



## **DATA RECOVERY SERVICE AGREEMENT AND POLICY**

### **DIAGNOSTIC PROCEDURE AND STORAGE MEDIA HANDLING:**

The Client hereby acknowledges and agrees that the diagnostic procedure is neither foolproof nor perfect. Even though the diagnosis furnished by VisioLogix to the Client may indicate a strong probability of a successful recovery outcome, VisioLogix's professional assessment of the Client's storage media cannot guarantee that any specific result will be attained. No warranty is stated or implied in any way as to the accuracy of the assessment provided by VisioLogix or the timeliness thereof. VisioLogix shall have the exclusive professional determination as to the diagnostic assessment and the possible success rate at its' sole discretion. VisioLogix agrees to use all resources and technology available at any of VisioLogix's facilities and/or laboratories to attempt the diagnostic procedure. In no circumstances shall VisioLogix be held liable for voided warranties by the storage media manufacturer.

Enclosures will need to be disassembled in order to diagnose and/or recover the data from these storage devices. It may become necessary to break or damage these enclosures in order to access the underlying internal storage media present within these storage devices. Similarly, devices such as iPods, iPads, iPhones, Netbooks, Notebooks, Laptops and other similar devices will also need to be opened in order to access the underlying storage media present within these storage devices. VisioLogix will use its' best efforts to access the underlying internal storage media present within these devices without damaging the devices that contain the storage media. However, under no circumstances will VisioLogix be held liable for voided warranties or damage that might be caused by opening these storage devices mentioned herein.

VisioLogix may dispose of external enclosures, power adapters, data transfer cables and other similar accessories associated with the storage devices mentioned above at its' own discretion. The Client should notify their Dedicated Account Representative to request these accessories be returned prior to initiating this diagnostic work engagement.

Upon completion of VisioLogix's professional assessment of the Client's storage media, VisioLogix will provide a quotation as to what the costs of the recommended data recovery procedures will be. The quotation may be provided in writing, electronically by email or verbally over the phone. All amounts are payable in USD. Donor parts, expedited or emergency fees, final destination transfer media and surcharges are separate from the data recovery fees. Overdue obligations in excess of 30 calendar days may be subjected to a 1.85% late fee. Obligations delinquent more than 30 calendar days will result in forfeit of any and all discounts that may be applied.

If the Client then elects to proceed with the data recovery process, the Client will need to approve, authorize, and pay for, those services subject to a separate written Service Agreement, before VisioLogix will perform any additional work. If the client elects not to proceed with the data recovery process, the Client must request the storage media be returned and will be responsible for return shipping, handling and packaging costs accordingly.



**SECURITY, CONFIDENTIALITY AND NON-DISCLOSURE:**

The Client's storage media upon arrival to VisioLogix's will remain secure during the diagnostic procedure with only authorize personnel having access to the media.

VisioLogix guarantees to the Client that it will not disclose or deliver the storage media to any third parties unless specifically ordered to do so by any governmental, judicial, or administrative order, subpoena, discovery request, regulatory request or similar method. VisioLogix warrants that it will use the storage media only for the purposes of fulfilling this work engagement. VisioLogix's staff and agents are required to safeguard the privacy of the Client's Data. VisioLogix enforces a very strict internal policy which ensures absolute discretion to our data recovery clients. This confidentiality agreement may be breached by VisioLogix at any time, when the Client information is found to contain data such as child pornography or any information that may be detrimental to the United States national security.

The Client's storage media or recovered data shall only be released to those parties named in this legal declaration. Any parties not named herein cannot claim or be released the said storage media or recovered data. Authorized data release individuals may be added by contacting your Dedicated Account Representative. Once Client receives and confirms receive of recovered data, VisioLogix will remove all recovered data within 24 hours using BleachBit™. Additional information about BleachBit™ can be found here - <https://www.bleachbit.org/>

**LAWFUL OWNERSHIP & INDEMNIFICATION:**

The Client hereby represents, warrants, and affirms that: (1) the Client is the legal owner of the Storage Media, or is the legal owner's authorized representative; and (2) the Client has the legal right to engage VisioLogix to perform services, procedures, diagnostics, and/or work on the Storage Media. The Client hereby agrees to fully indemnify VisioLogix for any claims (whether or not formally asserted in a lawsuit in a court of law) by third parties related to the services provided by VisioLogix under this Agreement, in the event that the Client's representation under this paragraph is erroneous.

