

Phone DESIGN

SaaS CONTRACT MY STUDIO

BETWEEN

PHONE DESIGN, a French limited liability corporation (SARL) with a share capital of 86.700,00 €, having its registered address at 9 Rue Denis Papin, 10000 Troyes, France, registered at the company register (RCS) of Troyes under number 447 980 780, represented by her Partnerships Manager, Violette GUILLARD, duly authorized,

Hereinafter designated as « **Service Provider** » or « **Phone Design** »,

ON THE FIRST HAND,

AND

The Client Company,

Hereinafter designated as « **Partner** » or « **Partner Distributor** »,

ON THE SECOND HAND.

PREAMBLE :

Phone Design has developed and commercializes, to its network of partners and distributors, services relating to the creation of phone messages. These partners are companies of the high-tech sector, software firms, who propose themselves the services of Phone Design to their own clients.

Partner is a company specialized in IT and/or telecoms.

Partner is willing to use the services proposed by Phone Design in order to put a range of services in place, those services to be dedicated to Partner's clients, including in particular a recording studio under white labelling, with the creation of a dedicated web site, under the name and brand of the Partner's client (or the use of Phone Design's API).

Partner, as an expert in his domain, acknowledges having received from Service Provider all relevant and necessary information in order to understand and evaluate the fit between the services proposed by Phone Design to his needs and those of his final customers.

As part of his expertise, the Service Provider will provide to the Partner any essential recommendations relating to the optimization of his choices and the appropriate coverage for his personal needs and those of his end clients.

The parties have decided to formalize their commercial and contractual relationship in the present Contract (hereinafter the "**Contract**").

IT HAS BEEN AGREED AS FOLLOWS:

Section 1 | DEFINITIONS

The following terms starting with a capital letter in this Contract, whether used in the singular or the plural, shall have the meaning given below.

“**Clients**”: shall mean the clients and customers of the Partner.

“**Data**”: shall mean all information, publications and more generally all data of the Partner and/or his Clients, which might be concerned by the present Contract, and/or which might be used by the Users of the Partner.

“**Response Time Warranty**”: shall mean the time frame warranted by the Service Provider to the Partner to start the technical response needed to solve a technical problem. This response time is calculated between the time the Partner signifies the incident to the Service Provider and the time the Service Provider starts the technical intervention.

“**ID**”: shall mean both the User’s own identifier (“login”) and the access code, communicated after registering for the Services, or any other means for identifying the User, for example: his IP address (non-exhaustive list).

“**White Labeling**”: shall mean a service designed for the Partner to take over and sell the Services of the Service Provider under his own name and brand or those of the Partner’s Clients. It is therefore a commercial mechanism for offering tools and services, without mentioning the brand of Phone Design, nor the origin of the information transmitted to the Partner’s Clients.

“**Digital Tools**”: shall mean the tools and operating functions proposed by Phone Design as listed in [Appendix 1](#) of the Contract and/or listed in the commercial proposal(s) made available to the Client within the framework of the Application Services covered by the Contract.

“**Free of Copyright**”: shall mean that the Service Provider has the composer’s, the author’s and the performer’s authorizations and license to issue certificates stating that no royalties or copyrights can be claimed the authors and performers for the broadcast of selected music or messages on telephone lines.

“**Services**”: shall mean all services provided by Service Provider to Partner.

“**Application Service**” or “**Application**”: shall mean the SaaS service proposed by Phone Design allowing the use of the Solutions by the Client, as described in [Appendix 2](#).

“**SLA**” or “**Service Level Agreement**”: shall mean the level undertakings and quality of Services of the Service Provider. The SLA granted to the Partner is attached to this Contract in [Appendix 3](#), choices are specified in the business offer.

“**Solutions**”: shall mean the software and IT solutions developed and owned by Service Provider, including the Application Services and the Digital Tools, all relating documentation and all other software and solutions put at Partner’s disposal by Phone Design within this Contract.

“**User**”: shall mean the person placed under the responsibility of the Partner (agent, employee, representative of the Partner etc.) and having access to the Application Services on his computer under the license contracted by the Partner.

Section 2 | SUBJECT MATTER OF THE CONTRACT

The present Contract defines the terms and conditions applying to the performance by the Service Provider of various Services to the benefit of Partner, those Services being included into « **MY STUDIO** », it being understood that those Services are sold to the Partner for him to offer and resell these Services to his own Clients under a White Labeling.

The Services to be performed by Service Provider include in particular the license to the Partner of the Solutions, including the Application Services and the Digital Tools as defined in this Contract and its Appendixes. The Contract includes therefore a SaaS license of the Solutions of the Service Provider to the benefit of the Partner.

For this license, which is exclusively made as a White Label, the Service Provider grants access to the Partner to all Services and every necessary tools for the production, the promotion and the sale of telephone greetings, (Pre-answered message, on hold telephone message or music, IVR, Voices guides, GSM ...) to his Clients.

It is agreed that the Service Provider might not only request services from his staff, his comedians under artistic contract, but also subcontractors and any person relevant for the performance of the present Contract, within the terms, conditions and limits defined into this Contract.

Section 3 | ENTRY INTO FORCE, DURATION AND TERMINATION

3.1 The present Contract will enter into force once signed by the Partner and Phone Design. It shall remain into force for an indeterminate period of time.

3.2 The present Contract might be terminated at any time by each of the Parties by sending a written notice to the other Party giving a minimal notice period of at least three (3) months. Such written notice shall be sent by registered letter or commercial letter (DHL, Fedex, UPS ...) to the other party.

3.3 The present Contract may also be terminated by each of the Parties if one of them is in breach of his main contractual obligations and does not remedy to such breach within a period of thirty (30) days following the receipt by the claim notice sent by registered or commercial letter (DHL, Fedex, UPS ...) to the other Party.

3.4 Unless otherwise agreed between the parties, in any case of termination of the present Contract, whatever the time or the reasons for such termination, the Partner shall immediately cease to use the Solutions and Services, including his personnel ID's and access codes.

