

# Master Services Terms

Version: October 2024

THESE MASTER SERVICES TERMS (“MASTER TERMS”) APPLY TO SERVICES OFFERED BY THE OCTUS PARTY OR OCTUS PARTIES IDENTIFIED IN AN APPLICABLE ORDER FORM (“OCTUS”, “WE”, “US”). BY ENTERING INTO ONE OR MORE ORDER FORMS WITH OCTUS WHICH REFERENCE THESE MASTER TERMS (EACH, AN “ORDER FORM”), YOU (“CUSTOMER”, “YOU,” “YOUR”) AGREE TO BE BOUND BY THESE MASTER TERMS, THE ORDER FORM(S) AND ANY SERVICE SPECIFIC TERMS (AS DEFINED BELOW) IDENTIFIED IN THE ORDER FORM(S) (TOGETHER, THE “AGREEMENT”).

OCTUS AND CUSTOMER MAY EACH BE REFERRED TO IN THE AGREEMENT AS A “PARTY” AND COLLECTIVELY AS THE “PARTIES.”

## 1. Definitions

(a) “Affiliate” means, only for so long as such Control exists, an entity that Controls, is Controlled by or is under common Control with a Party.

(b) “Aggregated Anonymous Data” means data made available or submitted to, or collected or generated by, Octus in connection with Customer’s use of the Service which is converted to an aggregated, anonymized form such that any individual or entity to which such data relates, which may include Customer, is no longer identifiable.

(c) “AI Outputs” means outputs, including text, images and video that are elicited directly or indirectly by, or otherwise made available to, Customer or any Authorized User in connection with the use of any AI-Powered Services.

(d) “AI-Powered Services” means AI-powered technology made available to Customer by Octus. For clarity, “AI” means artificial intelligence.

(e) “APIs” means application programming interfaces made available to Customer by Octus excluding any Third Party Services.

(f) “Applicable Laws” means applicable local, state, national and foreign laws, treaties and regulations, including those relating to anti-bribery and data privacy.

(g) “Authorized Users” means the individuals who are authorized and permitted to use the Services as set forth in an applicable Order Form under “Authorized Users.”

(h) “Beta Services” means beta, free trial, demonstration, pre-release or similar versions of services made available to Customer by Octus excluding any Third Party Services.

(i) “Combination Event” means any event during the term of the Agreement pursuant to which Customer, or any of Customer’s Affiliates, by operation of law or otherwise, directly or indirectly (i) acquires all or substantially all of the stock or assets of a third party; (ii) has all or substantially all of Customer’s or Customer’s stock or assets acquired by a third party; (iii) undergoes a change in Control; (iv) merges with a third party; or (v) is subject to any similar transaction, where, in each case, such transaction results in additional usage or users of the Services pursuant to the Agreement.

(j) “Confidential Information” means, to the extent previously, presently or subsequently disclosed by or for either Party (the “Disclosing Party”) to the other Party (the “Receiving Party”) in connection with the Services or the Agreement, all financial, business, legal and technical information of the Disclosing Party or any of its Affiliates, suppliers, customers or employees (including information about research, development, operations, marketing, transactions, regulatory affairs, discoveries, inventions, methods, processes, articles, materials, algorithms, software, code, information technology, passwords, sign-on codes, specifications, designs (including network designs), drawings, data, strategies, plans (including business plans), prospects, know-how and ideas, whether tangible or intangible, and including all copies, abstracts, summaries, analyses and other derivatives thereof), that is marked or otherwise identified as proprietary or confidential at the time of disclosure, or that by its nature would be understood by a reasonable person to be proprietary or confidential. For clarity, all pricing information relating to the Services is Octus' Confidential Information, and the Customer Data is Customer’s Confidential Information. Confidential Information does not include any information that (i) was rightfully known to the Receiving Party without restriction before receipt from the Disclosing Party, (ii) is rightfully disclosed to the Receiving Party without restriction by a third party; (iii) is or becomes generally known to the public without violation of the Agreement; or (iv) is independently developed by the Receiving Party or its employees without access to or reliance on such information.

(k) “Control,” and its derivatives “Controlled” and “Controls,” means direct or indirect ownership of fifty percent (50%) or more of the stock or other equity or voting interests of an entity.

(l) “Customer Data” means any data, information or other material provided, uploaded, or made available by Customer and its Authorized Users to Octus in the course of using the Services, excluding Feedback and Aggregated Anonymous Data.

(m) “Economic Sanctions” means sanctions or restrictions under applicable United States, European Union, United Kingdom or other international law or regulation relating to economic or trade sanctions, including the executive orders and sanctions regulations administered by the Office of Foreign Assets Control.

(n) “Feedback” means suggestions, comments or other feedback submitted or made available to Octus with respect to the Services.

