

Terms of Service

The following are the Terms and Conditions of Use under which all Revacom Group subsidiaries (Apptimized Limited, Apptimized Inc., Apptimized Deutschland GmbH, Apptimized Schweiz GmbH = "Apptimized"), licenses computer software, and supplies related services.

By accepting the services laid out in the supplied Statement of Work, or signing up via the online portal, you agree to the following Terms and Conditions of Use (the "Agreement") governing your use of Apptimized's services, including any 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 this Agreement.

If you do not have such authority, or if you do not agree with this Agreement, you must decline and may not use the Service.

By registering for, or using, the Service, you agree to abide by this Agreement including, but not limited to, Privacy and Cookie Policy set forth below and incorporated herein.

Definitions

1. The following expressions have the following meanings:

"Acceptance" – means the act of using that service in a production environment;

"Agreement" – means this Terms and Conditions of Use and any other agreements entered into between Apptimized and Customer;

"Application" – means the software application supplied by Apptimized to You for the purpose of enabling You to access and use the Platform;

"Authorized License Administrator" – means an individual designated by Customer who has the authority to add users;

"Customer"/" You"/"Your" – mean the individual, business, or other organization with whom Apptimized contracts;

"Supplier" – means any supplier of products or services to Apptimized;

"Platform" – means the applicable software platform ordered by You that is owned and operated by Apptimized, or its parent and affiliates, that will be made available to You via the internet under this Agreement;

"Products" – means computer software and associated media or equipment that may be supplied by Apptimized; and

"Statement of Services" – means a written document detailing any services agreed to be supplied by Apptimized.

1. Any reference to a day or days refers to business days – that is any day which is not a weekend or Federal holiday ("Business Days").

1. The headings in this Agreement are for convenience only and shall not affect their interpretation.

1. License Grant, Service Conditions & Restrictions

Apptimized hereby grants Customer a non-exclusive, non-transferable, worldwide right to access and use the Platform, Application, and the Service, solely for Customer's own internal business purposes, subject to this Agreement. All rights not expressly granted to you are reserved by Apptimized, its parent, affiliates, and licensors.

Customer shall not:

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

Any rights granted to the Customer under this Agreement cannot be shared, accessed or used by more than one individual user of Customer. However, the designated user 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, or the Service. The Platform may only be used by the Customer's authorized user.

Application and the Service

Customer may use the Platform, Application, or the Service only for Customer's 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, libelous, 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, or the Service or the data contained therein; or
5. attempt to gain unauthorized access to the Platform, Application, or the Service or their related systems and networks.

Customer acknowledges and agrees that it has no right to access the object code or source code of the Platform, either during or after the Term. Customer shall 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.

Customer agrees not to use the Platform in any way that is unlawful, illegal, fraudulent, or harmful or in connection with any unlawful, illegal, fraudulent, or harmful purpose or activity.

Any advertising of the Platform, Application, or the Services on Apptimized's website constitutes a solicitation and not an offer. Your order for the Platform and the Services constitutes an offer to Apptimized to contract. No contract will come into force between Apptimized and Customer until A Statement of Services has been agreed to by Customer and Apptimized. In order to enter into the Agreement, You must take the following steps:

1. agree the Services as stated in the Statement of Work;
2. create an account with a Username and Password on Apptimized's website and log in;
3. confirm your order in accordance with the Statement of Services; and
4. accept this Agreement;

Support Services and Upgrades

During the duration of this Agreement, Apptimized will provide customer support services ("Support Services") to Customer. Apptimized may apply upgrades to the Platform and the Application, in accordance with this Agreement from time to time.

You agree that Apptimized may sub-contract Support Services without the need to obtain any future consent from Customer.

Customizations

From time-to-time Apptimized and You may agree that Apptimized will customize the Platform and/or the Application in accordance with specifications agreed in writing using the change control procedure ("Change Procedure") set forth below.

From the time when a customization is first made available to Customer ("Customization Date"), the customization shall form part of the Platform or Application where appropriate under this Agreement. Accordingly, from the Customization Date, the rights to use the customization shall be governed by this Agreement.

All Intellectual Property Rights in and to any Customization shall be the exclusive property of Apptimized.

Customer agrees to provide Apptimized with:

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

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

Customer Materials

You hereby grant Apptimized a non-exclusive license to store, copy and otherwise use Your Materials, constituting of source media, discovery output, completed application packages (optionally) a copy of your base image, for the purposes of operating the Platform, Application and

providing the Services. All intellectual property rights in Your Materials will remain the property of Customer.