Section 4 | CONTRACTUAL DOCUMENTS

4.1 The present Contract includes the following contractual documents, which are presented in their hierarchical and legal decreasing order:

- The present Contract;
- The following Appendixes:
 - Appendix 1: Digital tools;
 - Appendix 2: Application Services;
 - Appendix 3: SLA;
 - Appendix 4: GPDR Conformity and personal data protection
- The business offer that states the yearly or monthly pricing and the message unit price according to the Service Level Agreement chosen and specified in the business offer as well.

4.2 In case of contradiction between one or more terms of one of those documents, the document with the higher rank shall prevail. The Partner's general terms and conditions shall not apply to this Contract and the parties' relationship.

Section 5 | OBLIGATIONS AND WARRANTIES OF PHONE DESIGN

5.1 Phone Design shall make his best efforts to perform Services of a high quality to the Partner, as agreed in this Contract and its Appendixes.

5.2 Any specific intervention or services requested by the Partner outside the scope of the present Contract will be charged by Service Provider on the basis of a commercial proposal issued by Service Provider or at the then current prices of Service Provider.

5.3 The Service Provider ensure Data hosting services, the corrective maintenance and the security of the Solutions. The Service Provider ensures back-up of the Partner and Clients Data under the conditions stipulated in [Appendix 4](#). The Services are performed by the Service Provider in accordance with the SLA attached to this Contract as [Appendix 3](#) and chosen in the [business offer](#).

5.4 Phone Design only warrants (i) that the Solutions shall comply to its technical specifications and functionalities which have been expressly warranted by Phone Design. Phone Design warrants that it owns all intellectual property rights which allows him to properly enter into this present Contract, and (ii) to his best knowledge, at the signature date of this present Contract, the Solutions do not directly breach the rights of third parties. Phone Design does not warrant any performance of the Solutions, and does not give any other warranty, whether express or implied, to the Partner.

5.5 The above-mentioned warranties remain in any case subject to the compliance by the Partner to the following conditions:

- The Partner does not use the Solutions for goals of purposes which have not been expressly foreseen by the parties;
- The Partner shall use the Solutions on a hardware, technical and technological environment which is properly suitable to the use and operation of the Solutions.
- The Partner shall not have modified or changed the Software, either directly or through a third party.

5.6 Any change or modification to the Solutions without the prior written approval of Phone Design excludes automatically Phone Design's warranties.

Section 6 | LICENSES OF THE SOLUTIONS

6.1 License grant:

Phone Design grants the Partner, who accepts, a non-exclusive license to use and exploit the Solutions available on his server through the web-based network as SaaS (« Software as a Service »). The Partner shall use the Solutions according to the terms and conditions of the present Contract, for his own needs and in accordance with the Documentation. This license is granted solely to the Partner, without limitation regarding the number of workstations or the country the license will be used. This right to use the Solutions granted to the Partner is a non-exclusive personal, non-assignable and non-transferable right, limited to the Partner, subject however to the terms of section 6.3 below.

This license will take effect at the Starting Date of this Contract and will remain in force and valid only for the duration of this Contract. The Parties acknowledge that Phone Design has the right to grant other licenses of the Solutions to other partners and clients, including competitors of the Partner.

Subject to the provisions of section 6.3, the Partner:

- Is not allowed to grant sublicenses of the Solutions to third parties (including his affiliates in the broadest meaning) without the prior written approval of Phone Design;
- Shall not substitute a third party within his rights and obligations without the prior written approval of Phone Design.

6.2 Domain and scope of the license:

The « right to use » granted to the Partner shall mean the right to use the Solutions for his own needs and in accordance with the Documentation of Phone Design, the terms and conditions of the present Contract and any applicable regulation. The license of the Solutions is granted to the Partner solely to allow him to offer and sell to his Clients services which are similar to those offered by Phone Design, with the exclusion of all other forms of use. The Partner shall not, directly or indirectly, make any other use of the Solutions, in particular, without limitation, any adaptation, modification, change, translation, arrangement, dissemination, decompilation, reverse engineering or copy the Solutions, as well as any act likely to affect the integrity of the Solutions and the software therein. The Partner is prohibited to amend the texts accompanying the Solutions, and in particular all documentation, manual and tag, including any translation of these documents.

The Partner shall comply with all intellectual property laws and rights of third parties and shall use the Solutions and its various functionalities and modules in a genuine way and in good faith. Phone Design reserves the right to add program monitoring to the Solutions to verify that the declarations made by the Partner are truthful.

6.3 Sub-license to Partner's Customers:

The Service Provider grants the Partner the right to sell and provide to his own Clients, within the terms and limitations of the Contract, a sublicense of the Solutions, regarding the functionalities and the tools available on the web site dedicated to the Clients.

Section 7 | DESCRIPTION OF DIGITAL TOOLS AND APPLICATION SERVICES

The detailed description of the Digital Tools made available to the Partner by the Service Provider is included as an Appendix 1 to this Contract.

The detailed description of the Application Services made available to the Partner by the Service Provider is included as an Appendix 2 to this Contract.

Section 8 | MAINTENANCE, IMPROVEMENTS AND CHANGES TO THE SOLUTIONS

8.1 Improvements :

Phone Design might realize and implement all improvements and new version of the Solutions. Unless otherwise agreed between the Parties, this license will include all such future improvements and refinements. For his parts, the Partner shall share with Phone Design all ideas of improvements he might have in connection with the use of the Solutions and/or their functionalities.

8.2 Corrections :

The Service Provider will take over the corrective maintenance of the Solutions as part of the SLA contained in Appendix 3. Phone Design may need to review and change the Solutions from time to time, as part of preventive and corrective measures, in order to improve their performance. The Partner is committed to cooperate with Phone Design for the implementation of these corrections and modifications, or will himself make these corrections or modifications as recommended by Phone Design, otherwise the Partner will lose the benefits of the warranties granted by Phone Design.

Should defaults on the Solutions be found by the Partner, the latter shall inform Phone Design without undue delay thereof but in any case within four (4) calendar days by e-mail. As part of the maintenance work, the processing of any defects will be performed from Monday to Friday, from 9 am to 6 pm, French time (UTC +1).

