

## OPTALK TERMS OF USE AGREEMENT

Welcome and thank you for your interest in OpTalk, a service made available by Optimoz, Inc. (“**Optimoz**”, “**we**”, “**us**” or “**our**”). This Terms of Use Agreement (“**Terms of Use**”, and together with any applicable Supplemental Terms (as defined in Section 1.2 (Supplemental Terms)), the “**Agreement**”) describes the terms and conditions that apply to your use of (i) the website located at <https://optimoz.com/> and its subdomains (collectively, the “**Website**”), (ii) the web application that we offer subject to these Terms of Use (“**Application**”), and (iii) the products, services, content, and other resources available on or enabled via our Website or Application, including the chatbot and other generative artificial intelligence tools designed to enable end users to make requests and receive responses related to uploaded documents (collectively, with our Applications and Website, the “**Service**”).

PLEASE READ THIS AGREEMENT CAREFULLY. THIS AGREEMENT GOVERNS THE USE OF THE SERVICE AND APPLIES TO ALL USERS VISITING OR ACCESSING THE SERVICE. BY ACCESSING OR USING THE SERVICE IN ANY WAY, ACCEPTING THIS AGREEMENT BY CLICKING ON THE “I ACCEPT” BUTTON, COMPLETING THE ACCOUNT REGISTRATION PROCESS, BROWSING THE WEBSITE OR DOWNLOADING THE APPLICATION, YOU REPRESENT THAT: (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THIS AGREEMENT, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH OPTIMOZ, (3) YOU ARE AT LEAST EIGHTEEN (18) YEARS OF AGE AND ARE NOT BARRED FROM USING THE SERVICE UNDER THE LAWS OF THE UNITED STATES, YOUR PLACE OF RESIDENCE OR ANY OTHER APPLICABLE JURISDICTION; AND (4) YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT PERSONALLY OR, IF YOU ARE ACCESSING OR USING THE SERVICE ON BEHALF OF AN ENTITY, ON BEHALF OF THE ENTITY IDENTIFIED IN THE ACCOUNT REGISTRATION PROCESS. IF THE INDIVIDUAL ENTERING INTO THIS AGREEMENT IS DOING SO ON BEHALF OF AN ENTITY, ALL REFERENCES TO “**YOU**” OR “**YOUR**” IN THIS AGREEMENT WILL ALSO BE DEEMED TO REFER TO SUCH ENTITY. **IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF USE, YOU MAY NOT ACCESS OR USE THE SERVICE.**

**IF YOU SUBSCRIBE TO ANY FEATURE OR FUNCTIONALITY OF THE SERVICE FOR A TERM (THE “INITIAL TERM”), THEN YOUR SUBSCRIPTION WILL BE AUTOMATICALLY RENEWED FOR ADDITIONAL PERIODS OF THE SAME DURATION AS THE INITIAL TERM AT OPTIMOZ’S THEN-CURRENT FEE FOR SUCH FEATURES AND FUNCTIONALITY UNLESS YOU DECLINE TO RENEW YOUR SUBSCRIPTION IN ACCORDANCE WITH SECTION 8.3(a) (AUTOMATIC RENEWAL) BELOW.**

**SECTION 15 (ARBITRATION AGREEMENT) CONTAINS PROVISIONS THAT GOVERN HOW TO RESOLVE DISPUTES BETWEEN YOU AND OPTIMOZ. AMONG OTHER THINGS, SECTION 15 (ARBITRATION AGREEMENT) INCLUDES AN AGREEMENT TO ARBITRATE WHICH REQUIRES, WITH LIMITED EXCEPTIONS, THAT ALL DISPUTES BETWEEN YOU AND US SHALL BE RESOLVED BY BINDING AND FINAL ARBITRATION. SECTION 15 ALSO CONTAINS A CLASS ACTION AND JURY TRIAL WAIVER. PLEASE READ SECTION 15 (ARBITRATION AGREEMENT) CAREFULLY.**

**UNLESS YOU OPT OUT OF THE ARBITRATION AGREEMENT (AS DEFINED IN SECTION 15) WITHIN THIRTY (30) DAYS IN ACCORDANCE WITH SECTION 15.10 (30-DAY RIGHT TO OPT OUT): (1) YOU WILL ONLY BE PERMITTED TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING, AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION; AND (2) YOU ARE WAIVING YOUR RIGHT TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL.**

**ANY DISPUTE, CLAIM OR REQUEST FOR RELIEF RELATING IN ANY WAY TO YOUR USE OF THE SERVICE WILL BE GOVERNED AND INTERPRETED BY AND UNDER THE LAWS OF THE STATE OF DELAWARE, CONSISTENT WITH THE FEDERAL ARBITRATION ACT, WITHOUT GIVING EFFECT TO ANY PRINCIPLES THAT PROVIDE FOR THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXPRESSLY EXCLUDED FROM THIS AGREEMENT.**

THE AGREEMENT IS SUBJECT TO CHANGE BY OPTIMOZ IN ITS SOLE DISCRETION AT ANY TIME AS SET FORTH IN SECTION 16.6 (AGREEMENT UPDATES).

**1. USE OF THE SERVICE.** The Service and the information and content available on the Service are protected by applicable intellectual property (including copyright) laws. Unless subject to a separate license agreement between you and Optimoz, your right to access and use the Service, in whole or in part, is subject to this Agreement.

**1.1 Access Rights.** Subject to your compliance with this Agreement, Optimoz grants you a limited non-exclusive, non-transferable, non-sublicensable, revocable license to access the Website and the Application, including the features and functionality thereof, solely for your own personal purposes.

**1.2 Supplemental Terms.** Your use of, and participation in, certain features and functionality of the Service may be subject to additional terms ("**Supplemental Terms**"). Such Supplemental Terms will either be set forth in the applicable supplemental Service or will be presented to you for your acceptance when you sign up to use the supplemental Service. If these Terms of Use are inconsistent with the Supplemental Terms, then the Supplemental Terms control with respect to such supplemental Service.

**1.3 Updates.** You acknowledge and agree that Optimoz may update the Service with or without notifying you. You may need to update third-party software from time to time in order to continue to use the Service. Any future release, update or other addition to the Service shall be subject to this Agreement.

**1.4 Chatbot.** Optimoz provides certain features, including a chatbot function that responds to user requests with automated replies, leveraging certain third party services or applications to power the Services' chatbot function. By using these functions, you hereby consent and authorize Optimoz to share any information you provide with one or more third party providers or such chatbot function to the minimum extent required to complete your request. YOU, AND NOT OPTIMOZ, SHALL BE SOLELY RESPONSIBLE FOR YOUR USE OF THESE FUNCTIONS. YOU ACKNOWLEDGE AND AGREE THAT ANY CONDUCT YOU ENGAGE IN AS A RESULT OF THE INFORMATION PROVIDED BY THE CHATBOT OR ANY OTHER AI-ENABLED FEATURE MADE AVAILABLE THROUGH OPTIMOZ OR SUCH THIRD PARTY PROVIDERS IS AT YOUR OWN RISK. BECAUSE CHATBOTS UTILIZE ARTIFICIAL INTELLIGENCE TO COMMUNICATE WITH YOU, OUR CHATBOT(S) MAY PROVIDE INFORMATION THAT IS AN INACCURATE RESPONSE TO YOUR REQUESTS IN ITS INTERACTIONS WITH YOU. YOU AGREE THAT OPTIMOZ WILL NOT BE HELD LIABLE TO YOU OR ANY THIRD PARTY FOR THE CHATBOT (OR ANY OTHER AI-ENABLED FEATURE MADE AVAILABLE BY THE OPTIMOZ OR THIRD PARTY PROVIDERS) PROVIDING INACCURATE INFORMATION TO YOU.

