

Apptimized Ltd for the cloud services platform, as applicable, including all its related tools ordered by You

#### Terms of Use:

By clicking the "i accept" button displayed as part of the ordering process, you agree to the following terms and conditions (the "agreement") governing your use of revacom's online service, including offline components (collectively, the "service"). If you are entering into this agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to these terms and conditions, in which case the terms "you" or "your" shall refer to such entity. If you do not have such authority, or if you do not agree with these terms and conditions, you must select the "i decline" button and may not use the service.

As part of our cloud hosted Service, Apptimized Ltd, UK registered office in Reading registration number 10286124 ("Apptimized") will provide you with use of the Platform, Application and Service, including a browser interface and data encryption, transmission, access and storage. Your registration for, or use of, the Service shall be deemed to be your agreement to abide by this Agreement including any materials available on the Apptimized website incorporated by reference herein, including but not limited to Apptimized privacy and security policies.

#### 1. Definitions and Interpretation

The following are the standard terms and conditions under which Apptimized licenses computer software and supplies related services. These Terms and Conditions shall, unless otherwise expressly stated in writing, apply to the subject matter of any agreement in respect thereof.

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

- "Acceptance" – means the act of using that service in a production environment;
- "Agreement" – means any agreements entered into between the Apptimized and a Customer to which these standard Terms and Conditions apply;
- "Application" - means the software application supplied by Apptimized to You hereunder for the purpose of enabling You to access and use the Platform;
- "Customer"/"You"/"Your" - means the individual, business, or other organisation with whom the Apptimized contracts;
- "Supplier" – means any supplier of Products or Services to the Apptimized;
- "Platform" - means the applicable software platform ordered by You that is owned and operated by Apptimized, and that will be made available to You as a service via the internet under the Agreement;
- "Products" – means computer software and associated media or equipment that may be supplied by the Apptimized; and
- "Statement of Services" – means a written document detailing any services agreed to be supplied by the Apptimized.

1.2 Any reference to a day or days refers to business days – that is any day which is not a weekend or Apptimized public or bank holiday.

1.3 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.

## 2. Privacy & Security; Disclosure

Apptimized's privacy and security policies may be viewed at [www.Apptimized.com/en/privacy\\_policy](http://www.Apptimized.com/en/privacy_policy).

Apptimized reserves the right to modify its privacy and security policies in its reasonable discretion from time to time.

## 3. License Grant, Service Conditions & Restrictions

Apptimized hereby grants You a non-exclusive, non-transferable, worldwide right to use the Platform, Application and the Service, solely for Your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by Apptimized and its licensors.

You may not access the Platform, Application and the Service if you are a direct competitor of Apptimized, except with Apptimized's prior written consent. In addition, You may not access the Platform, Application and the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

You shall not:

1. license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Platform, Application and the Service or the Content in any way;
2. modify or make derivative works based upon the Platform, Application and the Service or the Content;
3. create Internet "links" to the Service or "frame" or "mirror" any Content on any other server or wireless or Internet-based device; or
4. reverse engineer or access the Platform, Application and the Service in order to
  1. build a competitive product or service,
  2. build a product using similar ideas, features, functions or graphics of the Platform, Application and the Service, or
  3. copy any ideas, features, functions or graphics of the Platform, Application and the Service.

User rights cannot be shared or used by more than one individual User but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer use the Platform, Application and the Service.

You may use the Platform, Application and the Service only for your internal business purposes and shall not:

1. send spam or otherwise duplicative or unsolicited messages in violation of applicable laws;

2. send or store infringing, obscene, threatening, libellous, or otherwise unlawful material, including material harmful to children or violative of third party privacy rights;
3. send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;
4. interfere with or disrupt the integrity or performance of the Platform, Application and the Service or the data contained therein; or
5. attempt to gain unauthorised access to the Service or its related systems or networks.

The rights granted by Apptimized to You hereunder is subject to the following limitations:

1. the Platform may only be used by the authorized User.
2. You must comply at all times with the terms of the acceptable use policy.

For the avoidance of doubt, You have no right to access the object code or source code of the Platform, either during or after the Term.