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, or regulations;
2. infringe any third person's intellectual property rights or other legal rights; or
3. give rise to any cause of action against Apptimized by You or any third party.

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

Change Procedure

The provisions of this section apply to any customization requested by Customer or Apptimized. 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, at a minimum, the following details:

1. the impact on the Services;
2. any additional resources expected to be required as a result of the change; and
3. any variation to the charge's 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 the agreement of a CCN, each party will confirm the same 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 to in writing by each party, the proposed change will not take effect.

Customer's Responsibilities

Customer agrees to be liable for all activity occurring under your user account(s) and agrees to abide by all applicable local, state, and Federal and foreign laws, if any, in connection with Customer's use of the Service, including, but not limited to, data privacy, international communications, and the transmission of technical and personal data.

Customer agrees to:

1. notify Apptimized immediately of any unauthorized use of any password or account or any other known or suspected breach of security;
2. immediately report to Apptimized and use best efforts to stop any copying or distribution of content that is known or suspected by You or Your users; and
3. not impersonate another Apptimized user or customer or provide false identity information to gain access to or use the Service.

Account Information and Data

Apptimized does not own any data, content, information, or material, that You submit to the Platform in the course of accessing and using the Service (“Customer Data”). You agree to have sole liability for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data. You agree that Apptimized shall not be 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 Customer Data within thirty (30) days of termination if requested at the time of termination. Apptimized reserves the right to withhold, remove and/or delete any or all 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. Apptimized shall have no obligation to maintain or forward any Customer Data upon termination for cause.

Intellectual Property Ownership

Customer agrees and acknowledges that Apptimized, (and its parents, subsidiaries, and/or licensors) own all right, title and interest, including all related intellectual property rights, in and to the Platform, Application, Services and related documentation and materials. You agree that any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by You or your agents relating to the Platform, Application Services, and related documentation and materials shall be conveyed, granted, and owned by Apptimized from You.

Nothing in this Agreement conveys to You any rights of ownership or title in or to the Service, the Platforms, the Application, or related documentation or materials, or any intellectual property rights owned by Apptimized. The Apptimized name, the Apptimized logo, and the product names associated with the Service, the Platform, and Application are trademarks of Apptimized or licensed by Apptimized from its parent affiliate and/or third parties. No right or license is granted to You to use them in any way.

Web Site Ordering Process, Charges and Payment of Fees

Upon Acceptance of these Terms, Customer will be able to choose whether to pay for each order delivered as “available for download” under the Statement of Services on a Pay-As-You-Go basis following invoice at the end of each calendar month, or a monthly or annual settlement to be invoiced monthly or annually in advance for the right to use the Apptimized Factory, Catalogue, Prism or Updates services.

Alternatively, Customer may opt to order Apptimized Workspace (the self-service packaging tool) or SafeBox on a subscription basis. There are 3 subscription options for Customer to choose from for the Application Packaging Service:

Subscription option 1 – Monthly

Subscription shall commence at the end of any 30-day trial period. The billing cycle shall commence at the beginning of a month, with the first monthly charge being prorated if subscribed partway through a month. Customer may cancel a subscription anytime during a current month. Customer's subscription will then be cancelled at the end of the month during which notice of cancellation was received by Apptimized. Subscriptions will auto-renew on a monthly basis until cancelled

Subscription option 2 – Annual, pay monthly

Subscription shall commence at the end of any 30-day trial period. The billing cycle shall commence upon subscription and shall continue on the monthly anniversary thereof for an initial term of 12 months. For example, if subscribed on 13th August, the next subscription charge shall be payable on 13th September and thereafter on the 13th of each month until cancelled. If cancelled, the subscription will continue until the end of the prevailing 12-month subscription period. (For example, subscription date 1st March 2021, cancelled 13th August 2021, payments continue to last monthly payment on 1st February 2022. Subscriptions will auto-renew on the anniversary of initial subscription until cancelled

Subscription option 3 – yearly payment

The yearly billing cycle shall commence on the day of initial subscription. If the subscription is cancelled during a 12-month term, no refund will be offered, and subscription access will continue until the end of the subscribed annual term. (For example, purchase date 1st March 2021, cancelled 13th August 2021, subscription continues to 28th Feb 2022. Subscription will auto-renew on the anniversary of the original subscription date purchase until cancelled.

