

# Occuspace Terms of Use

Effective Date: November 1, 2020

Hello and welcome to Occuspace and Waitz (collectively, "Occuspace"). We hope you enjoy using our product and service and look forward to your support and hearing from you with any feedback or suggestions. Please don't hesitate to contact us at [support@occuspace.io](mailto:support@occuspace.io)

Occuspace, Inc. and/or its affiliates, assigns, successors and/or agents (collectively "Occuspace," "Company," "we," "us," and "our") makes available its software, hardware, and service under these Terms of Use ("Terms" or "Agreement") so please read them carefully as they affect your rights. "You" and "your" refer to you, as a user of the Service or Account holder. A "user" is someone who access or in any way uses the Service or creates an Account.

BEFORE YOU PROCEED, PLEASE READ THE TEXT MESSAGING AND NOTIFICATIONS SECTION BELOW THAT YOU CONSENT TO RECEIVE TEXT MESSAGES, INCLUDING SMS AND MMS, NOTIFICATIONS, CALLS USING ARTIFICIAL OR PRERECORDED VOICE MESSAGES, AND AUTOMATIC DIALING TECHNOLOGY FOR TELEMARKETING AND ALL OTHER PURPOSES NOT PROHIBITED BY APPLICABLE LAW.

These Terms govern your access to and use of our products and services, including those offered through our Waitz mobile application, websites, communications (e.g., emails, phone calls, telemarketing, and texts), third party partners, other applications or platforms by Company, and Hardware (as defined below) (collectively, the "Service"). Hardware devices may receive radio frequency signals from any device you own that transmits an anonymized or personally identifiable signal and will be processed by the Service. By accessing or using the Service, you are agreeing to these Terms, which form a legally binding contract with Occuspace, Inc., a Delaware corporation with its headquarters in San Diego, California.

IT IS IMPORTANT YOUR REVIEW THE ARBITRATION AGREEMENT SET FORTH BELOW CAREFULLY, AS IT WILL REQUIRE YOU TO RESOLVE DISPUTES WITH OCCUSPACE ON AN INDIVIDUAL BASIS THROUGH FINAL AND BINDING ARBITRATION. BY ENTERING THIS AGREEMENT, YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND ALL OF THE TERMS OF THIS AGREEMENT AND HAVE TAKEN TIME TO CONSIDER THE CONSEQUENCES OF THIS IMPORTANT DECISION.

By accessing or using the Services, you confirm your agreement to be bound by these Terms. If you do not agree to these Terms, you may not access or use the Services. These Terms expressly supersede prior agreements or arrangements with you. Occuspace may immediately terminate these Terms or any Services with respect to you, or generally cease offering or deny access to the Services or any portion thereof, at any time for any reason.

BY ACCESSING OR USING THE SERVICES, YOU CONFIRM THAT COMPANY MAY USE ANY OF YOUR NON-IDENTIFIABLE DATA IN ANY FORM FOR ITS SERVICE. TO ACCESS CERTAIN FEATURES OF THE SERVICE, YOU MAY NEED TO PROVIDE PERSONAL INFORMATION AND IF YOU CHOOSE TO DO SO, THE COMPANY WILL NOT SHARE PERSONALLY IDENTIFIABLE INFORMATION WITHOUT YOUR CONSENT.

IF YOU DO NOT AGREE TO ANY OF THESE TERMS AND OUR PRIVACY POLICY, PLEASE DO NOT USE OCCUSPACE OR ANY SERVICE FROM OCCUSPACE.

## DEFINITIONS

“Data” means any and all forms of information, text, signals, photos, videos, images, messages, and other forms of information or data that is used, collected, transmitted or in any way connected with the Service.

“Hardware” means the electronic sensors, physical devices, related equipment, supporting equipment, and integrated third party components offered by Occuspace.

“Intellectual Property” means all patents, copyrights, moral rights, trademarks, trade names, service marks, trade dress, trade secrets and any other form of intellectual property rights now or hereafter recognized in any jurisdiction, including applications and registrations for any of the foregoing.