## **2. REGISTRATION.**

**2.1 Registering Your Account.** In order to access certain features of the Service, you may be required to register an account on the Service ("**Account**").

**2.2 Registration Data.** In registering an account on the Service, you shall (i) provide true, accurate, current, and complete information about yourself as prompted by the registration form (the “**Registration Data**”), and (ii) maintain and promptly update the Registration Data to keep it true, accurate, current, and complete.

**2.3 Your Account.** Notwithstanding anything to the contrary herein, you acknowledge and agree that you have no ownership or other property interest in your Account, and you further acknowledge and agree that all rights in and to your Account are and will forever be owned by and inure to the benefit of Optimoz. Furthermore, you are responsible for all activities that occur under your Account. You shall monitor your Account to restrict use by minors, and you will accept full responsibility for any unauthorized use of the Service by minors. You may not share your Account or password with anyone, and you agree to notify Optimoz immediately of any unauthorized use of your password or any other breach of security. If you provide any information that is untrue, inaccurate, incomplete or not current, or Optimoz has reasonable grounds to suspect that any information you provide is untrue, inaccurate, incomplete or not current, Optimoz has the right to suspend or terminate your Account and refuse any and all current or future use of the Service (or any portion thereof). You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself. You shall not have more than one Account at any given time. Optimoz reserves the right to remove or reclaim any usernames at any time and for any reason, including but not limited to, claims by a third party that a username violates the third party’s rights. You agree not to create an Account or use the Service if you have been previously removed by Optimoz, or if you have been previously banned from any of the Service.

### **3. CONTENT.**

**3.1 Types of Content.** Subject to your compliance with this Agreement, You may share or upload certain documents, information, data, text, software, music, sound, photographs, graphics, video, messages, tags and/or other materials (“**Content**”) through the Service, including by way of your prompts, comments, questions, and other input to the Service (collectively, “**Input**”). You, and not Optimoz, are entirely responsible for all Input that you upload, share, post, email, transmit, query or otherwise make available through or to the Service. When you make available any Input on or to the Service, you represent that you own and/or have sufficient rights to use such Input in connection with the Service, including to grant the license set forth in Section 3.4 (License to Your Content). In response to any prompts, comments, questions, and other Input that You provide to the Service, the Service, together with AI Services, may generate new Content (“**Output**”). You acknowledge that the Outputs are based on your Inputs and your Content, and that Optimoz has no control over any such Inputs or Content. Accordingly, all Outputs are provided “**as is**” and with “**all faults**”, and Optimoz makes no representations or warranties of any kind or nature with respect to any Inputs or Outputs, including any warranties of accuracy, completeness, truthfulness, timeliness or suitability. You are solely responsible for your use of your Outputs created through the Service, and you assume all risks associated with your use of any Outputs, including any potential copyright infringement claims from third parties or any disclosure of your Outputs that personally identifies you or any third party.

**3.2 Ownership of Content.** Optimoz does not claim ownership of any Inputs or any other Content you upload to the Service, or any Outputs (collectively, “**Your Content**”). Subject to Section 3.3 (License to Your Content), as between the Optimoz and you, you are the owner of all right, title and interest in Your Content. Notwithstanding the foregoing, given the nature of the Service, you acknowledge that: (a) Output may not be unique across users and the Service may generate the same or similar output

for another user under similar terms; and (b) the Optimoz does not represent or warrant that the Outputs are protectible by any intellectual property rights under applicable law.

**3.3 License to Your Content.** Subject to any applicable Account settings that may be made available to you, you grant Optimoz a non-exclusive, transferable, perpetual, irrevocable, worldwide, fully-paid, royalty-free, sublicensable (through multiple tiers of sublicensees) right (including any moral rights) and license to use, copy, reproduce, modify, adapt, prepare derivative works from, translate, distribute, publicly perform, and publicly display Your Content (in whole or in part) for the purposes of operating and providing the Service to you and to our other users.

**3.4 Content Provided by Other Users.** The Service may contain Content provided by other users (“**User Content**”). Optimoz is not responsible for and does not control User Content. Optimoz does not approve or endorse, or make any representations or warranties with respect to, User Content. You use all User Content and interact with other users at your own risk. If you submit Your Content to any area of the Service that is accessible by other users, other users may be able to search for, see, use, modify and/or reproduce any of Your Content on or off the Service. You are solely responsible for your interactions with other users of the Service and any other parties with whom you interact through the Service; provided, however, that Optimoz reserves the right, but has no obligation, to intercede in any disputes between you and any other users. You agree that Optimoz will not be responsible for any liability incurred as the result of your interactions with other users.

**3.5 AI Services.** Our Service may utilize certain publicly available artificial intelligence and deep learning platforms, algorithms, tools and models (“**AI Services**”) to generate Output. You acknowledge and agree that Optimoz may share your Inputs with the AI Services for this purpose and such AI Services may not be required to maintain the confidentiality of any of Your Content. Further, You understand that additional license requirements may apply to certain AI Services, including that such AI Services may retain certain rights to use or disclose Your Content, including to further train their algorithmic models. You must review and comply with such requirements for the AI Services used. You assume all risks associated with your use of such AI Services. Optimoz will have no liability for the unavailability of any AI Services, or any third party’s decision to discontinue, suspend or terminate any AI Services.

**3.6 Content Restrictions.** Your use of the Service must comply at all times with Optimoz’s Acceptable Use Policy and any applicable AI Services terms. Without limiting the foregoing, you must not share Content on or through the Service, or attempt to create Output through the Service, that: (A) is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another’s privacy, tortious, obscene, pornographic, offensive, or profane; (B) infringes or misappropriates any third party’s intellectual property rights or other proprietary rights; (C) contains any viruses, worms or other malicious computer programming codes that may damage the Service; (D) contains any personal information, such as financial, medical or other sensitive personal information such as government IDs, passport numbers or social security numbers; or (E) involves commercial activities and/or sales, such as contests, sweepstakes, barter, advertising, or pyramid schemes without Optimoz’s prior written consent. Furthermore, Your Content may not contain nudity, violence, sexually explicit, obscene, or offensive subject matter as determined by Optimoz in its sole discretion. You may not post or make available any Content that includes any identifiable person or any of their personal characteristics without that person’s permission.