You must not use the Platform in any way that causes, or may cause, damage to the Platform or impairment of the availability or accessibility of the Platform, or any of the areas of, or services on, the Platform.

You must not use the Platform:

1. in any way that is unlawful, illegal, fraudulent or harmful; or
2. in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

The advertising of the Platform, Application and the Services on Apptimized's website constitutes an "invitation to treat "; and Your order for the Platform and the Services constitutes a contractual offer. No contract will come into force between Apptimized and You unless and until A Statement of Services has been agreed. In order to enter into the Agreement, You must take the following steps:

1. You must select the Platform and Support Services from the contract menu;
2. You must then create an account with a Username and Password on Apptimized's website and log in;
3. once You are logged in, You must confirm your order in accordance with the Statement of Services, and consent to the terms of this Agreement;
4. You will then be able to choose whether you wish to pay for each order delivered as "available for download" under the Statement of Services following invoice at the end of each calendar month. Alternatively you may choose an annual settlement option whereby you will be invoiced annually in advance for the right to place unlimited orders for the following 12 month period.
5. Apptimized will verify your identity, credit-worthiness and bona fides and will either send You an order confirmation (at which point the Agreement will come into force) or Apptimized will confirm to You that Apptimized does not accept Your offer. Once in force, the Agreement will continue in force for the agreed Term and indefinitely thereafter unless terminated in accordance with this Agreement.

Apptimized will make available the Platform to You by as soon as practicable following the Effective Date.

Apptimized will as soon as following the Effective Date make available for access by You a copy or copies of the Application.

The use of the Application shall be subject to the following licensing terms

1. You may only use the Application for Your business purposes;
2. You may download, install and use the Application strictly in accordance with the Documentation;
3. You must not:
  1. copy or reproduce Application or any part of the Application other than in accordance with the licence granted;
  2. sell, resell, rent, lease, loan, supply, distribute, redistribute, publish or re-publish the Application or any part of the Application;
  3. modify, alter, adapt, translate or edit, or create derivative works of, the Application or any part of the Application;
  4. reverse engineer, decompile, disassemble the Application or any part of the Application (except as mandated by applicable law);
  5. use the Application other than in accordance with the Documentation; or
  6. circumvent or remove or attempt to circumvent or remove the technological measures applied to the Application for the purposes of preventing unauthorised use.

All Intellectual Property Rights in the Application shall, as between the parties, be the exclusive property of Apptimized.

#### Support Services and Upgrades

During the Term Apptimized will provide Customer Support Services to You, and may apply Upgrades to the Platform and the Application, in accordance with the Agreement.

Apptimized may sub-contract the provision of any of the Support Services without obtaining consent from You.

#### Customisations

From time to time Apptimized and You may agree that Apptimized will customise the Platform and/or the Application in accordance with a specification agreed in writing between the parties / using the Change control procedure set out herein.

From the date when a Customisation is first made available to You, the Customisation shall form part of the Platform or Application where appropriate under the Agreement, and accordingly from that date Your rights to use the Customisation shall be governed by the Agreement.

You acknowledge that Apptimized may make any Customisation available to its other Customers.

All Intellectual Property Rights in the Customisations shall, as between the parties, be the exclusive property of Apptimized.

You will provide Apptimized with:

1. such access to Your computer systems and such other co-operation as is required by Apptimized (acting reasonably) to enable the performance by Apptimized of its obligations
2. all information and documents required by Apptimized (acting reasonably) in connection with the performance by Apptimized of its obligations and
3. any advice reasonably required to ensure the compliance of the Customisations with applicable laws, regulations and standards.

You will be responsible for procuring any third party co-operation reasonably required by Apptimized to enable Apptimized to fulfil its obligations.

#### Customer Materials

You grant to Apptimized a non-exclusive licence to store, copy and otherwise use Your Materials for the purposes of operating the Platform, Application and providing the Services, fulfilling its other obligations under the Agreement, and exercising its rights under the Agreement.

All Intellectual Property Rights in Your Materials will remain, as between the parties, the property of You.