“Account” means any personal account you create in order to access or use the Service. Your Account is for your personal, non-commercial use only, and you may only have one Account. You must be at least 18 years of age, or the age of legal majority in your jurisdiction, if different than 18, to obtain an Account, unless a specific Service permits otherwise. You may not create or use an Account for anyone other than yourself. Account registration requires you to submit certain personal information. You will provide complete and accurate information about yourself when creating an Account when using the Service. You may not impersonate someone else, provide an email address other than your own, create multiple Accounts, or transfer your Account to another person. Your failure to maintain accurate, complete, and up-to-date Account information, may result in your inability to access or use the Services. You are responsible for all activity that occurs under your Account, and you agree to maintain the security and secrecy of your Account username and password at all times. Failure to comply with any Account rules may result in an immediate suspension or termination of your Account. You agree to notify us immediately of any unauthorized use of your Account. We reserve the right to close your Account at any time for any or no reason. Unless otherwise permitted by Occuspace in writing, you may only possess one Account.

## CHANGES TO THE TERMS

We may modify the Terms from time to time. The most current version of the Terms will be located here. You understand and agree that your access to or use of the Service is governed by the Terms effective at the time of your access to or use of the Service. If we make material changes to these Terms, we will make reasonable efforts to notify you by email, regular mail, text message, in-app messaging, or other means as long as you have provided us your contact information. You should revisit these Terms on a regular basis as revised versions will be binding on you. You understand and agree that your continued access to or use of the Service after the effective date of changes to the Terms represents your acceptance of such changes. If you use our Service anonymously or do not provide us an accurate contact method, you should review these Terms on a regular basis or every time you use the Service. If you do not agree to these Terms or any modification of these Terms, your sole remedy is to discontinue your use of the Service.

## USER REQUIREMENTS

The Service is not available for use by persons under the age of 18. You may not authorize third parties to use your Account, and you may not allow persons under the age of 18 to use your Account or Service unless they are accompanied and supervised by you at all times while using your Account or Service. You may not assign or otherwise transfer your Account to any other person or entity. You may not in your access or use of the Services cause nuisance, annoyance, inconvenience, theft, or harm, whether to the Third Party Provider or any other party. In certain instances you may be asked to provide proof of identity or other method of identity verification to access or use the Services, and you agree that you may be denied access to or use of the Services if you refuse to provide proof of identity or other method of identity verification.

## USING THE SERVICE

To access or use the Service, you must have the power and authority to enter into these Terms. You may not access or use the Service if Company has banned you from the Service, if Company has closed your Account, if you do not own a valid Account, if Company has notified you to not use the Service, or if Company has notified you to not use any other product or service offered by Occuspace.

- Company reserves the right to modify, update, interrupt, suspend or discontinue the Service at any time without notice or liability.
- Company grants you permission to use the Service subject to these Terms and your use of the Service is at your own risk, including the risk that you might be exposed to Content that is offensive, inaccurate, objectionable, incomplete, inappropriate, or lacks adequate warnings and risks.
- You agree to comply with all applicable laws when accessing or using the Services, and you may only access or use the Services for lawful purposes.

Your right to access and use the Service is personal to you and is not transferable by you to any other person or entity. Accurate records enable Occuspace to provide the Service to you. In order for the Service to function effectively, you must also keep your Account up to date and accurate. If you do not do this, the accuracy and effectiveness of the Service to you will be affected.

Your access and use of the Service may be interrupted from time to time for any of several reasons, including, without limitation, the malfunction of equipment, periodic updating, maintenance or repair of the Service or other actions that Occuspace, in its sole discretion, may elect to take.

You agree that Occuspace may use your feedback, suggestions, or ideas in any way, including in future modifications of the Service, other products or services, advertising or marketing materials. You grant Occuspace a perpetual, worldwide, fully transferable, sublicensable, irrevocable, fully paid-up, royalty free license to use the feedback you provide to Occuspace in any way.