**3.7 Storage.** Unless expressly agreed to by Optimoz in writing elsewhere, Optimoz has no obligation to store any of Your Content. Optimoz has no responsibility or liability for the deletion or accuracy of any Content, including Your Content; the failure to store, transmit, or receive transmission of Content; or the security, privacy, storage, or transmission of other communications originating with or involving use of the Service. Certain features and functionality of the Service may enable you to specify the level at which the Service restricts access to Your Content. In such cases, you are solely responsible for applying the appropriate level of access to Your Content. If you do not choose a level of access, the system may default to its most permissive setting. You agree that Optimoz retains the right to create reasonable limits on Optimoz's use, processing and/or storage of Content, including Your Content, such as limits on file size, number of documents or files, storage space, processing capacity, and similar limits described on the Service and as otherwise determined by Optimoz in its sole discretion.

#### **4. OWNERSHIP.**

**4.1 The Service.** Except with respect to Your Content, you agree that Optimoz and its suppliers or licensors own all rights, title and interest in the Service (including but not limited to, any computer code, themes, objects, characters, character names, stories, dialogue, concepts, artwork, animations, sounds, musical compositions, audiovisual effects, methods of operation, moral rights, documentation, and Optimoz software) and all improvements, enhancements and updates made thereto. You shall not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying any the Service.

**4.2 Trademarks.** OPTIMOZ, OPTALK,  and all related stylizations, graphics, logos, service marks and trade names used on or with the Service are the trademarks of Optimoz and may not be used without permission in connection with your, or any third-party's, products or services. Other trademarks, service marks and trade names that may appear on or in the Service are the property of their respective owners.

**4.3 Username.** Notwithstanding anything contained herein to the contrary, by submitting Your Content to any forums, or sharing your sessions, you hereby expressly permit Optimoz to identify you by your username (which may be a pseudonym) as the contributor of Your Content in any publication in any form, media or technology now known or later developed in connection with Your Content.

**4.4 Feedback.** You agree that submission of any ideas, suggestions, documents, and/or proposals to Optimoz through its suggestion, feedback, forum, or similar pages ("**Feedback**") is at your own risk and that Optimoz has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Optimoz a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of the Service and/or Optimoz's business.

**5. USER CONDUCT AND CERTAIN RESTRICTIONS.** As a condition of use, you agree not to use the Service for any purpose that is prohibited by this Agreement, the Acceptable Use Policy or by applicable law. You shall not (and shall not permit any third party) to: (i) license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit the Service or any portion of the Service; (ii) frame or utilize framing techniques to enclose any trademark or logo located on the Service or any

other portion of the Service (including images, text, page layout or form); (iii) use any metatags or other “hidden text” using Optimoz’s name or trademarks; (iv) modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of the Service except to the extent the foregoing restrictions are expressly prohibited by applicable law; (v) use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools, or the like) to “scrape” or download data from any web pages contained in the Service (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from the Service for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials); (vi) remove or destroy any copyright notices or other proprietary markings contained on or in the Service; (vii) impersonate any person or entity, including any employee or representative of Optimoz; or (viii) interfere with or attempts to interfere with the proper functioning of the Service or use the Service in any way not expressly permitted by this Agreement, including but not limited to violating or attempting to violate any security features of the Service, introducing viruses, worms, or similar harmful code into the Service, or interfering or attempting to interfere with use of the Services by any other user, host, or network, including by means of overloading, “flooding,” “spamming,” “mail bombing,” or “crashing” the Service. The rights granted to you in this Agreement are subject to your compliance with the restrictions set forth in this section. Any unauthorized use of the Service terminates the licenses granted by Optimoz pursuant to this Agreement.

**6. INVESTIGATIONS, MONITORING, & NO OBLIGATION TO PRE-SCREEN CONTENT.** Optimoz may, but is not obligated to, investigate, monitor, pre-screen, remove, refuse, or review the Service and/or Content, including Your Content and User Content, at any time. You hereby provide your irrevocable consent to such monitoring. You acknowledge and agree that you have no expectation of privacy concerning the transmission of Your Content, including without limitation chat, text, or voice communications.

**6.1** Without limiting the foregoing, Optimoz reserves the right to: (a) remove or refuse to post any of Your Content for any or no reason in our sole discretion; (b) take any action with respect to any of Your Content that we deem necessary or appropriate in our sole discretion, including if we believe that such Content violates this Agreement, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the Service or the public, or could create liability for Optimoz; (c) disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy; (d) take appropriate legal action, including without limitation, referral to and cooperation with law enforcement and/or other applicable legal authorities, for any illegal or unauthorized use of the Service or if Optimoz otherwise believes that criminal activity has occurred; and/or (e) terminate or suspend your access to all or part of the Service for any or no reason, including without limitation, any violation of this Agreement. Upon determination of any possible violations by you of any provision of this Agreement, Optimoz, may, at its sole discretion immediately terminate your license to use the Service, or change, alter or remove Your Content, in whole or in part, without prior notice to you.

**6.2** If Optimoz believes that criminal activity has occurred, Optimoz reserves the right to, except to the extent prohibited by applicable law, disclose any information or materials on or in the Service, including Your Content, in Optimoz’s possession in connection with your use of the Service, to (i) comply with applicable laws, legal process or governmental request, (ii) enforce this Agreement, (iii) respond to any claims that Your Content violates the rights of third parties, (iv) respond to your requests for customer service, or (v) protect the rights, property, or personal safety of Optimoz, its users or the

public, and all enforcement or other government officials, as Optimoz in its sole discretion believes to be necessary or appropriate.

## **7. THIRD-PARTY SERVICE.**

**7.1 Third-Party Websites, Applications and Ads.** The Service may use AI Services, and/or contain links to third-party websites (“**Third-Party Websites**”), applications (“**Third-Party Applications**”) and advertisements for third parties (“**Third-Party Ads**”) (collectively, the “**Third-Party Services**”). Such Third-Party Services are not under the control of Optimoz. Optimoz is not responsible for any Third-Party Services. When you use a Third-Party Service, you become subject to the terms and conditions (including privacy policies) of another website or destination. Optimoz does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Services, or any product or service provided in connection therewith. You use all links in Third-Party Services at your own risk. When you leave our Service, this Agreement and our policies no longer govern. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Services, and make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.

