yuuvis® Ultimate
Terms & Conditions

1. Preamble

1.1   yuuvis® Ultimate is a cloud-based API / platform as a service ("PaaS") that enables companies to create intelligent document management solutions tailored to their unique information needs. With yuuvis® Ultimate, customers can build an entirely new system or enhance an existing one.

1.2   OPTIMAL SYSTEMS GmbH ("OS"), whose registered office is in Berlin, Germany, provides the yuuvis® Ultimate product and services (the "Services", "Services") to its customers ("Customer") under the terms and conditions of this agreement including its Appendices (the "Agreement").

2. Enterprise SLA

2.1   In addition to this Agreement, the Customer and OS may enter into an Enterprise Service Level Agreement ("Enterprise SLA") for provisioning the Services. All provisions of the Enterprise SLA shall take precedence over this Agreement.

3. Order Placement and Conclusion of this Agreement

3.1   OS provides a self-service website where the Customer can review and order the offered Services by selecting and purchasing a Subscription Plan.

3.2   To make a purchase, the Customer must create an account. After purchasing a Subscription, the Customer can start using the Services.

3.3   To enter into an Agreement with OS:

- the Customer must accept this Agreement on the self-service website and must order the Services with an associated Subscription Plan. Such an order is deemed to be an offer by the Customer to OS to enter into the Agreement.

- OS then reviews the order and may confirm the order in writing (on the self-service website or by email or in another appropriate text format). Only by confirming the order does the Agreement between the parties becomes effective and access to the Services shall be activated. Please note that a confirmation of receipt message ("we have received your order") does not yet constitute an order confirmation.

- OS will then issue API Keys ("Access Keys") to the Customer.

3.4   Alternatively to ordering a Service on the self-service website, the Customer and OS may agree on a Payment Plan under this Agreement in writing, and OS shall subsequently set up an account for the Customer and issue electronic Access Keys to the Customer.

4.   Definitions

Access Key	An electronic key for authorizing access to the Services in conjunction with the ordered Subscription Plan
Customer Application	A software developed by the Customer using the Services, and deployed by the Customer to his End Clients
Customer Data	Collectively, all data records, metadata and content, material and information made available to OS by the Customer or his End Clients through the use of the Services and processed by the Services
End Client	A customer of the Customer; typically, a user of an application developed by the Customer using the Services
Overage	The fees to be paid by the Customer for the ordered Services in addition to the Subscription Fee, if the Customer exceeds limits of his ordered Subscription Plan
Payment	A payment for a Subscription Fee and Overages for a Service in accordance with the ordered Subscription Plan
Subscription Plan	A Subscription of a Service with specific quotas (such as max. number of content objects or max. number of API calls per second) ordered by the Customer
Services	The PaaS-based content management and metadata services, and subsequent updates or upgrades provided by OS, including the APIs, documentation, runtime and technical support
Subscription Fee	The (monthly) fee to be paid by the Customer for the ordered Subscription Plan
Technical Subcontractor	The provider of underlying cloud infrastructure, on which the Services run, including but not limited to data center, hardware, and basic software

5.   Provision of Services

5.1   Subject to the terms and conditions of this Agreement, OS will make the Services available to the Customer.

5.2 OS grants to the Customer a non-exclusive, non-sublicensable, non-transferable and non-perpetual right for the term of this Agreement to access and use the Services to manage Customer Data, including the right to develop and execute software applications ("Applications") that interface and integrate with the Services.

5.3 OS does not acquire ownership in the Customer Data or Customer Applications. The Customer grants OS a non-exclusive right to copy, distribute and use the Customer Data only for the purpose of, and in connection with providing the Services. The Customer warrants that he has the necessary rights to use, make available and distribute the Customer Applications and Customer Data in connection with the Services. If the Customer provides Customer Applications running in conjunction with the Services to his End Clients, he warrants that he has been granted the necessary rights from his End Clients to use the Services and the End Client's Data on the End Client's behalf.

5.4 OS exclusively owns all rights to the Services. The Customer acknowledges and agrees that all right, title and interest whatsoever, in and to the Services and the corresponding documentation, including all intellectual property rights therein is, and shall be, owned solely and exclusively by OS. For the avoidance of doubt, all improvements, innovations, customizations or enhancements to or derivatives of the Services shall be owned solely and exclusively by OS. Nothing in this Agreement shall, or shall be deemed or construed to assign, transfer or convey to the Customer any title, rights or interest in any intellectual property, including in or to the Services and the documentation, other than the licenses or other rights specifically and expressly granted herein.