Depending on the subscription option selected Apptimized will send You a counter-signed Statement of Services thereby creating a binding contract. Alternatively, Apptimized will reject your offer and no contract will be formed.

Upon acceptance, the contract will continue in force for the agreed duration and automatically renew thereafter unless terminated in accordance with this Agreement.

Apptimized will provide access to the Platform and/or copies of the Application to You by as soon as practicable following the Effective Date.

Customer may use the Application strictly in accordance with any documentation provided and only for Customer's internal business purposes.

Customer agrees that it shall not:

1. copy the Application, or any part thereof, other than in accordance with this Agreement;
2. sell, resell, rent, lease, loan, supply, distribute, redistribute, publish or re-publish the Application, or any part thereof;
3. modify, alter, adapt, translate or edit, or create derivative works of, the Application or any part thereof;
4. reverse engineer, decompile, disassemble the Application or any part thereof;
5. use the Application other than in accordance with the documentation provided; or

6. circumvent or remove or attempt to circumvent or remove the technological measures applied to the Application for the purposes of preventing unauthorized use.

Customer agrees and acknowledges that all intellectual property rights in and to the Application is the exclusive property of Apptimized.

Charges and fees are payable upon receipt of invoice. Customer 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. All amounts paid are non-refundable. You are responsible for paying for all user rights ordered for the entire duration of the Agreement, whether or not such user rights are actively being used. An Authorized License Administrator may add user rights by executing an additional written order. Added user rights are subject to the following:

1. added users will be coterminous with the pre-existing user rights;
2. the 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 Customer. Said notice may be provided by e-mail. All pricing terms are confidential. You agree not to disclose any pricing terms to any third party.

Any initial setup and training fees shall be subject to separate negotiation and shall be due to be paid upon delivery.

Billing and Renewal

Apptimized shall 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 liable for payment of all such taxes, levies, or duties. You agree to provide Apptimized with complete and accurate billing and contact information during the duration of this Agreement.

Billing and contact information includes Customer's legal entity name, street address, e-mail address, and name and telephone number of an authorized billing contact and Authorized License Administrator. Customer agrees to update said information within thirty

(30) days of any change.

If the contact information you have provided is false or fraudulent, Apptimized reserves the right to terminate your access to the Platform, Application, and Service. If You believe Your bill is incorrect, You must contact Apptimized in writing within thirty (30) days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

Non-Payment and Suspension

In addition to any other rights granted to Apptimized herein, as well as any additional rights and legal remedies available by law, you agree that Apptimized has the right to suspend or terminate this Agreement and your access to the Platform, Application, and Service if Your account becomes 30 days past due. Past due amounts are subject to an interest rate of one and a half percent (1.5%) per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all costs and attorneys' fees of collection.

You agree to be liable for all charges and fees for any period of suspension.

Upon termination of this Agreement, You agree to pay the total balance due on Your account computed in accordance with the foregoing sections. You agree to be liable for unpaid fees in addition to any additional fees and charges as they fall due. You agree to pay any reconnection fee charged by Apptimized in the event of suspension and thereafter request access to the Platform and 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 thirty (30) days past due.

Termination upon Expiration/Reduction in Number of Users

This Agreement commences on the Effective Date as detailed on the Statement of Services.

The Initial Term shall be as set forth 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 one

(1) month prior to the date of the requested termination. In the event this Agreement is

terminated (other than by reason of a customer breach), You agree and acknowledge that Apptimized has no obligation to retain the Customer Data, and may delete such Customer Data, more than thirty (30) days after termination.

Termination for Cause

Any breach of a payment obligation or any unauthorized use of the Platform, Application, or Service shall be deemed a material breach of this Agreement. Apptimized, in its sole discretion, may terminate your password, account, or use of the Platform, Application, or Service due to Customer's noncompliance with this Agreement.

Customer agrees and acknowledges that Apptimized has no obligation to retain Customer Data, and may immediately delete such Customer Data, for any breach of this Agreement, including but not limited, to Customer's failure to pay outstanding charges or fees, and such breach has not been cured within thirty (30) days of notice of such breach.

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.]

Customer represents and warrants that it has not falsely identified itself nor provided any false information to gain access to the Platform, Application, or Service and that its billing information is true, accurate, and correct. Customer also warrants and represents that it has the 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.