(o) “Fees” means fees for the Services as set forth in each Order Form.

(p) “Force Majeure Event” means any cause beyond the impacted Party’s reasonable control, including the elements; fire; flood; severe weather; earthquake; vandalism; accidents; sabotage; power failure; denial of service attacks or similar attacks; Internet failure; acts of God and the public enemy; acts of war; acts of terrorism; riots; civil or public disturbances; strikes lock-outs or labor disruptions; and any laws, orders, rules, regulations, acts or restraints of any government or governmental body or authority, civil or military, including the orders and judgments of courts.

(q) “Governing Laws” and “Governing Courts” mean the laws and courts set forth in the following tables, depending on the Octus Party or Octus Parties to the Agreement.

Octus Party	Governing Laws	Governing Courts
Octus Intelligence, Inc., FinDox Inc., or any Octus Party not otherwise listed in this table	Laws of the State of New York and the United States of America	Courts of New York County, New York of the United States District Court, Southern District of New York
Octus Intelligence Limited	Laws of England and Wales	Courts of England and Wales
Octus Intelligence Hong Kong Limited	Laws of Hong Kong	Courts of Hong Kong

If there are two or more Octus Parties to the Agreement:

Octus Parties	Governing Laws	Governing Courts
Any Two or More Octus Parties	Laws of the State of New York and the United States of America	Courts of New York County, New York of the United States District Court, Southern District of New York

(r) “Indemnitees” means a Party’s Affiliates and each of such Party’s and its Affiliates’ employees, contractors, directors, suppliers and representatives.

(s) “Losses” means liabilities, claims and expenses paid or payable to an unaffiliated third party (including reasonable attorneys’ fees).

(t) “Marks” means trademarks, service marks and trade names, and the goodwill associated therewith.

(u) “Octus Competitor” means any person or entity that is or becomes a competitor of Octus or its Affiliates or offers or begins to offer products or services that are competitive with those offered by Octus or its Affiliates.

(v) “Restricted Parties List” means any restricted parties list issued by any United States or foreign governmental entity or international organization.

(w) “Service Specific Terms” means additional terms and conditions applicable to the use of certain Services as identified in an applicable Order Form.

(x) “Services” means the services made available to Customer by Octus pursuant to an applicable Order Form including, as applicable, APIs, Beta Services, AI-Powered Services and any other software and Updates made available to Customer in connection with these services.

(y) “Subscription Term” means the term for which Services are provided as set forth in an applicable Order Form. If no Subscription Term is specified for a Service, the Subscription Term will be twelve (12) months from the Effective Date (as such term is defined in the applicable Order Form) of the applicable Order Form.

(z) “Third Party Services” means websites, data, application programming interfaces or other services made available by third parties not controlled by Octus.

(aa) “Third Party Terms” means the Third-Party Provider Additional Terms available at <https://octus.com/terms-3rdparty/>, as may be updated and amended from time to time.

(bb) “Update” means any upgrade, patch, enhancement, or fix for the Services that Octus makes available to its customers generally without additional charge.

## **2. Order Forms and Access to the Services**

- a. Order Forms. Upon entering into one or more Order Forms referencing these Master Terms, the terms of such Order Forms will be fully incorporated herein and made a part of the Agreement. Only those Services indicated in an applicable Order Form will be provided to Customer under the terms of the Agreement. To the extent that there is any conflict between these Master Terms and the terms of any Order Form, the Order Form will govern and control.
- b. Service Specific Terms. Customer's access to and use of certain Services are subject to Service Specific Terms, which are fully incorporated herein and made part of the Agreement. To the extent that there is any conflict between these Master Terms and the Service Specific Terms, the Service Specific Terms will govern and control. To the extent that there is any conflict between the Service Specific Terms and the terms of any Order Form, the Order Form will govern and control.
- c. Authorized Users; Account Security. The Services are provided to Customer by Octus solely for use by Authorized Users. Customer will not, and will require all Authorized Users not to, grant access to the Services to any person other than an Authorized User. Customer will, and will require all Authorized Users to, select secure and strong passwords for any accounts to access the Services. Customer will, and will require all Authorized Users to, implement and employ reasonable procedures and security measures to protect the confidentiality of Customer's and Authorized Users' username, password and any other account credentials. Customer will not, and will require all Authorized Users not to, share their account credentials. Customer is solely responsible for ensuring each Authorized User's compliance with the terms and conditions of the Agreement and will be liable for any violations of the Agreement by Authorized Users. Customer will provide Octus with information regarding each Authorized User prior to such Authorized User's receipt of access to the Services, including each Authorized User's full name, title, department, business email address, business phone number and primary business address.
- d. Octus Competitors. Notwithstanding anything to the contrary, Octus will have no obligation to, and Customer will not knowingly or intentionally, make the Services available to any Octus Competitor.
- e. Account Activity; Unauthorized Use. Customer is responsible for all usage or activity of Customer's and any Authorized User's account. Customer and each Authorized User will promptly notify Octus of any known or suspected unauthorized use of, or breach

of security with respect to, Customer's or any Authorized User's account or the Services, as well as any violation of the Agreement that would reasonably be expected to result in any such breach of security. Customer will cooperate with Octus in good faith and as reasonably necessary to remedy any unauthorized use of Customer's or any Authorized User's account or any security breach. Customer is also responsible for the use of the Services by any person that Customer knowingly or negligently enables or permits, even if Customer did not authorize such use.