If a default or bug is declared by the Partner, Phone Design will proceed to the diagnosis of the defect.

If Phone Design recognizes the existence of a default or bug, Phone Design shall make his best commercial efforts to cure and fix the default within a reasonable period of time, in accordance with the SLA attached to this Contract as Appendix 3.

8.3 The Service Provider shall not be liable or responsible for any maintenance in the following cases:

- Refusal of the Partner to collaborate with the Service Provider in the resolution of defaults or bugs and in particular to answer questions and inquiries of Service Provider;
- Use of all or part of the Solutions in a manner not consistent with their destination, documentation or the Contract;
- Unauthorized modification of the Solutions by the Partner or by a third party mandated by the Partner;
- Failure of the Partner to fulfil his obligations under the Contract;
- Implementation of software packages, software or operating system not compatible with the Solutions,
- Failure of electronic communication networks,
- Willful act of degradation, misconduct, malice, sabotage;
- Use by the Partner of a technical environment or of equipment unsuitable for the use of the Solutions;
- Deterioration due to force majeure or misuse of the Solutions.

However, the Service Provider may take on, if it proves possible, the malfunctions caused by the cases listed above, at the Partner's costs, at the current Service Provider's rate on the intervention date.

The Service Provider interventions during preventive or corrective maintenance operations may render the Service and Solutions temporarily unavailable.

8.4 Adaptations and modifications :

Any new functionalities, developments or specific adaptations of all or part of the features of the Solutions that may be specifically requested by the Partner do not fall within the definition of the Solutions enhancements and refinements described above, and are not included in the subject matter of this Contract. These modifications and/or developments will have to be negotiated by the Partner on a case-by-case basis with Phone Design and must be expressly accepted by Phone Design on the basis of a quote or an amendment accepted by both parties.

Section 9 | QUALITY OF DIGITAL TOOLS AND APPLICATION SERVICES

9.1 In view of the nature and complexity of the technologies implemented for the execution of the Contract, and technical contingencies inherent to the use of Internet, and the resulting access interruptions, each party:

- Undertakes to take all reasonable steps and care in the performance of this Contract;
- Acknowledges that the Services and Solutions provided by the Service Provider cannot be completely free from anomalies, defects or bugs, and that this could result in temporary unavailability of the Solutions and/or Services

9.2 Service Provider shall not be held liable for any reasonable unavailability or slowdown of the Services or Solutions related to internet access or power interruptions. Moreover, the use that the Partner and their Clients make of the Data obtained using the Solutions is done under their own responsibility, without any liability or responsibility of the Service Provider.

Section 10 | ID AND ACCESS CODE

10.1 During each connection to the Solutions, the Partner will use his ID's provided to him by the Service Provider or created on the Solution interface.

These IDs are intended to reserve access to the Solutions to the Partner and his authorized Users, and to protect the integrity, availability and confidentiality of the Partner's Data as transmitted.

10.2 The IDs are personal. The Partner undertakes not to disclose them to third parties in any form whatsoever. The Partner is and remains solely liable for the use of his IDs and access codes. The Partner also assumes full responsibility for the security of his own access points to the Solutions.

Section 11 | INTELLECTUAL PROPERTY

11.1 Phone Design remains in any case and at any time the sole and exclusive owner of the Solutions and the relating software, any associated Documentation, including any know-how which have been or would be communicated or provided by Phone Design to the Partner or the Clients for the performance of the Services. All intellectual property rights relating the Solutions, including algorithms, designs, plans, samples, processes, know-how, reports and/or other documents of Phone Design, and all subsequent developments of Phone Design, including on behalf of the Partner or a specific Client, remain the sole and exclusive property of Phone Design and shall be protected by laws, in particular by intellectual property rights and laws.

Intellectual property rights relating to the Solutions, including without limitation copyrights, rights on patent, registered marks, trademarks or names, designs, models, including other rights concerning directly or indirectly the Solutions remain the sole and exclusive property of Phone Design. The same applies to the overall IT infrastructure (software and hardware) implemented and/or developed by Phone Design within the frame of the performance of this Contract.

11.2 The Partner shall not decompile or perform reverse engineering works in or to the Solutions, reproduce any module or component of the Solutions, in all or in part, for the purpose of creating new applications or creating more solutions or software that may reproduce or compete directly or indirectly with the Solutions. The Partner shall not remove any tag or change any information relating to Phone Design's property to the Solutions.

11.3 In case of breach by the Partner of his obligations, Phone Design might, without limitation, suspend the license of the Partner and his access to the Solutions and its Services. This will not release the Partner from his obligation to pay the fees relating to the Services or license of the Software.

11.4 The present Contract does not imply any transfer of rights over the property or ownership of the Solutions to the Partner. The delivery of the Solutions as agreed under this Contract shall not be deemed to be a sale or transfer of any intellectual property rights to the Partner within the meaning of the French intellectual property Code.

11.5 The Partner shall not reproduce any module or component, in all or in part, by any means or under any form, of the messages, voices or music delivered by Phone Design, under penalty of immediate termination of this Contract as well as indemnification.

11.6 Phone Design could be held liable as a result of messages made public. Therefore, Phone design reserves the right to not create messages likely to infringe the rights of Phone Design or of third parties, and messages that may contravene current laws and regulations. Any claim by the Partner in this regard shall be made by registered letter (or post followed by Fedex, DHL, UPS, etc.) to Phone Design's head office within a maximum time limit of eight (8) days under threat of foreclosure.

Section 12 | FINANCIAL TERMS

12.1 Price of the Services and Solutions

The price of the Services is the financial consideration that the Partner agrees to pay to the Service Provider to benefit from the Services and the Solutions.

The commercial price covered by this Contract is based on the access to all Services and all the Solutions described in Appendixes 1 and 2 of this Contract.

The price and payment conditions of the “MY STUDIO” offer are laid down by the business offer.

This rate may be revised in the light of the financial conditions set out below.