Mutual Indemnification

You shall indemnify and hold Apptimized, its licensors and each such party's parent, 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:

- a. any claims alleging that use of Customer 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;
- b. any claims that constitute a violation by You of your representations and warranties contained in this Agreement; or
- c. any claims arising from the breach by You or Your users of this Agreement, provided in any such case that Apptimized:
 - a. gives written notice of the claim promptly to you;
 - b. gives You sole control of the defense and settlement of the claims (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);
 - c. provides to You all available information and assistance; and
 - d. has not compromised or settled such claim.

Apptimized shall indemnify and hold You 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:
 - a. promptly give written notice of the claim to Apptimized;
 - b. give Apptimized sole control of the defense and settlement of the claim (provided that Apptimized may not settle or defend any claim unless it unconditionally releases you of all liability);
 - c. provide to Apptimized all available information and assistance;
 - d. and 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 intellectual property infringement arising from the combination of the Platform, Application, and Service with any of Your or third-party products, service, hardware, or business process(s) used by You.

Disclaimer of Warranties

APPTIMIZED, ITS PARENTS, AFFILIATES, AND LICENSORS MAKE NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE PLATFORM, APPLICATION, OR SERVICE OR ANY RELATED CONTENT OR DOCUMENTATION AND DO NOT REPRESENT OR WARRANT THAT THE USE OF THE PLATFORM, APPLICATION, OR SERVICE WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE OR

OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, THAT THE PLATFORM, APPLICATION, OR SERVICE WILL MEET YOUR REQUIREMENTS OR

EXPECTATIONS, THAT ANY STORED DATA WILL BE ACCURATE OR RELIABLE, THAT 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

THAT THE PLATFORM OR THE SERVICE, INCLUDING THE SERVER(S) THAT MAKE THE PLATFORM AND SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

THE PLATFORM, APPLICATION, AND SERVICE AND ALL CONTENT, MATERIALS, AND DOCUMENTATION 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 APPTIMIZED, ITS PARENT, AFFILIATES, AND ITS LICENSORS.

Internet Delays

THE PLATFORM OR SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS ANND THEREFORE APPTIMIZED IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

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.

Arbitration

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of arbitration shall be Chicago, Illinois. Hearings will take place pursuant to the standard procedures of the Commercial Arbitration Rules that contemplate in person hearings. Each party shall bear its own costs and expenses and an equal share of the arbitrators' and administrative fees of arbitration. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

Applicable Law

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

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 forty-eight (48) hours after mailing or posting (if sent by first class mail or pre-paid post) or twelve (12) hours after sending (if sent by email).

Modification to Terms

Apptimized reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Platform, Application, or Service at any time, effective upon posting of an updated version of this Agreement on the Service. You agree to be responsible for regularly reviewing this Agreement. Continued use of the Service after any such changes shall constitute your consent to such changes.

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 a parent or subsidiary, or an acquirer of assets, or 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 fifty percent (50%) or more of you shall entitle Apptimized to terminate this Agreement for cause immediately upon written notice.

Schedule 1

Service Level Agreement

1. Definition.

"New Functionality" means new functionality that is introduced to the Platform by an Upgrade.

"Protected Functionality" means core functionality that must not be impaired by any Upgrade.

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

2. Helpdesk.

Apptimized will make available, during Business Hours, a live chat and email helpdesk facility for the purposes of: assisting You with the configuration of the Platform and the integration of the Platform with Your other systems; assisting You with the proper use of the Platform; and/or determining the causes of errors and fixing errors in the Platform.

You must make all requests for Support Services through the helpdesk, and all such requests must include at least the following information:

- Name
- Project name

- Nature of issue
- Contact details.

3. Response and Resolution Times.

Apptimized will respond to requests for Support Services made through the helpdesk and resolve issues raised by You, promptly based on a reasonable effort within 24-48 hours during Business Days.

Apptimized, in its sole discretion, will determine what constitutes reasonable efforts and in to which severity category an issue raised through the Support Services falls. All Support Services will be provided remotely unless expressly agreed otherwise by Apptimized.

4. Limits on Support Services.

Where the total person-hours spent by Apptimized performing the Support Services during any week exceed eight (8) hours, then Apptimized will cease to have an obligation to provide those Support Services to You during that period; providing that Apptimized may provide additional Support Services to You during that period, but the provision of such

Support Services will be subject to payment by Customer of additional Charges at Apptimized's standard hourly rate[s] in effect from time to time.

Apptimized shall have no obligation under this 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.

