

These Product Use Terms form part of the Software Subscription Agreement and apply to all Software Service Subscriptions. Part 1 definitions apply throughout. Parts 2–8 and 13 apply per the Order Form. Part 9 applies where Third-Party integrations are used. Part 10-12 applies to AI features. Part 13 applies to certain Professional Services.

ON RENEWAL, THE THEN-CURRENT VERSION OF OPTIMIZEZY'S PRODUCT USE TERMS PUBLISHED AT [PRODUCT USE TERMS](#) APPLIES TO EACH RENEWED SUBSCRIPTION FOR THAT SUBSCRIPTION TERM, AND REPLACES THE EARLIER VERSION OF THE PRODUCT USE TERMS (OR PRODUCT SUPPLEMENT, AS THE CASE DICTATES) THAT APPLIED TO THE EXPIRING SUBSCRIPTION NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THAT ORDER.

1. GENERAL TERMS

- 1.1. Definitions.** Schedule I sets our definitions relevant to these Product Use Terms. Other defined terms have the meanings in the Order Form, GTC, DPA, or these Terms. Customer must use the Software Service per the Documentation.
- 1.2. Documentation.** Customer must use the Software Service per the Documentation. Documentation is published at Optimizely's [Support Portal](#) ("Support Portal") and the Optimizely Developer Portal at <https://world.optimizely.com>, and its sub-sites including [Developer Documentation](#) and [Release Notes](#) - ("World & Developer Portals"). Documentation includes information on releases and other relevant information about the Software Service as updated from time to time.
- 1.3. Usage Metrics; Overages.** Usage Metrics, Usage Metrics Volumes, and Overages are set out in the [Usage Metrics Tables](#).
- 1.4. Testing Restrictions.** No penetration, load, or similar testing without Optimizely's express prior permission and conditions.
- 1.5. Account Security.** Account information must be accurate, current, and complete, and kept up to date. Account information is subject to Optimizely's Privacy Notice (www.optimizely.com/privacy/). Optimizely may send operational notices and other information by email or through Customer's account. Customer must keep all user IDs, passwords, and access credentials confidential, maintain account security, and promptly terminate any unauthorised access.
- 1.6. Free Access and Beta Releases.** Optimizely may provide access to Customer free trials ("Free Access"), pre-production features, or beta software. These are optional, and at Customer's sole risk, and may be discontinued at any time without notice or liability. GTC warranties, indemnities, and support obligations do not apply. Customer acknowledges that such releases may not be complete or fully functional and may contain bugs, errors, omissions, and other problems for which Optimizely will not be responsible.
- 1.7. Sensitive Information and HIPAA.** The Software Service is not intended to Process Sensitive Information. If Customer submits Sensitive Information, Customer confirms the confidentiality undertakings of Optimizely in the Agreement and Optimizely's [Technical & Organisation Measures](#) ("TOMs") are sufficient. Software Services are not intended for ePHI Processing unless the Customer has a Subscription to the applicable ePHI-Enabled Software Service, and the Parties have entered into a BAA.
- 1.8. Hosting.** Experimentation, Personalization, CMP, and Optimizely Analytics are US-hosted only; other Subscription Services default to Customer's location as set out in the Order. Available regions and centers for MS Azure, Amazon Web Service, Google Cloud Platform are available from Optimizely upon request. Not all data centers of those Third-Party Service Providers are made available by Optimizely, and not all Software Services are made available in an otherwise available data center. Available Optimizely data centers published by Optimizely are subject to update, and some published data centers may not be available for technical, resource or other issues, and alternate data centers in the applicable region will be provisioned.
- 1.9. Provisioning and Support.** Applicable Subscriptions shall be provisioned at the start of the Initial Subscription Term through a standard setup ready for Customer. Customer acknowledges that its Subscriptions may be impacted by its failure to provide and update Customer Data, and other data such as Catalogue Feed, documents, data, files, and other content required for the applicable Subscription. **Geo-fenced Support.** Geo-fenced support is available for all Software Services, subject to some restrictions. Geo-fenced support requires Customer to have a geo-fenced support addendum with its Subscription.
- 1.10. Data Use by Optimizely.** Optimizely may utilize Customer Data for the following purposes in its provision of the Software Service: (i) to create Performance Data¹, (ii) for Reporting², (iii) providing Support, and (iv) in the development of the Software Service, including the development of new capabilities and features ("Development") - ("Permitted Data Use"). Permitted Data Use is subject to the following restrictions ("Data Use Restrictions"): **A.** Any Customer Data utilisation by Optimizely is subject to the confidentiality, non-disclosure, and technical and organizational security measures applicable to Customer Data under the

¹ **Performance Data** means data generated by the Software Service, whether manually or automatically, with respect to how the Software Service is being used by the Customer.