- f. Service Availability. Customer acknowledges that access to the Services is subject to availability of a suitable internet connection, email account, computer equipment, and sufficiently available bandwidth at the time of Customer's or any Authorized User's attempted use or access. Customer and each Authorized User are solely responsible for procuring the necessary computer equipment, email account and internet connection required for accessing and using the Services and will bear all risk associated with their procurement and use thereof.
- g. Communications and Current Information. As part of or in connection with the Services, Customer and Authorized Users may receive communications, including email communications. Customer and each Authorized User must provide current and accurate contact information and promptly update Octus upon any changes to this contact information. If Customer or any Authorized Users fails to provide any of the foregoing, Customer and any such Authorized Users acknowledge and agree that certain Services or content may not be available to Customer or such Authorized Users.

### **3. Service Modifications and Updates**

Octus reserves the right to make changes to the Services at any time in Octus' sole discretion. Octus will give Customer reasonable prior notice of any changes to the Services that materially reduce the core functionality of the Services, other than, in each case, Beta Services, AI-Powered Services and Third Party Services. From time to time, Octus may also provide Updates, provided that Octus has no obligation to provide any such Updates.

### **4. Beta Services, APIs and Generative Artificial Intelligence Features**

- a. Beta Services. If Octus provides Customer with access to any Beta Services, then Customer acknowledges that such Beta Services may be experimental in nature.

- b. APIs. If Octus provides Customer with access to any APIs in connection with a Service, then, subject to Customer's compliance with the terms and conditions of the Agreement, Octus grants to Customer a limited, non-exclusive, personal, revocable, non-sublicensable, non-transferable right and license to internally access and use such APIs solely during the applicable Subscription Term and for Customer's internal business purposes in accordance with the terms and conditions of the Agreement.
- c. Generative Artificial Intelligence Features. Some Services or components thereof may be powered by AI. The content of the Services may also include AI Outputs. Customer and Authorized Users may, accordingly, interact with AI-Powered Services and AI Outputs in the course of utilizing the Services, and use of AI-Powered Services may generate AI Outputs. Octus hereby grants Customer a limited right to internally access and use the AI Outputs for Customer's internal business purposes in accordance with the terms and conditions of the Agreement.
- d. Use of AI Outputs. Customer acknowledges that AI Outputs may contain errors and misstatements and may be incomplete or inaccurate. Due to the nature of AI, it is possible that AI Outputs generated through Customer's or any Authorized User's use of any AI-powered components of the Services may be similar to AI Outputs generated through another Octus customer's use of the Services, or that the same input may result in different AI Outputs from one use to the next. Before leveraging any AI Outputs, Customer or any Authorized User is responsible for making its own determination that the AI Outputs are suitable, and Customer is solely responsible for any reliance on the accuracy, completeness, or usefulness of any AI Outputs. Neither Customer nor any Authorized User may: (i) use any automated or programmatic method to extract data or AI Outputs or to circumvent limits on AI Outputs, including scraping, web harvesting, or web data extraction; or (ii) represent that any AI Outputs were human-generated.

## **5. Ownership and Feedback**

- a. Services, Software and Content. As between the Parties, Octus and its licensors retain all right, title, and interest in and to the Services, including all software, APIs, AI Outputs, products, works, platforms and other intellectual property and moral rights related thereto, or created, used, or provided by Octus for the purposes of the Agreement, as well as all of Octus' Confidential Information, and any copies and derivative works of any of the foregoing. No rights or licenses are granted except as expressly and unambiguously set forth in the Agreement. Nothing in the Agreement

will impair Octus' right to develop, acquire, license, market, promote or distribute products, software or technologies that perform the same or similar functions as, or otherwise compete with any, products, software or technologies that Customer may develop, offer, produce, market, or distribute.

