

# Vamp Collective Terms and Conditions

These are the Terms and Conditions referred to in the Vamp Platform.

You agree that by using the Vamp Platform and/or by pressing ‘Yes’/‘I accept/Submit’, these Terms and Conditions (and any Brief, where you have accepted a Brief on the Vamp Platform) will be the Agreement governing the relationship between you and Vamp in respect of that Brief and **you** agree to be bound by these Terms and Conditions.

To the extent of any inconsistency between the Brief and these Terms and Conditions, the Terms and Conditions prevail.

## 1. Definitions and Interpretation

### 1.1. Definitions

The following terms in these Terms and Conditions have the meanings set out below, unless otherwise indicated:

- (1) **Agreement** means the agreement comprising:
  - (a) these Terms and Conditions; and
  - (b) the Brief;
- (2) **Brand** has the meaning given to that term in clause 10.3;
- (3) **Brief** means a brief under the Vamp Platform for the provision of Services. It may include the initial brief on the Vamp Platform and any further instructions not specified in the initial Brief that Vamp provides to you through the Vamp Platform or by other means of communication;
- (4) **Confidential Information** means all information disclosed (including inadvertently) by a party (**Discloser**) in connection with the Agreement, all information disclosed by a third party that the Discloser is required to keep confidential, including (without limitation):
  - (a) information which, either orally or in writing, is designated or indicated as being the proprietary or confidential information of the Discloser or a third party to whom the Discloser owes an obligation of confidentiality;
  - (b) Information derived partly or wholly from the information, including (without limitation) any calculation, conclusion, summary, computer modelling; and
  - (c) trade secrets or information that is capable of protection at law or equity as confidential information,

and the parties agree that the terms of the Agreement are jointly owned Confidential Information;

- (5) **Force Majeure Event** means any of the following causes provided that they are outside the reasonable control of the affected party and could not have been prevented or avoided by that party taking all reasonable steps:

- (a) act of God, earthquake, cyclone, fire, explosion, flood, landslide, lightning, storm, tempest, drought or meteor;
  - (b) war (declared or undeclared), invasion, act of a foreign enemy, hostilities between nations, civil insurrection or militarily usurped power;
  - (c) act of public enemy, sabotage or malicious damage, terrorism or civil unrest;
  - (d) ionising radiation or contamination by radioactivity from any nuclear waste or from combustion of nuclear fuel;
  - (e) confiscation, nationalisation, requisition, expropriation, prohibition, embargo, restraint or damage to property by or under the order of any government or government authority (except where such arises out of a failure by a party to comply with any Law);
  - (f) health crisis or pandemic or any nature; or
  - (g) strikes, blockades, lock out or other industrial disputes other than an industrial dispute that only involves the party's personnel.
- (6) **GST** means Goods and Services Tax as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (7) **Information** has the meaning given to that term in cl 8.1;
- (8) **Instagram** means the Instagram application;
- (9) **IPR** or **Intellectual Property Rights** means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, design rights, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights of any kind whether registrable or not in any country, including any renewals or extensions thereof;
- (10) **Jurisdiction** means any of the following:
- (a) the United Kingdom – if your residential address is in the United Kingdom or any other part of Europe;
  - (b) Singapore – if your residential address is in Singapore, Malaysia or Indonesia;
  - (c) Japan – if your residential address is in Japan;
  - (d) the United Arab Emirates – if your residential address is in the United Arab Emirates; and
  - (e) the State of New South Wales and the Commonwealth of Australia – if your residential address is anywhere else in the world.
- (11) **Law** means means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the Jurisdiction applicable to the Agreement and the Services;

- (12) **Materials** means material in any form, including drawings, reports, specifications, images, photos, videos and media in Graphics Interchange Format and other proprietary media types (howsoever constituted) and other documents provided by you in connection with the Agreement and the Services, including any Post made in connection with the Services;
- (13) **Payment** has the meaning given to that term in clause 5.1;
- (14) **Post** has the meaning given to that term in clause 4.1(1);
- (15) **Privacy Policy** means Vamp's Privacy Policy available at <http://vamp-brands.com/privacy-policy>;
- (16) **Services** means the services defined in clause 4.1;
- (17) **Schedule** means the Schedule to this document;
- (18) **Taxes** means GST, VAT or any sales tax that may apply in the Jurisdiction to the provision of the Services under the Agreement;
- (19) **Terms and Conditions** means this document;
- (20) **Vamp** means each of the following:
  - (a) **Vamp UK**, being Visual Amplifiers Limited (UK Company No. 10754848 of 41 Corsham Street, London, N1 6DR, United Kingdom);
  - (b) **Vamp SG**, being Visual Amplifiers Pte. Ltd (201628016K) of 100 Beach Road, #30-00, Shaw Towers, Singapore 189702;
  - (c) **Vamp Japan**, being Visual Amplifiers Japan KK, of 6 Chome-19-13 Shinbashi, Minato City, Tokyo 105-0004, Japan;
  - (d) **Vamp DMCC**, being Visual Amplifiers DMCC or **Motivate**, being Motivate Publishing, each of c/- Motivate Publishing, Level 34, Media One Tower Dubai Media City, PO Box 2331, Dubai, UAE; and
  - (e) **Vamp Australia**
- (21) **Vamp Australia** means Visual Amplifiers Limited ABN 13 601 198 850 of Level 6, 50 King Street, Sydney NSW 2000, Australia; and
- (22) **Vamp Platform** means the Vamp Phone Application as available on iOS and Android or any other platform, from time to time.

