

# Innoviz Technologies™

## Terms and Conditions of Sale

Version 3.0 (October 2019)

THESE TERMS AND CONDITIONS (THE "**Agreement**") CONSTITUTE A BINDING AGREEMENT BETWEEN **INNOVIZ TECHNOLOGIES LTD.** OR THE INNOVIZ TECHNOLOGIES ENTITY ("**Innoviz**") SPECIFIED IN THE QUOTE TO WHICH THIS AGREEMENT RELATES ("**Quote**"), AND THE INDIVIDUAL OR ENTITY SPECIFIED IN THE QUOTE ("**Customer**"). IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ENTITY, YOU REPRESENT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO BIND SUCH ENTITY TO THIS AGREEMENT. Innoviz and Customer may be collectively referred to herein as the "**Parties**", and each individually as a "**Party**".

### 1. DEFINITIONS AND INTERPRETATION

"**Documentation**" means Innoviz's user manuals, data sheets and similar materials that are delivered with the Product.

"**Firmware**" means any software embedded or pre-installed within the hardware components of the Product.

"**Innoviz Materials**" means, collectively, the Product, Firmware, Software Products, and Documentation.

"**Intellectual Property Rights**" means any and all rights, titles, and interests (under any jurisdiction or treaty, whether protectable or not, and whether registered or unregistered) in and to any inventions, technology, works of authorship, discoveries, know-how, and/or other intellectual or industrial property, including without limitation patents, copyrights and similar authorship rights, moral (and similar personal) rights, mask work rights, data and database rights, trade secret rights and similar rights in confidential information and other non-public information, design rights, industrial property rights, trademark, service mark, trade name, trade dress and similar branding rights, as well as: (i) all applications, registrations, renewals, reexaminations, extensions, continuations, continuations-in-part, provisionals, substitutions, divisions or reissues of or for the foregoing; and (ii) all goodwill associated with the foregoing.

"**Product**" means the Innoviz LiDAR system specified in the Quote, as well as related accessories delivered with it (such as cables, interface boxes, etc.).

"**Software Product**" means any software product (such as *InnovizPlayer*) specified in the Quote for use with the Product.

### 2. PURCHASE ORDERS

Following execution of the Quote by Customer, Customer shall issue to Innoviz (to [orders@innoviz-tech.com](mailto:orders@innoviz-tech.com) or other designated email address) a purchase order based on the Quote ("**Purchase Order**"). Each Purchase Order must reference the corresponding Quote reference number or ID. A Purchase Order shall become effective and binding on Innoviz following Innoviz's express written approval or execution thereof ("**PO Approval**"). For the avoidance of doubt, Innoviz shall be under no obligation to supply any Product(s) under a Quote or Purchase Order, until PO Approval. Each Purchase Order is hereby incorporated into, and made a part of, this Agreement by reference, and any reference in this Agreement to a "Quote" shall be deemed to also include its corresponding Purchase Order. Any terms or conditions (whether printed, hyperlinked, or otherwise) in a Purchase Order which purport to modify or supplement this Agreement (or a Quote), shall be void and of no effect. To the extent that any Quote terms conflict with any provision of the main body of this Agreement, the latter shall prevail (unless the Quote specifically overrides said provision).

### 3. LICENSE

3.1. License. Customer shall use the Products and Software Products solely in accordance with the Documentation. Subject to the terms and conditions of this Agreement, Innoviz grants Customer a limited, revocable (upon termination), non-exclusive, non-assignable, and non-sublicensable license to:

- (a) install and use the Software Products (subject to any quantity, location, duration or other limitations specified in the Quote) and the Documentation solely in connection with Customer's authorized use of the Product ("**Software Product License**"); and
- (b) use the Product's copy of the Firmware solely on, and in connection with, the Customer's use of the Product ("**Firmware License**", and together with the Software Product License, the "**License**").