## RESTRICTIONS

You represent, warrant, and agree that you will not contribute any content or otherwise use the Services or interact with the Services in a manner that:

- Infringes or violates the Intellectual Property rights or any other rights of anyone else (including Occuspace);
- Violates any law or regulation or this Agreement;
- Is harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable;
- Jeopardizes the security of your Occuspace Account or anyone else's (such as allowing someone else to log in to the Services as you);
- Attempts, in any manner, to obtain the password, account, or other security information from any other user;
- Violates the security of any computer network, or cracks any passwords or security encryption codes;
- Runs Maillist, Listserv, any form of auto-responder or "spam" on the Services, or any processes that run or are activated while you are not logged into the Services, or that otherwise interfere with the proper working of the Services (including by placing an unreasonable load on the Services' infrastructure) or that would bypass the navigational structure or presentation of the Service;
- "Crawls," "scrapes," or "spiders" any page, data, or portion of or relating to the Services or Content (through use of manual or automated means);
- Copies or stores any significant portion of the Content;
- Link to, mirror or frame any portion of the Services;

- Decompiles, reverse engineers, or otherwise attempts to obtain the source code or underlying ideas or information of or relating to the Services; or
- Circumvent, removes, alters, deactivates, degrades or thwarts any technological measure or content protections of the Service.

A violation of any of the foregoing is grounds for termination of your right to use or access the Services.

## TEXT MESSAGING AND NOTIFICATIONS

BY ACCESSING OR USING THE SERVICE, YOU CONSENT TO RECEIVE TEXT MESSAGES, INCLUDING SMS AND MMS, NOTIFICATIONS, CALLS USING ARTIFICIAL OR PRERECORDED VOICE MESSAGES, AND AUTOMATIC DIALING TECHNOLOGY FOR TELEMARKETING AND ALL OTHER PURPOSES NOT PROHIBITED BY APPLICABLE LAW FOR ANY ELECTRONIC OR PHYSICAL ADDRESSES THAT YOU HAVE PROVIDED IN CONNECTION WITH YOUR ACCOUNT. YOU ALSO UNDERSTAND THAT YOU MAY BE CHARGED BY YOUR PHONE CARRIER FOR CERTAIN COMMUNICATIONS SUCH AS SMS MESSAGES, MMS MESSAGES, OR PHONE CALLS. You certify that the mobile telephone numbers that you have provided to us is your personal contact number from a valid U.S. carrier in good standing. Your consent, provided by accepting these Terms and using the Service, will be effective even if the number you have provided is registered on any state or federal Do-Not-Call (DNC) list. This consent for telemarketing calls and texts shall remain in effect until you revoke it. You may revoke your consent at any time. Your consent to telemarketing calls and texts may be revoked by following any of the opt-out methods described below, or by any other method that ensures we receive the revocation.

You may revoke your consent to receive marketing phone calls (calls other than to verify or service your Account or collect any amounts you may owe), by sending an email with your mobile phone number and the subject line "Opt-Out" to support@Occuspace.io. You may also revoke your consent and opt out to receive marketing text messages by replying STOP from the mobile device receiving the messages. You may continue to receive text messages for a short period while we process Your request, and You may also receive text, email, or other forms of messages confirming the receipt of your opt-out request.

## LICENSE

Subject to your compliance with these Terms, Occuspace grants you a limited, non-exclusive, non-sublicensable, revocable, non-transferable license to: (i) access and use the Services on your personal device solely in connection with your Account; and (ii) access and use any Content, information and related materials that may be made available through the Services, in each case solely for your personal, noncommercial use. Any rights not expressly granted herein are reserved by Occuspace and Occuspace's licensors.

You agree Company will not be responsible for any malfunctions, errors or downtime of the Service You agree Company will not be responsible for any malfunctions, errors, data inaccuracies, or improper results.

You understand and acknowledge Company reserves the right to terminate this Agreement with you at any time for any reason.

## DATA OWNERSHIP

Company grants you a limited, non-exclusive, non-transferable, non-sublicensable right to Company provided Data only for legal and personal use. You may not adapt, modify, redistribute, sublicense, sell, or make available any portion of Company Data in whole, part, any derivative, or derived works related to the Data from the Service. Upon termination of this Agreement by you or Company, you agree to return or destroy all copies of any Company Data in your possession in any form or media. You agree that Company may use any Data in a non-identifiable form for its Service, reports, analysis, case studies, and Data products.