² **Reporting** means reports produced by Optimizely, whether manually or automatically, with respect to the Software Service utilizing Performance Data and Technical Data, whether for its own purposes (so far as relevant to the Software Service and Customer's Use), and / or the benefit of the Customer, and whether at the Customer's request, or at Optimizely's initiative.

Agreement; **B.** Performance Data may be used by Optimizely only in aggregated and anonymized form for analysing Software Service performance and operations; **C.** All Reports are Confidential Information; **D.** Access to Personal Data in Support is subject to Optimizely's obligations under the Agreement, and in particular the TOMs; **E.** No Customer Data utilisation by Optimizely will identify individual data subjects; **F.** Optimizely will not use Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data, health data, or data concerning sex life or sexual orientation; **G.** Neither Reporting, Support, nor Development will disclose Customer Data (including Personal Data) to other customers or Third-Parties, except Third-Parties engaged by Optimizely in delivery of the Software Service, Reporting, and Development, and only under appropriate confidentiality undertakings; and **H.** Where Development reveals Personal Data (such as an Authorized User's identity), its use is strictly limited to developing and improving Software Service features and capabilities, subject to these Data Use Restrictions in this Section 1.10.

- 1.11. Customer Code Ownership.** Customer owns its custom code solely developed without Optimizely contribution, excluding any derivatives of Optimizely's IP.
- 1.12. Data Retention and Deletion.** Customer Data is accessible and retained per Optimizely's [Data Retention Policy](#), and Customer may access it anytime during the Subscription Term. Customer may use self-service export tools or APIs to retrieve its data; where technically limited, Optimizely will provide a one-time copy in an industry-standard format at no cost. Following the Subscription Term, Customer Data is retained for thirty days ("Data Access Window"), during which Customer may request a copy subject to the same limitations. Optimizely will securely delete Customer Data within thirty-five days after the Data Access Window using industry-standard methods, unless retention is required by law or earlier deletion is requested (which may incur additional fees). Data retained during the Agreement remains subject to its data protection provisions.
- 1.13. Appropriate Use.** The Software Service Appropriate Use Policy as updated from time to time, applies to all Software Services. Any Policy update will be communicated at the Support Portal.
- 1.14. Services Continuity.** Backup and disaster recovery details are set out in the [Service Continuity Policy](#) ("Service Continuity Policy"), as updated from time to time. Any Policy update will be communicated at the Support Portal and in the World & Developer Portals.

PRODUCT-SPECIFIC TERMS

The following sections shall apply solely where the Customer has purchased the applicable Subscription.

- 2. CMS AND COMMERCE CONNECT.** SendGrid use is subject to Twilio's AUP ([twilio.com/legal/aup](https://www.twilio.com/legal/aup)); breach of such is a breach of the Agreement. Customer is deemed to have accepted the SendGrid-AUP and to be bound by its terms upon Customer's first access to, or Use of, the SendGrid Service. Customer must not use checkout or customer service features of the digital commerce catalog, as offered in the applicable Software Service.
- 3. DATA PLATFORM (ODP).** Optimizely grants a limited, revocable, non-exclusive, non-transferable, royalty-free license to install the Website Tag solely for ODP use during the Subscription Term. Audience Sync is per Experimentation/CMS Documentation, and excludes the ODP user interface (UI).
- 4. CMP AND DAM.** Stock images in the marketplace are subject to Optimizely's [Photostock Terms](#) ("Photostock Terms").
- 5. ANALYTICS.** Optimizely's Analytics connects to Customer's warehouse via a Customer-provisioned service account, limited to Customer-selected tables. It sends encrypted SQL queries and presents aggregated results. It does not: process data outside the warehouse, modify warehouse data, use data for training, or access unselected data. Optional in-memory caching is available.
- 6. CAMPAIGNS.** Refer to Optimizely's [Campaigns Supplement](#) (the "Campaigns Supplement").
- 7. US HIPAA.** Optimizely supports Covered Entities as a Business Associate. A BAA is required; and only ePHI-Enabled Software Service qualify. Any Protected Health Information utilized by Optimizely in its provision of the Software Service is as authorized by Customer in accordance with the Agreement, including the BAA, but it may only be used by Optimizely as De-identified data in accordance with the Privacy Rule. Any such De-identified Health Information will only be used by Optimizely in an aggregated data set, ensuring anonymity.
- 8. EU DORA.** Optimizely supports DORA customers as an ICT Service Provider. Optimizely's DORA Supplement is required.
- 9. ENHANCEMENTS AND THIRD-PARTY INTEGRATIONS.** Certain Software Services may contain functionality enabling Enhancements (also referred to as Add-Ons) to be utilized by Customer in its Use of the Software Service. Use of Enhancements is subject to this Section 9, the GTC, and applicable Documentation. **Optimizely Enhancements. Customer's Responsibility.** For some Software Services, Optimizely may recommend in the Documentation additional Optimizely Software as an optional Enhancement. Optimizely Enhancements become part of the Software Service upon Customer's Use. Customer will comply with any applicable open-source license terms published by Optimizely. **Third-Party Enhancements. Customer's Responsibility.** Optimizely may identify optional Third-Party Enhancements in Documentation or within the Software Service itself. Third-Party Enhancements are not Optimizely Software nor are they part of the Software Service. Any referral is for convenience only. Third-Party Enhancements are provided 'as is', 'as available', with all faults,