VisioLogix regrets that it is unable to provide the Client with any type of legal affidavit or testimony concerning the Storage Media. Such services are expressly not within the scope of work under this Agreement.

**TRANSPORTATION AND STORAGE MEDIA LIABILITY:**

The Client acknowledges that the storage media is already damaged prior to the receipt by VisioLogix. VisioLogix's process of the diagnostic and/or data recovery efforts may result in further damage to the storage media. VisioLogix regrets that due to these efforts it will not assume responsibility for additional damage that may occur to the storage media.

The Client hereby authorizes VisioLogix to receive and transport the Client's storage media, to and from (or between;) VisioLogix's facilities, laboratories and to you the Client. Transportation of such storage media may be made by you the Client, VisioLogix or third-party professional shipping couriers and/or transportation providers. VisioLogix shall not be held liable for the



state of the Client's storage media nor for its transport to or from VisioLogix's facilities or laboratories provided by third-party professional shipping couriers or transportation providers. When VisioLogix ships the Client's storage media, VisioLogix ensures to make its' best efforts in properly packaging and estimating the physical value of the Client's storage media for transport. The Client agrees to inform VisioLogix in writing of special packaging requirements for the Client's storage media and the requested insurance value of the Client's storage media for transport.

Please Note: If a customer hard drive and/or media has a mechanical issue, VisioLogix reserves the right to send out the customer media for an extensive repair to manufacturer and the customer is fully responsible for the shipping and handling fee for the return of the drive. Please note that if the client does not contact VisioLogix within 10 days VisioLogix reserves the right to properly dispose of the media that is sent in.

**PROPERTY CLAIMS AND RECOVERED DATA CLAIMS:**

The Client hereby acknowledges and agrees to claim their storage media and request it be returned within 5 calendar days from the completion of the diagnostic procedure, data recovery process or last confirmed communication (as recorded by VisioLogix.) Two method or data retrieval are available: (1) Client can download the recovered data from VisioLogix Secure FTP server or (2) requests VisioLogix to send the drive back the Client. The Client will be responsible for return shipping, handling and packaging costs accordingly. Failure to claim the storage media within this time-frame will result in the storage media securely being destroyed and disposed of. VisioLogix shall have no liability for unclaimed storage media.

Claims regarding missing, corrupted or otherwise damaged data must be made in writing within 5 business days of receipt of the recovered data. A copy of the recovered data will remain on VisioLogix's secure internal servers for 5 business days only, at which time the recovered data will be deleted from VisioLogix's secure internal servers.

**CLIENT ERROR & MISINFORMATION:**

The Client hereby represents, warrants, and affirms that all information furnished by the Client to VisioLogix concerning the Client and the Storage Media is true and accurate to the best of the Client's knowledge. The Client hereby acknowledges that any false, inaccurate, or misleading information concerning the Storage Media may detrimentally affect VisioLogix's diagnostic and/or data recovery efforts. Initial pricing is provided based on the Clients input and any misinformation or error provided by the client to VisioLogix will cause the recovery fees to change. The Client hereby agrees that VisioLogix shall not be liable to the Client for the outcome of such efforts in the event that the Client has provided VisioLogix with false, inaccurate, or misleading information about the Storage Media.

Such misinformation may include (but is not limited to) storage media from a RAID array, non-original components, undisclosed recovery attempts, databases, overwritten data, virtual machine environment, or server. If VisioLogix, in its sole and complete discretion, determines that the Client has misinformed VisioLogix about the state of the Storage Media (such as when



a rebuild has taken place, when a failed disk is taken back on-line, when a disk in a RAID set fails several days before the second disk, if not all media is provided or similar circumstances), the Client may be responsible for additional data recovery costs for completing the data recovery. Accordingly, please ensure that you (the Client) provide as much information as possible regarding the data loss scenario and relay this information to your VisioLogix Dedicated Account Representative.

If the Client incorrectly furnishes the wrong Storage Media to VisioLogix, the Client will be responsible for: (1) the costs of any diagnostic and/or data recovery services performed by VisioLogix; and (2) all return shipping and handling costs. Accordingly, please ensure that you (the Client) provide VisioLogix with the correct Storage Media.