**(a) Sharing Your Content and Information Through Third-Party Services.** Optimoz may provide tools through the Service that enable you to export information, including Your Content, to Third-Party Services, including through features that allow you to link your Account with a third-party account (“**Third-Party Account**”), such as GoogleDrive, or through our implementation of third-party buttons (such as “like” or “share” buttons). By using one of these tools, you agree that Optimoz may transfer that information to and from the applicable Third-Party Service. Optimoz is not responsible for any Third-Party Service’s use of your exported information. Further, you represent that you are entitled to grant Optimoz access to your Third-Party Account (including, but not limited to, for use for the purposes described herein) without breach by you of any of the terms and conditions that govern your use of the applicable Third-Party Account and without obligating Optimoz to pay any fees or making Optimoz subject to any usage limitations imposed by such Third-Party Service providers. By granting Optimoz access to any Third-Party Account, you understand that Optimoz may access, make available and store (if applicable) any Content that you have provided to and stored in your Third-Party Account (“**Third-Party Account Content**”) so that it is available on and through the Service via your Account. Unless otherwise specified in this Agreement, all Third-Party Account Content is considered to be Your Content for purposes of this Agreement. Depending on the Third-Party Accounts you choose and subject to the privacy settings that you have set in such Third-Party Accounts, personally identifiable information that you post to your Third-Party Accounts may be available on and through your Account on the Service. If a Third-Party Account or associated service becomes unavailable, or Optimoz’s access to such Third-Party Account is terminated by the third-party service provider, then Third-Party Account Content may no longer be available on and through the Service. You have the ability to disable the connection between your Account and your Third-Party Accounts at any time by using the “disconnect” button provided in the connection panel or settings. YOUR RELATIONSHIP WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS, AND OPTIMOZ DISCLAIMS ANY LIABILITY FOR PERSONALLY IDENTIFIABLE INFORMATION THAT MAY BE PROVIDED TO IT BY SUCH THIRD-PARTY SERVICE PROVIDERS IN VIOLATION OF THE PRIVACY SETTINGS THAT YOU HAVE SET IN SUCH THIRD-PARTY ACCOUNTS. Optimoz makes no effort to review any Third-Party Account Content for any purpose, including but not limited to, for accuracy, legality or noninfringement, and Optimoz is not responsible for any Third-Party Account Content.

## 8. FEES AND PURCHASE TERMS.

**8.1 Third-Party Service Provider.** Optimoz uses Authorize.net as its third-party service provider for payment services (e.g., card acceptance, merchant settlement, and related services) (“**Third-Party Service Provider**”). If you make a purchase on the Service, you will be required to provide your payment details and any additional information required to complete your order directly to our Third-Party Service Provider. You agree to be bound by Authorize.Net’s Privacy Policy (currently accessible at <https://www.authorize.net/about-us/privacy/>, and its Service Agreement (currently accessible at <https://www.authorize.net/about-us/terms>) and hereby consent and authorize Optimoz and Authorize.net to share any information and payment instructions you provide with one or more Third-Party Service Provider(s) to the minimum extent required to complete your transactions. Please note that online payment transactions may be subject to validation checks by our Third-Party Service Provider and your card issuer, and we are not responsible if your card issuer declines to authorize payment for any reason. For your protection, our Third-Party Service Provider uses various fraud prevention protocols and industry standard verification systems to reduce fraud and you authorize it to verify and authenticate your payment information. Your card issuer may charge you an online handling fee or processing fee. We are not responsible for this. In some jurisdictions, our Third-Party Service Provider may use third parties under strict confidentiality and data protection requirements for the purposes of payment processing services.

**8.2 Payment.** You shall pay all fees or charges (“**Fees**”) to your Account in accordance with the fees, charges and billing terms in effect at the time a Fee is due and payable. By providing Optimoz and/or our Third-Party Service Provider with your payment information, you agree that Optimoz and/or our Third-Party Service Provider is authorized to immediately invoice your Account for all Fees due and payable to Optimoz hereunder and that no additional notice or consent is required. You shall immediately notify Optimoz of any change in your payment information to maintain its completeness and accuracy. Optimoz reserves the right at any time to change its prices and billing methods in its sole discretion. You agree to have sufficient funds or credit available upon placement of any order to ensure that the purchase price is collectible by us. Your failure to provide accurate payment information to Optimoz and/or our Third-Party Service Provider or our inability to collect payment constitutes your material breach of this Agreement. Except as set forth in this Agreement, all Fees for the Service are non-refundable.

**8.3 Subscriptions.** If you purchase access to certain features and functionality of the Services on a time-limited basis (a “**Subscription**”), the Fee for such Subscription (“**Service Subscription Fee**”) will be billed at the start of the Subscription (“**Subscription Service Commencement Date**”) and at regular intervals in accordance with your elections at the time of purchase. Optimoz reserves the right to change the timing of our billing. Optimoz reserves the right to change the Subscription pricing at any time in accordance with Section 16.6 (Agreement Updates). If changes to the Subscription price occur that impact your Subscription, Optimoz will use commercially reasonable efforts to notify you, such as by sending an email to the email address associated with your Account. If you do not agree with such changes, you may cancel your Subscription as set forth in Section 9.3(a)(i) (Cancelling Subscriptions Purchased via Optimoz). Optimoz is not obligated to provide the Service to you until Optimoz accepts your order by a confirmatory email, SMS/MMS message, or other appropriate means of communication.

**(a) Automatic Renewal.** If you elect to purchase a Subscription, your Subscription will continue and automatically renew at Optimoz’s then-current price for such Subscription until terminated in accordance with this Agreement. The frequency at which your Subscription renews (i.e., monthly, annually, etc.) will be designated at the time at you sign up for the Subscription. By subscribing, you authorize Optimoz to charge the payment method designated in your Account now, and again at the

beginning of any subsequent Subscription period. Upon renewal of your Subscription, if Optimoz does not receive payment, (i) you shall pay all amounts due on your Account upon demand and/or (ii) you agree that Optimoz may either terminate or suspend your Subscription and continue to attempt to charge your designated payment method until payment is received (upon receipt of payment, your Account will be activated and for purposes of automatic renewal, your new Subscription commitment period will begin as of the day payment was received).

**(i) Cancelling Subscriptions Purchased via Optimoz.** If you purchased your Subscription directly from Optimoz, you may cancel your Subscription by logging into and going to the “Change/Cancel Membership” page of your “Account Settings” page. If you do not wish your Account to renew automatically, or if you want to change or terminate your Subscription, you must contact Optimoz at +1-(301) 916-9117, or log in and go to the “Change/Cancel Membership” page on your “Account Settings” page.

**(ii) Effect of Cancellation.** If you cancel your Subscription, you may use your Subscription until the end of your then-current Subscription term; your Subscription will not be renewed after your then-current term expires. However, you will not be eligible for a prorated refund of any portion of the Service Subscription Fee paid for the then-current Subscription period.

**(b) Upgrades and Downgrades.** If you choose to upgrade your Subscription in the middle of a Subscription period, such upgrade will take effect immediately and any incremental fees associated with such upgrade will be charged in accordance with this Agreement. In any future Renewal Term, the fees will reflect any such upgrades. If you choose to downgrade a Subscription, the downgrade will take effect as of the first day of the next Renewal Term. Downgrading a Subscription may cause loss of content, features, or capacity of the Services as available, and Optimoz does not accept any liability for such loss.

**8.4 Taxes.** The Fees do not include any Sales Tax (defined below) that may be due in connection with the Service provided under this Agreement. If Optimoz determines it has a legal obligation to collect Sales Tax from you in connection with this Agreement, Optimoz shall collect such Sales Tax in addition to the Fees. If any services OR PRODUCTS, or payments for any services OR PRODUCTS, under this Agreement are subject to any Sales Tax in any jurisdiction and you have not remitted the applicable Sales Tax to Optimoz, you shall be responsible for the payment of such Sales Tax and any related penalties or interest to the relevant tax authority, and you shall indemnify Optimoz for any liability or expense Optimoz may incur in connection with such Sales Taxes. Upon Optimoz’s request, you will provide it with official receipts issued by the appropriate taxing authority, or other such evidence that you have paid all applicable taxes. For purposes of this section, “**Sales Tax**” means any sales or use tax and any other tax measured by sales proceeds that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax.’

