

OXCAPSULE BETA SOFTWARE PROGRAM AGREEMENT
Last Modified: October 31, 2025

This OxCapsule Beta Software Program Agreement (“**Agreement**”) is by and between OXMIQ Labs Inc., a Delaware corporation, with offices located at 900 East Campbell Avenue, Campbell, CA 95008 (“**OXMIQ**”, “**us**”, “**we**” or “**our**”) and the person or organization agreeing to this Agreement (“**User**”, “**you**” or “**your**”). OXMIQ and User are sometimes referred to herein individually as a “**Party**,” and collectively, as the “**Parties**.” OXMIQ has created and is in the process of further developing and beta testing, a hosted computing platform, OxCapsule, including, but not limited to, any software, hardware, products and services included therein, which provides users with remote access to specialized hardware for running AI workloads, model inference, and general compute tasks (“**Platform**”). User has agreed to participate in OXMIQ’s beta testing program of the Platform (“**Program**”) and to provide feedback, in each case, as further specified herein. This Agreement sets forth the terms and conditions under which OXMIQ grants to User, and User acquires the right to participate in the Program and to access and use the Platform.

BY SELECTING THE “I HAVE READ AND UNDERSTAND THE EULA” CHECK BOX AND CLICKING THE “SUBMIT” BUTTON, OR BY ACCESSING, INSTALLING, USING OR REGISTERING FOR YOUR USE OF THE SOFTWARE, HARDWARE AND/OR PLATFORM PROVIDED BY OXMIQ, AND/OR YOUR RECEIPT OF ANY ASSOCIATED SERVICES THEREWITH OR YOUR PARTICIPATION IN THE PROGRAM, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS HEREOF, (B) REPRESENT AND WARRANT TO OXMIQ THAT YOU ARE EIGHTEEN (18) YEARS OF AGE OR OLDER; AND (C) ACCEPT AND AGREE THAT YOU ARE LEGALLY BOUND BY THE TERMS AND CONDITIONS HEREIN. IF YOU ARE USING THE PLATFORM AND/OR RECEIVING THE SERVICES ON BEHALF OF A LEGAL ENTITY, THEN YOU ACCEPT AND AGREE TO THIS AGREEMENT ON BEHALF OF THAT LEGAL ENTITY AND YOU REPRESENT AND WARRANT THAT YOU HAVE FULL LEGAL AUTHORITY TO DO SO. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS CONTAINED HEREIN, DO NOT USE THE PLATFORM AND/OR PARTICIPATE IN THE PROGRAM. YOU FURTHER AGREE THAT WE MAY COMMUNICATE WITH YOU BY ELECTRONIC MAIL, TEXT MESSAGING, IN-APP MESSAGING, PUSH NOTIFICATION, VIDEO CONFERENCING OR OTHER COMMUNICATION SERVICE SUBJECT TO YOUR RIGHT TO OPT OUT OF COMMERCIAL MARKETING MESSAGES.

We may change the terms of this Agreement from time to time by uploading, submitting, publishing and/or posting an updated Agreement to our website located at <https://oxmiq.ai/> (“**Site**”). You can determine when the Agreement was last revised by referring to the “Last Modified” date at the top of the Agreement. You are expected to check this Agreement on the Site from time to time to take notice of any changes. In addition, OXMIQ has the right to change the features or functionality of the Platform, at any time and for any reason, without notice, all without any liability to User or otherwise. Your continued use of the Platform and/or OXMIQ products and services that are provided to you through the Platform and/or your continued participation in the Program, shall constitute your consent to any changes made. If you do not agree to the new terms, you should not use the Platform and/or participate in the Program.

1. Purpose of the Program. The purpose of OXMIQ’s Program is to provide the User with the opportunity to review, evaluate and comment upon the functionality, features, usability and quality of the Platform. In return, OXMIQ will receive (a) the benefit of the User’s Feedback (as defined below), allowing OXMIQ to modify the Platform to better meet the needs of its customers, (b) the opportunity to expose the Platform to a variety of operating environments representative of those of its customers, and (c) improved Platform quality and customer satisfaction. The Program is not intended for production workloads, critical operations, or commercial deployment of the Platform.
2. License to Platform. During the Term (as defined below), for the purposes of your participation in the Program, OXMIQ hereby grants to User a limited, revocable, non-exclusive, non-transferable, non-sublicenseable license to access and the use (and allow its Authorized Users, as defined below, to access and use) the Platform and any accompanying information and documentation, including the Materials (as defined below), solely to review, evaluate and comment on the functionality, features, usability and quality of the Platform. User may download copies of posted material, information, content, documents, functionalities,

features or other works of authorship (such as software programs and codes, reports, country insights and analytics, and similar works) (collectively, “**Materials**”) for personal, noncommercial use only, so long as User neither changes nor deletes any author attribution, trademark, legend or copyright notice contained thereon. User shall not and shall direct its Authorized Users not to use the Platform and/or Materials for any other purpose, including, without limitation, an anti-competitive one.