- b. Feedback. Customer hereby assigns, and agrees to assign to Octus, all right, title and interest in and to any Feedback. Any Feedback provided by Customer will not be shared with any third parties who have not been bound by confidentiality obligations consistent with the terms of the Agreement. If Feedback is designated as confidential by Customer, such designation will not by itself create any confidentiality obligation for Octus, provided that the Feedback is not attributed to Customer.
- c. Marks. Each Party's Marks will remain the sole and exclusive property of such Party. Except as explicitly provided in the Agreement with respect to attribution, neither Party (nor in the case of Customer, any Authorized User) may use the other Party's Marks without the other Party's express prior written consent. Notwithstanding the foregoing, Octus will not be restricted from using Customer's name or trade name in the ordinary course of Octus' and Octus' Affiliates' news gathering and/or reporting businesses, or Customer's Marks in connection with the presentation of the Services to Customer and Authorized Users.

## **6. Fees and Payment Terms**

- a. Fees. Customer will pay Octus the Fees in accordance with the terms of each Order Form. Unless otherwise specified in an Order Form, all Fees will be invoiced annually in advance and all invoices issued under the Agreement are payable in U.S. dollars within thirty (30) days from Customer's receipt of invoice. Except as otherwise expressly set forth in the Agreement, all Fees paid are non-refundable and are not subject to set-off.
- b. Past Due Invoices. Past due invoices are subject to interest on any outstanding balance at a rate equal to the lesser of: (i) 1.5% per month; and (ii) the maximum amount permitted by Applicable Laws.
- c. Continued Access and Late Renewals. If Customer or any Authorized User continues to access any Services after an applicable Subscription Term has ended and Octus, at Octus' sole option and discretion, permits such continued access, then: (i) Customer will pay for the continued access within thirty (30) days from Customer's receipt of



invoice at a daily rate equal to one hundred twenty five percent (125%) of the Fees for the Services in place immediately prior to the Subscription Term expiration divided by the number of days in the expired Subscription Term; and (ii) the terms and conditions of the Agreement will otherwise continue to apply. If Customer's subscription to the Services is renewed, the subscription renewal Fees that are agreed will supersede the foregoing daily rate but solely to the extent the renewed Subscription Term overlaps with the period of continued access and Octus will credit amounts paid by Customer for continued access to the Services against the subscription renewal Fees solely for such overlapping period.

- d. Combination Events. Upon the occurrence of any Combination Event, Customer will pay Octus additional Fees based on any additional usage or users as determined by Octus in Octus' reasonable discretion.
- e. Taxes. All Fees are expressed exclusive of, and Customer will be responsible for, all taxes associated with Services, including sales, use, transfer, privilege, excise, stamp and value added taxes and duties, but excluding taxes based on Octus' net income. If Octus has the legal obligation to pay or collect taxes or duties for which Customer is responsible, Customer will promptly reimburse Octus for any such amounts that Octus is obligated to pay or collect unless Customer provides Octus with a valid tax exemption certificate authorized by the appropriate taxing authority. If Customer is required to deduct or withhold any taxes or duties, then the amount payable by Customer will be increased as necessary to ensure that, after such deduction or withholding, Octus receives the amount which it would have received had no deduction or withholding been required.

## **7. Service Restrictions**

- a. General Restrictions. Except as expressly set forth in the Agreement, neither Customer nor any Authorized Users will, in whole or in part, modify, publish, republish, translate transmit, retransmit (including via any third-party content distribution platform), reproduce, participate in the transfer or sale of, create new works (including derivative works) from, distribute, perform, display, or in any way exploit or otherwise use, any of Octus' Confidential Information or any Services, including any images contained in the content of the Services.
- b. Specific Restrictions. Without limiting the foregoing and except as otherwise expressly set forth in the Agreement, neither Customer nor any Authorized Users will: (i) reverse

engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of any Services (except to the extent Applicable Laws specifically and expressly prohibit such restriction); (ii) copy, rent, lease, distribute, pledge, assign or otherwise transfer or encumber rights to any Services; (iii) use any Services or any of Octus' Confidential Information for the benefit of any third party or for the purpose of training any technology, including any language or AI models or offerings; (iv) remove, obscure, destroy or otherwise alter any proprietary markings, notices or labels contained in or accessible through the Services; (v) use any Services or any of Octus' Confidential Information to build or otherwise assist in the development of any models, tools, technology, compilations, databases, applications, offerings, products or services that are competitive with Octus or any Octus offerings; (vi) use any Services or AI Outputs in a manner that Octus reasonably determines may exceed reasonable request volume, constitute excessive or abusive usage, or otherwise fail to comply with any part of the Services; (vii) interfere or attempt to interfere with the proper working of any Services or any activities conducted on any Services; (viii) access or use any Services by any means other than through the interfaces provided by Octus; (ix) bypass any measures Octus may use to prevent or restrict access to any Services or other accounts, computer systems or networks connected to any Services; (x) use or interact with the Services in any manner that “crawls,” “scrapes,” or “spiders” any feature, page, data or portion of the Services; (xi) use any Services to engage in, promote or encourage illegal activity; or (xii) use any Services in a manner that violates Applicable Laws or any intellectual property, proprietary, confidentiality, privacy, contractual or other rights of any third party.