5.5 OS shall have the right to aggregate and analyze usage data relating to the provisioning of the Services (in particular to develop and to improve the Services and to monitor and improve the availability and performance of the Services). OS shall use and disclose such data and other information solely in an aggregated and anonymized format that does not identify any individual, Customer or End Client.

5.6 OS provides technical support in accordance with the support channels offered on the yuuvis® website. OS shall make commercially reasonable efforts to resolve technical support queries.

6. Restrictions

6.1 The Customer shall not

- reverse engineer or decompile or reconstruct the source code, unless permitted by applicable statutory law;

- transfer, distribute, resell, lease, license, or assign the Services, including, but not limited to an on-premises software or a software as a service; except for the Customer's

Applications that use the Services. In particular, the Customer shall not create a Customer Application that functions substantially the same as the Services or the Services' API and offer it for use by third parties;

- transmit any material that infringes any rights of third parties, including, but not limited to copyrights, intellectual property rights, or trademarks;

- transmit any material that contains viruses or any other malicious or harmful programs or code;

- jeopardize the availability, reliability, stability or security of the Service, including but not limited to a denial of service attack or breaking any security mechanism, even if the intention is to find limitations or vulnerabilities, or disturbances caused by malfunctioning Customer Applications;

- use the Services in any manner that may subject OS or any third party to liability, damages or danger;

- use the Services to engage in fraudulent or illegal activity, or the violation of any local, state, federal, or foreign law or regulation, including, but not limited to the distribution of any defamatory or discriminatory or otherwise illegal material, or the illegal collection of information;

- use the Services to process personal data, unless the Customer has the right to process the data, and only in compliance with applicable data privacy laws;

- use the Services to process any personal data specified in Article 35 EU GDPR, Section 3 a) b) c), unless otherwise and specifically agreed with OS in an Enterprise Service Level Agreement.

- use the Services for any activities where the use or failure of the Services could lead to death, personal injury, or environmental damage;

- use the Services to process regulated Data, including, but not limited to health, medical, pharma, unless the Customer's Application, including the use of the Service, is in compliance with relevant laws, official regulations, industry norms and standards to the extent required for the Customer Application and only to the extent covered by the certifications of compliance with laws, official regulations, industry norms and standards provided by OS;

- use the Services for competitive evaluation or research;

- create derivative works, including but not limited to a competitive product or service;

6.2 For the avoidance of doubt, a violation of the Restrictions shall be deemed a material breach of the Agreement.

7. Account Setup and Maintenance

7.1 To use the Services, the Customer shall create an account using the self-service website. When registering an account, the Customer must provide true, accurate, current and complete information about his organization as requested during the account setup.

7.2 The Customer must ensure that the information provided in his account remains true, accurate, current and complete at all times.

7.3 The Customer must ensure that the Services are used in accordance with the ordered Subscription Plan only.

7.4 The Customer must immediately report to OS any breaches, and OS is permitted to deactivate the accounts of any users that violate this Agreement.

7.5 The Customer shall make commercially reasonable efforts to prevent unauthorized access to or use of the Services and shall notify OS promptly of any such unauthorized access or use.

7.6 With the Customer's written permission (by email or another reasonable format), OS may log into the Customer's account(s) to debug the Services.

8. Services Usage

8.1 The Customer is responsible for all use of the Services, including, but not limited to the accuracy, quality, integrity and legality of Customer Data and Customer Application(s).

8.2 The Customer is responsible for any equipment and services needed to connect to, access or otherwise use the Services.

8.3 OS shall regularly back up all Customer Data managed by the Services, and OS shall reasonably recover such Customer Data as saved in the most recent backup, if OS is responsible for a loss of Customer Data. However, OS shall not be obliged to recover any Customer Data, if OS is not responsible for the loss of Customer Data, including, but not limited to the wrong use of the Service by the Customer. Therefore, the Customer shall regularly back up any Customer Data at intervals that are reasonable for his purposes.

9. Technical Subcontractors

9.1 The Services run on Microsoft Azure, a technical cloud infrastructure provided by Microsoft Corporation, One Microsoft Way, Redmond, Washington 98052, USA. Telefon: +1 (425) 882 8080.

9.2 The Services run in the Microsoft "Germany" Location.

10. Changes to the Services

10.1 OS may modify, change or deprecate the Services from time to time at its own discretion. Although OS avoids changes that are not backwards compatible, if any such changes become necessary, OS will notify the Customer at least thirty (30) days prior to the change. It is the Customer's responsibility to ensure that the applications developed with the Services are compatible with the then-current Services.