3. Access Methods. During the Term, Provider shall provide User, and if applicable permitted Authorized Users (as defined below), access to the Platform, by logging into individual authenticated sessions via a Command Line Interface (“**CLI**”). Once approved by OXMIQ, User will receive an email notification from OXMIQ with access instructions. User may access the Platform only through use of one or more passwords, security devices or other access methods as provided by OXMIQ (collectively, “**Access Methods**”). Except as expressly provided for herein, User may not share its Access Methods with any third party. If authorized by OXMIQ in writing, OXMIQ shall permit the access to and/or use of the Platform to a limited number of User’s employees in its sole discretion, and only by specific employees as selected and identified by you through the administrative functions on the Platform (“**Authorized Users**”). For the purposes of this Agreement, any references to “**User**”, “**you**” or “**your**” shall include your Authorized Users. User is solely responsible for ensuring that User’s Access Methods are known to and used by only its Authorized Users. User shall inform each Authorized User of the terms and conditions of this Agreement and direct such Authorized Users to comply with such terms and conditions prior to their use and access to the Platform. Notwithstanding the foregoing, User is responsible for all access and/or use of the Platform by Authorized Users and their compliance with this Agreement. User acknowledges that, in OXMIQ’s discretion, OXMIQ may deny access to the Platform to any user of User’s Access Methods. User will be solely responsible for all acts or omissions of any person using the Platform through User’s Access Methods. If any of User’s Access Methods have been lost, stolen or compromised, User will promptly notify OXMIQ. Upon receipt of this notice, such Access Methods will be cancelled or suspended as soon as is reasonably practicable thereafter, but User shall be responsible for any actions taken through the use of such Access Methods prior to such cancellation.
4. User Obligations. During the Term, User may use the Platform for solely the purposes of participating in the Program, and in compliance with all applicable laws, rules and regulations and any guidelines, rules or policies of OXMIQ of which OXMIQ may notify User of from time to time, including, but not limited to OXMIQ’s Privacy Policy (as defined below). User is responsible for ensuring its activities comply with the foregoing and assumes all liability for its actions on and in connection with its use of the Platform.
5. Permitted Use. During the Term, User shall be permitted to (a) run downloaded model, scripts and workloads on assigned hardware, (b) select and download pre-trained models from public sources (e.g., Hugging Face), and (c) execute image editing, programming scripts, and performance analysis.
6. Prohibited Use. For purposes of the Program, User will not be permitted to use the Platform for production workloads and/or to persistently and/or permanently store data/models on the Platform infrastructure. User shall not (a) transfer, rent, sell, distribute, lease, loan, or sublicense the Platform; (b) copy the Platform; (c) as applicable, modify, create derivative works based on, reverse engineer, decompile, translate or disassemble the Platform; (d) attempt to discover the source code of the Platform, (e) engage in any illegal activities on the Platform and/or via the user thereof and/or any Materials and/or services provided therein, (f) generate, create, distribute, or facilitate illegal content through its use of the Platform, (g) use the Platform to spam, harass, or harm other users and/or any other third party, (h) attempt to gain unauthorized access to other users’ data, and/or (i) circumvent resource limits or overload systems in denial-of-service manner (e.g., a deliberate attempt to make a service a system unavailable to its intended users).
7. Ownership.
- 7.1 Platform. OXMIQ, or its licensor(s), retain all rights, title and interest in and to the Platform, including, but not limited to, all source code, object code, data, information, Materials, copyrights, trademarks, patents, inventions and trade secrets embodied therein, expressly excluding Content (as defined below), whether known or unknown, express or implied, including any derivatives or improvements thereof, and all other rights not expressly granted to User hereunder. Nothing in this Agreement constitutes a waiver of any of OXMIQ’s and/or its licensors’ rights under the intellectual property laws of the United States or any other jurisdiction or

under any other federal, state, or foreign laws. User shall not do or cause to be done any act contesting or in any way impairing any such rights, title or interest.

