

## SOLUTION-PARTNER PROGRAM RESELLER APPENDIX

THIS RESELLER APPENDIX (“SP-RESELLER TERMS”) IS INCORPORATED BY REFERENCE INTO THE PARTNER ENGAGEMENT FORM, AND APPLIES TO PARTNER WITH RESPECT TO SOLUTION RESELLING.

Words defined in the Program Terms and the Solution-Partner GTC apply to this Appendix. Singular words include the plural and vice versa. Defined words include their grammatical forms.

- 1. ON-PREMISE SOLUTIONS.** Partner is entitled to purchase on-premise Solutions from Optimizely for Reselling.
- 2. SOFTWARE SERVICES (CLOUD) SOLUTIONS.** Partner may Resell cloud Solutions subject to Optimizely’s written approval, considered on a Lead-by-Lead basis (“**Approval**”). Approval may or may not be granted, subject to conditions. No cloud Solutions may be resold without written Approval.
- 3. ADDITIONAL OBLIGATION ON RE SALE OF CLOUD SOLUTIONS.** For any approved Resale of cloud Solutions, Partner, after purchasing the Solutions from Optimizely, may either directly contract with the Customer for the subscribed Solutions resold under its own contract with the Customer, ensuring that the terms and conditions are no less favorable to and no more onerous upon Optimizely than the Software Service Terms outlined below; or add the Customer as an ‘additional user’ on its cloud Solution Software Services Subscription Agreement, incorporating the Software Service Terms.
- 4. RESTRICTION.** Partner has no right to Resell Solutions to third parties who intend to resell or distribute Solutions contrary to the permissions and restrictions in the Solution Terms & Conditions.
- 5. RESALE GENERAL TERMS AND CONDITIONS.** All resales are subject to the following minimum terms and conditions (“Solution Partner General Terms and Conditions”):

**On-Premise Solutions:** For subscription-based on-premise sales, the Optimizely’s then-current Subscription End User License Agreement (“**SEULA**”), and for perpetual-based on-premise sales, Optimizely then-current End User License Agreement (“**EULA**”); and as applicable Optimizely’s then-current Maintenance and Support, the Maintenance and Support Description (“**M&S**”).

**Cloud-Based Solutions:** Optimizely’s then-current Software Service Use Terms (<https://www.optimizely.com/legal/software-services-use-terms>), together with the Product Supplement<sup>1</sup>, Service Level Agreement<sup>2</sup>, and Support Policy<sup>3</sup>, and Data Processing Agreement<sup>4</sup>, and other then-current incorporated exhibit in Optimizely’s standard Software Services Subscription Agreement - (collectively, the “**Software Service Terms**”)

- 6. PROCEDURES FOR ON-PREMISE RE SALES, INCLUDING SUBSCRIPTIONS.**
  - I. License Center:** The Via the License Center, Partner submits a purchase order identifying the Solution, quantities, usage, and overage terms. v License Center. Purchase orders shall show the price, less the Discount. All purchase orders are subject to acceptance by Optimizely, which will be granted (unless Optimizely notifies the Partner of rejection within seven (7) business days of the submitted purchase order). The Partner shall confirm the Deal Registration Form information when submitting its purchase orders On or after the date of the applicable purchase order, Optimizely shall invoice the Partner for the applicable Solution purchase. Partner will pay invoices within thirty (30) calendar days. If payment in full is not received by the due date, Optimizely shall be entitled to claim interest on the overdue sum at a rate of 1.5% per month.
  - II. Master Software License Agreement.** Resold on-premise Solutions may be contracted by Partner with Optimizely via Optimizely’s then-current Master Software License Agreement (“**MSLA**”) in lieu of via the License Center.
  - III. Partner’s Payment.** Payment by Partner of Optimizely’s Resale invoice is not dependent upon receipt of payment by End-Customer of any fees to Partner.
- 7. PROCEDURE FOR CLOUD SOLUTIONS RE SALES.** Partner shall follow the ordering process as reasonably informed by Optimizely for cloud Solution Resales. Invoicing and payment terms will be detailed in the cloud Solution order form (also referred to as Optimizely’s ‘Software Subscription Agreement’ or SSA) prepared by Optimizely for each cloud Solution Resale.
- 8. OVERDUE PAYMENTS OR DEFAULTS.** Optimizely has the right to request payment in advance for new orders or deny delivery of new license keys for on-premise Solutions or provision access to any cloud Solutions if Partner is overdue