## APPLE APP STORE AND GOOGLE PLAY STORE

The following Terms apply to you if you are using the Waitz mobile application as part of the Service from the Apple App Store or Google Play Store. To the extent the other Terms of the rest of this Agreement conflict with the Terms of this paragraph, the Terms in this paragraph apply, but solely with respect to your use of the Waitz mobile application from the Apple App Store or Google Play Store as part of the Service:

- You acknowledge and agree that this Agreement is solely between you and Occuspace, not Apple or Google, and that Apple and Google have no responsibility for the Service or content thereof. You acknowledge that Apple and Google have no obligation whatsoever to furnish any maintenance and support services with respect to the Service.
- Your use of the Service must comply with the applicable Apple App Store or Google Play Store Terms of Use.
- To the maximum extent permitted by applicable law, Apple or Google will have no other warranty obligation whatsoever with respect to the Service, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be solely governed by this Agreement.
- You and Occuspace acknowledge that Apple and Google are not responsible for addressing any claims of yours or any third party relating to the Service or your possession and/or use of the Service, including, but not limited to: (a) product liability claims, (b) any claim that the Service fails to conform to any applicable legal or regulatory requirement, and (c) claims arising under consumer protection or similar legislation.
- You and Occuspace acknowledge that, in the event of any third party claim that the Service or your possession and use of the Service infringes that third party's intellectual property rights, Occuspace, not Apple or Google, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement.
- You must comply with applicable third party terms of agreement when using the Service.
- You and Occuspace acknowledge and agree that Apple and Google, and their subsidiaries, as applicable, are third party beneficiaries of this Agreement as it relates to your license and use of the Service, and that, upon your acceptance of this Agreement, Apple or Google (as applicable) will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third party beneficiary thereof.

## INFORMAL DISPUTE RESOLUTION

We would like an opportunity to address your concerns without a formal legal case. Before filing a claim against Company, you agree to try to resolve the dispute informally by sending an email with your mobile phone number and the subject line "Occuspace Dispute" to support@Occuspace.io. We will try to resolve the dispute informally by contacting you in writing via email. If a dispute is not resolved within 30 days of submission to Company, then you or Company may bring a formal proceeding. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, and attorneys are confidential, privileged and inadmissible for any purpose, including as evidence of liability or for impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

## ARBITRATION AGREEMENT

BY ACCEPTING THESE TERMS, ANY CLAIM, CAUSE OF ACTION, REQUEST FOR RELIEF OR DISPUTE THAT MIGHT ARISE BETWEEN YOU AND OCCUSPACE ("CLAIMS") MUST BE RESOLVED BY ARBITRATION ON AN INDIVIDUAL BASIS AS SET FORTH IN THIS ARBITRATION AGREEMENT. YOU AND OCCUSPACE AGREE THAT EACH MAY BRING OR PARTICIPATE IN CLAIMS AGAINST THE OTHER ONLY IN OUR RESPECTIVE INDIVIDUAL CAPACITIES, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY

PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. UNLESS BOTH YOU AND OCCUSPACE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN THE CLAIMS OF OTHER PERSONS OR PARTIES WHO MAY BE SIMILARLY SITUATED, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING. YOU AND OCCUSPACE EXPRESSLY WAIVE THE RIGHT TO TRIAL BY A JURY.

## AGREEMENT TO BINDING ARBITRATION

You and Occuspace agree that any dispute, claim or controversy arising out of or relating to (a) these Terms or the existence, breach, termination, enforcement, interpretation or validity thereof, or (b) your access to or use of the Services at any time, whether before or after the date you agreed to the Terms, will be settled by binding arbitration between you and Occuspace, and not in a court of law. You acknowledge and agree that you and Occuspace are each waiving the right to a trial by jury or to participate as a plaintiff or class member in any purported class action or representative proceeding. Unless both you and Occuspace otherwise agree in writing, any arbitration will be conducted only on an individual basis and not in a class, collective, consolidated, or representative proceeding.

## EXCEPTIONS TO ARBITRATION

The following type of Claims shall not require arbitration: (a) Claims brought by you or Occuspace that could be brought in small claims court, if permitted by the rules of that court, or (b) Claims related to intellectual property, copyrights, trademarks, trade secrets, or patents. Any issues relating to the scope and enforceability of the arbitration provision will be resolved by the arbitrator. If any Claim cannot be arbitrated in accordance with this provision, then only that Claim may be brought in court and all other Claims remain subject to arbitration.