You warrant and represent to Apptimized that Your Materials, and their use by Apptimized in accordance with the terms of the Agreement, will not:

1. breach any laws, statutes, regulations or legally-binding codes;
2. infringe any person's Intellectual Property Rights or other legal rights; or
3. give rise to any cause of action against Apptimized or You or any third party,

Apptimized shall ensure that Your Materials stored and processed by the Platform and Application are stored separately from, and are not co-mingled with, the materials of other customers of Apptimized.

#### Change control

The provisions of this Clause apply to all Changes requested by a party.

Either party may request a Change at any time.

When requesting a Change, the requesting party will notify the other party and provide a "Change Control Notification" "CCN" The CCN will set out (as a minimum):

1. details of the impact on the Services;
2. details of any additional resources expected to be required as a result of the Change; and
3. details of any variation to the Charges consequent upon the Change.

The other party will consider any proposed Change within the CCN Consideration Period.

Either party may:

1. accept or reject a CCN issued by the other party;
2. request further information concerning any aspect of a CCN issued by the other party; and/or
3. request amendments to a CCN issued by the other party.

Following agreement of a CCN, each party will confirm its agreement to the CCN by:

1. signing a copy of the CCN and sending the signed CCN to the other party; or
2. otherwise sending its written acceptance of the CCN to the other party.

Until a CCN recording a proposed Change has been signed or agreed in writing by each party, the proposed Change will not take effect.

#### 4. Your Responsibilities

You are responsible for all activity occurring under your User accounts and shall abide by all applicable local, national and foreign laws, treaties and regulations in connection with your use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data.

You shall:

1. notify Apptimized immediately of any unauthorised use of any password or account or any other known or suspected breach of security;
2. report to Apptimized immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by you or your Users; and
3. not impersonate another Apptimized user or provide false identity information to gain access to or use the Service.

#### 5. Account Information and Data

Apptimized does not own any data, information or material that You submit to the Service in the course of using the Service ("Customer Data"). You, not Apptimized, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and Apptimized shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data. In the event this Agreement is terminated (other than by reason of your breach), Apptimized will make available to you a file of Your Data within 30 days of termination if you so request at the time of termination. Apptimized reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, your non-payment. Upon termination for cause, your right to access or use Customer Data immediately ceases, and Apptimized shall have no obligation to maintain or forward any Customer Data.

#### 6. Intellectual Property Ownership

Apptimized alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the Apptimized Technology, the Content and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Service.

This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Service, the Apptimized Technology or the Intellectual Property Rights owned by Apptimized. The Apptimized name, the Apptimized logo, and the product names associated with the Service are trademarks of Apptimized or third parties, and no right or license is granted to use them.

#### 7. Charges and Payment of Fees

Charges are payable upon invoice as stated herein. . You shall pay all fees or charges to your account in accordance with the fees, charges, and billing terms in effect at the time a fee or charge is due and payable. All payment obligations are non-cancellable and all amounts paid are non-refundable. You are responsible for paying for all User rights ordered for the entire License Term, whether or not such User rights are actively used.. An Authorised License Administrator may add user rights by executing an additional written order. Added user rights will be subject to the following:

1. added users will be coterminous with the pre-existing user rights;
2. the license fee for the added user will be the then current, generally applicable fee; and
3. Users added in the middle of a billing period will be charged in full for that billing period.

Apptimized reserves the right to modify its fees and charges and to introduce new charges at any time, upon at least 30 days prior notice to You, which notice may be provided by e-mail. All pricing terms are confidential, and you agree not to disclose them to any third party.

Initial setup and training fees are subject to separate negotiation and are paid upon delivery.