**STORAGE MEDIA HANDLING & MANUFACTURER WARRANTIES:**

If the Client is concerned about the possible voiding of warranty claims, the Client should first consult the Storage Media's manufacturer or warranty provider for specific warranty information before beginning any data recovery diagnostic procedure.

The Client hereby agrees that VisioLogix will not be liable to the Client for any voided warranties by the Storage Media manufacturer or by any other warranty provider.

External hard drive enclosures will need to be disassembled in order to diagnose and/or recover the data from these storage devices. It may be necessary to break or damage these enclosures in order to access the underlying internal storage media contained within these storage devices. Similarly, devices such as Body Worn Cameras, Point-n-Shoot Camera, Smartphones, Tablets, Laptops and other similar devices will need to be opened in order to access the underlying storage media present within such storage devices. VisioLogix will use its best efforts to access the underlying internal storage media present within such storage devices without damaging the devices. If the Client is concerned about the possible voiding of warranty claims, the Client should first consult the Storage Media's manufacturer or warranty provider for specific warranty information before beginning any data recovery diagnostic procedure.

The Client hereby acknowledges that the Storage Media is already damaged and/or malfunctioning prior to VisioLogix receiving it from the Client. VisioLogix's diagnostic procedures and/or data recovery efforts may result in further damage or malfunctioning to the Storage Media. VisioLogix will use its best efforts to prevent or minimize this risk. However, VisioLogix will not be liable to the Client for any additional damage or malfunctioning that may occur to the Storage Media as a result of VisioLogix's diagnostic and/or data recovery efforts, including but not limited to any damaged or broken storage media devices, enclosures, or accessories.

VisioLogix, at its sole and complete discretion, may dispose of broken, damaged, or non-working external enclosures, power adapters, data transfer cables, or other similar accessories associated with storage media devices. If the Client would like such accessories to be returned, the Client: (1) must notify its VisioLogix Dedicated Account Representative in writing and have



confirmation of the request that these accessories be returned prior to beginning the data recovery diagnostic procedure; and (2) will be responsible for all return shipping and handling costs. The Client hereby agrees that, absent such notification, VisioLogix will not be liable to the Client for the disposal of any such items.

**LIMITATION OF LIABILITY:**

The client hereby agrees that, to the fullest extent of the law, the liability of VisioLogix to the client for work performed under this agreement shall not exceed \$1,000.00 or the amount charged by VisioLogix to the client for the work, whichever is greater, regardless of the legal theory under which such liability is imposed. Under no circumstances shall VisioLogix be liable to the client in contract, tort, strict liability, warranty or otherwise, for any special, indirect, incidental or consequential damages, such as (but not limited to) delay, disruption, loss of product, loss of anticipated profits or revenue, loss of use of equipment or system, non-operation or increased expense of operation of other equipment or systems, cost of capital, or cost of purchase or replacement equipment or systems. As used in this paragraph, "VisioLogix" includes VisioLogix, as defined above in paragraph 1 of this agreement, and their partners, officers, directors, shareholders, and employees.

**FINAL PAYMENT TERMS & ACKNOWLEDGEMENTS:**

Partial Recovery: In the event that VisioLogix was unable to successfully recover all Storage Media files that the Client wished to be recovered, VisioLogix (in its sole and absolute discretion) may offer the Client a discount on the Final Payment amount. Whether or not such a discount is given, VisioLogix shall have no further obligation to attempt to recover any files listed as non-recoverable. The Client acknowledges and understands that, despite VisioLogix's best professional efforts, some files are too heavily damaged and/or corrupted to be recovered by VisioLogix. Any future successful recovery of such files by a third-party company shall in no way effect the Client's obligation to pay the Final Payment amount under this Agreement.

Payment Method / Release of Recovered Data: For amounts greater than \$2,000, the payment shall be made via cashier's check, company or personal check or bank wire (credit cards will not be accepted for amounts greater than \$2,000).

VisioLogix will begin the process of releasing the recovered data to the Client immediately upon receiving confirmation of the receipt of payment.

The Final Payment may be made via company or personal check; however, VisioLogix will not release the recovered data to the Client until that check has cleared or five (5) business days, whichever is greater.

