price for the Service is posted on the OnTime website at <http://www.ontime360.com>.

#### 16. Data Migration

Data Migration is not covered by this agreement and is specifically not included in product setup or support. Should you wish to have Vesigo Studios assist in the migration of data, we can supply you with a cost estimate. You may wish to import or export data using standard features of the software without incurring additional charges that would otherwise result from custom migration assistance provided directly by our staff members.

#### 17. Support

As part of your subscription to the Service, Vesigo Studios provides support via telephone during normal business hours, access to online support (such as forums, blogs, and email), and call-back after hours or emergency support. Your access to these different methods of support will depend upon the subscription level and any specific support contracts that you have entered with Vesigo Studios. Support is limited to questions and problems pertaining to the OnTime software, the Service, and its proper connection and functionality with your equipment. Vesigo Studios does not provide technical support for any third party software as part of this agreement. You agree to pay Vesigo Studios our current standard rates for emergency or after hours response to issues that are found to be in no way the fault of Vesigo Studios. For more information see the Service Level Agreement (SLA).

#### 18. Intellectual Property

The Service and its original content (excluding Content provided by Users), features and functionality are and will remain the exclusive property of Vesigo Studios and its licensors. The Service is protected by copyright, trademark, and other laws of both the United States and foreign countries. Any use of our trademarks, trade dress, copyrights, or other Intellectual Property is strictly prohibited without the prior written consent of Vesigo Studios, except as expressly permitted by this Agreement.

#### 19. Links to Other Web Sites

Our Service may contain links to third party web sites or services that are not owned or controlled by Vesigo Studios.

Vesigo Studios has no control over, and assumes no responsibility for the content, privacy policies, or practices of any third party web sites or services. We do not warrant the offerings of any of these entities/individuals or their websites.

You acknowledge and agree that Vesigo Studios shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such third party web sites or services.

User agrees to read the terms and conditions and privacy policies of any third party web sites or services that User visits.

## 20. Indemnification

You agree to defend, indemnify and hold harmless Vesigo Studios and its employees, agents, contractors, directors, owners, licensees and licensors, and their employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees), resulting from or arising out of (a) your use and access of the Service, by you or any person using your account and password; (b) a breach of these Terms, or (c) Content posted on the Service.

## 21. Representations & Warranties

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. User represents and warrants that User has not falsely identified itself nor provided any false information in connection with its communications with Vesigo Studios, including without limitation the billing information provided. User represents and warrants that any and all statements by User to Vesigo Studios were truthful and accurate.

## 22. Disclaimer of Warranties

Vesigo Studios and its licensors make no representation, warranty, or guaranty as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of the service, the content, or any material or technology supplied by Vesigo Studios. Vesigo Studios and its licensors do not represent or warrant that (a) the use of the service will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data; (b) the service will meet user's requirements and/or expectations; (c) reliability, integrity, accuracy, or authenticity of any data stored, uploaded to, downloaded from, retrieved from or otherwise obtained in connection with user's use of the service; (d) the quality, fitness, or suitability of any products, services, information, or other material or service purchased or obtained by user by or from Vesigo Studios; (e) correction of errors or defects; and (f) the existence or non-existence of viruses, computer bugs, glitches, or other events, expected or unexpected, which in any way hinder, delay, harm, modify, or otherwise impair the service and/or the server(s) that make the service available. The service and all content is provided to user strictly on an "as is" basis. All conditions, representations, and warranties, whether express, implied, statutory or otherwise, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third party rights, are hereby disclaimed to the maximum extent permitted by applicable law by Vesigo Studios and its licensors.

## 23. Internet Delays

Vesigo Studios' services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. Vesigo Studios is not responsible for any delays, delivery failures, information dissemination, or other damage resulting from any electronic, security, internet, communication, transmission, and all related problems. User assumes all risk of loss, and all risk of harm, damage, and injury that may result to user and/or its affiliates, customers, and associates, in connection with the use of the service, including without limitation risks inherent in the insecure and non-encrypted communications utilized in connection with the service.