3.2. Assignment of Firmware License. Customer may assign the Firmware License once, and only if Customer meets all of the following conditions: (i) the assignment is of the Firmware License as a whole; (ii) the assignment is permanent; (iii) the assignment is to a party in connection with the authorized transfer of ownership to such party of the Product, and such party has read and agreed to the terms and conditions of this Agreement; and (iv) Customer retains no copy (in any medium) of the Firmware.

### 4. RESTRICTIONS

As a condition to the License, and except as expressly permitted otherwise in this Agreement or specified in the Quote, Customer shall not (and shall not encourage or permit any third party to) do any of the following (in whole or in part): (a) reproduce or manufacture any of the Innoviz Materials; (b) sell, assign, transfer, lease, rent, sublicense, distribute, publicly perform, display or communicate, offer as part of a time-sharing, outsourcing or service bureau environment, or otherwise make commercially available, any of the Innoviz Materials; (c) modify, alter, adapt, arrange, or translate any of the Innoviz Materials; (d) decompile, disassemble, decrypt, reverse engineer, extract, or otherwise attempt to discover the source code or non-literal aspects (such as the underlying structure, sequence, organization, file formats, non-public APIs, ideas, or algorithms) or internal composition of, any of the Innoviz Materials; (e) remove, alter, or conceal any copyright, trademark, or other proprietary rights notices displayed on or in any of the Innoviz Materials; (f) circumvent, disable or otherwise interfere with security-related or technical features or protocols of any of the Innoviz Materials; (g) make a derivative work of any of the Innoviz Materials, or use them to develop any service or product that is the same as (or substantially similar to) them; (h) store or transmit any robot, malware, Trojan horse, spyware, or similar malicious item intended (or that has the potential) to damage or disrupt any of the Innoviz Materials; (i) use any of the Innoviz Materials to infringe, misappropriate, or violate any third party's Intellectual Property Rights, or any applicable laws or regulations, or to otherwise engage in any fraudulent activity; or (j) disclose to the public the results of any internal performance testing or benchmarking studies of or about any of the Innoviz Materials without first sending the results and related study(ies) to Innoviz, and obtaining Innoviz's written approval of the assumptions, methodologies and other parameters of the testing or study.

To the extent Customer is given the right, under any law or regulation applicable to Customer, to receive information and/or materials for purposes of making any portion of the Firmware or a Software Product interoperable with other software, and such information and materials are not contained within any Documentation, Customer agrees that it shall first request from Innoviz (in a detailed writing) access to such information and/or materials, and if Innoviz accepts such request, Innoviz may (in its sole discretion) impose additional conditions on such access and use.

## 5. SUPPORT; PROFESSIONAL SERVICES

Subject to payment by Customer, Innoviz shall provide the Customer with whatever technical support and training services (if any) are specified in the Quote ("**Support Services**"). In the event Customer wishes to receive implementation, configuration, customization, integration, or other professional services under this Agreement ("**Professional Services**"), such Professional Services shall be set out in sequential *Statements of Work* (that reference the corresponding Quote to which it relates) to this Agreement executed by both Parties (each, an "**SOW**"). Each SOW is hereby deemed incorporated into this Agreement by reference. To the extent of any conflict between the main body of this Agreement and an SOW, the former shall prevail, unless and to the extent that the SOW expressly overrides a provision hereof. Support Services and Professional Services may be provided by Innoviz or its third party service providers.