**8.5 Withholding Taxes.** You shall make all payments of Fees to Optimoz free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments of Fees to Optimoz shall be your sole responsibility, and you shall provide Optimoz with official receipts issued by the appropriate taxing authority, or such other evidence as we may reasonably request, to establish that such taxes have been paid.

**8.6 Advertising Revenue.** Optimoz reserves the right to display Third-Party Ads before, after, or in conjunction with Content posted on the Service, and you acknowledge and agree that Optimoz has

no obligation to you in connection therewith (including, without limitation, any obligation to share revenue received by Optimoz as a result of such advertising).

**9. INDEMNIFICATION.** You shall indemnify and hold Optimoz, its parents, subsidiaries, affiliates, officers, employees, agents, partners, suppliers, and licensors (each, a **“Optimoz Party”** and collectively, the **“Optimoz Parties”**) harmless from any losses, costs, liabilities and expenses (including reasonable attorneys’ fees) relating to or arising out of any and all of the following: (i) Your Content, including any use of the Output by you; (ii) your use of, or inability to use, the Service; (iii) your violation of this Agreement; (iv) your violation of any rights of another party, including any user; or (v) your violation of any applicable laws, rules or regulations. Optimoz reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with Optimoz in asserting any available defenses. This provision does not require you to indemnify any of the Optimoz Parties for any unconscionable commercial practice by such party or for such party’s fraud, deception, false promise, misrepresentation or concealment, or suppression or omission of any material fact in connection with the Service provided hereunder. You agree that the provisions in this section will survive any termination of your Account, this Agreement and/or your access to the Service.

**10. DISCLAIMER OF WARRANTIES.**

**10.1 As Is.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK, AND THE SERVICE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITH ALL FAULTS. THE OPTIMOZ PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARISING FROM USE OF THE SERVICE OR YOUR CONTENT.

**(a)** THE OPTIMOZ PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) THE SERVICE OR ANY OUTPUT WILL MEET YOUR REQUIREMENTS (SUCH AS THE QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICE); (2) YOUR USE OF THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (3) THE OUTPUT, ADVICE, RESULTS, OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE.

**(b)** ANY CONTENT DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH THE SERVICE IS ACCESSED AT YOUR OWN RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY, INCLUDING, BUT NOT LIMITED TO, YOUR COMPUTER SYSTEM AND/OR ANY DEVICE YOU USE TO ACCESS THE SERVICE, OR ANY OTHER LOSS THAT RESULTS FROM ACCESSING SUCH CONTENT.

**(c)** FROM TIME TO TIME, OPTIMOZ MAY OFFER NEW “BETA” FEATURES OR TOOLS WITH WHICH ITS USERS MAY EXPERIMENT. SUCH FEATURES OR TOOLS ARE OFFERED SOLELY FOR EXPERIMENTAL PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR DISCONTINUED AT OPTIMOZ’S SOLE DISCRETION. THE PROVISIONS OF THIS SECTION APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

**10.2 No Liability for Conduct of Third Parties.** YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITH THIRD PARTIES ON THE SERVICE. YOU ACKNOWLEDGE AND AGREE THAT THE OPTIMOZ PARTIES ARE NOT LIABLE, AND YOU AGREE NOT TO SEEK

TO HOLD THE OPTIMOZ PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OPERATORS OF EXTERNAL SITES, INCLUDING ANY THIRD-PARTY PROVIDERS OF AI SERVICES, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU. YOU UNDERSTAND THAT OPTIMOZ DOES NOT MAKE ANY ATTEMPT TO VERIFY THE STATEMENTS OF USERS. OPTIMOZ MAKES NO WARRANTY THAT THE SERVICES PROVIDED BY THIRD PARTIES WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. OPTIMOZ MAKES NO WARRANTY REGARDING THE QUALITY OF ANY SUCH GOODS OR SERVICES, OR THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY USER CONTENT OBTAINED THROUGH THE SERVICE.

## **11. LIMITATION OF LIABILITY.**

**11.1 Disclaimer of Certain Damages.** YOU UNDERSTAND AND AGREE THAT, TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT SHALL THE OPTIMOZ PARTIES BE LIABLE FOR ANY LOSS OF PROFITS, REVENUE OR DATA, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR DAMAGES OR COSTS DUE TO LOSS OF PRODUCTION OR USE, BUSINESS INTERRUPTION, OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, IN EACH CASE WHETHER OR NOT ANY OPTIMOZ PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE SERVICE, OR ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS OF THE SERVICE OR THIRD PARTIES, ON ANY THEORY OF LIABILITY, INCLUDING TO THE EXTENT RESULTING FROM: (i) THE USE OR INABILITY TO USE THE SERVICE; (ii) ANY GOODS, DATA, INFORMATION OR SERVICE PURCHASED OR OBTAINED; OR MESSAGES RECEIVED FOR TRANSACTIONS ENTERED INTO THROUGH THE SERVICE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (v) ANY OTHER MATTER RELATED TO THE SERVICE, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. THE FOREGOING LIMITATION OF LIABILITY DOES NOT APPLY TO LIABILITY OF A OPTIMOZ PARTY FOR (A) DEATH OR PERSONAL INJURY CAUSED BY A OPTIMOZ PARTY'S NEGLIGENCE; OR FOR (A) ANY INJURY CAUSED BY A OPTIMOZ PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**11.2 Cap on Liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, OPTIMOZ PARTIES SHALL NOT BE LIABLE TO YOU FOR MORE THAN THE GREATER OF (i) THE TOTAL AMOUNT PAID TO OPTIMOZ BY YOU DURING THE THREE-MONTH PERIOD PRIOR TO THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY; (ii) \$100; OR (iii) IF APPLICABLE, THE STATUTORY REMEDY OR PENALTY IMPOSED BY THE STATUTE UNDER WHICH SUCH CLAIM ARISES. THE FOREGOING CAP ON LIABILITY DOES NOT APPLY TO LIABILITY OF A OPTIMOZ PARTY FOR (A) DEATH OR PERSONAL INJURY CAUSED BY A OPTIMOZ PARTY'S NEGLIGENCE; OR (B) ANY INJURY CAUSED BY A OPTIMOZ PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**11.3 User Content.** OPTIMOZ ASSUMES NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY CONTENT (INCLUDING, BUT NOT LIMITED TO, YOUR CONTENT AND USER CONTENT), USER COMMUNICATIONS OR PERSONALIZATION SETTINGS.