Claims that cannot be arbitrated must be brought in court. California law will govern these Terms (to the extent not preempted or inconsistent with federal law), as well as any such Claim that cannot be arbitrated, without regard to conflict of law provisions. You or Occuspace may seek relief in any small claims court of competent jurisdiction. All other Claims that cannot be arbitrated are subject to the exclusive jurisdiction in, and the exclusive venue of, the state and federal courts located within San Diego County, California and you consent to the personal jurisdiction of these courts for the purpose of litigating any such Claim.

## RULES AND GOVERNING LAW

Arbitration shall be administered by the American Arbitration Association ("AAA") in accordance with its Consumer Arbitration Rules then in effect. For more information, visit [www.adr.org](http://www.adr.org). Arbitration may be conducted in person, through the submission of documents, by phone or online. The arbitrator may award damages to you individually as a court could, including declaratory or injunctive relief, but only to the extent required to satisfy your individual claim.

You and Occuspace agree that the arbitrator ("Arbitrator"), and not any federal, state, or local court or agency, shall have exclusive authority to resolve any disputes relating to the interpretation, applicability, enforceability or formation of this Arbitration Agreement, including any claim that all or any part of this Arbitration Agreement is void or voidable. The Arbitrator shall also be responsible for determining all threshold arbitrability issues, including issues relating to whether the Terms are unconscionable or illusory and any defense to arbitration, including waiver, delay, laches, or estoppel.

Notwithstanding any choice of law or other provision in the Terms, the parties agree and acknowledge that this Arbitration Agreement will be subject to and governed by the Federal Arbitration Act ("FAA"). You and Occuspace agree that the FAA and AAA Rules shall preempt all state laws to the fullest extent permitted by law. If the FAA and AAA Rules are found to not apply to any issue that arises under this Arbitration Agreement or the enforcement thereof, then that issue shall be resolved under the laws of the state of California.

## PROCESS

A party who intends to seek arbitration must first send a written notice of the dispute to the other party as specified by the AAA Rules. A Demand for Arbitration form can be found at Consumer Arbitration Rules at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879.

## LOCATION AND PROCEDURE

Unless you and Occuspace otherwise agree, the arbitration will be conducted in the county where you reside. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents you and Occuspace submit to the Arbitrator, unless you request a hearing or the Arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the Arbitrator will have the discretion to direct a reasonable exchange of information by the parties.

## ARBITRATOR'S DECISION

The Arbitrator will render an award within the time frame specified in the AAA Rules. Judgment on the arbitration award may be entered in any court having competent jurisdiction to do so. The Arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant's individual claim. An Arbitrator's decision shall be final and binding on all parties. An Arbitrator's decision and judgment thereon shall have no precedential or collateral estoppel effect. If you prevail in arbitration you will be entitled to an award of attorneys' fees and expenses, to the extent provided under applicable law. Occuspace will not seek, and hereby waives all rights Occuspace may have under applicable law to recover attorneys' fees and expenses if Occuspace prevails in arbitration.

## FEEES

Your responsibility to pay any AAA filing, administrative and arbitrator fees will be solely as set forth in the AAA Rules. However, if your claim for damages does not exceed \$10,000, Occuspace will pay all such fees, unless the Arbitrator finds that either the substance of your claim or the relief sought in your Demand for Arbitration was frivolous or was brought for an improper purpose. Each party agrees that any written decision and information exchanged during arbitration will be kept confidential except to the extent necessary to enforce or permit limited judicial review of the award.

## SEVERABILITY AND SURVIVAL

If any portion of this Arbitration Agreement is found to be unenforceable or unlawful for any reason, (1) the unenforceable or unlawful provision shall be severed from these Terms; (2) severance of the unenforceable or unlawful provision shall have no impact whatsoever on the remainder of the Arbitration Agreement or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to the Arbitration Agreement; and (3) to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims shall be stayed pending the outcome of any individual claims in arbitration.