The following services are excluded from this rate and are charged separately by the Service Provider to the Partner:

- Training services not specifically covered by this Contract,
- And more generally all services not expressly included in the “MY STUDIO” offer.

12.2 Purchase of Audio Messages

The purchase price of audio messages is a price per message and per language / with music Free of Copyright, trade or corporate. The purchase price for the audio messages is set out in the business offer.

This rate is unique and includes the commitments of a transfer of the message to the Client for listening within about 48 hours.

The Service Provider shall deliver the audio message only after validation by the Partner’s Client.

This rate may be revised annually in accordance with the formula and conditions set out below “Price Review”.

The Service Provider’s rate does not include broadcasting-related fees and charges due to SACEM and other related fees, due upon the first request for royalty services, except for royalty-free music, whose certificates are sent free of charge to Clients subject to obtaining their complete contact details and them having adequate authority to gather and/ or transmit this information internally.

12.3 Free Implementation

The implementation of the SaaS Solutions on the Partner’s sites is provided free of charge to the Partner. This implementation includes a consulting and support service to customize the relevance of our Solution, from the first iteration to the production launch.

12.4 Discount

A discount might be applied to each monthly bill on the total purchase amount of the month’s audio messages. Such discount is described in the business offer.

12.5 Price revision:

It is expressly agreed that the amount invoiced by the Service Provider may be revised at each annual deadline, according to the following formula:

$$P = P0 * (S1/S0)$$

In which:

P = revised price

P0 = initial price

SI = value of the SYNTEC indicator of the month m-3 when m is the month of the price revision.

S0 = value of the SYNTEC indicator of the month m-3 when m is the month of the Contract signature.

12.6 Payment terms / invoicing

An account opening file will be provided by Phone Design to the Partner, who undertakes to complete and return it to Phone Design without undue delay.

A paperless monthly invoice for all messages delivered will be issued every month by Phone Design. On this invoice, a descriptive paragraph is created for each delivery of the month due.

The Price is payable within 30 days of receipt of invoice, by cheque or transfer, to the bank account of Phone Design whose details are communicated to the Partner.

12.7 Non-payment – Delay in payment:

Without prejudice to any damages, failure by the Partner to pay an invoice on its due date automatically results in:

- the application by the Service Provider, as a contractual penalty, of a late interest rate equal to three times the interest rate applied by the ECB + 10 points, without prior notice and from the first day of delay ;
- the invoicing of a lump sum of forty (40) euros per overdue or unpaid invoice, to cover part of the recovery costs by the Partner;
- the additional cost of the termination of the Contract as of right within 15 days after the Service Provider sends a formal notice by registered letter with acknowledgment of receipts or by a followed letter (DHL, Fedex, UPS, etc.) which has not been successful.

Section 13 | PROPERTY, TREATMENT AND SECURITY OF THE DATA

13.1 Property of the Data

The Partner is and remains at all times the owner of all the Data he uses through the Solutions and Services within the framework of the Contract. The Service Provider undertakes to fully respect the right of ownership of the Partner's Data.

13.2 Treatment of personal Data

The treatment of Personal Data is governed by the [Appendix 4](#) attached to this Contract.

13.3 Use of the Data

The Partner will be responsible for all his editorial activities while using the Application Services.

The Partner is and remains solely liable of the quality, the lawfulness, the relevance of the Data and the content he transmits for the use of the Application Services. He also guarantees that he holds the intellectual property rights allowing him to use the Data and the content. As a result, the Service Provider declines all liability in the event of non-compliance with the Data and/or the contents with the laws and regulations, the public order or the needs of the Partner. More generally, the Partner is and remains solely liable for the content and messages broadcast and/or uploaded through the Application Services.

The Partner guarantees the Service Provider against any damage arising out of a third party questioning a breach of the warranty.

13.4 Data Security

Each Party undertakes to use suitable technical measures to ensure the security of the Data. Subject to Section 14 below, the Service Provider undertakes to protect the integrity and confidentiality of the Data contained within the Solutions. The Service Provider shall put in place technical and organizational measures to prevent any fraudulent access or use of the Data and to prevent any loss, alteration or destruction of the Data, with the understanding that a full security can never be guaranteed.

Section 14 | LIABILITY OF THE PARTIES

14.1 Each party shall be liable for the consequences resulting from his faults, acts, errors or omissions causing damage to the other party, as well as for those of any of his subcontractors.

14.2 In the event of serious or repeated breach or misconduct on the part of the Service Provider, he shall be liable only for the direct and foreseeable financial consequences or damages caused by the non-performance of the Services, subject however to Sections 14.3 to 14.7 below.

14.3 Under no circumstances shall the Service Provider be held liable for damages caused by an interruption or decrease in the telecom operator's services, the electricity provider or internet access provider, or in case of events of force majeure.

14.4 If Phone Design acknowledges the existence of a default or bug in the Solutions or in the Services, then Phone Design shall, at his sole discretion (i) replace, correct or repair the Solutions and/or re-perform the Service, or (ii) if the price has not yet been paid, reduce that price or cancel the Contract, or (iii) if the price has already been paid, refund the Partner all or part of this price.

14.5 The Partner shall in all cases mitigate any of his potential or existing damages. Further, payment of Phone Design's invoices cannot be delayed or suspended, even in case of evidenced or alleged non-compliance of the Solutions or the Services.

14.6 Liability exclusion:

In any case, Phone Design shall not be held liable, whether in contract or in tort, for loss of production, loss of income or profit, loss of operation, loss of business opportunity or loss of turnover, loss of customers and/or any other indirect or specific damage or prejudice of the Partner, a Client of the Partner or a third party. Further, Phone Design cannot be held liable for the accidental destruction of Data by the Client or any third party who accessed the Application Services using the IDs provided to the Client.

Therefore, the Partner gives up his rights of action against Phone Design and Phone Design's insurers for this kind of damage and will get the same waiver from his own insurers.