**11.4 Exclusion of Damages.** CERTAIN JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

**11.5 Basis of the Bargain.** THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN OPTIMOZ AND YOU.

**12. PROCEDURE FOR MAKING CLAIMS OF INTELLECTUAL PROPERTY RIGHT INFRINGEMENT.** It is Optimoz's policy to terminate membership privileges of any user who repeatedly infringes copyright, trademark, or other intellectual property rights upon prompt notification to Optimoz by the respective intellectual property owner or their legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on the Service in a way that constitutes intellectual property rights infringement, please provide our designated intellectual property agent with the following information: (i) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright, trademark, or other intellectual property right; (ii) a description of the copyrighted work, trademark, or other intellectual property right that you claim has been infringed; (iii) a description of the location on the Service of the material that you claim is infringing; (iv) your address, telephone number, and email address; (v) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright, trademark, or other intellectual property right owner, its agent or the law; and (vi) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright, trademark, or other intellectual property right owner or authorized to act on the copyright, trademark, or other intellectual property right owner's behalf. Contact information for Optimoz's designated agent for notice of claims of infringement is as follows: MR. NARESH PATEL, PRESIDENT & CEO at 2600, tower oaks blvd. Suite 610, rockville, md 20852.

**13. TERM AND TERMINATION.**

**13.1 Term.** The term of this Agreement commences on the date when you accept this Agreement (as described in the preamble above), and continues in full force and effect while you use the Service, unless terminated earlier in accordance with this Agreement.

**13.2 Termination of Service by Optimoz.** You have thirty (30) days from the Subscription Service Commencement Date, or any Renewal Commencement Date, for any Service hereunder, to cancel such Service, in which case, Optimoz will refund your Service Subscription Fee if already paid pursuant to Section 8.2 (Payment) or 8.3 (Subscriptions), for the applicable Service. Except as set forth above, the Service Subscription Fee for any Service is non-refundable. If you have materially breached any provision of this Agreement, or if Optimoz is required to do so by law (e.g., where the provision of the Service is, or becomes, unlawful), Optimoz has the right to, immediately and without notice, suspend or terminate any Service provided to you. Optimoz reserves the right to terminate this Agreement or your access to the Service at any time without cause upon notice to you. In the event we exercise this termination right, we will refund you for any pre-paid portion of your unused Subscription. You agree that all terminations for cause are made in Optimoz's sole discretion and that Optimoz shall not be liable to you or any third party for any termination of your Account.

**13.3 Termination by You.** If you want to terminate this Agreement, you may do so by (i) notifying Optimoz at any time and (ii) closing your Account for the Service. Your notice should be sent, in writing, to Optimoz's address set forth below. ANY SUCH TERMINATION WILL BE EFFECTIVE AT THE END OF THE THEN-CURRENT TERM OF ANY AND ALL OF THE SUBSCRIPTIONS AS SET FORTH IN SECTION 8.3(a) (AUTOMATIC RENEWAL), WHICH WILL CONTINUE AT THE END OF EACH SUBSCRIPTION PERIOD UNLESS YOU CANCEL YOUR SUBSCRIPTION IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN SECTION 8.3(a) (AUTOMATIC RENEWAL).

**13.4 Effect of Termination.** Upon termination of the Service or the applicable feature or functionality thereof, your right to use the Service or the applicable feature or functionality thereof will automatically terminate, and we may delete Your Content associated therewith from our live databases.

If we terminate your Account for cause, we may also bar your further use or access to the Service. Optimoz will not have any liability whatsoever to you for any suspension or termination, including for deletion of Your Content. All provisions of this Agreement which by their nature should survive, will survive termination of Service, including without limitation, ownership provisions, warranty disclaimers, and limitations of liability.

**13.5 No Subsequent Registration.** If this Agreement is terminated for cause by Optimoz or if your Account or ability to access the Service is discontinued by Optimoz due to your violation of any portion of this Agreement or for conduct otherwise deemed inappropriate, then you agree that you shall not attempt to re-register with or access the Service through use of a different member name or otherwise.

**14. INTERNATIONAL USERS.** The Service may be accessed from countries around the world and may contain references to services and Content that are not available in your country. These references do not imply that Optimoz intends to announce such service or Content in your country. The Service is controlled and offered by Optimoz from its facilities in the United States of America. Optimoz makes no representations that the Service is appropriate or available for use in other locations. Those who access or use the Service from other countries do so at their own volition and are responsible for compliance with local law.

**15. ARBITRATION AGREEMENT.** Please read this section (the “Arbitration Agreement”) carefully. It is part of your contract with Optimoz and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.

**15.1 Applicability of Arbitration Agreement.** Subject to the terms of this Arbitration Agreement, you and Optimoz agree that any dispute, claim, disagreements arising out of or relating in any way to your access to or use of the Service, any communications you receive, any products sold or distributed through the Service or this Agreement and prior versions of this Agreement, including claims and disputes that arose between you and us before the effective date of this Agreement (each, a “Dispute”) will be resolved by binding arbitration, rather than in court, except that: (i) you and Optimoz may assert claims or seek relief in small claims court if such claims qualify and remain in small claims court; and (ii) you or Optimoz may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). For purposes of this Arbitration Agreement, “Dispute” will also include disputes that arose or involve facts occurring before the existence of this or any prior versions of this Agreement as well as claims that may arise after the termination of this Agreement.

**15.2 Informal Dispute Resolution.** There might be instances when a Dispute arises between you and Optimoz. If that occurs, Optimoz is committed to working with you to reach a reasonable resolution. You and Optimoz agree that good faith informal efforts to resolve Disputes can result in a prompt, low-cost and mutually beneficial outcome (“Informal Dispute Resolution”). You and Optimoz therefore agree that before either party commences arbitration against the other (or initiates an action in small claims court if a party so elects), we will personally meet and confer telephonically or via videoconference, in a good faith effort to resolve informally any Dispute covered by this Arbitration Agreement (“Informal Dispute Resolution Conference”). If you are represented by counsel, your counsel may participate in the conference, but you will also participate in the conference.

The party initiating a Dispute must give notice to the other party in writing of its intent to initiate an Informal Dispute Resolution Conference (“**Notice**”), which shall occur within forty-five (45) days after the other party receives such Notice, unless an extension is mutually agreed upon by the parties. Notice to Optimoz that you intend to initiate an Informal Dispute Resolution Conference should be sent by email to npatel@optimoz.com or regular mail to our offices located at 2600, tower oaks blvd. Suite 610, rockville, md 20852. The Notice must include: (1) your name, telephone number, mailing address, e-mail address associated with your Account (if you have one); (2) the name, telephone number, mailing address and e-mail address of your counsel, if any; and (3) a description of your Dispute.

The Informal Dispute Resolution Conference shall be individualized such that a separate conference must be held each time either party initiates a Dispute, even if the same law firm or group of law firms represents multiple users in similar cases, unless all parties agree; multiple individuals initiating a Dispute cannot participate in the same Informal Dispute Resolution Conference unless all parties agree. In the time between a party receiving the Notice and the Informal Dispute Resolution Conference, nothing in this Arbitration Agreement shall prohibit the parties from engaging in informal communications to resolve the initiating party’s Dispute. Engaging in the Informal Dispute Resolution Conference is a condition precedent and requirement that must be fulfilled before commencing arbitration. The statute of limitations and any filing fee deadlines shall be tolled while the parties engage in the Informal Dispute Resolution Conference process required by this section.