<sup>1</sup> Product Supplement - <https://www.optimizely.com/legal/product-supplement>

<sup>2</sup> Service Level Agreement - <https://www.optimizely.com/legal/service-level-agreement/>

<sup>3</sup> Support Policy - <https://www.optimizely.com/legal/support-policy>

<sup>4</sup> Data Processing Agreement - <https://www.optimizely.com/Trust-Center/data-processing-agreement/>

on any amounts owed to Optimizely. Optimizely may also impose time limits on Solutions Resold in the event of a material uncured payment default by Partner.

**9. SUPPORT.** Partner is responsible for first-line support for the Customer regarding Solution Resales. Optimizely will provide second-line support and beyond to either the Customer directly or to Partner developers certified by Optimizely.

**10. CONTRACTS WITH CUSTOMERS.** To receive the Discount, Partner shall enter a Solution contract with the Customer and be the *Partner of Record*. Partner is solely responsible to Customer for the performance of all undertakings in its Customer Contacts, except for any undertakings in the applicable Solution Terms & Conditions, including but not limited to delivery of any subscription licenses and any provisioning, which shall be the sole responsibility of Optimizely. In addition to the Solution Terms & Conditions, the Customer Contract may also include usage metrics, volumes, limits, overage provisions, the number of sites, instances, servers, the initial subscription term, and renewal provisions.

**11. PRICING UPDATES.** Optimizely may update the pricing for Solutions at its discretion. Optimizely will reasonably notify Partner of such changes before they take effect. If Partner does not accept the change, they may terminate the Agreement within the notice period. Optimizely will reasonably assist Partner and Customer with the transfer of services to another provider.

**12. NOTIFICATIONS.** Partner must notify Optimizely promptly, and no less than ninety (90) days before the expiration of the relevant M&S or Solution-subscription term, in any of the following circumstances: The Customer proposes to change the Partner of Record; the Customer intends to discontinue M&S; or the Customer intends to cease a Solution subscription. Partner is responsible for managing the renewals of its Customer Contracts, including auto-renewals and notices canceling auto-renewals, and ensuring all fees payable to Optimizely for the renewal of Customer Contracts.

**13. CUSTOMER INVOICING CHANGE.** To transfer responsibility for customer invoicing, Partner must complete the Customer Invoicing Change document.

**14. RESALE PAYMENT TERMS.** All payments by Partner to Optimizely will be made without set-off or counterclaim, and free and clear of, and without deduction for, any income Taxes imposed by any applicable taxing authority (“Applicable Taxes”), unless Partner is compelled under applicable tax law to make such payment. In such circumstances, Partner will promptly pay all Applicable Taxes, and the fees subject to that Applicable Tax will be increased by the amount of that Applicable Tax payment, ensuring that Optimizely receives from Partner an amount equal to the full amount which would have been received if no such withholding or deduction had been made. Partner indemnifies Optimizely against all such Applicable Taxes. Partner shall promptly deliver to Optimizely copies of all applicable Tax receipts with respect to such Applicable Taxes and the payment of such Applicable Taxes. For the purposes of this section, “Taxes” means all transactional taxes, levies, and similar charges (and any related interest and penalties) such as federal, state, or local sales tax, value-added tax, goods and services tax, use tax, property tax, excise tax, service tax, or similar taxes.

**15. RESALE DISCOUNTS.** Partner will receive the following Discount when Reselling Optimizely Solutions:

Partner Level	Bronze	Silver	Gold	Platinum	Premier Platinum
<b>Partner Discount</b> (On-Premise Licenses)	6%	12%	15%	15%	15%
<b>Annual Subscription</b>					
<b>Partner Discount</b> (Software Services)	5%	5%	10%	10%	10%
<b>Annual Subscription Value</b> <i>Based on Optimizely's Published List Price</i>					