- c. Breach of Restrictions. Without limiting any and all other remedies available to Octus, any breach of this Section 7 will constitute a material breach of the Agreement and be grounds, at Octus' option, for immediate termination of the Agreement and/or Customer's or any Authorized Users' access to the Services. If Customer or any Authorized User knowingly or negligently allows any person or entity that has not been authorized by Octus to access the Services, then, as compensation and without limiting any remedy available to Octus, Customer will be liable to Octus for an amount equal to the fees and any other amounts to which Octus would have been entitled had there been an agreement in place between Octus and such unauthorized person or entity, calculated at Octus' then-current rates for the period of unauthorized access.

## **8. Customer Data and Security**

- a. Ownership of Customer Data. Customer will retain all right, title and interest in and to the Customer Data, including all intellectual property rights therein. Customer will have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, intellectual property ownership and rights to use of all Customer Data. Customer represents and warrants that it has all rights necessary to provide the Customer Data to Octus for Octus' use as contemplated in the Agreement, without, in each case, any infringement, violation or misappropriation of any intellectual property, proprietary, confidentiality, privacy, contractual or other rights of any third party.
- b. Security. Octus will use commercially reasonable efforts to maintain the security and integrity of the Customer Data by implementing and maintaining reasonable, industry standard security measures, including standard systems and procedures designed to test and monitor Octus' systems and detect, prevent and respond to attacks, intrusions or other systems failures and a practice of regularly assessing the sufficiency of Octus' security systems, policies and procedures, in each case as appropriate to the nature of the Customer Data. If either Octus, on the one hand, or Customer or any Authorized User, on the other hand, become aware that any confidential Customer Data is accessed or disclosed without authorization, such Party will notify the other Party of such unauthorized access or disclosure without undue delay and cooperate with the other Party in the exercise of commercially reasonable efforts to remediate such unauthorized access or disclosure to the extent that such remediation is within such Party's control.
- c. Use of Customer Data. Notwithstanding anything to the contrary, Customer agrees that Octus may (i) internally use and modify, but not disclose, Customer Data for the purposes of (w) providing the Services to Customer, (x) authenticating Customer's and Authorized Users' identities, including their respective computers and networks, (y) analyzing usage of the Services, and (z) generating Aggregated Anonymous Data; (ii) use, retain and make available Aggregated Anonymous Data for Octus' business purposes (including for purposes of developing, improving, testing, operating, promoting and marketing Octus' and its Affiliates' products and services); and (iii) otherwise use Customer Data as permitted by and in the manner expressly set forth in the Agreement.

## **9. Confidentiality**

- a. Restrictions. The Receiving Party will treat and protect the Disclosing Party's Confidential Information as confidential, using no less care than the degree of care the Receiving Party would use to protect and preserve its own Confidential Information of like importance (but in no event less than a reasonable degree of care). The Receiving Party will not use the Disclosing Party's Confidential Information for any purpose not expressly permitted in the Agreement. The Receiving Party will promptly notify the Disclosing Party of any actual or suspected misuse or unauthorized disclosure of any of the Disclosing Party's Confidential Information. For clarity, nothing in the Agreement will limit the use of information obtained in the ordinary course of Octus' or an Octus Affiliate's news gathering and/or news reporting business, even if such information is the same as, or similar to, Confidential Information.
- b. Compelled Disclosures. The foregoing restrictions will not prevent either Party from complying with any law, regulation, court order or other legal requirement that compels disclosure of any Confidential Information. The Receiving Party will, if permitted by Applicable Laws, promptly notify the Disclosing Party upon learning of any such legal requirement and reasonably cooperate with the Disclosing Party (at such Party's sole expense) in the exercise of its right to protect the confidentiality of the Confidential Information before any court, tribunal or governmental agency. No such notice will be required in connection with any disclosure of Confidential Information in connection with a routine regulatory or supervisory authority review or examination of the Receiving Party that does not specifically target the Disclosing Party or the Disclosing Party's Confidential Information.

## **10. Third Party Services**

As a part of accessing and using the Services, Customer and Authorized Users may have access to certain Third Party Services. Customer is solely responsible for procuring any and all rights necessary for it to access Third Party Services and for complying with any terms and conditions applicable to the Third Party Services. Use of Third Party Services may be subject to the Third Party Terms, as they may be updated and amended from time to time, and such terms are, as applicable, fully incorporated into the Agreement by reference. To the extent that there is any conflict between these Master Terms or any Service Specific Terms and the Third Party Terms, the Third Party Terms will govern and control. Octus is not responsible for the operation of any Third Party Services and does not make any representations or warranties with respect to Third Party Services or any third party providers. Any exchange of data or other interaction between Customer and a third party provider is solely between Customer and such third party provider and is governed by such third party's terms and

conditions. Any concerns or questions related to Third Party Services should be directed to the applicable third party providers.