## 6. INTELLECTUAL PROPERTY

As between the Parties, Innoviz is, and shall remain, the sole and exclusive owner of all Intellectual Property Rights in and to the Innoviz Materials, as well as any improvements, modifications, and/or derivative works thereof/to (regardless of inventorship or authorship). Any rights not expressly granted in this Agreement are hereby reserved, and except for the License, no Intellectual Property Rights are granted to Customer, whether by implied license, estoppel, patent exhaustion, operation of law, or otherwise. If Customer provides any suggestions or similar feedback to Innoviz or its corporate affiliates concerning any Innoviz Materials ("**Feedback**"), Customer hereby grants to each of Innoviz and its corporate affiliates a non-exclusive, perpetual, irrevocable, royalty-free, fully paid-up, worldwide, sublicensable, assignable license to use, reproduce, make (and have made), import, disclose, distribute, create derivative works of, modify, adapt, and otherwise commercially exploit such Feedback without restriction or obligation. Except as required by law, regulation or court order, neither Party shall (except for purposes connected with the performance of its obligations hereunder) disclose or make available to any third party any information or material of the other Party. For the avoidance of doubt, Quote terms are confidential to Innoviz, and shall not be disclosed outside Customer's organization.

## 7. LIMITED WARRANTY

7.1. Limited Warranty. Innoviz warrants that during the Warranty Period (defined below), the Product will function substantially in accordance with the specifications set out in the Documentation, and will be free from material defects in materials and workmanship (the "**Warranty**"). In the event of any Warranty breach within the Warranty Period (such Product, a "**Defective Product**"), and provided Customer has notified Innoviz (at [support@innoviz-tech.com](mailto:support@innoviz-tech.com) or other contact information in the Quote) of the defect promptly after discovery thereof, Innoviz shall first determine whether the defect can be resolved via the Support Services, and Customer shall fully cooperate with Innoviz in such efforts. If Innoviz determines that Support Services cannot resolve the defect, Innoviz shall (at its sole option) repair the Defective Product (or part thereof) or replace the Defective Product (or part thereof) with new or refurbished Products or parts (as the case may be). The foregoing service shall be Customer's sole and exclusive remedy, and Innoviz's sole and exclusive liability, for any breach of the Warranty. In the event Innoviz repairs or replaces a Defective Product pursuant to this Section, the above Warranty shall remain in force for the longer of (a) the remainder of the original warranty period; or (b) thirty (30) days from the date of the delivery of the repaired or replacement Product or part (as the case may be).

The "**Warranty Period**" shall be twelve (12) months from the date of delivery, unless the Quote specifies a different warranty period.

7.2. Warranty Returns. Defective Products will be returned to Innoviz DDP (Incoterms 2010), shipping charges prepaid. Title to any returned Defective Products will pass to Innoviz upon receipt. No returns will be made without Customer first obtaining a *Return Material Authorization (RMA)* ticket and number ("**RMA Ticket**") from Innoviz. Defective Products returned to Innoviz without an RMA Ticket will be returned unopened, at Customer's sole risk, cost and expense, or otherwise discarded. When requesting an RMA Ticket, Customer shall provide the following information: (a) a detailed description of the nature of the defect, and the reason for the return; (b) model and serial number for each unit to be returned, and (c) applicable Innoviz invoice number and date. The RMA Ticket information (as well as other information and markings instructed by Innoviz) shall be marked on the parcel, which Customer shall package in its original packaging, unless permitted otherwise in writing by Innoviz, in which case Customer shall package it to reasonably accepted commercial standards for electronic equipment. Innoviz will pay shipping charges for delivery of repaired or replaced Products back to Customer, provided that if Innoviz reasonably deems, in its sole discretion, that the returned Defective Products was not covered by the Warranty or was subject to a Warranty Exclusion, Customer will pay all return shipping charges.

7.3. Warranty Service Exclusions. The Warranty excludes, and Innoviz shall have no responsibility hereunder to support, service or respond to, any and all of the following (each, a "**Warranty Exclusion**"): (a) Products that have been altered, reconfigured or modified by Customer or any third party other than Innoviz's authorized customer support personnel; or (b) defects or other damage caused by negligence, abuse, neglect, or use other than as specified in the Documentation, or by natural disasters or other factors beyond the reasonable control of Innoviz. Any services provided by Innoviz in connection with the foregoing shall be charged at Innoviz's then-current rates.

