

**KERBS learning-language in VR Exclusive Offer**

*Terms of Free Use*

BETWEEN

KERBS FZ LLC, a limited liability company, having its head office at Office 404, Building B, Al Saaha Offices, Souk Al Bahar, Burj Khalifa District, Dubai, United Arab Emirates, with Licence 16741/2020, referred to as **"KERBS"**, represented by Raphael MORAGLIA, CEO, email address raphael.moraglia@kerbs.com

of the first part,

AND

[Company Name] [Full Adress] [Licence number / Capital] , represented by [First Name] [Last Name], [position], [email address].

referred to as **"the Client"**,

of the second part.

referred to collectively as the **"Parties"** or separately as **"Party"**

PREAMBLE

Before launching the full price release of its language-learning service in Virtual Reality for English, (hereinafter referred to as "the Service"), KERBS wishes to propose an exclusive offer as part of a pre-release phase, in order to allow the Client to assess this new service and KERBS to analyze, in an operational phase, how appropriate the service is to its clients' businesses and environments.

ARTICLE 1: PURPOSE

The purpose of this agreement is to define the terms and conditions in which KERBS provides the Client with the Service in the context of an evaluation phase.

The smooth functioning of this evaluation phase will be part of, for KERBS, the confirmation of the generalized full price commercial launch of the Service.

This agreement does not prejudge any future changes to the Service and does not under any circumstances confer a right to continue the services provided after this agreement.

ARTICLE 2: CONTRACTUAL DOCUMENTS

This agreement constitutes the whole of the agreement between the two Parties in so far as concerns the achievement of its purpose. Only an amendment signed by the Parties can modify, add, or remove the Parties' obligations in respect of the above-mentioned purpose.

It prevails over any written or verbal agreements, all correspondence, or proposals, as well as all other provisions included in the documents previously exchanged between the Parties and relating to the purpose of this agreement.

ARTICLE 3: DESCRIPTION OF THE OFFER

The purpose of the offer under this agreement is to test the Service under actual conditions, and more particularly allow the Parties to test the effectiveness and desirability of the language learning method, the Virtual Reality platform and devices, and the process of learning sessions in an immersive scenario.

The client receives the devices, and the procedure for its use, as well as onboarding help from KERBS and experiments the learning scenario at own convenience.

The offer may not reflect the final customer experience, due to ongoing functional and pedagogical testing. The first 3 months will enable the experience of a limited number of language learning episodes in virtual reality. The number of episodes available will increase from the 4th month, to reach 375 within 6 months after the signature of the agreement at the latest.

ARTICLE 4: COMMITMENTS

4.1 KERBS Commitments

KERBS shall implement the means needed for the smooth functioning of the experience.

In the event of a failure of the Service, KERBS agrees to implement reasonable methods in order to solve any problems encountered and to re-establish the Service as quickly as possible.

KERBS may need to carry out changes liable to temporarily affect the smooth functioning of the Service and shall endeavor, as far as is possible, to reduce any disruptions that may result for the Client. In the event that these changes may have consequences for the supply of the Service to the Client, KERBS shall endeavor, in so far as is possible, to inform the Client at least two calendar days before the date for the work, via e-mail stating the forecast dates, times and durations of the interruption to the Service.

4.2 Client Commitments

The Client agrees to:

* use the Service (No minimum or maximum commitment)
	+ (a) in compliance with the stipulations of this agreement and/or any specific instructions provided by KERBS;
	+ (b) for its requirements alone - this agreement excludes any right of re-sale, distribution or making available of the Service, directly or indirectly, to a third party
* work to ensure the success of the experience, and in particular to supply KERBS with information to improve the Service supply conditions
* respond to surveys carried out by KERBS in order to obtain its opinion on the way in which the Service has been made available.

The surveys will be 3 forms with a maximum time needed to answer of 10 minutes for each. A digital diary will be made available to the Client to write down comments, notes, suggestions... The Client agrees to be available to take part in the different exchanges by sharing their experience and be driving force for the improvements expected from the Service.

ARTICLE 5: RESPONSABILITY

5.1 For the execution of this agreement, KERBS has a general obligation of means.

5.2 The responsibility of KERBS shall only be engaged, whatever the basis and the nature of the action, in the event of a proven fault by it that has caused the Client personal, direct and certain injury.

ARTICLE 6: EFFECTIVE DATE AND DURATION

This agreement takes effect from the time it is signed by the last of the Parties for a limited period extending until **30 June 2023** (hereinafter referred to as "Initial Duration").
If the Client wishes to take advantage of the Service and no longer be limited in terms of use, they will only be able to do so if they subscribe to the corresponding contract and in accordance with the commercial conditions in force, or refer 4 new clients every year.

Orders for the Basic Service and optional services signed under this agreement shall expire at the end of the Initial Duration save provision to the contrary in the article "END OF THE OFFER".

ARTICLE 7: END OF THE OFFER

At the end of the offer, and in the event that the latter were to be generalized by KERBS, the latter shall inform the Client of the commercial full price release date of the Service and its conditions of supply.

The Client may then:

* either waive the supply of the Service and any optional services subscribed, without any compensation being owed by either of the Parties.
* or maintain the Service as made available to it in the context of the experimentation, and subscribe to the corresponding contract in accordance with the commercial conditions in force if they wish to take advantage of the Service with no limit as to use, or refer 4 new clients every year.

ARTICLE 8: PRICES

The Service is provided by KERBS, without any invoicing amount being due to the Client, for the entire duration of the offer, with the exception of the provision of the virtual reality devices and a CDN box.