**15.3 Waiver of Jury Trial.** YOU AND OPTIMOZ HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and Optimoz are instead electing that all Disputes shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 15.1 (Applicability of Arbitration Agreement). There is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

**15.4 Waiver of Class and Other Non-Individualized Relief.** YOU AND OPTIMOZ AGREE THAT, EXCEPT AS SPECIFIED IN SECTION 15.9 (BATCH ARBITRATION), EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT ON A CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS, AND THE PARTIES HEREBY WAIVE ALL RIGHTS TO HAVE ANY DISPUTE BE BROUGHT, HEARD, ADMINISTERED, RESOLVED, OR ARBITRATED ON A CLASS, COLLECTIVE, REPRESENTATIVE, OR MASS ACTION BASIS. ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND DISPUTES OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. Subject to this Arbitration Agreement, the arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by the party’s individual claim. Nothing in this paragraph is intended to, nor shall it, affect the terms and conditions under Section 15.9 (Batch Arbitration). Notwithstanding anything to the contrary in this Arbitration Agreement, if a court decides by means of a final decision, not subject to any further appeal or recourse, that the limitations of this section are invalid or unenforceable as to a particular claim or request for relief (such as a request for public injunctive relief), you and Optimoz agree that that particular claim or request for relief (and only that particular claim or request for relief) shall be severed from the arbitration and may be litigated in the state or federal courts located in the State of Maryland. All other Disputes shall be arbitrated or litigated in small claims court. This section does not prevent you or Optimoz from participating in a class-wide settlement of claims.

**15.5 Rules and Forum.** This Agreement evidences a transaction involving interstate commerce; and notwithstanding any other provision herein with respect to the applicable substantive law, the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, will govern the interpretation and enforcement of

this Arbitration Agreement and any arbitration proceedings. If the Informal Dispute Resolution process described above does not resolve satisfactorily within sixty (60) days after receipt of your Notice, you and Optimoz agree that either party shall have the right to finally resolve the Dispute through binding arbitration. The arbitration will be administered by the American Arbitration Association (“AAA”), in accordance with the Consumer Arbitration Rules (the “AAA Rules”) then in effect, except as modified by this section of this Arbitration Agreement. The AAA Rules are currently available at <https://www.adr.org/sites/default/files/Consumer%20Rules.pdf>.

A party who wishes to initiate arbitration must provide the other party with a request for arbitration (the “Request”). The Request must include: (1) the name, telephone number, mailing address, e-mail address of the party seeking arbitration and the account username (if applicable) as well as the email address associated with any applicable Account; (2) a statement of the legal claims being asserted and the factual bases of those claims; (3) a description of the remedy sought and an accurate, good-faith calculation of the amount in controversy in United States dollars; (4) a statement certifying completion of the Informal Dispute Resolution process as described above; and (5) evidence that the requesting party has paid any necessary filing fees in connection with such arbitration.

If the party requesting arbitration is represented by counsel, the Request shall also include counsel’s name, telephone number, mailing address, and email address. Such counsel must also sign the Request. By signing the Request, counsel certifies to the best of counsel’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that: (1) the Request is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution; (2) the claims, defenses and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and (3) the factual and damages contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Unless you and Optimoz otherwise agree, or the Batch Arbitration process discussed in Section 15.9 (Batch Arbitration) is triggered, the arbitration will be conducted in the county where you reside. Subject to the AAA Rules, the arbitrator may direct a limited and reasonable exchange of information between the parties, consistent with the expedited nature of the arbitration. If the AAA is not available to arbitrate, the parties will select an alternative arbitral forum. Your responsibility to pay any AAA fees and costs will be solely set forth in the applicable AAA Rules.

You and Optimoz agree that all materials and documents exchanged during the arbitration proceedings shall be kept confidential and shall not be shared with anyone except the parties’ attorneys, accountants, or business advisors, and shall be subject to the condition that they agree to keep all materials and documents exchanged during the arbitration proceedings confidential.

**15.6 Arbitrator.** The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of Delaware and will be selected by the parties from the AAA’s roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within thirty-five (35) days of delivery of the Request, then the AAA will appoint the arbitrator in accordance with the AAA Rules, provided that if the Batch Arbitration process under Section 15.9 (Batch Arbitration) is triggered, the AAA will appoint the arbitrator for each batch.

**15.7 Authority of Arbitrator.** The arbitrator shall have exclusive authority to resolve any Dispute, including, without limitation, disputes arising out of or related to the interpretation or application

of the Arbitration Agreement, including the enforceability, revocability, scope, or validity of the Arbitration Agreement or any portion of the Arbitration Agreement, except for the following: (1) all Disputes arising out of or relating to Section 15.4 (Waiver of Class and Other Non-Individualized Relief), including any claim that all or part of Section 15.4 (Waiver of Class and Other Non-Individualized Relief) is unenforceable, illegal, void or voidable, or that such Section 15.4 (Waiver of Class and Other Non-Individualized Relief) has been breached, shall be decided by a court of competent jurisdiction and not by an arbitrator; (2) except as expressly contemplated in Section 15.9 (Batch Arbitration), all Disputes about the payment of arbitration fees shall be decided only by a court of competent jurisdiction and not by an arbitrator; (3) all Disputes about whether either party has satisfied any condition precedent to arbitration shall be decided only by a court of competent jurisdiction and not by an arbitrator; and (4) all Disputes about which version of the Arbitration Agreement applies shall be decided only by a court of competent jurisdiction and not by an arbitrator. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties, except as expressly provided in Section 15.9 (Batch Arbitration). The arbitrator shall have the authority to grant motions dispositive of all or part of any Dispute. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The award of the arbitrator is final and binding upon you and us. Judgment on the arbitration award may be entered in any court having jurisdiction.

**15.8 Attorneys' Fees and Costs.** The parties shall bear their own attorneys' fees and costs in arbitration unless the arbitrator finds that either the substance of the Dispute or the relief sought in the Request was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). If you or Optimoz need to invoke the authority of a court of competent jurisdiction to compel arbitration, then the party that obtains an order compelling arbitration in such action shall have the right to collect from the other party its reasonable costs, necessary disbursements, and reasonable attorneys' fees incurred in securing an order compelling arbitration. The prevailing party in any court action relating to whether either party has satisfied any condition precedent to arbitration, including the Informal Dispute Resolution process, is entitled to recover their reasonable costs, necessary disbursements, and reasonable attorneys' fees and costs.

**15.9 Batch Arbitration.** To increase the efficiency of administration and resolution of arbitrations, you and Optimoz agree that in the event that there are one-hundred (100) or more individual Requests of a substantially similar nature filed against Optimoz by or with the assistance of the same law firm, group of law firms, or organizations, within a thirty (30) day period (or as soon as possible thereafter), the AAA shall (1) administer the arbitration demands in batches of 100 Requests per batch (plus, to the extent there are less than 100 Requests left over after the batching described above, a final batch consisting of the remaining Requests); (2) appoint one arbitrator for each batch; and (3) provide for the resolution of each batch as a single consolidated arbitration with one set of filing and administrative fees due per side per batch, one procedural calendar, one hearing (if any) in a place to be determined by the arbitrator, and one final award ("**Batch Arbitration**").

