

USER TERMS

PLEASE READ THE FOLLOWING CAREFULLY BEFORE ACCEPTING THESE USER TERMS (the “**Terms**”) AND REGISTERING FOR AND/OR USING OUR ARTIFACTS (DEFINED BELOW).

BY SIGNING THESE TERMS, OR CLICKING “I AGREE”, “ACCEPT”, OR OTHER SIMILAR BUTTON, OR BY ACCESSING, DOWNLOADING AND/OR USING THE ARTIFACTS (the date of such occurrence being the “**Effective Date**”), INCLUDING ALL RELATED DOCUMENTATION, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOU, OR THE ORGANIZATION YOU REPRESENT (“**Customer**”) ARE ENTERING INTO A LEGAL AGREEMENT WITH COMPANY (DEFINED BELOW), AND HAVE UNDERSTOOD AND AGREE TO COMPLY WITH, AND BE LEGALLY BOUND BY, THE TERMS AND CONDITIONS HEREUNDER. YOU REPRESENT, WARRANT AND COVENANT THAT YOU ARE AT LEAST 18 YEARS OLD. TO THE EXTENT THAT CUSTOMER HAS AGREED TO THESE TERMS BY CLICKING “I AGREE”, “ACCEPT” OR OTHER SIMILAR BUTTON, CUSTOMER HEREBY WAIVES ANY RIGHTS TO REQUIRE AN ORIGINAL (NON-ELECTRONIC) SIGNATURE OR DELIVERY OR RETENTION OF NON-ELECTRONIC RECORDS, TO THE EXTENT NOT PROHIBITED UNDER APPLICABLE LAW.

These Terms, including any of its exhibits, annexes and appendixes constitutes binding agreement by and between Minimus Inc. (on its behalf and/or on behalf of any of its affiliates, collectively referred to as the “**Company**”) and Customer (each, a “**Party**” and collectively, the “**Parties**”). Customer may use the Artifacts subject to the terms below. The term “**User(s)**” refers to any individual who downloads, accesses, and/or uses the Artifacts on behalf of the Customer.

1. Service

0.1 Access Right. Subject to the terms and conditions set forth herein, the Company grants the Customer a limited, worldwide, non-exclusive, non-sublicensable, non-transferable, and revocable right to access the Company's web interface at <https://www.minimus.io/> (“**Platform**”) and to download and use the Company's downloadable artifacts, modules and packages (the “**Artifact(s)**”) during the Term (defined below) for Customer's non-commercial internal purposes, and, solely during the Trial Term (as defined below) for Customer's Commercial Use (as defined below). The term “**Artifacts**” also encompasses any appliance, manual, or documentation provided or made available to the Customer in connection with the operation of the Artifacts. The Artifacts and the Platform shall collectively be referred to as the “**Services**”. The Customer's use of the Services is subject to the limitations specified in these Terms and applicable laws and regulations.

1.1 Account Setup. In order to download, access, and/or use the Services, the Customer shall establish an administrative account with the Company by providing the required information through the Platform (“**Account**”). Each User may also need to create a user account (each, a “**User Account**”, and references to the “**Account**” herein shall include all such User Accounts, if applicable). The Customer warrants that all information submitted during the registration process is, and will remain, complete and accurate. The Customer is responsible and liable for all activities conducted under the Account. The Customer must ensure that all Users keep their user ID and password strictly confidential and do not share this information with any unauthorized person. The Customer is fully responsible and liable for any breach of these Terms by a User. Any unauthorized access or use of the Services must be reported to the Company immediately.

1.2 Suspension. The Company reserves the right to temporarily suspend the provision of the Services under the following circumstances: (a) if the Company determines that suspension is necessary due to the Customer's breach of these Terms; (b) if the Company reasonably believes that suspension is necessary to prevent material harm to the Company or any third party; or (c) if required by law or governmental authorities.