## **11. Term and Termination**

- a. Term. The Agreement will commence upon the earlier of: (i) the date of the first Order Form issued hereunder, and (ii) the earliest start date of a Subscription Term set forth on an applicable Order Form. Unless earlier terminated in accordance herewith, the term of the Agreement will continue until the expiration of all Subscription Terms.
- b. Termination for Cause. In the event of a material breach of the Agreement by either Party, the non-breaching Party may terminate the Agreement either in full or in part with respect to any impacted Services by providing the breaching Party with thirty (30) days' prior written notice of such breach; provided that the breach is not materially cured within this thirty (30) day notice period.
- c. Additional Termination Rights. Either Party may terminate the Agreement upon notice to the other Party if: (i) a Force Majeure Event impacts the other Party's performance of obligations pursuant to the Agreement for a period of thirty (30) or more consecutive days; or (ii) any proceeding is instituted by or against the other Party under the United States Bankruptcy Code or any other foreign, federal or state bankruptcy, receivership, insolvency or other similar law affecting the rights of creditors generally that is not dismissed within sixty (60) days of the commencement thereof.
- d. Access Suspension. Without limiting Octus' termination rights and remedies hereunder, Octus may suspend or limit Customer's or any Authorized User's access to or use of the Services if (i) Customer's payment obligations are more than ten (10) days past due; or (ii) Octus determines, in its reasonable discretion, that Customer's use of the Services is likely to result in: (w) a breach of security, (x) harm to Octus or its Affiliates, (y) degradation of or damage to the Services or (z) breach of the Agreement. If Octus suspends or limits Customer's or any Authorized User's access to or use of the Services in accordance with subsection (ii) of the preceding sentence, Octus will use commercially reasonable efforts to promptly notify Customer or the affected Authorized User of the issue(s) giving rise to the suspension or limitation, and reinstate use of or access to the Services, as applicable, when Customer has sufficiently resolved the issue(s).

- e. Effect of Termination. Upon the earlier of (i) the termination or expiration of the Agreement; and (ii) the termination or expiration of the applicable Subscription Term, Octus may terminate access to the Services. Sections 1 (Definitions), 2 (Order Forms and Access to the Services), 4(d) (Use of AI Outputs), 5 (Ownership and Feedback), 6 (Fees and Payment Terms) with respect to any payment obligations that arise on or prior to the effective date of termination, 7 (Service Restrictions), 8 (Customer Data and Security), 9 (Confidentiality), 10 (Third Party Services), 11(e) (Effect of Termination), 12 (Representations and Warranties; Disclaimer), 13 (Indemnification), 14 (Limitation of Liability) and 15 (Miscellaneous), and all other provisions of these Master Terms which by their nature should survive termination will survive termination, including accrued payment obligations, ownership provisions, warranty disclaimers, indemnity and limitations of liability. If Customer terminates the Agreement for Octus' material breach, Customer will be entitled to a pro rata refund of any Fees it has prepaid for Services for the remaining portion of the applicable Subscription Term. For clarity, if Octus terminates the Agreement for Customer's material breach, Customer will remain liable for the Fees for the full Subscription Term without any refund.

## **12. Representations and Warranties; Disclaimer**

- a. General Representations and Warranties. Each Party represents and warrants that (i) it is authorized to enter into and execute the Agreement; (ii) the Agreement is enforceable against such Party; and (iii) it will perform its obligations under the Agreement and, with respect to Customer, access and use (and require all Authorized Users to access and use) the Services, in compliance with all Applicable Laws.
- b. Service Warranty. Octus represents and warrants that Octus will provide the Services to Customer and Authorized Users using reasonable care and skill; provided, however, that Octus has no obligation or liability to support any Services if Customer fails to implement an Update to such Services; provided, further, that this Section 12(b) does not apply to Beta Services or Third Party Services.
- c. Regulatory Compliance. Each Party represents and warrants that neither it, nor in the case of Customer, any Authorized User, is the subject or target of Economic Sanctions or listed on any Restricted Parties Lists. Customer also represents and warrants that it will not, and it will require all Authorized Users not to, access or use the Services from or on behalf of any third party located in a location embargoed under United States Economic Sanctions, or to service, directly or indirectly, an embargoed location or any

entity targeted by Economic Sanctions or appearing on any Restricted Parties Lists.

- d. Disclaimers. EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, THE SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE” AND ARE WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE, USAGE OF TRADE, OR COURSE OF DEALING, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED.