This device, the Oculus Quest 2, is made available to the Client for the entire duration of the offer with the following delivery:

* The first 2 devices within one month of the agreement's signature at the latest
* The last 4 devices within 3 months of the agreement's signature at the latest

The devices will remain the property of the Client, even after the offer.

A content delivery network (CDN) refers to a geographically distributed group of servers which work together to provide fast delivery of Internet content. A CDN box allows an almost offline access to KERBS, decreasing significantly the needed bandwidth (Wifi). The CDN box is made available to the Client for the last 9 months of the offer and will remain the property of the Client only if the Client doesn’t waive the supply of the Service at the end of this agreement.

The amount of the package of 6 devices + 1 CDN box is **2.500€/ USD2.500 / 9.800 AED / 9.800 SAR**, to be paid upon signature of this agreement.

The Client may request, from the 6th month after signing this agreement, the total refund of the amount paid, which will be effective upon return of the 6 devices and the CDN box. The refund is conditional upon compliance with clause 10 "Termination".

ARTICLE 9: CONFIDENTIALITY

In the context of this agreement, any information received by any Party from the other Party must be kept confidential unless said information is expressly qualified as being non-confidential by the Party that sends it to the other.

Within the meaning of this agreement, the following shall not be considered to be confidential information: (1) information in the public domain at the time it is made available or information that is in the public domain after it has been made available provided, in this latter case, that it is not the result of a breach of an obligation of confidentiality by the Party having been made aware of the information; (2) information for which the Party that is receiving it is able to prove that they knew it already in good faith and without any violation of any other obligation of confidentiality prior to its being made available in connection with this agreement; (3) any information made available after this agreement is signed by a third party and received in good faith and without any violation of any other obligation of confidentiality by the Party to which such information was made available.

The Parties therefore agree to not use said information or data when it is not necessary for the execution of this agreement and, to not disclose said information or data to any, save prior written authorization from the other Party.

The Parties agree to fulfil the obligations resulting from this article throughout the duration of this agreement and the year following its termination. On termination of this agreement, for any reason whatsoever, any Party that receives confidential information agrees to return it to the other Party and destroy all duplicates that may have been made of such confidential information.

KERBS shall not transfer any intellectual property right concerning any one of the elements (including software programs) made available to the Client.

The Client shall refrain from installing the software on other equipment, from carrying out or causing to be carried out, any modification, including to correct any errors that may arise. The Client shall refrain from any action designed to modify, translate, adapt, disassemble, decompile, reproduce with the exception of a back-up copy, to be used for the purposes of concurrent analysis, distribution or creation of derivative works, based on all or part of the software programs, save exceptions strictly defined by law.

ARTICLE 10: TERMINATION

In the event of non-compliance by any one of the Parties with any of their substantive obligations, this agreement shall be automatically terminated fifteen days after formal notice, by registered letter with acknowledgement of receipt that has remained without effect, without prejudice to any damages which the aggrieved Party may claim. Moreover, each Party may, for convenience, terminate this agreement by informing the other Party thereof in writing at the latest thirty days before the desired termination date.

ARTICLE 11: FORCE MAJEURE

The following are expressly considered by the Parties to be cases of force majeure - fires, water damage, natural catastrophes, storms, strikes, floods, earthquakes, attacks, explosions, wars, military operations or civil unrest, hold-ups in the means of transport or supply, power cuts, any legislative or regulatory restriction to the supply of the Service, any decision by a public authority not attributable to KERBS and preventing the supply of the Service.

A case of force majeure suspends the obligations of the Party concerned during such time as the force majeure shall apply. Nevertheless, the Parties shall endeavor to minimize the consequences thereof as far as is possible. If as a result of a case of force majeure one of the Parties is unable to fulfil its contractual obligations for more than 15 consecutive days, either of the Parties may end this agreement after sending a registered letter with acknowledgement of receipt without any possibility of invoking any compensation by either of the Parties.

ARTICLE 12: ASSIGNMENT

This agreement shall not under any circumstances be assigned, in full or in part, by the Client to a third party without the express prior agreement of KERBS.

ARTICLE 13: COMPETENT JURISDICTION IN THE EVENT OF A DISPUTE

In the event of a dispute concerning this agreement that cannot be solved amicably, the Parties, by mutual agreement, attribute exclusive competence to the defendant's country of residence. Exceptions apply in case of:

* **a breach of contract**: the courts of the place where the obligation in question should have been performed should hear the case
* **non-contractual matters**: the courts of the place where the harmful event took place are competent. For example, if a person were injured as a result of someone's negligence, the case would be heard in the country where the accident happened.

ARTICLE 14: NON-WAIVER

The fact that one of the Parties does not require at any moment the strict execution by the other Party of a stipulation or condition whatsoever of this agreement shall not under any circumstances be deemed to constitute a waiver, of any sort, of the performance of this right.

ARTICLE 15: AUTONOMY OF CONTRACTUAL CLAUSES

If any one of the stipulations in this agreement were to be declared null and void following a legal decision or were to be amended following a decision by a national or community authority, the Parties shall endeavor in good faith to adapt its conditions of execution, it being understood that this invalidity shall not affect the other stipulations of this agreement.

ARTICLE 16: AGREEMENT OF PROOF

The Parties agree to consider messages received by e-mail and more generally any electronic documents exchanged between them, as original documents having the same value as that granted to the original.

ARTICLE 17: NOTIFICATION

All notifications that need to be made in connection with this agreement shall be carried out in writing (letter or e-mail) to the addresses respectively indicated in the header to this agreement.