#### 24. Limitation of Liability

In no event shall Vesigo Studios, nor its directors, employees, partners, agents, suppliers, or affiliates, be liable for any indirect, incidental, special, consequential or punitive damages, including without limitation, loss of profits, data, use, goodwill, or other intangible losses, resulting from (a) your access to or use of or inability to access or use the Service; (ab) any conduct or content of any third party on the Service; (c) any content obtained from the Service; and (d) unauthorized access, use or alteration of your transmissions or content, whether based on warranty, contract, tort (including negligence) or any other legal theory, whether or not we have been informed of the possibility of such damage, and even if a remedy set forth herein is found to have failed of its essential purpose.

The parties agree and acknowledge that in no event shall Vesigo Studio's aggregate liability exceed the sum of money actually paid by user during the ninety (90) day period immediately preceding the event giving rise to any claim or potential claim. In no event shall either party and/or its licensors be liable to any individual, entity, or any third-party for any direct, indirect, compensatory, general, special, punitive, exemplary, incidental, consequential or other damages of any type or kind (including damage arising from disclosure or dissemination of user's information, disclosure or dissemination of confidential information, disclosure or dissemination of customer data, loss of data, loss of revenue, loss of profits, loss of use or other existing or prospective economic advantage). The parties hereto specifically waive any right to recovery of special or consequential damages including, without limitation, loss of profits, use, goodwill, anticipated savings, anticipated revenue, anticipated contracts, and existing contracts, whether or not Vesigo Studios has been advised of the possibility or likelihood of such loss.

This limitation of liability shall expressly include any and all claim(s) or potential claim(s) arising out of, or in any way connected with this service and/or with Vesigo Studios, including but not limited to the use of the service, inability to use the service, the content, inability to use the content, or for any content obtained from or through the service, as well as any interruption, inaccuracy, delay in operation or transmission, error or omission (regardless of cause) in the content, even if the party from which damages are being sought or such party's licensors have been previously advised of the possibility of such damages.

This limitation of liability provision shall apply to all causes of action arising in any fashion, including as result of negligence, recklessness, fraud, intentional misconduct, intentional misrepresentation, and negligent misrepresentation. This limitation of liability provision expressly includes all contractual, extra-contractual, and tort claims and causes of action.

This limitation of liability provision shall be binding on all parties subject to and/or bound by this agreement and cannot be modified, narrowed, or broadened by either party hereto absent a written modification expressly referencing this agreement, which written modification can only be effective if signed by Vesigo Studios.

## 25. Liquidated Damages

User and Vesigo Studios agree that both the User and Vesigo Studios have and will commit substantial resources to the implementation of the Content and the Service, and that by implementing the Content and the Service the User and Vesigo Studios may be exposed to loss and/or damage(s) in connection with the use, implementation, and reliance on the Service and/or the Content. User and Vesigo Studios acknowledge that it would be difficult and impractical for the parties to determine the actual harm, if any, to User in the event of any failure, defect, error, or fault of the Content, the Service, or of Vesigo Studios and/or its staff, employees, technicians, directors, officers, and agents, whether such failure, defect, error, or fault was caused by the action, inaction, omission, intentional act, negligent act, or any other reason whatsoever of any individual, entity, software, and/or hardware. Notwithstanding such difficulty, User and Vesigo Studios hereby agree to quantify and monetize any and all damage, harm, and impairment that User may suffer as result of any reason whatsoever in connection with (I) the Service; (II) the Content; and (III) Vesigo Studios, setting such quantified and monetized damage at a liquidated damages sum of seven hundred and fifty dollars (\$750.00) for all acts, damages, harm, or impairment, that User may incur in any twelve (12) month period, irrespective of whether the damage, harm, or impairment was/were caused by a single event, a multiplicity of events, a single action or inaction, or a multiplicity of actions or inactions, whether inadvertent, intentional, or otherwise.

## 26. Disclaimer

Your use of the Service is at your sole risk. The Service is provided on an "AS IS" and "AS AVAILABLE" basis. The Service is provided without warranties of any kind, whether express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, non-infringement or course of performance.

Vesigo Studios its subsidiaries, affiliates, and its licensors do not warrant that a) the Service will function uninterrupted, secure or available at any particular time or location; b) any errors or defects will be corrected; c) the Service is free of viruses or other harmful components; or d) the results of using the Service will meet your requirements.