## 1.2. Interpretation

In the Agreement:

- (1) reference to:
  - (a) one gender includes the others;
  - (b) the singular includes the plural and the plural includes the singular;

- (c) a person includes a body corporate;
  - (d) a party includes the party's executors, administrators, successors and permitted assigns;
  - (e) a thing includes the whole and each part of it separately;
  - (f) a statute, regulation, code or other law or a provision of any of them includes:
    - (i) any amendment or replacement of it; and
    - (ii) another regulation or other statutory instrument made under it, or made under it as amended or replaced; and
  - (g) dollars means Australian dollars unless otherwise stated in the Quote.
- (2) "Including" and similar expressions are not words of limitation.
- (3) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (4) Headings and any table of contents or index are for convenience only and do not form part of this Agreement or affect its interpretation.
- (5) A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement.

## **2. Application of these Terms and Conditions**

- (1) These Terms and Conditions apply to any Brief for the provision of Services offered by Vamp to you through the Vamp Platform.
- (2) Vamp may, at any time, and at its sole discretion, modify these Terms and Conditions.
- (3) If you use the Vamp Platform, will provide notice to you of these modifications through the Vamp Platform.
- (4) Your use of the Vamp Platform following any modification to the Terms and Conditions will be subject to the most current version of the Terms and Conditions.

## **3. Applying for a Brief**

You may apply for a Brief by following the instructions set out in the Vamp Platform. The following conditions apply to any application you make for a Brief:

- (1) Vamp has sole and exclusive discretion to determine who it selects to provide Services under a Brief;
- (2) if you are asked to provide information in connection with any application for a Brief, you represent and warrant to Vamp that the information you've provided is true and correct. For the avoidance of doubt, this information may include, but is not limited to:

- (a) information as to whether you've worked with a Brand previously, or other brands or companies you have worked with; and
- (b) any Information.

You agree and acknowledge that the accuracy and veracity of the information you provide to Vamp is critical in Vamp making an assessment of whether you are selected to provide Services under a Brief.

## **4. Services**

### **4.1. The Services**

The Services may include, without limitation, the following tasks to be completed by you and services to be provided by you in connection with a Brief:

- (1) posting of images, videos, "Boomerangs", gifs or other media (including "Instagram TV" and "Instagram Stories") on Instagram or other social media channels in respect of a nominated brand, product or other matter (**Post**). You may be required to make multiple Posts as part of a brief;
- (2) in connection with any Posts referred to in paragraph (1):
  - (a) using #tags, @mentions as required in the Brief;
  - (b) posting in the correct format (eg. videos, photos, "stories");
  - (c) not posting content which relates to certain matters, brands or topics during a designated date range (or in perpetuity) or not using any #tags, @mentions etc; and
  - (d) without limitation, posting at certain times, posting during certain time periods, maintaining Posts for certain time periods, posting with the frequency required during a designated date range; and
- (3) granting and allowing Vamp to have "partner" access to your Instagram Account for a specified period.

(the **Services**).

### **4.2. Restricted Post content**

Any Posts you make must not contain anything that:

- (1) is illegal or contrary to any Law or anything having the force of Law in a Jurisdiction or infringes the rights of any other person;
- (2) is indecent, obscene, discriminatory (in any manner) or promotes, unruly, offensive or illegal behaviour;
- (3) defames or disparages Vamp or a Brand; or
- (4) involves the transmission of junk mail or spam.

### **4.3. Brief conditions in relation to Services**

To the extent that any Brief under which you provide Services stipulates conditions that you must meet in relation to the provision of the Services:

- (a) those conditions in relation to the provision of your Services are critical and must be complied with as an essential part of providing the Services; and
- (b) if any of the conditions relates to the timing of the provision of any Services, time is of the essence in relation to those conditions.