2. Fees. The Services are available for Commercial Use on a complementary trial basis for a period of thirty (30) days (“**Trial Term**”) commencing on the Effective Date. This Trial Term constitutes the initial period of the overall Term (as defined below). Upon the conclusion of the Trial Term, the Customer and its Users must cease any Commercial Use of the Services, and if the Customer wishes to continue using the Services for Commercial Use, it must contact the Company at contact@minimus.io to request a quote for continued paid usage, such usage to be subject to the execution of a commercial agreement with the Company. “**Commercial Use**” shall mean any utilization of the Services in a business or commercial context. This includes, but is not limited to, integrating, deploying, or customizing the Artifacts within a commercial infrastructure, or using the Services to enhance or support business operations. Commercial Use includes any use by individuals or entities in a business setting, or any use by for-profit entities, irrespective of whether it directly generates any income.

3. Use Restrictions. As a condition to use the Services, and except as expressly permitted otherwise under these Terms, Customer shall not do (or permit or encourage to be done) any of the following subscription restrictions (in whole or in part): (a) copy, “frame” or “mirror” the Services; (b) sell, assign, transfer, lease, rent, sublicense, or otherwise distribute or make available the Services to any third party (such as offering it as part of a time-sharing, outsourcing or service bureau environment); (c) publicly perform, display or communicate the Services; (d) modify, alter, adapt, arrange, or translate the Services; (e) decompile, disassemble, decrypt, reverse engineer, extract, or otherwise attempt to discover the source code or non-literal aspects (such as the underlying structure, sequence, organization, file formats, ideas, or algorithms) of, the Services; (f) remove, alter, or conceal any proprietary rights notices displayed on or in the Services; (g) circumvent, disable or otherwise interfere with security-related or technical features or protocols of the Services; (h) make a derivative work of the Services, or use it to develop any service or product that is the same as (or substantially similar to) it; (i) store or transmit any robot, malware, Trojan horse, spyware, or similar malicious item intended (or that has the potential) to damage or disrupt the Services; or (j) take any

action that imposes or may impose (as determined in Company's reasonable discretion) an unreasonable or disproportionately large load on the servers, network, bandwidth, or other cloud infrastructure which operate or support the Services, or otherwise systematically abuse or disrupt the integrity of such servers, network, bandwidth, or infrastructure.

Additionally, when access to Artifacts is granted to Customer, Customer may only use such Artifacts to create unique images not available directly from Company (any input, images, content, modifications or materials so added by Customer in order to create such unique images shall be collectively referred to as the "**Additions**"). However, Customer shall not use package manager access and/or the Platform to create images that are substantially similar in content or functionality to images available in Company's library and/or the Platform.

For the avoidance of doubt, Customer may not directly or indirectly, redistribute, license, sublicense, publicly share, sell, or otherwise make available any image, Artifact, or derivative work thereof including when combined with any Additions thereto.

If the Company subsequently makes available in its image library and/or the Platform an image that is substantially similar to an image or Addition that was originally developed by the Customer from the package manager and/or the Platform in compliance with this Agreement, the Customer may continue using such image for a period of ninety (90) days. Thereafter, the Customer shall cease use of such custom image or Addition and transition to obtaining a license to use the Company's image, unless otherwise agreed in writing by Company.

It is hereby acknowledged that Company shall have no liability whatsoever in connection with any Additions, and Customer shall indemnify and hold Company harmless from any claims, damages, or liabilities arising out of or related to such Additions.

4. **Mutual Warranties.** Each Party represents and warrants that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; and that the execution and performance of these Terms will not conflict with other agreements to which it is bound or violate applicable law.

5. **Privacy Policy.** The Customer and each User acknowledge and agree that their access to and use of the Services, including any information provided to create an Account or transmitted to or stored within the Account, is governed by [Company's Privacy Policy](#).