- 7.2 Content. As between OXMIQ and User, User shall own all rights, title and interest in and to and be wholly responsible for all information, documentation, text, graphics, scripts, photos, sounds, videos, trademarks, service marks and other materials of any form transmitted by and/or on behalf of the User to OXMIQ via the Platform (collectively, “**Content**”). The Content is the User’s sole responsibility and is transmitted at the User’s sole risk and OXMIQ will not be liable with respect to any such Content, or the use, inability to use, or reliance upon any Content. By submitting such Content for use on the Platform, User hereby grants to OXMIQ a worldwide, non-exclusive, freely transferable license (a) to test, reproduce, distribute, market, advertise, promote, sell, digitally perform, publicly display, publish, broadcast, and otherwise use such Content in connection with the Platform; and (b) to permit User to access and use, display and perform the Content via the Platform, subject to applicable laws and regulations, this Agreement, and our Privacy Policy. User Content shall remain separate from the content of other users of the Platform. User hereby represents and warrants that either it owns all rights, title and interest to all Content or otherwise has all licenses, permits, and other authorizations, approvals and consents necessary to grant the licenses from User set forth above. User further represents and warrants that no Content does or will contain any information, data or materials that: (v) infringe or otherwise violate any copyright, patent, trademark, trade secret or other intellectual property, privacy or other proprietary right; (w) are defamatory, libelous, express hate, graphically or gratuitously violent, or are unlawfully threatening; (x) are pornographic, sexually explicit, obscene or exploitative of or harmful to any minor; (y) contain or embody a virus, worm, Trojan horse or other contaminating or destructive feature; or (z) otherwise violate this Agreement, any applicable law or regulation or any written policies of OXMIQ. OXMIQ shall have no obligation under this Agreement or otherwise, to monitor any Content or any uses thereof via the Platform. Nonetheless, OXMIQ may, in its sole and reasonable discretion, refuse or remove any Content for any reason, including in the event OXMIQ reasonably believes such Content infringes or otherwise violates any intellectual property, privacy or other proprietary right of any individual or entity, or otherwise violates the terms of this Agreement.
- 7.3 Outputs. User shall own any and all information, data, materials, text, images, code, works, expressions, or other content generated or otherwise output from the Platform and/or any of the services provided through the Platform in response to the User’s input or from use of the Platform by or on behalf of User or its Authorized Users (collectively, “**Outputs**”). With respect to any Outputs, (a) OXMIQ is not responsible or liable if any such Outputs that are inaccurate or incomplete in any respect; (b) OXMIQ is not responsible or liable for any actions that User takes or does not take based on such Outputs; (c) User will use such Outputs solely for the purposes set forth in this Agreement; and (e) User will use such Outputs solely in compliance with applicable laws.
- 7.4 Feedback. User agrees to assign sufficient and appropriately qualified personnel to review and evaluate the Platform and to provide ideas, suggestions, improvements, concepts, techniques, comments or other feedback to OXMIQ relating to the Platform (collectively “**Feedback**”), including Feedback on the design, functionality, usability, stability, and defects, in such form and at such intervals as are reasonably specified by OXMIQ. User hereby irrevocably assigns to OXMIQ any and all rights as User may have in and to such Feedback and acknowledges that OXMIQ and its licensors may, without approval of User and without any additional consideration to User (monetary or otherwise), use, incorporate or otherwise exploit any Feedback in any manner or media as OXMIQ may, in its sole discretion, determine. User shall not assert any rights to any such ideas or suggestions utilize such Feedback.
- 7.5 Aggregated Statistics and Platform Monitoring. Notwithstanding anything to the contrary in this Agreement, OXMIQ may monitor User’s access and use of the Platform and collect and compile meta-data, data and information related to User’s access and use thereof that is and can be used by OXMIQ for Platform monitoring, pricing, and OXMIQ’s technology management purposes (e.g., usage logs, session data, hardware utilization metrics and performance analytics) (“**Monitoring Data**”). The same data may be aggregated and anonymized to compile statistical and performance information related to the provision and operation of the Platform (“**Aggregated Statistics**”). For clarity, Monitoring Data and Aggregated Statistics expressly excludes User Content. User agrees that OXMIQ may (a) make Aggregated Statistics publicly available in compliance with applicable law, and (b) use Aggregated Statistics to the extent and in the manner permitted under

applicable law, provided that such Aggregated Statistics do not identify User, any Authorized User, or User's Confidential Information. User acknowledges and agrees that OXMIQ shall own all right, title, and interest, including all intellectual property rights therein, in and to the Aggregated Statistics and Monitoring Data.