#### 8. Billing and Renewal

Apptimized will automatically issue an invoice for each billing as stated herein . Apptimized's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties. You agree to provide Apptimized with complete and accurate billing and contact information. This information includes your legal name, street address, e-mail address, and name and telephone number of an authorised billing contact and License Administrator. You agree to update this information within 30 days of any change to it. If the contact information you have provided is false or fraudulent, Apptimized reserves the right to terminate your access to the Service in addition to any other legal remedies. If you believe your bill is incorrect, you must contact Apptimized in writing within 30 days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

#### 9. Non-Payment and Suspension

In addition to any other rights granted to Apptimized herein, Apptimized reserves the right to suspend or terminate this Agreement and your access to the Service if your account becomes delinquent (falls into arrears). Delinquent invoices (accounts in arrears) are subject to interest of 3.0% above Bank of England base rate per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection. You will continue to be charged for User licenses during any period of suspension. If You or Apptimized initiates termination of this Agreement, you will be obligated to pay the balance due on your account computed in accordance with the Charges and Payment of Fees section above. You agree that Apptimized charge you such unpaid fees in addition to further fees as they fall due.

Apptimized reserves the right to impose a reconnection fee in the event you are suspended and thereafter request access to the Service. You agree and acknowledge that Apptimized has no

obligation to retain Customer Data and that such Customer Data may be irretrievably deleted if your account is 30 days or more delinquent.

#### 10. Termination upon Expiration/Reduction in Number of Licenses

This Agreement commences on the Effective Date as detailed on the Statement of Services. The Initial Term shall be as specifically agreed upon in an order on the Apptimized website. Either party may terminate this Agreement or reduce the number of users, effective only upon the expiration of the then current user Term, by notifying the other party in writing at least 1 month prior to the date of the requested termination. In the event this Agreement is terminated (other than by reason of your breach), You agree and acknowledge that Apptimized has no obligation to retain the Customer Data, and may delete such Customer Data, more than 30 days after termination.

#### 11. Termination for Cause

Any breach of your payment obligations or unauthorised use of the Apptimized Technology or Service will be deemed a material breach of this Agreement. Apptimized, in its sole discretion, may terminate your password, account or use of the Service if you breach or otherwise fail to comply with this Agreement.

You agree and acknowledge that Apptimized has no obligation to retain You Data, and may immediately delete such Customer Data, if You have materially breached this Agreement, including but not limited to failure to pay outstanding fees, and such breach has not been cured within 30 days of notice of such breach.

#### 12. Representations & Warranties

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. Apptimized represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof [and that the Service will perform substantially in accordance with the online Apptimized help documentation under normal use and circumstances.]

You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Service and that your billing information is correct. You also warrant and represent that You have full rights to grant Apptimized access to and to manage on Your behalf any third party software for which Apptimized will be providing Services hereunder.

#### 13. Mutual Indemnification

You shall indemnify and hold Apptimized, its licensors and each such party's parent organisations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

1. a claim alleging that use of Your Data or Your Software programs to which Apptimized shall be permitted access by You infringes the rights of, or has caused harm to, a third party;
2. a claim, which if true, would constitute a violation by you of your representations and warranties; or
3. a claim arising from the breach by You or Your Users of this Agreement, provided in any such case that Apptimized



1. gives written notice of the claim promptly to you;
2. gives you sole control of the defence and settlement of the claim (provided that you may not settle or defend any claim unless you unconditionally release Apptimized of all liability and such settlement does not affect Apptimized's business or Service);
3. provides to you all available information and assistance; and
4. has not compromised or settled such claim.

Apptimized shall indemnify and hold you and your parent organisations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

1. a claim alleging that the Service directly infringes a copyright, or a trademark of a third party;
2. a claim, which if true, would constitute a violation by Apptimized of its representations or warranties; or
3. a claim arising from breach of this Agreement by Apptimized; provided that you
  1. promptly give written notice of the claim to Apptimized;
  2. give Apptimized sole control of the defence and settlement of the claim (provided that Apptimized may not settle or defend any claim unless it unconditionally releases you of all liability);
  3. provide to Apptimized all available information and assistance; and
  4. have not compromised or settled such claim.

Apptimized shall have no indemnification obligation, and you shall indemnify Apptimized pursuant to this Agreement, for claims arising from any infringement arising from the combination of the Service with any of your products, service, hardware or business process(s).