## 27. Force Majeure

Neither party shall be liable for any delay or failure to perform its obligations under this Agreement or for any damage or loss due to any event or circumstance beyond its reasonable control including, but without limitation, any delay, failure, damage or loss due to fire, flood, theft, storm, explosion, any act of God, industrial disturbance, failure of electrical supply or telecommunication networks, vandalism, sabotage or civil disturbance ("Force Majeure"). The party claiming the existence of Force Majeure shall give notice in writing to the other party specifying the cause and extent of its inability to perform its obligations and the likely duration of such delay or non-performance, or of the indefinite termination of the subscription, and shall take all reasonable steps to remedy or abate the Force Majeure. Non-performance by either of the parties of any of its obligations under this Agreement shall be excused during the time and to the extent that such performance is prevented or hindered, wholly or in part, by Force Majeure.

## 28. Additional Rights

Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages. To the narrow and limited extent that any of the foregoing disclaims liability for warranties or liability which may

not be disclaimed under the governing jurisdiction interpreting or enforcing this Agreement, so disclaimers shall not apply to User. In such an event, User expressly assumes onto itself the risk of loss, risk of harm, and risk of any and all damages resulting from any breach of any such non-excludable warranty or limitation of liability. In the event that any portion, provision, clause, or phrase, of this Agreement is determined by a Court of competent jurisdiction to be invalid, unlawful, or unenforceable, such portion, provision, clause, or phrase shall be severed from the remainder of this Agreement and shall not in any respect nullify, void, or otherwise impair the enforceability of the remainder of this Agreement. The parties desire that any adjudicating body enforcing this Agreement give effect to its purpose and intent to the fullest extent as permitted by law. The unenforceability of any provision(s) hereto shall in no way affect any other provision hereto, and further shall not alter the validity or enforceability of any other provision hereto.

#### 29. Local Laws and Export Control

The Service provides services and uses software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies and the export control regulations of the European Union. User acknowledges and agrees that Vesigo Studios, the Service, the Content, and the website shall not be used in, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to, countries as to which the United States and/or the European Union maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (hereinafter collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Service, User represents and warrants that User is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. User agrees to strictly comply with all U.S. and European Union laws, regulations, and export procedures and mandates as may be promulgated from time to time by the applicable export or trade commissions, and assumes sole responsibility for obtaining licenses to operate or use the Service and the Content where such license(s) or prior approvals may be required. Vesigo Studios and its licensors make no representation that the Service and or the Content is appropriate, suitable, or fit to be available for use in locations outside the United States of America. To the extent that User attempts to or in fact does use, access, or otherwise implement the Service in areas outside the United States of America, User is solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries, jurisdictions, and magistrates. User expressly assumes all risk of liability, harm, and loss, associated with violation or non-compliance with any applicable statute, law, regulation, or mandate by any governing or regulating body, agency, or authority. Any diversion of the Content contrary to the laws of the United States of America is prohibited. Any use of the Service contrary to the laws of the United States of America is prohibited. User represents and warrants that none of the Content, nor any information acquired through the use of the Service, is or will be used for nuclear activities, chemical or biological weapons, or missile projects, unless specifically authorized by the government of the United States of America and/or any and all other governing and/or regulating agencies and/or bodies for such purposes.

#### 30. Governing Law

These Terms shall be governed and construed in accordance with the laws of Oregon, United States, without regard to its conflict of law provisions.

Our failure to enforce any right or provision of these Terms will not be considered a waiver of those rights. If any provision of these Terms is held to be invalid or unenforceable by a court, the remaining provisions of these Terms will remain in effect. These Terms constitute the entire agreement between us regarding our Service, and supersede and replace any prior agreements we might have had between us regarding the Service.

This Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of Oregon, without regard to the choice or conflicts of law provisions of any jurisdiction. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the state or federal courts located in Jackson County, Oregon, United States of America.