10.2 OS may partially or entirely transfer provisioning the Services to affiliated companies of the OS group (defined by § 15 AktG).

10.3 OS may partially or entirely transfer the Services to other Technical Subcontractors or other locations supported by the Technical Subcontractors. OS will notify the Customer at least thirty (30) days prior to the change.

10.4 Insofar as a change in conjunction with or Sec. 10.1 to Sec. 10.3 results in a material reduction of functionality or performance of the Services, OS will notify the Customer at least thirty (30) days prior to the change. In that event, the Customer shall have the right to terminate this Agreement by giving OS written notice within thirty (30) days after receipt of the change notification, or after detection of the change.

10.5 Insofar as a change in conjunction with or Sec. 10.1 to Sec. 10.3 results in a conflict with the Customer's local laws, OS will notify the Customer at least thirty (30) days prior to the change. In that event, the Customer shall have the right to terminate this Agreement by giving OS written notice within thirty (30) days after receipt of the change notification, or after detection of the conflict.

11. Beta Services

11.1 The Customers may use products, features or documentation offered by OS for testing purposes ("Beta Services"). Any use of the Beta Services in conjunction with production Data and/or production Applications is at the Customer's own risk. Beta Services may contain bugs,

errors or defects and may destroy or invalidate data. OS hereby expressly disclaims all warranty and liability for Beta Services. The Customer or OS may terminate the access to the Beta Services at any time.

12. Fees

12.1 The Customer shall pay the Subscription Fees and additional Overages set forth in the Subscription Plan in effect upon conclusion of the Agreement and as ordered by the Customer. The order becomes effective when confirmed by OS in writing (by email or any other applicable text format).

12.2 Except as otherwise agreed in writing, Subscription Fees are quoted and payable in the currency of the Subscription Plan.

12.3 The Subscription Fees first become payable upon the effective date of this Agreement (i.e. upon activation of the Services, cf. Clause 2.2). The Subscription Fee is payable for the full month, in which the Services are activated. Payments are not pro-rated for partial months.

12.4 Payments for Subscription Fees paid are non-refundable.

12.5 Payments for Subscription Fees are due monthly in advance.

12.6 If the Customer fails to pay any Payment due, such unpaid amount shall bear interest from the due date to the date of payment at the rate of 10% p.a. In addition, such failure shall be deemed to be a material breach of this Agreement and in addition to any other remedies available to OS, OS may suspend the Services with prior notice of 1 week until the Customer has paid all outstanding amounts in full. OS shall have no liability for any damage, liabilities, losses, including but not limited to loss of profits that the Customer may incur due to the suspension.

12.7 OS shall have the right to increase the fees set out in the Subscription Plan annually by up to 5% per year by giving three months written notice. In case the Customer does not agree to a price increase, the Customer shall have the right to terminate this Agreement by giving written notice within one month after receipt of the price increase notification.

12.8 OS will issue invoices with net fees plus taxes only where legally required by local laws (e.g. VAT within Germany). Otherwise, OS will not charge taxes (net invoices), and taxes and government charges shall be payable by the Customer. The Customer shall not withhold any taxes, except to the extent required under mandatory local law. In the event that the Customer is obliged to withhold taxes, the Customer shall immediately inform OS in writing as soon as the obligation to withhold taxes becomes known. Then, the Customer shall assist OS at no

charge and in a timely manner in obtaining any available mitigations, exemptions and/or refunds under any applicable law.

13. Termination

13.1   This Agreement will commence as set out in Clause 2.2 and continue until termination as set forth below.

13.2   The Customer may terminate the Agreement for convenience at any time to the end of the month by giving notice through tools made available by the Service. The termination of the Agreement becomes effective at the end of the month in which the Customer gives notice.

13.3   OS may terminate the Agreement at any time with three months notice (by e-mail or in writing) to the end of the month for convenience.

13.4   Access to the Services will be terminated upon the termination's effective date, and OS shall delete all Customer Data. It is the Customer's responsibility to export all Customer Data from the Services prior to the termination's effective date.

13.5   Either party may terminate this Agreement by written notice to the other party if that other party commits a material breach of its obligations under this Agreement and, where such breach is capable of remedy, fails to remedy such breach within fourteen (14) days after receipt of written notice from the party seeking to terminate the Agreement setting out details of the breach and requiring it to be remedied.

13.6   Furthermore, OS may terminate the Agreement with immediate effect if OS determines, at its sole discretion, that providing the Services is prohibited by law, or it has become impractical or unfeasible for any legal or regulatory reason to provide the Services.