#### 14. Disclaimer of Warranties

REVACOM AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTEE AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR ANY CONTENT. REVACOM AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT

1. THE USE OF THE SERVICE WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA,
2. THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS,
3. ANY STORED DATA WILL BE ACCURATE OR RELIABLE,
4. THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, OR

5. THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

THE SERVICE AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY REVACOM AND ITS LICENSORS.

#### 15. Internet Delays

REVACOM'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS.

REVACOM IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

#### 16. Limitation of Liability

IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### 17. Arbitration

Subject to the agreement of the parties, if any dispute or difference shall arise between the Apptimized and You on any matter relating to or arising out of the Agreement, such a dispute shall be referred to the arbitration of a single Arbitrator to be agreed upon by the parties or failing agreement to be appointed by the then President of the Law Society of England and Wales.

#### 18. Proper Law and Jurisdiction

The Agreement shall be governed by and construed in accordance with the laws of England and Wales.

Any dispute concerning it or its interpretation shall be adjudicated in that Jurisdiction.

#### 19. Notice

Apptimized may give notice by means of a general notice on the Service, electronic mail to your e-mail address on record in Apptimized's account information, or by written communication sent by first class mail or pre-paid post to your address on record in Apptimized's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email).

## 20. Modification to Terms

Apptimized reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time, effective upon posting of an updated version of this Agreement on the Service.

You are responsible for regularly reviewing this Agreement. Continued use of the Service after any such changes shall constitute your consent to such changes.

## 21. Assignment; Change in Control

This Agreement may not be assigned by you without the prior written approval of Apptimized but may be assigned without your consent by Apptimized to

1. a parent or subsidiary,
2. an acquirer of assets, or
3. a successor by merger.

Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of you that results or would result in a direct competitor of Apptimized directly or indirectly owning or controlling 50% or more of you shall entitle Apptimized to terminate this Agreement for cause immediately upon written notice.

## Schedule 1

### Service Level Agreement

1. Introduction
2. In this Schedule:
  - "New Functionality" means new functionality that is introduced to the Platform by an Upgrade; and
  - "Protected Functionality" means core functionality that must not be impaired by any Upgrade.
2. References in this Schedule to Paragraphs are to the paragraphs of this Schedule, unless otherwise stated.
3. Helpdesk
4. Apptimized will make available, during Business Hours, a live chat and email helpdesk facility for the purposes of:
  1. assisting You with the configuration of the Platform and the integration of the Platform with Your other systems;
  2. assisting You with the proper use of the Platform; and/or
  3. determining the causes of errors and fixing errors in the Platform.
2. Subject to Paragraph 2.3, You must make all requests for Support Services through the helpdesk, and all such requests must include at least the following information: [insert details].

3. Response and resolution times
4. Apptimized will:
  1. use all reasonable endeavours to respond to requests for Support Services made through the helpdesk; and
  2. use all reasonable endeavours to resolve issues raised by You,

promptly based on a best effort within 24-48 hours during working days

2. Apptimized will determine, acting reasonably, in to which severity category an issue raised through the Support Services falls.
3. All Support Services will be provided remotely unless expressly agreed otherwise by Apptimized.
4. Limits on Support Services
5. Where the total person-hours spent by Apptimized performing the Support Services under Paragraphs 2 and 3 during any week exceed 8 hours, then:
  1. Apptimized will cease to have an obligation to provide those Support Services to You during that period; providing that
  2. Apptimized may agree to provide additional such Support Services to You during that period, but the provision of such services will be subject to payment by You of additional Charges at Apptimized's standard hourly rate[s] from time to time.
2. Apptimized shall have no obligation under the Agreement to provide Support Services in respect of any fault or error caused by:
  1. the improper use of the Platform; or
  2. the use of the Platform otherwise than in accordance with the Documentation.