### **13. Indemnification**

- a. Customer’s Indemnity Obligations. Customer will defend, indemnify, and hold harmless Octus and its Indemnitees from and against all Losses that arise from or relate to (i) the Customer Data, or Octus' access thereto or use thereof in accordance with the terms of the Agreement; (ii) Customer’s or any Authorized User’s breach of Section 7; or (iii) Customer’s or any Authorized User’s use of Third Party Services in breach of the Agreement.
- b. Octus’ Indemnity Obligations; Services Infringement. Octus will defend, indemnify, and hold harmless Customer and its Indemnitees from and against all Losses that arise from or related to any allegation that the Services infringe, violate, or misappropriate any third party intellectual property or proprietary right. If the Services become or, in Octus' opinion, may become the subject of any injunction preventing use as contemplated herein, Octus may, at its option (i) obtain for Customer the right to continue using the Services; or (ii) replace or modify the infringing portions of the Services so that it becomes non-infringing without substantially compromising its principal functions. If options (i) and (ii) of the foregoing sentence are not reasonably available to Octus, then Octus may terminate the Agreement with respect to the infringing aspects of the Services upon written notice to Customer and refund to Customer any Fees for the Services that were pre-paid for the then-current term, pro-rated for the remainder thereof in respect of such infringing aspects of the Services. This Section 13(b) states the entire liability of Octus, and Customer’s exclusive remedy, with respect to any actual or alleged violation of intellectual property or proprietary rights by the Services or any part thereof or the use or operation thereof.



- c. Excluded Claims. Notwithstanding anything to the contrary, Octus' indemnity obligations under Section 13(b) do not apply to any Losses arising from or in connection with (i) any information or data created in accordance with Customer specifications or not created or provided by Octus (including any Customer Data); (ii) any modification, alteration or enhancement of the Services or information or data provided via the Services in accordance with Customer specifications or by any party other than Octus; (iii) any combination of the Services or information or data provided via the Services with any other information, data, products, processes, materials or services not provided by Octus (where the alleged Losses arise from or relate to such combination); (iv) Customer's failure to implement any Update, or continuation of allegedly infringing activity after being notified thereof or after being provided modifications, alterations or enhancements that in each case would have avoided the alleged infringement; or (v) Customer's use of the Services not strictly in accordance with the Agreement. Notwithstanding anything to the contrary, Octus will have no obligation under Section 13(b) with respect to Third Party Services.
- d. Indemnification Procedure. Each Party's indemnification obligations hereunder will be conditioned upon the indemnified Party and/or its applicable Indemnitees providing the indemnifying Party with: (i) prompt written notice of any claim (provided that a failure to provide such notice will only relieve the indemnifying Party of its indemnity obligations to the extent that the indemnifying Party is materially prejudiced by such failure); (ii) the option to assume sole control over the defense and settlement of any claim (provided that the indemnified Party and/or its applicable Indemnitees may participate in such defense and settlement at its or their own expense); and (iii) reasonable information and assistance in connection with such defense and settlement (at the indemnifying Party's expense).

#### **14. Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED BY LAW, AND EXCEPT FOR THE PARTIES' INDEMNIFICATION OBLIGATIONS, THE GROSS NEGLIGENCE (AS SUCH TERM IS DEFINED UNDER NEW YORK LAW, NOTWITHSTANDING THE APPLICABLE GOVERNING LAWS) OR WILLFUL MISCONDUCT OF EITHER PARTY, CUSTOMER'S BREACH OF ITS PAYMENT OBLIGATIONS HEREUNDER AND/OR ANY BREACH OF SECTION 7, IN NO EVENT WILL EITHER PARTY, NOR ITS DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, SUPPLIERS OR CONTENT PROVIDERS, BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE SUBJECT MATTER OF THE AGREEMENT (A) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF



SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (HOWEVER ARISING); OR (B) FOR AGGREGATE DAMAGES IN EXCESS OF THE FEES PAID (OR PAYABLE) BY CUSTOMER TO OCTUS HEREUNDER IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO A CLAIM. FOR CLARITY, IF THERE IS MORE THAN ONE OCTUS ENTITY THAT IS PARTY TO THE AGREEMENT, THE PARTIES ACKNOWLEDGE AND AGREE THAT ONLY THE OCTUS PARTY THAT IS LISTED ON THE ORDER FORM AS THE CONTRACTING PARTY FOR A PARTICULAR SERVICE WILL BE LIABLE FOR ANY CLAIM ARISING FROM THE USE OF SUCH SERVICE.