All parties agree that Requests are of a "substantially similar nature" if they arise out of or relate to the same event or factual scenario and raise the same or similar legal issues and seek the same or similar relief. To the extent the parties disagree on the application of the Batch Arbitration process, the disagreeing party shall advise the AAA, and the AAA shall appoint a sole standing arbitrator to determine the applicability of the Batch Arbitration process ("**Administrative Arbitrator**"). In an effort to expedite resolution of any such dispute by the Administrative Arbitrator, the parties agree the Administrative

Arbitrator may set forth such procedures as are necessary to resolve any disputes promptly. The Administrative Arbitrator's fees shall be paid by Optimoz.

You and Optimoz agree to cooperate in good faith with the AAA to implement the Batch Arbitration process including the payment of single filing and administrative fees for batches of Requests, as well as any steps to minimize the time and costs of arbitration, which may include: (1) the appointment of a discovery special master to assist the arbitrator in the resolution of discovery disputes; and (2) the adoption of an expedited calendar of the arbitration proceedings.

This Batch Arbitration provision shall in no way be interpreted as authorizing a class, collective and/or mass arbitration or action of any kind, or arbitration involving joint or consolidated claims under any circumstances, except as expressly set forth in this provision.

**15.10 30-Day Right to Opt Out.** You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to: 2600, tower oaks blvd. Suite 610, rockville, md 20852, within thirty (30) days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, the email address associated with your Account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of this Agreement will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

**15.11 Invalidity, Expiration.** Except as provided in Section 15.4 (Waiver of Class or Other Non-Individualized Relief), if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect. You further agree that any Dispute that you have with Optimoz as detailed in this Arbitration Agreement must be initiated via arbitration within the applicable statute of limitation for that claim or controversy, or it will be forever time barred. Likewise, you agree that all applicable statutes of limitation will apply to such arbitration in the same manner as those statutes of limitation would apply in the applicable court of competent jurisdiction.

**15.12 Modification.** Notwithstanding any provision in this Agreement to the contrary, we agree that if Optimoz makes any future material change to this Arbitration Agreement, we will notify you. Unless you reject the change within thirty (30) days of such change become effective by writing to Optimoz at 2600, tower oaks blvd. Suite 610, rockville, md 20852, your continued use of the Service, including the acceptance of products and services offered on the Service following the posting of changes to this Arbitration Agreement constitutes your acceptance of any such changes. Changes to this Arbitration Agreement do not provide you with a new opportunity to opt out of the Arbitration Agreement if you have previously agreed to a version of this Agreement and did not validly opt out of arbitration. If you reject any change or update to this Arbitration Agreement, and you were bound by an existing agreement to arbitrate Disputes arising out of or relating in any way to your access to or use of the Service, any communications you receive, any products sold or distributed through the Service or this Agreement, the provisions of this Arbitration Agreement as of the date you first accepted this Agreement (or accepted any subsequent changes to this Agreement) remain in full force and effect. Optimoz will continue to honor any valid opt outs of the Arbitration Agreement that you made to a prior version of this Agreement.

## **16. GENERAL PROVISIONS.**

**16.1 Electronic Communications.** The communications between you and Optimoz may take place via electronic means, whether you visit the Service or send Optimoz emails, or whether Optimoz posts notices on the Service or communicates with you via email. For contractual purposes, you (i) consent to receive communications from Optimoz in an electronic form; and (ii) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Optimoz electronically provides to you satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights, including but not limited to the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. §7001 et seq. (“E-Sign”).

**16.2 Assignment.** The Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without Optimoz’s prior written consent. Optimoz may, without your consent, freely assign and transfer this Agreement, including any of its rights, obligations, or licenses granted under this Agreement. Any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

**16.3 Force Majeure.** Optimoz shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, pandemics, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

**16.4 Questions, Complaints, Claims.** If you have any questions, complaints or claims with respect to the Service, please contact us at: [npatel@optimoz.com](mailto:npatel@optimoz.com). We will do our best to address your concerns. If you feel that your concerns have been addressed incompletely, we invite you to let us know for further investigation.

**16.5 Consumer Complaints.** In accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Service of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (800) 952-5210.

**16.6 Agreement Updates.** When changes are made, Optimoz will make a new copy of this Terms of Use and/or Supplemental Terms, as applicable, available on the Service, and we will also update the “Last Updated” date at the top of this Agreement. If we make any material changes and you have registered an Account with us, we will also send an email with an updated copy of this Agreement to you at the email address associated with your Account. Unless otherwise stated in such update, any changes to this Agreement will be effective immediately for users without an Account and thirty (30) days after posting for users with an Account. Optimoz may require you to provide consent to the updated Agreement in a specified manner before further use of the Service is permitted. IF YOU DO NOT AGREE TO ANY CHANGE(S) AFTER RECEIVING A NOTICE OF SUCH CHANGE(S), YOU SHALL STOP USING THE SERVICE.

**16.7 Exclusive Venue.** To the extent the parties are permitted under this Agreement to initiate litigation in a court, both you and Optimoz agree that all claims and disputes arising out of or relating to this Agreement will be litigated exclusively in the state or federal courts located in MARYLAND.

**16.8 Governing Law and Jurisdiction.** THIS AGREEMENT AND ANY ACTION RELATED THERETO WILL BE GOVERNED AND INTERPRETED BY AND UNDER THE LAWS OF THE STATE OF DELAWARE, CONSISTENT WITH THE FEDERAL ARBITRATION ACT, WITHOUT GIVING EFFECT TO ANY PRINCIPLES THAT PROVIDE FOR THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION. THE UNITED NATIONS

CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS DOES NOT APPLY TO THE AGREEMENT.

**16.9 Choice of Language.** It is the express wish of the parties that this Agreement and all related documents have been drawn up in English.

**16.10 Notice.** Where Optimoz requires that you provide an email address, you are responsible for providing Optimoz with a valid and current email address. In the event that the email address you provide to Optimoz is not valid, or for any reason is not capable of delivering to you any notices required by this Agreement, Optimoz's dispatch of the email containing such notice will nonetheless constitute effective notice. You may give notice to Optimoz at the following address: 2600, tower oaks blvd. Suite 610, rockville, md 20852. Such notice shall be deemed given when received by Optimoz by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.

**16.11 Waiver.** Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**16.12 Severability.** If any portion of this Agreement is held invalid or unenforceable, that portion must be construed in a manner to reflect, as nearly as possible, the original intention of the parties, and the remaining portions must remain in full force and effect.

**16.13 Export Control.** You may not use, export, import, or transfer the Service except as authorized by U.S. law, the laws of the jurisdiction in which you obtained the Service, and any other applicable laws. In particular, but without limitation, the Service may not be exported or re-exported (i) into any United States embargoed countries, or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using the Service, you represent and warrant that (A) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (B) you are not listed on any U.S. Government list of prohibited or restricted parties. You also will not use the Service for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You acknowledge and agree that products, services or technology provided by Optimoz are subject to the export control laws and regulations of the United States. You shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer Optimoz products, services or technology, either directly or indirectly, to any country in violation of such laws and regulations.

**16.14 Entire Agreement.** The Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.

Last Updated Date: 09/04/2024