14.7 Liability limitation:

In any case, it is expressly agreed between the parties that Phone Design's maximum liability under this Contract or in tort shall be capped to an amount equal to the total of the remuneration paid by the Partner to Phone Design during the 12 months preceding the event in respect of which the Partner allegedly challenged the liability of Phone Design. Any claim or dispute about Phone Design's liability must be in written form and sent to Phone Design by registered letter with acknowledgement of receipt or by follow-up letter (DHL, UPS, Fedex ...).

14.8 Insurance

Each party declares that it is insured for all of his activities under this Contract with a reputable insurance company.

Section 15 | FORCE MAJEURE

15.1 No party shall be held liable for events of force majeure which render impossible the performance of the Contract or even significantly impede the proper performance of the Contract.

15.2 Force majeure includes any circumstances which are beyond the control of the parties, such as, without limitation, war and other military conflicts, mobilizations, blockades, civil disturbances, terrorism, embargo, confiscations, natural disasters, strikes, lockouts and other labor unrest, epidemic and pandemic, government policies, decisions or other authorities unforeseen by the parties, serious and unforeseeable circumstances.

15.3 No event of force majeure which would prevent the Partner to use the Solutions or which would reduce such use authorizes him to suspend or retain the payment of any fee due or terminate the Contract. Should an event of force majeure impede their proper performance of any Contract or order for a period of more than two (2) months, the Contract might be automatically terminated by a written notice of termination sent by one party to the other party by registered letter with acknowledgment of receipts or by a followed letter (DHL, Fedex, UPS, etc.) without any other formalities.

Section 16 | CONFIDENTIALITY

16.1 Each party shall maintain the confidentiality of all information received by the other party, and in particular:

- Not disclose the other party's confidential information to any third party, other than employees or agent who need to know them;
- Use the confidential information of the other party only for the purpose of exercising his rights and fulfilling his obligations under the Contract.

16.2 Notwithstanding the above, neither party shall have any obligation with respect to the following information:

- That has become or will become public regardless of any fault committed by the receiving party;
- That would be independently developed by the receiving party,
- That would be known to the receiving party before the other party discloses it;
- That would legitimately be received from a third party not subject to a confidentiality obligation,
- That should be disclosed by law or by order of a court (in which case they should only be disclosed to the extent required and upon written notice to the party providing them)

16.3 The parties' obligations with regard to confidential information shall remain effective throughout the whole term of the Contract and as long as, after its term, the concerned information remains confidential to the disclosing party and, in any case, for a period of ten (10) years following the end of the Contract.

16.4 Each party shall return all copies of the documents and media containing confidential information of the other party, as of the end of the Contract, regardless of the cause; except however for one copy to allow the concerned party to continue to know the extent of his obligations over time, as well as automatic computer automatic backups.

16.5 The parties undertake to have these provisions enforced by their staff and by any agent who may intervene in any capacity whatsoever within the framework of the Contract.

Section 17 | NON-COMPETE

17.1 During and after the term of this Contract, the Service Provider undertakes not to directly sell Services to the Partner's Clients to whom Service Provider would have supplied messages during the Contract, unless otherwise agreed between the parties or unless the Client in question is no longer in business relationship with the Partner in connection with the subject matter of the Contract.

17.2 To comply with this undertaking, it is however necessary that Phone Design may identify these end-Clients of the Partner and, at least, have access to their company name, full address, primary phone number and the identification number of the relevant entity(ies).

17.3 However, if the Client of another partner (another than the present contractual Partner) orders from Phone Design through that other Partner, Phone Design may deliver his services to this partner and/or to this Client through that other partner.

17.4 Within the framework of contracts for multi-site companies whose Partner is not in Contract with at least half of the Client's agencies or sites, the Service Provider may work directly with this Client and offer them a framework services agreement. If such a multi-site agreement already exists when the Partner becomes the integrator of one or all the agencies or sites, the Service Provider may remain the direct supplier of this Client.

Section 18 | APPLICABLE LAW – LITIGATION

18.1 The laws of France shall exclusively and solely apply to the present Contract and shall also govern any other agreement between the parties, without giving effect to any conflict of law rules.

18.2 Should a dispute arise between the Parties, they shall try to promptly find, in good faith, an amicable solution and try to settle their claim before any legal action. Failing reaching an amicable solution within a one-month period following the receipt of the written claim notice by registered letter with acknowledgment of receipts or by a followed letter (DHL, Fedex, UPS, etc), the dispute shall be brought exclusively to the commercial court of Troyes (*Tribunal de Commerce de Troyes*), France.

Section 19 | FINAL TERMS

19.1 The Parties acknowledge that the present Contract constitutes the entire agreement between them. It supersedes and prevails over any prior contract or agreement existing between them.

19.2 It is expressly agreed between the parties that if any provisions of this Contract is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions of this Contract shall remain in full force and effect. In such event, such provision will be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

19.3 It is understood by the parties that no failure or delay by a Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

19.4 No subsequent document or amendment to this Contract in any form shall have effect between the parties without taking the form of an amendment duly dated and signed by their duly authorized representatives of both parties.

APPENDIX 1

DESCRIPTION OF DIGITAL TOOLS

There follows the description of the **Digital Tools** available to the Partner included in the contract.