## CHANGES TO THE ARBITRATION AGREEMENT

Notwithstanding the provisions above, regarding consent to be bound by amendments to these Terms, if Occuspace changes this Arbitration Agreement after the date you first agreed to the Terms or to any subsequent changes to the Terms, you may reject any such change by providing Occuspace written notice of such rejection within 30 days of the date such change became effective, as indicated in the "Effective" date above. This written

notice must be provided either (a) by U.S. mail, or (b) by email from the email address associated with your Account to: support@occuspace.io. In order to be effective, the notice must include your full name and clearly indicate your intent to reject changes to this Arbitration Agreement. By rejecting changes, you are agreeing that you will arbitrate any dispute between you and Occuspace in accordance with the provisions of this Arbitration Agreement as of the date you first agreed to the Terms or to any subsequent changes to the Terms.

## CALIFORNIA CONSUMER RIGHTS NOTICE

California Consumer Rights Notice. Under California Civil Code Section 1789.3, California users of the Service receive the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (800) 952- 5210.

## COPYRIGHT

Occuspace takes copyright infringement seriously and will respond to notices of alleged copyright infringement from the copyright owner or the copyright owner's legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on the Service in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (1) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (2) a description of the copyrighted work that you claim has been infringed; (3) a description of the location on the Service of the material that you claim is infringing; (4) your address, telephone number and e-mail address; (5) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (6) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Contact information for Occuspace's Copyright Agent for notice of claims of copyright infringement is as follows: support@occuspace.io.

## DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE AND PRODUCTS AND PROMOTIONS ASSOCIATED WITH THE SERVICE ARE PROVIDED TO YOU ON AN "AS-IS" AND "AS AVAILABLE" BASIS. OCCUSPACE DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, NOT EXPRESSLY SET OUT IN THESE TERMS. OCCUSPACE MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, REGARDING THE ACCURACY, RELIABILITY OR COMPLETENESS OF THE SERVICE, AND EXPRESSLY DISCLAIMS ANY WARRANTIES OF NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, COMPANY DOES NOT WARRANT, GUARANTEE OR MAKE ANY REPRESENTATIONS REGARDING THE QUALITY OR ACCURACY OF INFORMATION FOR ANY PRODUCTS OR SERVICES OFFERED OR PROVIDED BY ITS THIRD PARTY AFFILIATES, LICENSEES, OR OTHER PARTIES IN CONJUNCTION WITH THE SERVICE. COMPANY DOES NOT WARRANT THAT THE FUNCTIONALITY OF COMPANY PROPERTIES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THEY WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOU AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE SERVICES, AND ANY THIRD PARTY SERVICE OR GOOD IN CONNECTION THEREWITH, REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW. YOU EXPRESSLY AGREE THAT YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK.

## NOTIFICATION DISCLAIMER

You understand and agree that any notifications provided to you through the Service may be delayed or prevented by a variety of factors. Occuspace does its best to provide notifications in a timely manner with accurate information. However, we neither guarantee the delivery nor the accuracy of the content of any



notification. You also agree that Occuspace shall not be liable for any delays, failure to deliver, or misdirected delivery of any notification; for any errors in the content of a notification; or for any actions taken or not taken by you or any third party in reliance on a notification.

## LIMITATION OF LIABILITY

OCCUSPACE SHALL IN NO EVENT BE RESPONSIBLE OR LIABLE TO YOU OR TO ANY THIRD PARTY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, LIQUIDATED OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, REVENUE OR BUSINESS, ARISING IN WHOLE OR IN PART FROM YOUR ACCESS TO THE SERVICE, YOUR USE OF THE SERVICE OR THIS AGREEMENT, OR FOR ANY LOSS OR DAMAGE CAUSED BY YOUR RELIANCE ON INFORMATION OBTAINED ON OR THROUGH THE SERVICE, EVEN IF OCCUSPACE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, OCCUSPACE'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO \$500.00 (FIVE HUNDRED UNITED STATES DOLLARS). BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, THE LIABILITY OF OCCUSPACE SHALL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW. THEREFORE, THE FOREGOING LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW. NOTHING IN THIS AGREEMENT AFFECTS STATUTORY RIGHTS THAT CANNOT BE WAIVED OR LIMITED BY CONTRACT.