8. Privacy Policy. User's execution of this Agreement and/or User's access to, and/or use of the Platform, and participation in the Program is User's acknowledgement of User's acceptance of the terms of OXMIQ's Privacy Policy <https://oxmiq.ai/privacy-policy> ("**Privacy Policy**"), which content and terms thereof are hereby incorporated into this Agreement in their entirety. OXMIQ may amend its Privacy Policy from time to time, in its sole discretion without prior notice to User.
9. Data Protection. User is responsible for any Content (including the accuracy, quality, and completeness thereof) and the content of any Content User makes available to OXMIQ in connection with the Platform. Each Party must comply in all respects with all applicable data protection laws, regulations and directives. Each Party shall implement administrative, physical and technical safeguards to protect personal data commensurate with type and amount of personal data under its control that are no less rigorous than accepted industry practices and will immediately notify the other Party in the event of any security breach and use commercially reasonable efforts to immediately mitigate such security breach. The Parties agree to provide in a timely manner all such necessary and reasonable assistance, information, and co-operation to the other Party to enable it to carry out data protection impact assessments; have consultations with any regulator; and respond to any data subject requests.
10. Support Services. During the Term, OXMIQ shall provide certain support services in relation to infrastructure and Platform issues (e.g., unavailability, crashes and access problems). Support services do not include User errors, misconfiguration and/or issues with User-written code and/or scripts. Users experiencing technical issues should file tickets via GitHub (link to be provided at access approval). OXMIQ will evaluate and respond to issues on best-effort basis. Response time is not guaranteed, and support is provided as availability permits.
11. Fees. No fees for use of the Platform by User under this Agreement will be charged by OXMIQ.
12. Term. This Agreement shall become effective upon your access, installation, use and/or registration for your use of the software, hardware and/or Platform, your receipt of any associated services therewith and/or your participation in the Program, and shall continue for a period of three (3) months thereafter, unless or until the early termination of this Agreement, with or without cause, by either Party upon written notice to the other Party ("**Term**"). Upon termination for any reason, User shall promptly return to OXMIQ, or destroy and certify as destroyed, any Confidential Information of OXMIQ, and any and all other Materials provided by or on behalf of OXMIQ to User hereunder. User shall be fully responsible for the return or destruction of all applicable Confidential Information disclosed to it by OXMIQ, including deletion of such Confidential Information from the User's servers. Notwithstanding Following termination of this Agreement, any continued use of the Platform may only be pursuant to an executed end-user license between the Parties. Notwithstanding any termination of this Agreement, Sections 7 through 9 and 12 through 18 of this Agreement shall survive termination hereof.
13. Confidentiality. From time to time during the Term, OXMIQ ("**Disclosing Party**") may disclose or make available to you information about its business confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential", "proprietary" or otherwise (collectively, "**Confidential Information**"). Confidential Information shall not include information that, at the time of disclosure: (a) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Section 13 by you or any of your officers, directors, employees, agents, and/or other representatives (collectively, "**Representatives**"); (b) is or becomes available to you and/or your Representatives on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was known by or in the possession of you and/or your Representatives prior to being disclosed by or on behalf of OXMIQ; (d) was or is independently developed by you and/or your Representatives without reference to or use of, in whole or in part, any of OXMIQ's Confidential Information; or (e) is required to be disclosed