Due Date / Overdue Obligations: The Client must pay the Final Payment amount to VisioLogix within ten (10) business days of receiving notification from VisioLogix of the Final Payment amount. If additional time is required, the Client should promptly contact VisioLogix prior to the expiration of this 10-day time frame to discuss whether an extension is possible. If the Client fails to make payment by the due date, VisioLogix may dispose of the recovered data from the



## Storage Media.

**No Refunds:** No refunds shall be issued by VisioLogix on any payments made to VisioLogix by the Client.

**Return of Storage Media:** If the Client would like the Storage Media to be returned, the Client must make a request to VisioLogix in accordance with the terms of this Agreement.

**Recovered Data Claims:** Any claims regarding missing, corrupted or otherwise damaged data must be made to VisioLogix in writing within one (1) business days of the Client's receipt of the recovered data. A copy of the recovered data from the Storage Media will remain on VisioLogix's secure internal servers for a time period of two (2) calendar days (circumstances permitting, at VisioLogix's sole discretion i.e. data size, time constraints or similar circumstances) from the date that the Client receives the recovered data and confirms it, after which time the recovered data will be permanently deleted within twenty-four (24) hours from VisioLogix's secure internal servers using BleachBit™. The Client hereby acknowledges that, immediately upon its receipt of the recovered data from VisioLogix, the Client bears the responsibility of checking the recovered data for any missing, corrupted, or otherwise damaged data, and promptly notifying VisioLogix of same.

**No warranty of data recovery success or results:** No data recovery procedure is foolproof or perfect. Although the diagnosis furnished by VisioLogix to the Client may indicate a strong probability of a successful data recovery outcome, VisioLogix's professional assessment of the Storage Media cannot guarantee that any specific result will be attained. The Client hereby agrees that no express or implied warranty, guarantee, or promise is created as to the accuracy of any aspect of the diagnostic assessment provided by VisioLogix to the Client.

If the Client incorrectly furnishes the wrong storage media to VisioLogix and VisioLogix is successful in recovering the storage media, the Client will be responsible for the data recovery costs incurred. In addition, if the Client furnishes the wrong storage media to VisioLogix, the client will be responsible for return shipping, handling and packaging costs accordingly. Please ensure that you provide VisioLogix with the correct storage media.

## **GOVERNING LAW AND AGREEMENT ENFORCEMENT:**

**Governing Law:** The enforceability, validity, construction, and operation of this Agreement, and all of its terms, shall be determined according to the laws of the State of Texas.

## **Mediation / Arbitration:**

If a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, VisioLogix and the Client ("the parties") agree first to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration.

Any dispute arising out of or relating to this Agreement, or the breach thereof, that cannot be resolved by mediation within thirty (30) calendar days shall be finally resolved by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules,



and judgement upon the award rendered by the arbitrators may be entered in any court having jurisdiction. The arbitration shall be conducted in the English language in the City of Houston, Texas (unless another location can be agreed upon by the parties), in accordance with the United States Arbitration Act. There shall be one arbitrator, named in accordance with such rules. The award of the arbitrator shall be accompanied by a statement of the reasons upon which the award is based.

**ENTIRE AGREEMENT & AMENDMENTS:**

This Agreement constitutes the full and complete agreement between the Client and VisioLogix, and supersedes any and all other agreements or understandings, whether written oral, between the Client and VisioLogix with respect to the services provided for under this Agreement. This Agreement can be modified or amended only by a separate and distinct written agreement signed for by the Client and VisioLogix.

The Federal and State courts of Texas shall have sole and exclusive jurisdiction over any disputes or claims arising under this Agreement that are not subject to mandatory mediation / arbitration under paragraph MEDIATION / ARBITRATION of this Agreement, if any.

Collection Costs: Overdue obligations in excess of thirty (30) calendar days may be provided to a collection company for recovery, or be subject to other collection methods. The Client shall be responsible for any and all collections costs incurred by VisioLogix to collect on the overdue amount, including but not limited to collections fees, legal fees, court costs, and filing fees.

**SEVERABILITY:**

If any provision of this Agreement is found to be invalid, that portion shall not affect the validity or enforceability of the remaining provisions, which will remain in full force and effect.

The client hereby acknowledges and agrees not to hold VisioLogix liable for any damages or claims (special, incidental, punitive, contingent or consequential) in any event, whatsoever, for any reason related to this diagnostic work engagement or subsequent work or goods provided by VisioLogix hereafter.