without Optimizely warranty or Third-Party Intellectual Property Rights indemnification. Use is subject to the applicable Third-Party Publisher license ("TPPL"); Customer must accept any published TPPL, and Customer bears sole risk and liability for its Use. Where a Third-Party Enhancement requires installation of Optimizely Code in Third-Party Software or on a Third-Party Platform, Customer has a limited Subscription Term right to install, use, and distribute that Optimizely Code in Customer applications for the Enhancement only, with no derivative use or commercialization; Optimizely Code remains Optimizely Confidential Information. Customer grants Optimizely a worldwide, royalty-free Subscription Term license to host, copy, use, transmit, and display the Third-Party Enhancement and associated Code, and to access Customer Data for interoperability with the Software Service. Third-Party Publishers are not Optimizely Sub-processors; Optimizely is not responsible for Customer Data transferred to or modified by a Third-Party Publisher, and Customer controls its Customer Data. Third-Party Enhancements may be subject to Third-Party Publisher privacy policies, which Customer should review. Customer must not post false or misleading reviews and must disclose any affiliation, promotion fee, or conflict of interest. Any published review is feedback, which Optimizely may retain and use without restriction, compensation, or attribution.

10. **AI FEATURES AND TOOLS ("AI TERMS").** Some Software Services incorporate artificial intelligence, including machine learning ("ML") and generative AI ("Gen-AI") features - (collectively, "AI"). The Services Description identifies all AI features, the underlying large language model ("LLM") for Gen-AI, and applicable LLM data use and privacy terms. All Gen-AI features can be disabled; some other AI features may not be. *Customer Content.* Customer may provide prompts, instructions, and files as input ("Input") and will receive generated responses ("Output") (collectively, "AI Content"). Customer is responsible for its Input, including compliance with applicable law, LLM data-use terms, and holding all necessary rights and permissions. *Ownership of AI Content.* Customer retains ownership of Input and owns Output to the extent permitted by applicable law. For Gen-AI features, applicable LLMs assign to Customer any right, title, and interest in Output. *Similarity of AI Content.* Due to the nature of AI, Output may not be unique, and other users may receive similar Output. *Responsible Use.* The SS-AUP applies to Use of AI. *Acknowledgements.* Customer acknowledges that Output may be inaccurate, incomplete, or offensive and does not represent Optimizely's views. Customer must evaluate Output for accuracy, apply human review where appropriate, and must not rely on Output as a sole source of truth or substitute for professional advice. Customer must not use Output relating to a person in ways that could have a legal or material impact on them. Optimizely may remove or limit AI features if required by changes in law or if a Third-Party removes Optimizely's rights to underlying AI technologies. *Optimizely's Use of Customer Data.* Customer Data will not be used by Optimizely to train, develop, or improve any Gen-AI features. Customer Data will only be used to train ML features solely for Customer's benefit, in accordance with Optimizely's use rights under the Agreement.
11. **AGENT ORCHESTRATION PLATFORM.** Use of Optimizely's Agent Platform ("AP") is subject to the prior Section 10 (*AI Terms*), this Section 11, and the following Section 12 (*Customer Agents; Virtual Users*). These terms of use ("AP Terms") apply whether the Agent Platform is used as a feature of the, or as its own, Software Service, and whether used in a promotion or at no charge. Agents and other tools (including workflows) within the Agent Platform (collectively "Agents") are identified as either Optimizely-developed (*Optimizely Enhancements*) or Third-Party-developed (*Third-Party Enhancements*). Customer's prompts to Agents ("Queries") and responses generated by Agents ("Responses") are both Customer Data, subject to Optimizely's rights under these Product Use Terms and the Agreement. Customer is solely responsible for ensuring Queries are accurate and lawful, validating Responses, configuring automated decisions, and meeting applicable regulatory obligations. Responses are informational only, may contain inaccuracies or omissions, and do not constitute legal, compliance, or regulatory advice. Optimizely is not responsible for Response accuracy. The Agent Platform does not currently satisfy HIPAA requirements. Customer must not use the Agent Platform to transmit ePHI. Subject to express warranties in the GTC, the Agent Platform and all Optimizely-developed Agents are provided 'as is' and 'as available', without warranties of merchantability, fitness for purpose, or non-infringement. Optimizely disclaims all liability arising from Customer's reliance on Responses.