6. **Intellectual Property Rights**

6.1 **Service.** As between the Parties, Company is, and shall be, the sole and exclusive owner of all intellectual property rights in and to: (a) the Services and all related codes, software and intellectual property; and (b) except for the Additions as described above, any and all improvements, derivative works, and/or modifications of/to the foregoing, regardless of inventorship or authorship. Customer shall make, and hereby irrevocably makes, all assignments necessary or reasonably requested by Company to ensure and/or provide Company the ownership rights set forth in this paragraph. Company shall be entitled, from time to time, to modify and replace any components of the Services. Nothing herein constitutes a waiver of Company's intellectual property rights under any law.

6.2 **Additions.** Customer shall own all intellectual property rights in the Additions, provided that such Additions do not include any of Company's pre-existing intellectual property rights including the Artifacts, all of which shall remain owned by Company.

6.3 **Feedback.** If Company receives any feedback (which may consist of questions, comments, suggestions or the like) regarding the Services and/or any other services provided by Company (collectively, "**Feedback**"), all rights, including intellectual property rights in such Feedback shall belong exclusively to Company and such shall be considered Company's Confidential Information. Customer hereby irrevocably and unconditionally transfers and assigns to Company all intellectual property rights it has in such Feedback and waives any and all moral rights that Customer may have in respect thereto. It is further understood that use of Feedback, if any, may be made by Company at its sole discretion, and that Company in no way shall be obliged to make use of the Feedback.

6.4 **Analytic Information.** Any anonymous information, which is derived from the use of the Services (i.e., metadata, aggregated and/or analytics information and/or intelligence relating to the operation, support, and/or Customer's use, of the Services) which is not personally identifiable information and which does not identify Customer ("**Analytics Information**") may be used for providing the Services, for development, and/or for statistical purposes. Such Analytics Information is Company's exclusive property.

7. **Third Party Components.** The Services may use or include third party open source software, files, libraries or components that may be distributed to Customer and are subject to third party open source license terms. Those license terms will prevail over any terms contained herein. Company makes no warranty or indemnity hereunder with respect to any third party open source software.

8. **Confidentiality.** "**Confidential Information**" means: (i) the Services, the content and/or materials provided by the Services and any documentation provided and/or made available by Company; (ii) the Feedback; and/or (iii) information (whether tangible, oral or in any other form or media) that should be reasonably known by Customer and/or any User to be confidential. Customer and its Users shall keep confidential the Confidential Information using at least the same degree of care as it uses for Customer's own confidential information, but in any event no less than reasonable care and shall not disclose the Confidential Information to any third party. The Customer shall remain fully liable to the Company for any acts or omissions of its employees, consultants, affiliates, agents, and subcontractors.

9. **DISCLAIMER OF WARRANTIES.** OTHER THAN AS EXPLICITLY STATED IN THESE TERMS, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE ARTIFACTS, SERVICES AND ANY OUTCOMES THEREOF ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS. COMPANY DOES NOT WARRANT THAT: (i) THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS, OR (ii) THE ARTIFACTS AND SERVICES WILL OPERATE ERROR-FREE. EXCEPT AS SET FORTH IN SECTION 4 AND THIS SECTION 9, THE COMPANY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING MERCHANTABILITY, SATISFACTORY QUALITY TITLE, NON-INFRINGEMENT, NON-INTERFERENCE, FITNESS FOR A PARTICULAR PURPOSE. COMPANY WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET

AND ELECTRONIC COMMUNICATIONS OR FOR ISSUES RELATED TO PUBLIC NETWORKS OR CUSTOMER'S HOSTING SERVICES.