## **5. Payment**

### **5.1. Payment for Services**

You will be paid a fixed amount for each Brief, regardless of the number of Posts made for a Brief or the nature of Services to be performed. The amount to be paid will be set out on the Vamp Platform when you apply for and accept a Brief (**Payment**). Any amount in addition to the Payment that Vamp may make to you in relation to a Brief is at the sole and exclusive discretion of Vamp.

### **5.2. Payment Method**

- (1) All payments made by Vamp to you will be through Paypal using the details provided by you when registering for the Vamp Platform or such other payment method allowable and nominated by Vamp. It is your responsibility to ensure that these details have been provided and are correct. Vamp does not bear any responsibility for payments made to an incorrect Paypal account or other account.
- (2) To the extent a quoted Payment for a Brief is in currency which is required to be converted to another currency for any reason (for example, by your request or out of necessity by Vamp), then the foreign exchange rate which applies to that payment will be the lower (being the conversion exchange rate applying to the currency quoted for the Payment in a Brief for the conversion to the required currency) of:
  - (a) the exchange rate applying at the time the Agreement is entered into; and
  - (b) the exchange rate applying at the time the Payment becomes due and payable under the Agreement.

### **5.3. Taxes**

Vamp will pay an additional amount for Taxes if this is applicable to you and/or the Services in the relevant Jurisdiction. Vamp may also, from time to time, deduct withholding tax or any similar type of tax from amounts payable under cl 5.1 if required by any Law.

### **5.4. Application of Payments**

Any payment made by the Client to Vamp may be applied by Vamp in any manner it sees fit.

### **5.5. Time for Payment**

You will be paid within 30 days of successful completion of the Client's campaign to which the Brief relates, subject to clauses 5.6 and 5.7, and you otherwise fulfilling all conditions of the Brief and not otherwise being in breach of this Agreement.

If a Law requires that you provide a valid tax invoice to Vamp, you will only be paid once that tax invoice has been rendered and provided to Vamp.

## **5.6. Failure to perform Services**

If there are specific conditions relating to the Services to be performed by you, including, but not limited to:

- (1) making Posts and submitting proofs within a certain time-frame, or by a certain time;
- (2) making Posts in a certain content format;
- (3) making a certain number of Posts;
- (4) making Posts by a certain date or time;
- (5) maintaining Posts for a certain time period;
- (6) inclusion of certain elements required by a Client, including #hashtags, @mentions and any other relevant wording;

and you fail to meet any of those conditions, Vamp is not required to pay you for those Services in relation to that Brief, on the basis that those conditions are critical conditions of the Brief you are providing Services in relation to. For the avoidance of doubt, failure to perform all Services and complete all requirements and remain signed up the Vamp Platform until a campaign described in a Brief is completed will result in a forfeiture of the Payment. Should you fail to perform Services in any manner, at any time, Vamp may remove you from the Vamp Platform in its sole and exclusive discretion.

## **5.7. Brief Application**

If in conjunction with any application for a Brief under clause 3 of these Terms and Conditions:

- (1) you provide incorrect, untrue, false or misleading information to Vamp; and/or
- (2) you fail to meet any undertakings you give in the Brief application,

you will be in breach of the Agreement, and Vamp is not required to pay you for any Services you may thereafter provide under the relevant Brief.

## **6. Materials and IPR**

### **6.1. Property in Posts**

All Materials produced by you in connection with a Brief and all IPR in those Materials becomes the property of Vamp Australia immediately upon production of those Materials. Vamp will pay you for the Services in accordance with cl 5 in consideration for performance of the Services and those Materials becoming the property of Vamp Australia.

### **6.2. Irrevocable Assignment**

You agree that you assign all of your right, title and interest in any Materials and IPR in those Materials to Vamp Australia without limitation, effective immediately upon creation.

## **7. Confidential Information**

You acknowledge that:

- (1) you may be provided with Client Materials by Vamp to assist you in providing the Services; and
- (2) if you are provided with Client Materials, you agree that those Client Materials are provided to you on the basis that:
  - (a) the Client Materials are only to be used for the provision of the Services in connection with a Brief and for no other purpose;
  - (b) you will keep the Client Materials strictly confidential and only disclose Client Materials: when compelled by any Law, at which point you will advise Vamp of this;
  - (c) you will take all reasonable steps to keep the Client Materials secure; and
  - (d) you will destroy or return all Client Materials relevant to a Brief when the Services in relation to that Brief have been completed.