<p>White Label Studio Website</p>	<p>The Service Provider creates a dedicated website, in the name and colors of the Partner (White Label). This site is called “Studio Site” and it is created on the basis of the “Template” developed by the Service Provider; it is not a custom-built site. The Partner agrees that the Service Provider may register and purchase a domain name as a result of the name of the studio to be created (for example: www.corporate_name_of_the_partner-studio.com). The Partner agrees that the Service Provider uses its logo, name and colors to create and illustrate this Studio Site. The Partner agrees that the Studio Site, the tools and the data of its Clients are hosted by the Provider's own means.</p> <p>The basic Studio Site created in the name of the Partner contains a music catalog with more than 800 Royalty-Free pieces of music, potentially thousands of commercial music tracks, a cast of professional voice artists under contract with the Service Provider, a library of sample messages and contents, current articles.</p> <p>The Partner can promote its Studio Site. Any order taken on behalf of the Studio Site and accepted by the Partner will be fulfilled by Phone Design in terms of the studio recording, and fulfilled in technical and installation terms by the Partner.</p> <p>Phone Design undertakes to return the URL of the Studio Site to the Partner within 30 days upon written request.</p>
<p>Client Area</p>	<p>A personalized account called “Client Area”, accessed with the contact’s email and studio client number is made available to each Client in order to enter instructions, listen to messages for validation, access the history and download already recorded messages as well as the Mix & Play when authorized by the Partner.</p> <p>The Partner can give its Client access to a messaging service. When it is activated on the Client’s area, the Client can ask questions or make remarks in writing with conversation logging and notifications to the Client, the Studio Site or the Partner itself depending on the settings.</p>
<p>ECHO Extranet</p>	<p>The ECHO Extranet account is a web interface for the Studio Site management. It gives the Partner total autonomy to view order follow-up, productions, deliveries, invoices, in the form of interactive dashboards. Specially designed for indirect sales, the Studio management interface is a 100% automated solution, accessed via a simple, logged and secure interface, which allows the Partner to manage all the services intended for its Clients and employees.</p> <p>The ECHO Extranet allows the unlimited creation of Client accounts. Each Client account created includes the creation of a Client Area.</p> <p>The validation of requests for new productions, corrections and deliveries are submitted to the Partner.</p> <p>The Extranet displays the record of all actions carried out and the download of delivered messages.</p> <p>Phone Design sends the Partner a User ID and an Access Code allowing the Partner to log</p>

	<p>in to the ECHO Extranet as an administrator. This administrator account allows access to all the modules of the ECHO Extranet, including accounting data. It allows Users to be entered with configurable rights so as to grant access only to certain modules and or functions of the ECHO Extranet.</p> <p>These access codes are based solely on a grant of access rights to Phone Design platforms. Phone Design shall not be liable for any transfer to persons other than those specified in the Contract who have obtained rights of use.</p> <p>The Partner shall therefore ensure the confidentiality of each login and access code entrusted to it. Any transmission of data made from the Partner’s login shall be deemed to have been made by the Partner.</p> <p>Any loss, misappropriation or unauthorized use of a User ID, login and/or access code and their consequences are the liability of the Partner. In all of the above-mentioned cases, the Partner undertakes to notify Phone Design without delay, by e-mail or letter, so that the latter proceeds with the immediate change of the main login assigned.</p>
<p>Multi-format Download Interface</p>	<p>All messages created can be downloaded 24/7 in any sound format for telephony: MP3, 8kHz 16-bit WAV, 8kHz 8-bit a-law WAV, GSM, and also: OGG, 44kHz 16-bit WAV, 16kHz 16-bit WAV, 8kHz 8-bit u-law WAV, or: IMA, RAW, SLN, VOX, V32.</p>
<p>WAV API: API available</p>	<p>The Phone Design API is a RESTful interface to query and configure Phone Design Services parameters, such as: Catalogs (Voice Artists, Music), Message Ordering, Tracking Indicators, Message Downloads (Each message created in our studios has a unique ID reference).</p> <p>WAVAPI enables our applications to be seen as a group of services in the field of sound message production and integration, structured and accurately defined, interacting according to an international standard.</p> <p>The guide of functions and terms of use can be found at www.wavapi.com</p>
<p>Mix & Play: Music remix</p>	<p>“Mix & Play” is a free web service made available to the Partner and its Clients for unlimited music updates of messages recorded by Phone Design.</p> <p>Phone Design grants the Partner a non-exclusive and non-transferable right to use the Mix & Play Service. This Service may only be used on behalf of the Partner for the needs of its own Clients.</p> <p>Messages can be remixed with commercial or royalty-free music.</p> <p>Messages that are less than 5 years old are almost all eligible for Mix & Play. If a multi-message production contains 1 message without music, then the entire production is not eligible for Mix & Play. No recourse can be considered to make files available again in this automatic mixing interface.</p> <p>Messages that the studio must download (via an external system such as ADAGIO, GSM, etc.) are not available for this Service. However, if some messages were to be available for remixing inadvertently, it should be noted that Phone Design would not download them for free.</p> <p>There is no archive of Mix & Play remixes and/or downloads. The automatic remixing is done message by message with associated download according to the proposed telephony formats.</p>

APPENDIX 2

DESCRIPTION OF APPLICATION SERVICES

The description of the **Application Services** made available to the Partner is given below:

<p>Network</p>	<p>The Provider chooses the operator of its choice, the network access provider. The Partner may not put into place or impose another telecommunications operator for the Application Services that it orders from the Service Provider.</p> <p>As the Service Provider cannot be held responsible for network line interruptions, the “backup server” option will be activated, natively and at no extra cost, by setting up an auxiliary service in the event of interruption of the main network.</p> <p>As part of this auxiliary Service, back-up tests must be carried out by the Service Provider before or during the production without such testing interfering in any way with the Partner’s activity.</p>
<p>Access to solutions</p>	<p>The Partner alone shall use this right of access. The Partner may connect at any time – with the exception of maintenance periods:</p> <ul style="list-style-type: none"> - 24 hours a day, - 7 days a week, including Sundays and public holidays, <p>with the assistance of the Service Provider’s technical teams during the integration phase which precedes production.</p> <p>The Service Provider undertakes to notify the Partner 48 hours in advance. The maintenance period will not exceed 24 hours.</p> <p>The access procedure defined by the Service Provider must be strictly respected by the Client.</p> <p>The identification of the Partner when accessing the Application Services is done by using one or more of the following means:</p> <ul style="list-style-type: none"> - A Username assigned to the Partner by the Service Provider; - An Access Code given to the Partner by the Service Provider; - By IP address check; - By exchange certificate (when assigning Token)

APPENDIX 3

SERVICE-LEVEL AGREEMENT (SLA)

As part of its services, the Service Provider undertakes to comply with the SLA of the basic service and in particular the following points which are the guarantee of the quality of its service, namely:

1. PERFORMANCE

Availability	The Service Provider undertakes to implement effective checks to provide a reasonable guarantee to the Partner that it can access and use the Solutions concerned at the times specified in the Contract. In particular, the Service Provider has set up a redundant system allowing uninterrupted service.
Response time	When an incident occurs on our server, we guarantee that our teams will take action to resolve the problem within 60 minutes during office hours. For any ticket submitted outside of office hours, the response time guarantee runs from the first working hour following the ticket submission. The time limit starts from the moment you submit a support ticket to report the incident.
Restoration time	When an incident is caused by a hardware issue requiring on-site service and parts replacement, we guarantee that our teams will have repaired the issue in: less than 480 minutes during office hours less than 960 minutes outside office hours The time limit starts from the moment your support ticket is handled by one of our technicians.