10. LIMITATION OF LIABILITY. EXCEPT FOR ANY DAMAGES RESULTING FROM ANY BREACH OF CONFIDENTIALITY OBLIGATIONS HEREIN, GROSS NEGLIGENCE AND/OR WILLFUL MISCONDUCT, AND TO THE EXTENT PERMISSIVE UNDER APPLICABLE LAW: (I) COMPANY SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE, REPUTATION, PROFITS, DATA, OR DATA USE, OR THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICES; AND (II) COMPANY'S MAXIMUM AGGREGATED LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THESE TERMS, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNTS ACTUALLY PAID OR PAYABLE TO COMPANY BY CUSTOMER IN THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

11. Term and Termination

11.1 Term. These Terms commence on the Effective Date and shall remain in effect until terminated by either Party as provided herein (the "**Term**"). Either Party may terminate these Terms at any time, with or without cause, by providing written notice to the other Party.

11.2 Consequences of Termination. Upon expiration or termination of these Terms, Customer shall: (i) immediately cease use of the Services; (ii) return the Artifacts and all copies thereof, as well as any documentation provided or made available by Company to Company; (iii) erase or otherwise destroy all copies of the Services in its possession, which is fixed or resident in the memory or hard disks of its, or any of its Users, computers and systems; (iv) return to Company any and all Confidential Information then in its possession; and (v) certify in writing to Company that all copies and partial copies of the Services and related documentation have been either returned to Company or otherwise erased or destroyed and deleted from any computer libraries or storage devices and are no longer in use by Customer.

11.3 Survival. The provisions of Section 2-12 shall survive any termination of these Terms.

12. Miscellaneous. These Terms, including any exhibits attached or referred hereto, represents the entire agreement between the Parties concerning the subject matter hereof, replaces all prior and contemporaneous oral or written understandings and statements, and may be amended only by a written agreement executed by both Parties. Any terms and conditions printed, or linked to, within any Customer's order form which are in addition to and/or inconsistent with the terms and conditions of these Terms, shall be of no effect. The failure of either Party to enforce any rights granted hereunder or to take action against the other Party in the event of any breach shall not be deemed a waiver by that Party as to subsequent enforcement or actions in the event of future breaches. Any waiver granted hereunder must be in writing. If any provision of these Terms is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions of these Terms shall remain in full force and effect and such provision shall be reformed only to the extent necessary to make it enforceable. Customer hereby agrees that (i) Company may use Customer's name and logo to identify Customer as a customer of Company or user of the Services, on Company's web site, presentations, marketing materials or otherwise; and (ii) Customer, to the extent requested by Company, shall use commercially reasonable efforts to positively address communications it receive from Company potential customers. In addition, it is hereby agreed that Customer will cooperate with Company for creating a quote / case study that will be published on the Company website. Customer shall not assign its rights or obligations under these Terms without the prior written consent of the Company. Notwithstanding the foregoing, these Terms may be assigned by either Party in connection with a merger, consolidation, sale of all of the equity interests of such Party, or a sale of all or substantially all of the assets of the Party to which these Terms relates. Without derogating from and subject to the abovementioned, these Terms will bind and benefit each Party and its respective successors and assigns. These Terms shall be governed by and construed in accordance with the laws of the State of New York, USA without regard to principles of conflicts of law. All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with the said Rules. The place of arbitration shall be the state of New York, NY, USA. The language of the arbitration shall be English. Notwithstanding the foregoing, the Company may seek equitable relief in any court of competent jurisdiction in order to protect its proprietary rights. Each Party irrevocably waives its right to trial of any issue by jury. No modifications to these Terms can be made except in writing, signed by the Customer and Company. These Terms do not, and shall not be construed to create any relationship, partnership, joint venture, employer-employee, agency, or franchisor-franchisee relationship between the Parties. Neither Party has any authority to enter into agreements of any kind on behalf of the other Party. Company will not be liable for any delay or failure to provide the Services resulting from circumstances or causes beyond the reasonable control of Company including, but not limited to on account of strikes, shortages, riots, insurrection, fires, flood, storms, explosions, acts of God, war, government or quasi-governmental authorities actions, riot, acts of terrorism, earthquakes, explosions, power outages, pandemic or epidemic (or similar regional health crisis), or any other cause that is beyond the reasonable control of Company.

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