### 31. Modification to Terms

Vesigo Studios reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time, effective upon the expiration of twenty-four (24) hours of posting of an updated version of this Agreement on [ontime360.com](http://ontime360.com). User assumes responsibility for regularly and routinely reviewing and inspecting this Agreement and the Agreement posted on [ontime360.com](http://ontime360.com) as it may be amended from time to time. Continued use of the Service for a period of more than twenty four (24) hours after a revised Agreement is posted shall constitute User's consent to any and all changes, amendments, and/or revisions to this Agreement, expressly agreeing to be bound by any and all such modifications, revisions, amendments, and revised policies as Vesigo Studios may post on [ontime360.com](http://ontime360.com) from time to time at its sole discretion. In the event that User objects to or otherwise rejects any amendment, revision, provision, modification, or alteration to this Agreement as may be amended or revised from time to time, User must notify Vesigo Studios in writing of any such dispute or objection within seven (7) days of the posting of such amended Agreement or amendment to this Agreement on [ontime360.com](http://ontime360.com).

By continuing to access or use our Service after any revisions become effective, you agree to be bound by the revised terms. If you do not agree to the new terms, you are no longer authorized to use the Service.

### 32. Assignment

User may not assign any of the rights conferred pursuant to this Agreement and/or the Service, including without limitation the access to the Service and the Content without the prior written approval of Vesigo Studios, which approval Vesigo Studios may at its sole discretion refuse. Vesigo Studios' written consent is required to effectuate an assignment of this Agreement to User's (a) a parent or subsidiary; (b) an acquirer of assets; or (c) a successor by merger. Any purported assignment in violation of this section shall be void. Vesigo Studios may terminate at its sole discretion any User and any User account which is deemed in violation of this provision by Vesigo Studios in its sole and absolute discretion.

### 33. General

No text or information set forth on any other purchase order, preprinted form or document shall modify, alter, or limit the terms and conditions of this Agreement. No joint venture, partnership, employment, or agency relationship exists between User and Vesigo Studios. The failure of Vesigo Studios to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Vesigo Studios in a writing signed by Vesigo Studios. This Agreement comprises the entire agreement between User and Vesigo Studios and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written

or oral, between the parties regarding the subject matter contained herein. This Agreement shall not be construed against the party preparing it, but shall be construed as if all parties bound by this Agreement jointly prepared it, and any uncertainty or ambiguity shall not be interpreted against any one party. The captions and headings of the various sections or paragraphs of this Agreement are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. The parties hereto acknowledge that this Agreement is entered into voluntarily by each of them, without any duress or undue influence on the part of or on behalf of any of them.

#### 34. Definitions

As used in this Agreement: "Agreement" means this Terms of Use agreement, including all subsequent amendments, revisions, and updates as may be implemented from time to time by Vesigo Studios in its sole discretion; "Content" means the audio and visual information, documents, software, products and services contained or made available to User in the course of using and/or accessing the Service; "Customer Data" means any data, information or material provided or submitted by User to the Service in the course of using and/or accessing the Service; "Initial Term" means the initial period during which User is obligated to pay for the Service equal to the billing frequency as determined during the subscription process (e.g., if the billing frequency is monthly, the Initial Term is the first month); "Intellectual Property Rights" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, registered marks, marks with common-law protection, 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; "Vesigo Studios" means Vesigo Studios, an Oregon limited liability corporation, including all of its assigns, employees, staff, agents, managers, subsidiaries, affiliates, officers, directors, and attorneys; "Vesigo Studios Technology" means all of Vesigo Studios' proprietary information, procedures, code, software design, technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information), including without limitation all such information made available to User by Vesigo Studios in connection with User access to and/or use of the Service and/or the Content; "Service(s)" means all of the products and services delivered or made available to User's access or use, including without limitation the Vesigo Studios Software, Vesigo Studios' contact and order management system including dispatching, billing, data storage and analysis, and other services developed, operated, and/or maintained by Vesigo Studios, accessible via <http://www.ontime360.com> or another designated web site or IP address, and any and all such ancillary services rendered to or made available to User by Vesigo Studios, including the Vesigo Studios Technology, the Content, and the Service.

#### 35. Contact Us

If you have any questions about these Terms, please contact us using one of the contact methods posted on our web site at <http://www.ontime360.com>.