You acknowledge that from time to time during the Term Apptimized may apply Upgrades to the Platform, and that such Upgrades may result in changes to the appearance and/or functionality of the Platform.

No Upgrade shall disable, delete or significantly impair the Protected Functionality.

Apptimized will give to You reasonable prior written notice of the application of any significant upgrade to the Platform.

You shall not be subject to any additional Charges arising out of the application of the upgrade, 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; or
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.

Apptimized shall use reasonable endeavors to ensure that the Platform is available ninety- eight percent (98%) of the time during Business Days each calendar month.

In the event that, during a calendar month, the Platform fails to meet the availability commitment set out in Paragraph 6.1, then Customer has the right to terminate the Agreement upon written notice.

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).

7. Back-up and Restoration.

Apptimized will: back up Customer Data stored on the Platform and will retain such back- ups for at least one (1) year; and at least once every two (2) weeks. Apptimized will arrange for the off-site storage of a current back-up of Customer Data stored on the Platform (which will be over-written on the following off-site back-up date).

In the event of the loss of, or corruption of, Customer Data stored on the Platform, Apptimized shall if so directed by Customer in writing use reasonable endeavors to restore Customer Data from the most recent available back-up.

8. Scheduled Maintenance.

Customer agrees that Apptimized may suspend access from time to time to the Platform in order to carry out scheduled maintenance. Such maintenance to be carried out outside regular business hours and such suspension to be for not more than twelve (12) hours in each calendar month.

Apptimized shall give to You at least five (5) Business Days notice of schedule maintenance, including any details of the expected Platform downtime.

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 Introduction.

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

The Charges under this 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:

- A charge per unit made available for download;
- access Charges, in respect of access to and use of the Platform;
- support Charges, in respect of the Support Services; and
- Service delivery charges
- Charges for purchasing deliverables
- Charges to access tools
- other Charges.

Schedule 3

Acceptable Use Policy

This Use Policy

This Acceptable Use Policy (the “Use 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 Use Policy. You expressly agree to the rules set out in this Use Policy.

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

License

Aptimized grants to You a worldwide, irrevocable, non-exclusive, royalty-free license to use, reproduce, publish, adapt, translate and distribute Your repackaged Content in any existing and future media.

Unlawful and Illegal Material

Customer agrees to 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:

- a. a) be libelous or false;
- b. b) be obscene or indecent;
- c. c) infringe any copyright, moral rights, database rights, trademark rights, design rights, rights in passing off, or other intellectual property rights;
- d. d) infringe any rights of confidentiality, rights of privacy, or rights under any applicable privacy or data protection legislation;
- e. f) constitute an incitement to commit a crime;
- f. g) be in contempt of any court, or in breach of any court order; or
- g. h) be in breach of any contractual obligation owed to any person.

Data Mining

Customer agrees to 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.

Graphic Material

Customer agrees not to submit content that depicts violence in an explicit, graphic, or gratuitous manner or that is pornographic or sexually explicit, or consist of or include explicit, graphic, or gratuitous material of a sexual nature.

Harmful Software

Customer agrees to 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.

Customer agrees to 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.

Factual Accuracy

Customer agrees that content will not be untrue, false, inaccurate, or misleading and that 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.

Negligent Advice

Customer agrees that content must not consist of or contain any instructions, advice or other information that may be acted upon and could, if acted upon, cause: illness, injury or death; or any other loss or damage.

Marketing and Spam

Customer agrees to use the Service only for purposes related to marketing, advertising, promotion, or the supply and/or sale of goods and/or services and that the content will not constitute spam.

Customer agrees to not use the Service to transmit or send unsolicited commercial communications and 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.

Gambling

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

Professional Advice

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

Netiquette

Content must be appropriate, civil, tasteful and in accord with generally accepted standards of etiquette and behavior 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.

Customer agrees not to 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).

Customer agrees not to troll on the Service (“trolling” is the practice of deliberately upsetting or offending other users).

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

Customer agrees to use appropriate and informative titles for all Content and to be courteous and polite to other Service users.

Breaches of this Policy

You agree that Aptimized has the right to edit or remove any Content in its sole discretion for any reason, without notice or explanation. If Customer breaches this Use Policy in any way, or if we reasonably suspect that you have breached this Use 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.

Monitoring

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

Report Abuse

If you become aware of any material on the Service that contravenes this Use Policy, You agree to notify Aptimized by email.