12. **CUSTOMER AGENTS; VIRTUAL USERS.** Customer is solely responsible for: (i) the design, configuration, deployment, monitoring, and decommissioning of each Customer Agent; (ii) all Inputs, Outputs, decisions, actions, transactions, communications, and inactions of each Customer Agent (collectively, "Agent Actions"); and (iii) ensuring each Customer Agent complies with the Documentation, the Software Service Appropriate Use Policy, and applicable law. **Acts and Omissions Attributed to Customer.** All Agent Actions are deemed acts and omissions of Customer under this Agreement, including obligations relating to acceptable use, data protection and privacy, Intellectual Property Rights, confidentiality, export control and sanctions, rate limits, consumption metrics, seat counts, and payment, regardless of whether authorized, foreseen, or intended by Customer. Customer may not assert as a defense or basis for refund or credit that an Agent Action was performed autonomously, in error, by hallucination, or without Customer's instruction. **Prohibited Agent Behavior.** The Agent Platform Appropriate Use Policy ("AP- AUP") applies to Use of Agent-Orchestration Platform. **No Optimizely Liability for Customer Agents.** Optimizely has no liability, and disclaims all warranties (express, implied, statutory, or otherwise), for the design, operation, output, security, reliability, accuracy, or fitness of any Customer Agent, whether or not built using Agent Platform templates, sample code, reference architectures, model cards, connectors, or other Optimizely-provided materials. All liability limitations benefiting Optimizely apply in full to claims relating to Customer Agents and Virtual Authorized Users.
13. **PROFESSIONAL SERVICES.** *Onboarding:* Pre-paid, scope-limited, hours have fixed validity per the Order. The applicable Onboarding service is described in the [Service Onboarding Packages](#). Unused hours expire and are non-transferable. Additional hours are subject to then-current rates. *Technical Advisory Services (TAM) Services:* Subscription-based per the Order, and are subject to the [Professional Services Supplement](#). *Catalogue Services:* Pre-defined services for Experimentation, Personalization, CMP, DAM, and are subject to the [Professional Services Supplement](#). *Other:* May require a statement of work.



SCHEDULE I — DEFINITIONS

The following definitions apply to every Software Service Subscription. Any definitions utilized in any Documentation (including Service Descriptions) is illustrative only and are not contractually binding.

AP means Optimizely's agent platform (currently referred to as OPAL).

AP Appropriate Use Policy (or **AP-AUP**) means Optimizely's Policy in relation to Use of the Agent Platform, published by Optimizely at [Agent Platform-Appropriate Use Policy](#), as updated from time to time.

AUPs means the SS-AUP, and any AP-AUP.

BAA means a business associate contract in accordance with the requirements of HIPAA.

Code means any source or object code, including with respect to any graphical user and application programming interfaces.

Software Service Appropriate Use Policy (or **SS-AUP**) means Optimizely's published Policy in relation to Use of the Software Service, published by Optimizely at [Software Service Appropriate Use Policy](#), as updated from time to time.

Customer Agent means any autonomous, semi-autonomous, or programmatic software actor — including any AI agent, bot, virtual assistant, scripted workflow, orchestration node, sub-agent, retrieval-augmented system, tool-using model, or service account — that Customer (or any of its, Authorized Users) creates, configures, deploys, instructs, orchestrates, chains, fine-tunes, or otherwise enables to interact with the Optimizely agent-orchestration platform or any other Software Service, whether such Agent is hosted on agent-orchestration platform, on Customer infrastructure, on a Third-Party Platform, or elsewhere.

De-Identify means the de-identification of Protected Health Information in accordance with the Privacy Rule, and De-Identification and De-Identified shall be interpreted accordingly.

De-identified Health Information means Protected Health Information that has been De-identified.

DORA means the Digital Operational Resilience Act (DORA), officially Regulation (EU) 2022/2554.