## **8. Information**

### **8.1. Agreement to provide Information**

You agree to provide certain personal information to Vamp as a condition of use of the Vamp Platform, such as your:

- (1) name;
- (2) address;
- (3) email address;
- (4) phone number;
- (5) Paypal account details; and
- (6) other information as might be required by Vamp from time to time, including tax status.

(together, the **Information**)

### **8.2. Representations and warranties as to Information**

You represent and warrant to Vamp that the Information provided by you is, and will be at all times, true and accurate in all respects. You must notify Vamp of any change in circumstances that may cause the Information you have provided to become misleading, inaccurate or untrue. You acknowledge that Vamp will rely on the Information in performing its obligations under the Agreement and in complying with Laws (including without limitation, any taxation laws) and you hereby indemnify Vamp for any special incidental, indirect, statutory, exemplary, punitive or consequential damages, including loss of profits, arising out of, or in any way related to the inaccuracy of the Information.

## **9. Indemnity and Limitation of Liability**

### **9.1. No liability for Vamp**



Vamp shall not be liable to you for any damages of any kind arising out of your use of the Vamp Platform or performance of Services by you, whether such damage arises directly or indirectly. You agree and understand that the use of the Vamp Platform and accepting and providing Services under a Brief is undertaken at your own risk.

## **9.2. Indemnity**

You agree to indemnify and hold harmless, Vamp, its employees, personnel and agents from any and all claims, liabilities, damages, losses and expenses arising out of or in any way connected with any of the following matters:

- (1) the content of any Posts you may make or Services you may provide;
- (2) your breach of the parameters of any Brief or the Terms and Conditions;
- (3) your breach of any IPR;
- (4) any misrepresentation made by you;
- (5) your violation of any Laws; and
- (6) any of the warranties and undertakings you have given under the Brief or these Terms and Conditions;

whether such matters are alleged or otherwise.

## **10. Other matters**

### **10.1. General warranties and undertakings**

For as long as you are signed up for the Vamp Platform (or if you are not signed up for the Vamp Platform, you have been otherwise engaged by Vamp to perform Services):

- (1) you undertake that:
  - (a) that you are and will be the sole author of all Materials produced by you in the course of providing Services (unless you are specifically instructed to work with another party in a Brief), which will be wholly original to you, and not in breach of the rights of any third party, including but not limited to, any IPR;
  - (b) you are in compliance with all relevant Laws in the Jurisdiction and any regulations or guidance notes issued pursuant to or in connection with those Laws and will continue to comply with same;
  - (c) you will follow any best practice guidelines endorsed by Vamp and notified to you from time to time;
  - (d) you will not make any public statements or communications of any nature in relation to any Brief or any Brand, without the prior written consent of Vamp and the relevant Brand;

- (e) that if you are producing Materials as part of the Services you are providing, you will not make any public statement or communication about the Materials other than what is agreed with Vamp or the relevant Brand;
  - (f) you will not do anything which would defame, tend to defame or could be construed as being defamatory, derogatory or disparaging of Vamp or any Brand or their affiliates, whether in conjunction with the Services or not;
  - (g) any Materials you produce:
    - (i) will be your sole and original work, unless collaboration is necessary or implied, in which case it will be the original work of you and any collaborators;
    - (ii) will not infringe the IPR of any third party or any other proprietary or moral rights of a third party;
    - (iii) will not infringe any Laws;
    - (iv) will not be defamatory or tend to defame and third party; and
    - (v) will not be obscene, graphic, pornographic, racially or religiously insensitive or in any way discriminatory or offensive, or with the tendency to offend;
  - (h) whether in connection with the Services or not, you will not post any obscene, graphic, racially or religiously insensitive or any otherwise discriminatory or content which is offensive or might tend to offend any person, or do any other thing which might have the tendency to offend any person; and
  - (i) you will not be under the influence of drugs or substances (apart from anything prescribed to you by a medical practitioner) in performing any of the Services;
- (2) you represent and warrant that:
- (a) you do not have a criminal record (except in relation to minor traffic offences) in any Jurisdiction and are not subject to any outstanding criminal investigation; and
  - (b) you have not taken any fraudulent action, or procured that any fraudulent action is taken in relation to your social media channels (including, but not limited to, Facebook, Instagram, Twitter, Tiktok or blog), including for the avoidance of doubt, buying followers or engagement to your social media channels.

## **10.2. Exclusivity**

You agree to not establish a business in competition with Vamp or compete (directly or indirectly) with Vamp in providing services similar to the Services, so long as you are signed up for the Vamp Platform and for a period of 3 months following you removing yourself from the Vamp Platform.