## **8. WARRANTY DISCLAIMERS**

EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL INNOVIZ MATERIALS ARE DELIVERED TO CUSTOMER "AS IS", WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATION, WARRANTY, GUARANTEE OR CONDITION OF ANY KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET POSSESSION, NON-INFRINGEMENT, TITLE, QUALITY OF SERVICE, OR THAT OTHERWISE ARISE FROM A COURSE OF PERFORMANCE OR DEALING, OR USAGE OF TRADE, ALL OF WHICH ARE HEREBY DISCLAIMED BY INNOVIZ AND ITS LICENSORS AND SUPPLIERS.

IN ADDITION, NO REPRESENTATION, WARRANTY, GUARANTEE OR CONDITION IS MADE (A) THAT CUSTOMER'S USE OF ANY OF THE INNOVIZ MATERIALS WILL MEET CUSTOMER'S REQUIREMENTS OR EXPECTATIONS; (B) THAT ANY OF THE INNOVIZ MATERIALS WILL BE UNINTERRUPTED, SECURE, OR ERROR-FREE; OR (C) REGARDING COMPLIANCE WITH, ANY LAWS OR REGULATIONS OR STANDARDS. CUSTOMER FURTHER ACKNOWLEDGES ALL WARNINGS AND DISCLAIMERS SPECIFIED IN THE DOCUMENTATION.

## **9. LIMITATION OF LIABILITY**

9.1. IN NO EVENT WILL INNOVIZ, ITS CORPORATE AFFILIATES, OR ANY LICENSOR OR SUPPLIER OF INNOVIZ, BE LIABLE UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT, FOR: (A) ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES; (B) ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REVENUE, OR LOSS OF ANTICIPATED SAVINGS; (C) ANY LOSS OF, OR DAMAGE TO,

DATA, REPUTATION, OR GOODWILL; AND/OR (D) THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICES.

9.2. THE COMBINED AGGREGATE LIABILITY OF INNOVIZ AND ANY OF ITS CORPORATE AFFILIATES UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT SHALL NOT EXCEED THE FOLLOWING: (A) TO THE EXTENT LIABILITY RELATES TO PROFESSIONAL SERVICES, THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR SUCH PROFESSIONAL SERVICES; AND (B) FOR ANY OTHER LIABILITY, THE AMOUNT ACTUALLY PAID BY CUSTOMER TO INNOVIZ UNDER THE QUOTE IN WHICH THE LIABILITY AROSE.

9.3. THE FOREGOING EXCLUSIONS AND LIMITATION SHALL APPLY: (A) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW; (B) EVEN IF INNOVIZ HAS BEEN ADVISED, OR SHOULD HAVE BEEN AWARE, OF THE POSSIBILITY OF LOSSES, DAMAGES, OR COSTS; (C) EVEN IF ANY REMEDY IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE; AND (D) REGARDLESS OF THE THEORY OR BASIS OF LIABILITY, WHETHER BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE.

## 10. **INDEMNIFICATION**

10.1. **By Innoviz.** Innoviz shall: (a) defend Customer against any third party demand or claim made against Customer alleging that Customer's use of the Product or Software Product in accordance with this Agreement infringes such third party's copyright or patent (an "**Infringement Claim**"); and (b) indemnify and hold harmless the Customer for any amounts finally awarded against or imposed upon Customer by the court (or otherwise agreed in settlement) under the Infringement Claim, as well as for any out-of-pocket legal expenses (including reasonable attorney's fees) reasonably incurred by Customer under the Infringement Claim. Innoviz will have no liability or obligation under this paragraph with respect to any Infringement Claim arising from: (i) a modification to the Product or Software Product not made by Innoviz; (ii) the combination of the Product or Software Product with any third party product or service, such as use of the Product or Software Product in any manufacturing process; (iii) Innoviz complying with Customer's instructions, designs, or specifications; and/or (iv) any Customer breach under this Agreement. Furthermore, Innoviz's combined aggregate liability under this Section for any and all Infringement Claims shall not exceed the amounts actually paid by Customer to Innoviz under this Agreement in the twelve (12) months period immediately preceding the date that the first Infringement Claim arose.