## INDEMNIFICATION

You agree to indemnify Occuspace and its affiliates and their officers, directors, employees, successors, agents and affiliates, for any and all claims, damages, losses and causes of action (including attorneys' fees and court costs) arising out of or relating to your breach of this Agreement or for any materials or content in any form whatsoever that are provided by you (or through your username and/or password). You agree to cooperate as fully as reasonably required in our defense and/or settlement of any claim. We reserve the right, in our reasonable discretion, to assume exclusive control over the defense and settlement of any matter subject to indemnification by you.

## TERMINATION

You may terminate the Terms at any time by closing your Account, discontinuing any access to or use of the Service, and providing Occuspace with a notice of termination to support@occuspace.io. We may, in our sole discretion, suspend, limit, or terminate your Account and your access to and use of the Services, including any and all reward balances in your Account, at any time for any reason, without notice or liability to you, including, but not limited to, if we suspect that your access to or use of the Services violates these Terms or applicable law. Upon the termination of your Account, you must cease all use of the Services, and you shall forfeit any reward balance remaining in your Account. Termination of your Account and your access to and use of the Services will not affect any of our rights or your obligations arising under these Terms prior to such termination. In the event you or Occuspace terminates your Account, you agree that we may retain your data, including personal and transaction information, for one year from the date of termination for audit and merchant invoicing purposes. Provisions of these Terms that, by their nature, should survive termination of your Account and your access to and use of the Services will survive such termination.

## CHOICE OF LAW

These Terms are governed by and construed in accordance with the laws of the State of California, U.S.A., without giving effect to any conflict of law principles, except as may be otherwise provided in the Arbitration

Agreement above or in supplemental terms applicable to your region. However, the choice of law provision regarding the interpretation of these Terms is not intended to create any other substantive right to non-Californians to assert claims under California law whether that be by statute, common law, or otherwise. These provisions, and except as otherwise provided in the Arbitration Agreement of these Terms, are only intended to specify the use of California law to interpret these Terms and the forum for disputes asserting a breach of these Terms, and these provisions shall not be interpreted as generally extending California law to you if you do not otherwise reside in California. The foregoing choice of law and forum selection provisions do not apply to the Arbitration Agreement or to any arbitrable disputes as defined therein. Instead, as described in the Arbitration Agreement, the Federal Arbitration Act shall apply to any such disputes.

## NOTICES

Occuspace will send all notices and other communications regarding the Services to you at the email address or physical address you provided for your Account, as may be updated by you from time to time. You will be considered to have received a notice from us regarding the Services when we send it to the email address or physical address we have in our records for you or when we post such notice on the Occuspace website or in the Occuspace Mobile App.

Except as otherwise provided in these Terms, all notices to us that are intended to have a legal effect must be delivered via email to support@occuspace.io. All such notices are deemed effective upon documented receipt by us.

## GENERAL PROVISIONS

We reserve the right to modify, update, or discontinue the Service at our sole discretion, at any time, for any or no reason, and without notice or liability.

Except as otherwise stated in Third Party Information and Services above, nothing herein is intended, nor will be deemed, to confer rights or remedies upon any third party.

The Terms contain the entire agreement between you and us regarding the use of the Service, and supersede any prior agreement between you and us on such subject matter. The parties acknowledge that no reliance is placed on any representation made but not expressly contained in these Terms.

Any failure on Occuspace's part to exercise or enforce any right or provision of the Terms does not constitute a waiver of such right or provision. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder. The Terms may not be waived, except pursuant to a writing executed by Occuspace.

If any provision of the Terms is found to be unenforceable or invalid by an arbitrator or court of competent jurisdiction, then only that provision shall be modified to reflect the parties' intention or eliminated to the minimum extent necessary so that the Terms shall otherwise remain in full force and effect and enforceable.

The Terms, and any rights or obligations hereunder, are not assignable, transferable or sublicensable by you except with Occuspace's prior written consent, but may be assigned or transferred by us without restriction. Any attempted assignment by you shall violate these Terms and be void.

You agree that no joint venture, partnership, employment, agency, special or fiduciary relationship exists between you and Occuspace as a result of these Terms, creation of an Account, or your use of the Service. The section titles in the Terms are for convenience only and have no legal or contractual effect.

## CONTACT INFORMATION

If you have questions or comments about this Agreement, you may email us at support@occuspace.io or by post to:

Occuspace, Inc.  
302 Washington St. #315  
San Diego, CA 92103  
United States