2. PARTNERSHIP

Offer	My Studio
Destination	International – French & English
Single rate message	The purchase price per message and/or language is stated in the business offer. An audio message includes a text to be recorded by a voice artist and a choice of music, its mixing, its listening and its delivery after validation. An audio message can include 1 or more languages. The unit price of the message is to be multiplied by the total number of languages. Each language is interpreted by a native voice artist.

Billing	Monthly invoice for all messages approved by the end Client and delivered.
Monthly discount	Stated in the business offer

3. PRODUCTION SERVICE – Audio Messages

Produced texts	<p>Each ordered message includes the recording of a text of 0 to X words maximum. Beyond the maximum number of words, an additional message is counted. This text is performed by a professional voice artist under contract.</p> <p>The maximum number of words per message / language is stated in the business offer</p>
Voice artist Cast	<p>All of the Service Provider’s voice artists are under contract. They are voice-over professionals. They have 24-hour access to a Voice artist extranet and receive the necessary notifications for assignments to be carried out. The assignments include a group of texts to be produced within 24 hours. The Service Provider is responsible for maintaining a close relationship with the contracted voice-over artists to ensure high-quality recording work. The Service Provider’s voice artists may be unavailable (illness, leave, etc.). The Client is systematically informed of this on all web pages concerning the cast: the dates when a voice artist is unavailable appear instantly on his/her presentation.</p> <p>The complete or restricted voice artist cast is stated in the business offer</p>
Music Catalogs	<p>The music libraries selected for the Partner’s corporate Clients are stated in the business offer (free of copyright music, commercial music, corporate music to be integrated, a panel of 1 to 50 free of copyright music for a limited choice...)</p>
Text Library: Generic & Industry-specific	<p>Hundreds of sample texts are available to Clients. These texts are phrases that can be copied and modified at will.</p>
Message editing	<p>The texts recorded by the voice artists are systematically listened to and validated by the Service Provider’s staff via an internal listening interface before mixing.</p> <p>The voice/music editing can be performed by the Service Provider’s sound technicians on the CUBASE software for which the Service Provider holds the licenses for each editing workstation.</p> <p>The voice/music editing can be semi-automated. A grouped production for 10 to 20 clients automates many tasks. Global mixing is done by a sound technician with automated cutting.</p> <p>The voice/music editing can be fully automated. An algorithm executes the merging of the chosen text and music. The starting condition is a limited choice of music and a choice of pre-established texts for which some variables must be completed: Names, Company name, Hours ...)</p> <p>The option chosen for this contract is stated in the business offer.</p>
Production Time and Listening	<p>The production time, i.e. the presentation to the Client of the audio file and approval of the message(s) in his client area, provided that the voice artist is displayed as available on the day of the launch of the recording, is stated in the business offer</p>

<p>Delivery Time</p>	<p>After validation by the Client or the Partner on ECHO, the delivery is automatically done by a server.</p> <ul style="list-style-type: none"> - Automatic delivery within a few minutes after validation or 24 hours maximum if manual delivery is required.
<p>Message Storage Duration</p>	<p>The Service Provider undertakes to ensure that 95% of the messages delivered are accessible in storage. However, it is recommended that the Partner itself stores the messages it has ordered.</p> <p>The guaranteed storage time of delivered messages is stated in the business offer.</p>
<p>Royalty-free Music Certificate</p>	<p>For each message recorded with a piece of royalty-free music from the Service Provider's catalog, a certificate with the name of the Client and its postal address can be downloaded by the Partner from the ECHO Extranet or by the Client itself via the client area if the Partner has authorized its account to do so.</p>

4. CLIENT SERVICE – Customer Relations

<p>Customer Support</p>	<p>The Client service, in charge of the end-customer relations, is open (telephone contacts, emails, messaging) from Monday to Friday from 9 am to 12 pm and from 2 pm to 6 pm, French time (UTC +1).</p> <p>Each client has a dedicated studio advisor. The service and tools are designed so that every request can be processed instantly, even if the dedicated advisor is unavailable or absent.</p> <p>Incoming calls are answered immediately or automatically called back within 2 hours in the event of call center blockage. 50% of messages written on the client area messaging service are answered in real time and 50% within 12 hours maximum. 80% of emails are answered the same working day and 20% the next day maximum.</p> <p>Each advisor undertakes to provide a rapid and personalized response, taking into account each specific problem, subject to technical and contractual possibilities, regardless of the number of requests from the same client.</p> <p>The advisors' area of expertise covers the organization, typology and choice of message components (text, music and voice) as well as the procedure for creating, validating and listening to these messages.</p> <p>Based on their experience, advisors can answer concurrent questions and make personal recommendations without being responsible for the clients' final choices. For example: the choice of music or voice is a matter of individual perception; recommendations on components can be made at the explicit and justified request of the client.</p> <p>The inclusion of this service is stated in the business offer.</p>
<p>Personalized follow-up</p>	<p>The studio advisor will contact the client every week (by phone, email, text message or newsletter) or according to the desired schedule (by the client or by the partner) until the project is finalized or until the predefined deadline of the production in progress.</p>