10.2. **By Customer.** Customer shall: (a) defend Innoviz against any third party demand or claim made against Innoviz resulting from Customer's breach of this Agreement, including without limitation any breach of the License or under Section 4 (*Restrictions*) (a "**Misuse Claim**"); and (b) indemnify and hold harmless Innoviz for any amounts finally awarded against or imposed upon Innoviz by the court (or otherwise agreed in settlement) under the Misuse Claim, as well as for any out-of-pocket legal expenses (including reasonable attorney's fees) reasonably incurred by Innoviz under the Misuse Claim.

10.3. **Procedure.** As a condition to such defense and indemnification obligations above, the indemnified Party agrees: (A) to provide the indemnifying Party with prompt written notice of the Infringement Claim or Misuse Claim, as applicable (hereinafter, a "**Claim**"); (B) to cede to the indemnifying Party full control of the defense and settlement of the Claim (except that any non-monetary obligation imposed on the indemnified Party under a settlement shall require its prior written consent, not to be unreasonably withheld, conditioned or delayed); (C) to provide the indemnifying Party with all information and assistance reasonably requested by it; and (D) not to admit any liability under (or otherwise compromise) the Claim. The indemnified Party may participate in the defense of the Claim at its own cost and expense.

10.4. Innoviz Efforts. Should the Product or Software Product (in whole or in part) become, or in Innoviz's opinion be likely to become, the subject of a Claim under Section 11.1, then Customer permits Innoviz, at Innoviz's option and expense, to either: (a) obtain for Customer the right to continue using the Product or Software Product (or part thereof); or (b) replace or modify the Product or Software Product (or part thereof) so that its use hereunder becomes non-infringing; *provided, however*, that if (a) and (b) are not, in Innoviz's opinion, commercially feasible, Innoviz may terminate the affected Quote immediately upon written notice to Customer, and shall promptly provide Customer with a pro rata refund of the Product fees paid by Customer under such Quote.

10.5. Sole Remedy. This Section represents Customer's sole and exclusive remedy, and Innoviz's sole and exclusive liability, for any Infringement Claims or other claims of infringement relating to the Product or Software Product.

## **11. GOVERNING LAW AND DISPUTE RESOLUTION**

This Agreement (including its validity) shall be governed by, and construed in accordance with, the laws of the State of Israel, without regard to any conflicts of laws rules or principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement and is hereby disclaimed. If, however, Innoviz is: (a) **Innoviz Technologies, Inc.**, then the above referenced governing law shall be substituted with the "**State of New York, USA**"; or (b) **Innoviz Technologies GmbH**, then the above referenced governing law shall be substituted with "**Switzerland**".

Any claim, dispute or controversy under, or otherwise in connection with, this Agreement shall be subject to the exclusive jurisdiction and venue of the courts located in Tel Aviv-Jaffa, Israel. If, however, Innoviz is: (a) **Innoviz Technologies, Inc.**, then the above referenced jurisdiction shall be substituted with the "**New York County, New York**"; or (b) **Innoviz Technologies GmbH**, then the above referenced jurisdiction shall be substituted with "**Zurich, Switzerland**". Customer hereby irrevocably and unconditionally submits to the personal jurisdiction of such courts and waives any jurisdictional, improper venue, inconvenient forum, or other objections to such jurisdiction and venue. Notwithstanding the foregoing, Innoviz reserves the right to seek equitable relief in any court worldwide of competent jurisdiction. **Furthermore, Customer hereby irrevocably and unconditionally waives the right to litigate such claims, disputes, or controversies in court before a jury.**

## **12. EXPORT COMPLIANCE**

Customer shall not transfer, export, re-export, import, re-import or divert any Innoviz Materials in violation of any export or re-export control laws and regulations (such as the United States' ITAR, EAR, and OFAC regulations), as well as any applicable import and use restrictions, all as then in effect, and shall not transfer, export, re-export, import, re-import or divert any Innoviz Materials to Lebanon, Syria, Iran, Iraq, Sudan, Yemen, Cuba, or North Korea (or other countries specifically designated in writing by Innoviz from time to time). In the event Customer breaches the foregoing sentence (in whole or in part), it shall indemnify and hold harmless Innoviz for any fine or penalty imposed upon Innoviz and/or its corporate affiliates (as well as their respective personnel) as a result of such breach.