## **15. Miscellaneous**

- a. Entire Agreement, Amendments and Modifications. The Agreement is the entire agreement between Customer and Octus with respect to the subject matter hereof and supersedes all prior or contemporaneous communications and proposals (whether oral, written or electronic) between Customer and Octus with respect thereto. Except as otherwise provided herein, no modification or amendment of any provision of the Agreement will be effective unless agreed upon by both Parties in writing. No waiver of any provision of the Agreement will be effective unless in writing and signed by the waiving Party. The failure of either Party to act with respect to a breach of the Agreement by the other Party, or any failure or delay in enforcing any right or remedy, will not constitute a waiver and will not limit such Party's rights with respect to such breach or right or any subsequent breaches or rights hereunder.
- b. Interpretation, Remedies and Severability. Headings or titles to sections or subsections in the Agreement are for convenience of reference only and will not affect the meaning or interpretation of the Agreement or any part hereof. In the Agreement, unless otherwise specified: (i) "includes" and "including" will mean, respectively, includes and including without limitation; (ii) words denoting singular will include the plural and vice versa and words denoting any gender will include all genders as the context requires; (iii) general words will not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things; (iv) all references to Applicable Laws are to be construed as references to those Applicable Laws, or any provisions thereof, as the same may have been or may from time to time hereafter be amended or re-enacted; and (v) references to "days" will mean calendar days unless otherwise indicated. The rights and remedies of the Parties are cumulative and not alternative. If any provision of the Agreement is held to be unenforceable for any reason, such provision will be reformed only to the

extent necessary to make it enforceable.

- c. Consent to Communications. Customer agrees that Octus may send electronic messages (including via the Services) and/or paper mail to Customer for the purpose of informing Customer of updates, changes or additions to the Services or the Agreement. Customer further agrees that from time to time Octus may contact Customer via electronic messages or paper mail for the purpose of soliciting Feedback or participation in user surveys relating to the Services. Customer will have no obligation to provide Feedback or participate in or respond to any such survey.
- d. Governing Law and Dispute Resolution. The Agreement will be governed by and construed in accordance with the Governing Laws, without regard to the conflicts of laws provisions thereof. Any controversy, claim or dispute arising out of or relating to the Agreement or breach thereof will be submitted to the Governing Courts. The prevailing Party in any action or proceeding to enforce the Agreement will be entitled to recover from the other Party its costs and expenses (including reasonable attorneys' fees) incurred in connection with such action or proceeding and enforcing any judgment or order obtained.
- e. Notices. All notices of amendment, alleged breach, alleged infringement, suspected unauthorized use of Confidential Information, compelled disclosures, claims for indemnification, termination, non-renewal, or proposed assignment, transfer or delegation of the Agreement or any rights or obligations under the Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; or when receipt is electronically confirmed, if transmitted by e-mail. Notices to Customer must be sent to the Customer contact set forth on the Order Form and notices to Octus must be sent to [octuslegal@octus.com](mailto:octuslegal@octus.com). Either Party may update its contact email address or address by giving notice in accordance with this section. Notwithstanding the foregoing, notice of scheduled maintenance, routine updates and other notices hereunder can be provided in accordance with Section 15(c) without the need to provide formal notice in accordance with this Section 15(e).
- f. Assignment. Neither Party may assign, transfer or delegate the Agreement or any of its rights or obligations hereunder without the other Party's consent; provided that (i) either Party may assign all of its rights and obligations hereunder without such consent to an Affiliate or to a successor-in-interest in connection with a sale or

reorganization of substantially all of such Party's business relating to the Agreement; and (ii) Octus may utilize subcontractors in the performance of its obligations hereunder provided that Octus remains responsible for the performance of such obligations. Notwithstanding the foregoing, in no event may Customer assign, transfer or delegate the Agreement or any of its rights or obligations hereunder to an Octus Competitor. Any assignment in violation of this Section 15(f) is and will be null and void, *ab initio*. The Agreement will be binding upon and inure solely to the benefit of the Parties and their respective permitted successors or assigns.

- g. No Third Party Beneficiaries. Except as expressly set forth herein no party will be deemed a third party beneficiary to the Agreement and for clarity (i) if the Governing Law is the laws of England and Wales, a person who is not a Party to the Agreement has no rights (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any provision of the Agreement; and (ii) if the Governing Law is the laws of Hong Kong, a person who is not a Party to the Agreement has no rights under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the laws of Hong Kong) or otherwise to enforce any of its terms.
- h. Force Majeure. Except for payment obligations, neither Party will be liable for any failure to perform its obligations hereunder where such failure results from any Force Majeure Event.
- i. Equitable Relief. Each Party understands and agrees that money damages alone may not constitute a sufficient remedy for any breach of the obligations of Sections 7 and 9 and that the non-breaching Party will be entitled to seek specific performance and injunctive relief, without the necessity of posting a bond or other security, as remedies for any such breach.
- j. Relationship of the Parties. No agency, partnership, joint venture, or employment relationship is created as a result of the Agreement and neither Party has any authority of any kind to bind the other in any respect.
- k. Execution and Counterparts. The Agreement may be executed in counterparts (which may be signed and exchanged electronically), each of which will be deemed an original, but which together will constitute one and the same instrument.