	<p>In the event of repeated non-response on various items, the Service Provider may be asked for additional contact details.</p> <p>The inclusion of this service is stated in the business offer.</p>
<p>Writing - Text Suggestions</p>	<p>The studio advisor is in charge of guiding the client in adapting the texts to its objectives and image. The advisor will thus be able to pre-draft text suggestions that will serve as a basis for work or reformulate transmitted texts if necessary. The advisor will also check the consistency of validated texts before they are recorded.</p> <p>The advisor’s mission is to guide and alert. The client remains the decision maker and responsible for the validated texts.</p> <p>The inclusion of this service is stated in the business offer.</p>
<p>Sales – Loyalty – Quote</p>	<p>Depending on the options chosen by the Partner, the studio advisor may be required to recommend a use of call handling adapted to the communication needs of the end customer, to present the appropriate price offers, to draw up quotes on behalf of the service provider and to make the necessary follow-ups until the quote is signed. Depending on the product chosen, regular follow-up (schedule defined with the client) will be carried out for optimal use of the purchased messages.</p> <p>The inclusion of this service is stated in the business offer.</p>

5. SALES ADMINISTRATION SERVICE – Order Management

<p>End-Customer Account Opening Order Entry</p>	<p>The sales administration service is open Monday to Friday from 9 am to 12 pm and from 2 pm to 6 pm, French time (UTC +1). It ensures a logistic, administrative and financial follow-up of your orders.</p> <p>Following an email or a phone call from your teams, the Phone Design sales administration service takes care of all the data entry required to process your order: creating the customer file and the production file and coordinating our services for the proper fulfillment of your instructions or those of your customer.</p> <p>You will find all the steps recorded on your ECHO extranet.</p> <p>The inclusion of this service is stated in the business offer.</p>
<p>Management of Production Validation Requests</p>	<p>The service provider’s sales administration service controls and actively monitors the conformity of the messages for validation and production.</p> <p>The inclusion of this service is stated in the business offer.</p>

<p>Management of modifications and After-sales service</p>	<p>The service provider’s sales administration service oversees requests for changes to the client’s instructions. It checks the legitimacy of the requests and initiates the necessary corrections with the Studio teams. It does the same for after-sales requests.</p> <p>The inclusion of this service is stated in the business offer.</p>
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6. PARTNER SERVICE – Coaching

<p>Technical, Commercial and Legal support</p>	<p>The Partner service in charge of Partner relations is open from Monday to Friday from 9 am to 12 pm and from 2 pm to 6 pm, French time (UTC +1). Each member of the Partner service can intervene to provide technical/sales administration training on the tools: ECHO and the associated white label websites, but also provide training on the Sale of audio messages or training on advice to create telephone greeting audio messages.</p> <p>The partner service can develop a precise sales and marketing strategy with the Partner according to its business model. 3 hours of coaching are included in the annual license.</p>
<p>Training Modules</p>	<p>The list of current training modules is available upon request by email from the partner service: partners@phone-design.com</p> <p>The training is provided by telephone or Web conferencing.</p> <p>This contract gives the right to 4 hours of annual training for the Partner teams.</p>
<p>Partner Messaging Management</p>	<p>The ECHO Extranet integrates a messaging system with notifications allowing a configurable correspondence between the Partner and its Client, the Studio Site and the Client or tripartite: Partner, Client and Studio Site. Messaging also allows a dialog between the Site Studio and the Partner.</p>

7. COMMUNICATION SERVICE – Client Experience

<p>Digital Marketing: Content Creation & Automated Marketing</p>	<p>The Service Provider undertakes to create at least 6 articles of content on the website or Client area each year. These articles can be shared on the social networks LinkedIn and Facebook.</p>
<p>Satisfaction Measure: NPS</p>	<p>The Service Provider undertakes to provide a measured result of the Customer satisfaction rate. The Net Promoter Score is displayed in real time on the ECHO Extranet. The Service Provider commits to an NPS higher than or equal to 20 on average per 12 month period.</p>

APPENDIX 4

GUARANTEE OF COMPLIANCE WITH THE GDPR

In the context of their contractual relationship, the parties undertake to comply with the regulations in force applicable to the processing of personal data and, in particular, Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 applicable from May 25, 2018.

To this effect, Phone Design guarantees its compliance with the GDPR for the processing of personal data and declares to its distribution partner:

- that it presents the required guarantees regarding the implementation of appropriate technical and organizational measures so that the processing meets the requirements of the GDPR (Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016) and guarantees the protection of the data subject's rights,
- that it will process the personal data in accordance with the GDPR and the instructions of the controller,
- that it will scrupulously respect the obligations mentioned in article 28 of the GDPR and, more generally, all the rules imposed by the GDPR for the processing of personal data.
- that it has a data protection officer (DPO) whose contact details are: Dave LOES - IT Manager – 6 rue Claude Jobert 10000 Troyes
- that it maintains a written record of processing activities, which is made available in full or in part upon request.
- that it guarantees the compliance of any subsequent processors, which will be brought to the attention of its distribution partner.
- that it will scrupulously respect its obligations of assistance and advice.
- that it will notify data breaches that affect it or that affect subsequent processors within 2 working days of their disclosure.
- that this notification complies with the requirements of Article 33 of the GDPR and that it contains in particular: a description of the breach and its extent, the name of any DPO or other point of contact, a description of the likely consequences, a description of the measures taken or proposed to be taken by the controller to remedy the data breach.
- that it implements physical security, logical security and training measures appropriate to the context and that it complies with Article 32 of the GDPR (data security and confidentiality).
- that it implements the integrated privacy protection measures (privacy by design) and "privacy by default" as defined by the GDPR and in particular its Articles 24, 25.
- that it guarantees that the data is kept only in the places provided for in the contract and, in any case, that there is no flow of data outside the European Union. If such transfers are envisaged, they will have to meet the requirements of the GDPR and French law (adequacy decision, international agreement, standard contractual clauses, binding corporate rules, consent).
- that it has implemented measures to enable the exercise of the rights granted to them by the persons concerned (information, access, communication, opposition / right to be forgotten, limitation, portability).
- that at the end of the contract it will notify the Distributor Partner and give it a reasonable amount of time to retrieve the data in an easily exploitable format.