#### 5. Upgrades

6. You acknowledges that from time to time during the Term Apptimized may apply Upgrades to the Platform, and that such Upgrades may, subject to Paragraph 5.2, result in changes the appearance and/or functionality of the Platform.
7. No Upgrade shall disable, delete or significantly impair the Protected Functionality.
8. Apptimized will give to You reasonable prior written notice of the application of any significant Upgrade to the Platform.
9. You shall not be subject to any additional Charges arising out of the application of the Upgrade, save where:
  1. the Upgrade introduces New Functionality to the Platform;
  2. that New Functionality does not serve the same purpose as legacy functionality that ceases or has ceased to be available as a result of any Upgrade;
  3. access to or use of the New Functionality is chargeable to You or Apptimized using the Platform generally; and

4. any decision by You not to pay the Charges for the New Functionality will not prejudice Your access to and use of the rest of the Platform.
6. Uptime commitment
7. Apptimized shall use reasonable endeavours to ensure that the Platform is available 98% of the time during business hours each calendar month, subject to Paragraph [8].
8. Platform uptime shall be calculated using the following methodology: [insert details].
9. In the event that, during a calendar month entirely within the Term, the Platform fails to meet the availability commitment set out in Paragraph 6.1 then Apptimized shall permit You to terminate the Agreement upon written notice.
10. The maximum service credits available to You in respect of any calendar month shall be the total Charges payable in respect of access to the Platform during the relevant calendar month (exclusive of VAT and other taxes).
11. Back-up and restoration
12. Subject to Paragraph 7.2, Apptimized will:
  1. make back-ups of Your Materials stored on the Platform and will retain such back-ups for at least [[number] [days / weeks]]; and
  2. at least once every 2 weeks, Apptimized will arrange for the off-site storage of a current back-up of You Materials stored on the Platform (which will be over-written on the following off-site back-up date).
  2. In the event of the loss of, or corruption of, Customer Materials stored on the Platform being notified by You to Apptimized under Paragraph 2, Apptimized shall if so directed by You use reasonable endeavours promptly to restore You Materials from the most recent available back-up copy]
3. Scheduled maintenance
4. Apptimized may suspend access to the Platform in order to carry out scheduled maintenance, such maintenance to be carried out outside Business Hours and such suspension to be for not more than 12 hours in each calendar month.
5. Apptimized must give to You at least 5 working days written notice of schedule maintenance, including full details of the expected Platform downtime.
6. Platform downtime during scheduled maintenance carried out by Apptimized in accordance with this Paragraph 8 shall not be counted as downtime for the purposes of Paragraph 6.

## Schedule 2

### Charges

1. Introduction
2. References in this Schedule to Paragraphs are to the paragraphs of this Schedule, unless otherwise stated.

3. The Charges under the Agreement shall consist of the charges identified in the Statement of Services at the time of order acceptance by Apptimized and may consist of the following elements:
  1. A charge per unit made available for download;
  2. access Charges, in respect of access to and use of the Platform;
  3. support Charges, in respect of the Support Services; and  
Service delivery charges  
Charges for purchasing deliverables  
Charges to access tools
  4. other Charges.

### Schedule 3

#### Acceptable Use Policy

##### 1. This Policy

This Acceptable Use Policy (the "Policy") sets out the rules governing the use of our web (the "Service") and any content that you may submit to the Service ("Content").

By using the Service, you agree to the rules set out in this Policy / We will ask you to expressly agree to the rules set out in this Policy.

##### 2. General restrictions

You must not use the Service in any way that causes, or may cause, damage to the Service or impairment of the availability or accessibility of the Service, or any of the areas of, or services on, the Service.

You must not use the Service:

1. in any way that is unlawful, illegal, fraudulent or harmful; or
2. in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.
3. Licence

Apptimized grant to You a worldwide, irrevocable, non-exclusive, royalty-free licence to use, reproduce, publish, adapt, translate and distribute your repackaged Content [on and in relation to the Service / in any existing and future media].

##### 4. Unlawful and illegal material

You must not use the Service to store, host, copy, distribute, display, publish, transmit or send Content that is illegal or unlawful, or that will or may infringe a third party's legal rights, or that could give rise to legal action whether against you or us or a third party (in each case in any jurisdiction and under any applicable law).