13.7   OS may terminate the Agreement in the following events of the Customer: Commencement of dissolution proceedings, failure to continue business, assignment for the benefit of creditors, liquidation, bankruptcy or similar proceeding.

13.8   OS may suspend access to the Services in whole or in part if OS has detected or suspects that the availability, reliability, stability or security of the Service are compromised due to actions or inactions of the Customer. OS will give the Customer reasonable prior notice before a suspension, unless an immediate suspension is required to uphold the availability, reliability, stability or security of the Service. In such event, OS will notify the Customer as soon as reasonably possible about the reason for the suspension. OS shall have no liability for any damage, liabilities, losses, including, but not limited to loss of profits that the Customer may incur due to the suspension.

13.9 OS shall refund advance payments made for periods after the effective date of a termination in the event of a termination pursuant to Clauses 13.12-13.3 or a termination by the Customer for OS' breach of the Agreement pursuant to Sec. 13.5. No refund shall be provided in the event of a termination pursuant to Clause 13.5 if OS terminates for Customer's breach of the Agreement.

13.10 Upon termination of this Agreement, all mutual rights and obligations will immediately terminate except any terms or conditions that by their nature should survive such termination.

14. Marketing Publications

14.1 OS and the Customer mutually agree that the other party may refer to the company name and logo in marketing materials and website; however, each party will not publish any other information without prior written consent of the other party.

15. Liability and Indemnification

15.1 OS shall be liable for willful and gross negligence in accordance with statutory provisions. For all other claims, the liability and obligation of OS, in the aggregate for any and all claims arising out of or in any connection with this Agreement, with respect to any cost, expense, damage, loss, injury, or liability of any kind or nature whatsoever, regardless of the form of action or theory of liability (including for breach of contract, equity, tort, negligence, by statute or otherwise) shall be limited to direct damages and shall not exceed the amount of Subscription Fees payable for a twelve (12) months period.

15.2 In no event shall OS be liable to the Customer for any special, indirect, incidental, exemplary or consequential damages of any kind or nature whatsoever (including for loss of data, loss of revenue or profits or for business interruption), howsoever caused and regardless of the form of action or theory of liability (including for breach of contract, tort, negligence, by statute or otherwise), even if such damages are foreseeable or OS has been advised of the possibility of such damages.

15.3 Either party shall be excused from performance of its obligations and all liability under this Agreement if and to the extent that such performance is hindered or prevented (directly or indirectly) by reason of any failure, interruption or degradation of any third-party telecommunications network, system, the Internet, strike, lock out, labor disturbance, government action, riot, armed conflict, accident, epidemic, extremes of weather or event of nature, unavailability of raw materials or of normal means of transport, act of God or any other matter whatsoever beyond the reasonable control of the party whose performance is hindered or prevented.

15.4 The Customer shall defend and indemnify OS against all liabilities, damages, losses, costs, fees (including legal fees), and expenses relating to any allegation or third-party legal proceeding to the extent arising from (1) the Customer's or the End Client's misuse of the Services, (2) the Customer's infringement of the terms of this Agreement, or (3) any Customer Data transferred into or used with the Services by the Customer or his End Clients.

16. General

16.1 If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of this Agreement, and/or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law. The parties hereby undertake to replace invalid or unenforceable provisions, and fill gaps, by agreeing on appropriate provisions which are as close as possible to the economic purpose of the invalid or missing provision.

16.2 This Agreement will be governed by the laws of the country of OS' registered country. The parties consent to the exclusive jurisdiction of the court of Berlin.

16.3 This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods ("CISG").

16.4 OS may amend or modify this Agreement – with the exceptions of the Parties' main rights and obligations – from time to time to the extent required to comply with changes in applicable law, or for technical reasons in order to provide the Services. The then new Agreement will replace prior versions. OS will inform all Customers not less than 30 days prior to the effective date of any such amendment or modification. If the Customer does not object to the amendment or modification within 30 days from the sending of such notice, such non-objection may be relied upon by OS as the consent to such amendment. If the Customer objects the amendment or modification, he and/or OS shall have the right to terminate the contract for convenience pursuant to Clause 12. In this case, the latest agreed version of the Agreement shall remain effective until Termination.

16.5 Any notice hereunder shall be in writing (any text form including email).

16.6 This Agreement comprises the entire agreement between the parties. No additional term or condition included in any Customer purchase order or other document issued by the Customer that has not previously been agreed to in writing by OS shall bind OS.

16.7 Where there is any conflict or inconsistency between Clauses of Agreement and any Appendix, the provisions of Clauses of this Agreement shall prevail.