## **13. MISCELLANEOUS**

This Agreement represents the entire agreement between Innoviz and Customer with respect to the subject matter hereof, and supersedes and replaces any and all prior and contemporaneous oral and/or written agreements, understandings and statements between Innoviz and Customer with respect to such subject matter. Customer acknowledges and

agrees that in entering into this Agreement it has not relied on any statement or representation (whether negligently or innocently made) not expressly set out in this Agreement. Any amendment to this Agreement must be in writing signed by an authorized representative of each Party. The language of this Agreement is expressly agreed to be the English language. Innoviz may assign this Agreement (or any of its rights and obligations hereunder), without restriction or further obligation. This Agreement is personal to Customer, and Customer shall not assign this Agreement (or any of its obligations or rights thereunder) without Innoviz's express prior written consent. Any prohibited assignment shall be null and void. Subject to the foregoing, this Agreement binds and benefits each Party and its respective successors and assigns. At Innoviz's sole discretion, any Innoviz obligation hereunder may be performed (in whole or in part), and any Innoviz right or remedy may be exercised (in whole or in part), by a corporate affiliate of Innoviz. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, then: (a) the remaining provisions of this Agreement shall remain in full force and effect; and (b) such affected provision shall be ineffective solely as to such jurisdiction (and only to the extent and for the duration of such invalidity, illegality, or unenforceability), and shall be substituted (in respect of such jurisdiction) with a valid, legal, and enforceable provision that most closely approximates the original legal intent and economic impact of such provision. Except as stated otherwise in this Agreement, no right or remedy conferred upon or reserved by any party under this Agreement is intended to be, or shall be deemed, exclusive of any other right or remedy under this Agreement, at law or in equity, but shall be cumulative of such other rights and remedies. Innoviz may use Customer's name and logo on Innoviz's website and in its promotional materials to indicate that Customer is a customer of Innoviz. No failure or delay on the part of any Party in exercising any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. Any waiver granted hereunder must be in writing (for waivers by Customer, emails will be acceptable; for waivers by Innoviz, the writing must be duly signed by an authorized representative of Innoviz), and shall be valid only in the specific instance in which given. The relationship of the Parties is solely that of independent contractors. Nothing in this Agreement shall be deemed to create any employment, fiduciary, joint venture, agency or other relationship between the Parties. All notices or other communications provided for in this Agreement shall be in writing and shall be given in person, by courier, by facsimile, electronic mail or by registered or certified mail, postage prepaid, addressed as set forth in the Quote. All notices and other communications delivered in person or by courier service shall be deemed to have been given as of one business day after sending thereof, those given by facsimile transmission with confirmation or receipt shall be deemed to have been given as of the date of transmission thereof (provided that such date is a business day in the country of receipt and if not, the next business day) and all notices and other communications sent by registered mail shall be deemed given three (3) days after posting. Notices sent by electronic mail shall be deemed received upon receipt of such electronic mail message. Except as expressly stated otherwise herein, there shall be no third-party beneficiaries of or under this Agreement. Except for payment obligations, neither Party shall be responsible for any failure or delay to perform any obligation hereunder because of any (A) act of God, (B) war, riot or civil commotion, (C) governmental acts or directives, strikes or concerted labor action, work stoppage, or shortages of materials, equipment or facilities, and/or (D) other similar cause beyond such Party's reasonable control. Quotes may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.