Content (and its publication on the Service) must not:

1. be libellous or maliciously false;
2. be obscene or indecent;

3. infringe any copyright, moral rights, database rights, trade mark rights, design rights, rights in passing off, or other intellectual property rights;
4. infringe any rights of confidence, rights of privacy, or rights under data protection legislation;
5. constitute negligent advice or contain any negligent statement;
6. constitute an incitement to commit a crime;
7. be in contempt of any court, or in breach of any court order;
8. be in breach of racial or religious hatred or discrimination legislation;
9. be blasphemous;
10. be in breach of official secrets legislation; or
11. be in breach of any contractual obligation owed to any person.

You must not submit any Content that is or has ever been the subject of any threatened or actual legal proceedings or other similar complaint.

#### 5. Data mining

You must not conduct any systematic or automated data collection activities (including without limitation scraping, data mining, data extraction and data harvesting) on or in relation to the Service without our express written consent.

#### 6. Graphic material

Content must not depict violence in an explicit, graphic or gratuitous manner.

Content must not be pornographic or sexually explicit, or consist of or include explicit, graphic or gratuitous material of a sexual nature.

#### 7. Harmful software

You must not use the Service to promote or distribute any viruses, Trojans, worms, root kits, spyware, adware or any other harmful software, programs, routines, applications or technologies.

You must not use the Service to promote or distribute any software, programs, routines, applications or technologies that will or may negatively affect the performance of a computer or introduce significant security risks to a computer.

#### 8. Factual accuracy

Content must not be untrue, false, inaccurate or misleading.

Statements of fact contained in the Content must be true; and statements of opinion contained on the Content must be truly held and where possible based upon facts that are true.

#### 9. Negligent advice

Content must not consist of or contain any instructions, advice or other information that may be acted upon and could, if acted upon, cause:

1. illness, injury or death; or

2. any other loss or damage.

#### 10. Marketing and spam

You must use the Service for any purposes related to marketing, advertising, promotion, or the supply and/or sale of goods and/or services.

Content must not constitute spam.

You must not use the Service to transmit or send unsolicited commercial communications.

You must not use the Service to market, distribute or post chain letters, ponzi schemes, pyramid schemes, matrix programs, "get rich quick" schemes or similar schemes, programs or materials.

#### 11. Gambling

You must not use the Service for any purpose related to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.

#### 12. Professional advice

You must not use the Service to provide any legal, financial, investment, taxation, accountancy, medical or other professional advice or advisory services.

#### 13. Netiquette

Content must be appropriate, civil, tasteful and accord with generally accepted standards of etiquette and behaviour on the internet.

Content must not be offensive, deceptive, threatening, abusive, harassing, or menacing, hateful, discriminatory or inflammatory.

Content should not cause annoyance, inconvenience or needless anxiety.

Do not flame or conduct flame wars on the Service ("flaming" is the sending hostile messages intended to insult, in particular where the message is directed at a particular person or group of people).

Do not troll on the Service ("trolling" is the practice of deliberately upsetting or offending other users).

You must not flood the Service with Content focusing upon one particular subject or subject area, whether alone or in coordination with other users.

Content must not duplicate existing Content on the Service.

You must submit Content to the appropriate part of the Service.

Do not unnecessarily submit textual content in CAPITAL LETTERS.

You should use appropriate and informative titles for all Content.

You must at all times be courteous and polite to other Service users.

#### 14. Breaches of this Policy

We reserve the right to edit or remove any Content in our sole discretion for any reason, without notice or explanation.



Without prejudice to this general right and our other legal rights, if you breach this Policy in any way, or if we reasonably suspect that you have breached this Policy in any way, we may:

1. delete or edit any of your Content;
2. send you one or more formal warnings;
3. temporarily suspend your access to a part or all of the Service; and/or
4. permanently prohibit you from using a part or all of the Service.

#### 15. Banned users

Where we suspend or prohibit your access to the Service or a part of the Service, you must not take any action to circumvent such suspension or prohibition (including without limitation using a different account.)

#### 16. Monitoring

Notwithstanding the provisions of this Policy, we do not actively monitor Content.

#### 17. Report abuse

If you become aware of any material on the Service that contravenes this Policy, You notify us by email / using the abuse reporting system on the Service.