Edge Delivery means an Optimizely SDK (Software Development Kit) for Web Experimentation and is an alternative to JavaScript snippet.

Enhancement has the meaning ascribed in the GTC. In the absence of a GTC, it means optional Software configuration, features, functionality and capabilities, and includes Third-Party Platform integrations.

Environment means Customer hardware, software, intranets, servers and other equipment that Customer utilizes in its Use of the Software Service.

ePHI means electronic protected health information as defined under HIPAA.

HIPAA means the Health Insurance Portability and Accountability Act of 1996, as amended, of the United States of America.

HIPAA Rules means HIPAA's privacy rule, security rule and breach notification rule, as defined under HIPAA.

Onboarding means an hour limited service that provides Customer with a technical overview for configuration and development within the cloud, initial cloud implementation support, and a pre-launch checklist.

Optimizely Enhancement means any Enhancement developed by, and provided to Customer, by Optimizely.

Optimizely Material is defined in the GTC. In the absence of an GTC, it means any material (including statistical reports) provided, developed or made available by Optimizely, independently or with Customer's cooperation, in the course of performance under the Agreement, including in the delivery of Support or Optimizely-provided professional services relevant to the implementation, onboarding and/or configuration of the Software Service, and which may include (by way of example) configuration workbooks, training materials, projects plans, assessments and questionnaires, quick reference guides, playbooks, data set up presentations, data set up mapping templates, and configuration videos.

Optimizely One means Optimizely's bundled Software Service.

Optimizely World (also referred to as the *Optimizely Development Portal*) is a reference to the content published by Optimizely at <https://world.optimizely.com>, and its sub-sites, where Optimizely publishes Documentation, information on releases and related Software information, and other relevant information about the Software Service, as updated from time to time.

PHI means protected health information as defined under HIPAA.

Privacy Rule means the HIPAA privacy rule, HIPAA 45 CFR Part 160 and Part 164 (Subparts A and E).

Process and **Processing** are defined in the GTC. In the absence of a GTC, they mean an operation or set of operations performed on Customer Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Property means the websites, applications (such as mobile application, over-the-top applications, back-end applications) and/or digital services within an Environment from which Customer makes Use of the Software Service, as is permitted under this Agreement, including the Documentation.

Protected Health Information means PHI, and ePHI.



Region means the data center region as may be specified in the Order Form.

Security Rule means the HIPAA privacy rule, HIPAA 45 CFR Part 160 and Part 164 (subpart C).

Services Description is reference to certain Documentation made available to Customers published by Optimizely at [Software Service Services Description](#), (as updated from time to time), and which describes the technical functionalities, features and capabilities of the applicable Software Service, prerequisites for the Software Service, available options and add-ons, available integrations to other Software Service, Third-Party integrations, and /or the scope of any services associated with that Software Service (such as onboarding).

Short Message Service, SMS, or MMS means the text communication service component of mobile communication systems that allows the exchange of short text or media messages between fixed line or mobile phone devices.

Software Service is a reference to the software-as and platform-as services, as listed in an Order, and as more particularly described in the applicable Documentation, including the Service Description).

Third-Party Enhancement means any Enhancement developed by a Third-Party, and it includes Third-Party Platform integrations.

Third-Party Platform means any Third-Party platform.

Third-Party Publisher means the Third-Party licensor of the Third-Party Enhancement.

Usage Metrics are published by Optimizely at [Software Service Usage Metrics](#).

Use is defined in the initial Order Form, and/or the GTC. In the absence of that term being defined in the applicable Agreement, it means access to, and to otherwise activate the processing capabilities of the Software Service, including to load, execute, access, employ in the Software Service, or display information resulting from such capabilities, and Use may occur through an interface delivered with or as a part of the Software Service, or a third-party interface deployed by Customer, or another intermediary system.

Virtual Authorized User (or VAU) means a Customer Agent that authenticates to the Agent Platform or other Software Service using Customer credentials and Use the Software Service as if a natural person or legal entity, and an Authorized User.

Visitor means any user or visitor activity collected by Optimizely, on behalf of Customer, as part of the Software Service.

Website Tag means Optimizely-provided JavaScript code installed by Customer in its Environment for the purpose of identifying customer data and transmitting that data to the applicable Software Service.

NOTES

1. **Sensitive Information:** Personal Data classified as sensitive under applicable data protection laws requiring additional protections.
2. **EU Experimentation Hosting** (eff. 1 Mar 2025): EU hosting available for visitor data (admin data remains US-hosted). Raw event exports unavailable for EU-hosted customers until further notice. Multi-EU hosting.