For the avoidance of doubt, you must not engage with any Brand directly during the period noted in this clause 10.2 unless through the Vamp Platform, without the prior consent of Vamp.

## **10.3. Restriction on action**

So long as you are signed up for the Vamp Platform:

- (1) you agree to not publish any material, whether in print or electronically, make any statement or do any other thing which may tend to defame or bring into disrepute, Vamp or any brand, product or person/party referred to in a Brief or in respect of which you have provided Services (**Brand**), or otherwise say or do anything that is adverse or prejudicial to Vamp or a Brand, or permit any such thing to be done on your behalf; and
- (2) you agree to indemnify Vamp for any costs, losses or liabilities arising out of a breach of paragraph (1) by you.

#### **10.4. No relationship**

For the avoidance of doubt, nothing in a Brief of these Terms and Conditions or performance of obligations in relation to same constitute any relationship of employer and employee, principal and agent or partnership between you and Vamp. You must not represent yourself as being an employee, agent or partner of Vamp.

#### **10.5. Monitoring, suspension and termination of access**

Vamp reserves the right to generally monitor the Vamp Platform and all activity through the Vamp Platform. If you are in breach of these Terms and Conditions or Vamp suspects that you are in breach of these Terms and Conditions, or engaged in suspicious, fraudulent, abusive or other activity which Vamp (in its absolute and exclusive discretion) determines is not in accordance with its values or may be detrimental to its or a Brand's interests) it may choose to suspend or terminate your access to the Vamp Platform.

### **11. General**

#### **11.1. Force Majeure**

Despite any other provision of this agreement, if a party is unable to perform or is delayed in performing an obligation under this agreement by reason of a Force Majeure Event:

- (1) that obligation is suspended but only so far and for so long as it is affected by the Force Majeure Event; and
- (2) the affected party will not be responsible for any loss or expense suffered or incurred by any other party as a result of, and to the extent that, the affected party is unable to perform or is delayed in performing its obligations because of the Force Majeure Event.

#### **11.2. No waiver**

No forbearance or delay by Vamp in exercising or enforcing its rights under the Agreement shall prejudice or restrict the rights of Vamp to exercise or enforce its rights at a later time and no waiver of any such rights or of any breach of any contractual terms shall be deemed to be a waiver of any other right or of any later breach. Vamp may only waive a right under the Agreement by doing so in writing.

#### **11.3. Assignment**

Vamp may assign its rights under the Agreement by notice to you.

#### **11.4. No derogation**

The rights and remedies provided in this Agreement will not affect any other rights or remedies available to either party.

**11.5. Severability**

If any provision of the Agreement is unenforceable, illegal or void, that provision is severed and the other provisions of this Agreement remain in force.

**11.6. Jurisdiction**

The Agreement shall be governed by and construed in accordance the laws of the relevant Jurisdiction. Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of the Jurisdiction over any claim or matter arising under or in connection with the Agreement (whether in contract or in tort).

## Schedule – Additional Provisions

### S 1 – Additional Provisions for Australia

#### 12. Australia – Application

Clauses 12, 13 and 14 apply where the Jurisdiction applicable to the Agreement is Australia.

#### 13. Australia – Privacy

##### 13.1. Definitions

The following words have the meanings set out below, when used in this clause 14, unless context requires otherwise:

- (1) **Privacy Law** means the *Privacy Act 1988* (Cth);
- (2) **Privacy Policy** means Vamp’s privacy policy found at <http://visualamplifiers.com/talent/privacy/>; and
- (3) **Personal Information** has the meaning given to that term in the Privacy Law.

##### 13.2. Personal Information

Where you provide Information to Vamp, and such Information constitutes Personal Information, Vamp does not usually, but may disclose that Personal Information to certain third parties in accordance with the Privacy Law. Otherwise, Vamp will abide by its Privacy Policy.

#### 14. Australia – Tax

For the avoidance of doubt, in relation to cl 5.3 of the Terms and Conditions, Vamp will pay you an additional amount as required by Law on top of the Payment on account of GST.

## **S 2 – Additional Provisions for UAE**

### **15. UAE – Application**

Clauses 15 and 16 apply where the Jurisdiction applicable to the Agreement is the United Arab Emirates.

### **16. UAE – Information**

For the avoidance of doubt, Information supplied under clause 8 of the Terms and Conditions will be used to fulfil the obligations of Vamp and Motivate under the applicable National Media Council Media Licence.

### **S 3 – Additional Provisions for United Kingdom**

## **S4 – Additional Provisions for Singapore**



## **S6 – Additional Provisions for Hong Kong**