pursuant to applicable federal, state, or local law, regulation, or a valid order issued by a court or governmental agency of competent jurisdiction. You shall, and shall direct your Representatives to, (x) keep the Confidential Information strictly confidential and shall protect and safeguard the confidentiality of OXMIQ's Confidential Information with at least the same degree of care as you would protect your own Confidential Information, but in no event with less than a commercially reasonable degree of care; (y) not use OXMIQ's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (z) not disclose any such Confidential Information to any person or entity, except to your Representatives who need to know the Confidential Information to assist you, or act on its behalf, to exercise its rights or perform its obligations under this Agreement. You shall be responsible for any breach of this Section 13 by your Representatives. Upon the OXMIQ's written request and/or the expiration or termination of this Agreement, you and your Representatives shall either promptly return to OXMIQ all copies, whether in written, electronic or other form or media, of OXMIQ's Confidential Information, or destroy all such copies and certify in writing to OXMIQ that such Confidential Information has been destroyed. In the event of any violation or attempted violation of this Section 13 by you and/or your Representatives, OXMIQ shall be entitled to specific performance and injunctive relief or other equitable remedy without any showing of irreparable harm or damage, and you hereby waive, and shall cause your Representatives to waive, any requirement for the securing or posting of any bond or other security in connection with any such remedy.

14. Third Party Content. OXMIQ may provide information about or links to third-party products, services, activities or events, or OXMIQ may allow third parties to make their content and information available on or through the Platform, including, without limitation, third-party models and/or data sets (collectively, "**Third-Party Content**"). OXMIQ may provide Third-Party Content as a service to those interested in such content. User's dealings or correspondence with third parties and its use of or interaction with any Third-Party Content are solely between User and the third party. OXMIQ does not control or endorse any Third-Party Content and makes no representations or warranties regarding any Third-Party Content, including the accuracy, validity, timeliness, completeness, reliability, integrity, quality, legality, usefulness or safety of Third-Party Content. User's access to and use of such Third-Party Content is at User's own risk and may be subject to additional terms, conditions, guidelines, policies, or rules (including terms of service or privacy policies of the providers of such Third-Party Content). Under no circumstances will OXMIQ be held responsible or liable, directly or indirectly, for any loss or damage that is caused or alleged to have been caused to User (including its Authorized Users) in connection with its and/or its Authorized User's use of, or reliance on, any Third-Party Content.
15. **DISCLAIMER. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, USER ACKNOWLEDGES AND AGREES THAT THE PLATFORM PROVIDED HEREUNDER, TOGETHER WITH ALL FUNCTIONALITY OF THE PLATFORM AND THE CURRENTLY PROPOSED USES THEREOF, REMAIN UNDER DEVELOPMENT AND THAT THE PLATFORM AND ANY ASSOCIATED SERVICES HEREUNDER ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, FROM OXMIQ AND/OR ITS LICENSORS. WITHOUT LIMITING THE FOREGOING, OXMIQ AND/OR ITS LICENSORS EXPRESSLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND DOES NOT GUARANTEE THAT THE PLATFORM WILL BE ERROR-FREE, UNINTERRUPTED OR FREE FROM ANY VIRUSES OR OTHER HARMFUL COMPONENTS. DURING THE TERM, (A) OXMIQ DOES NOT PROVIDE USER GUARANTEES OF PLATFORM FUNCTIONALITY, AVAILABILITY, UPTIME AND/OR DATA SAFETY, AND (B) NO COMPENSATION OR CREDITS WILL BE PROVIDED FOR PLATFORM DISRUPTIONS. ANY USE BY OR RELIANCE UPON THE PLATFORM AND ANY SOFTWARE, HARDWARE, DOCUMENTATION OR SERVICES BY USER IS AT USER'S SOLE RISK. OXMIQ AND ITS LICENSORS HAVE NO OBLIGATION TO CORRECT ANY DEFECTS, BUGS OR ERRORS OR PROVIDE ANY SUPPORT OR MAINTENANCE. USER IS RESPONSIBLE FOR TAKING ALL PRECAUTIONS USER BELIEVES NECESSARY OR ADVISABLE TO PROTECT ITSELF AGAINST ANY CLAIM, DAMAGE, LOSS, OR HAZARD THAT MAY ARISE BY VIRTUE OF USER'S ACCESS TO AND/OR USE OF THE PLATFORM.**

16. **LIMITATION OF LIABILITY.** TO THE FULL EXTENT PERMITTED UNDER APPLICABLE LAWS, EXCLUDING A PARTY'S BREACH OF ITS OBLIGATIONS UNDER SECTIONS 7 AND 13 AND/OR FROM A PARTY'S INDEMNIFICATION OBLIGATIONS AS DESCRIBED HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY UNDER THIS AGREEMENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOSS OR INACCURACY OF DATA OR OTHER INFORMATION, REGARDLESS OF THE FORM OF CAUSE OF ACTION AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. USER IS SOLELY RESPONSIBLE FOR PROTECTING ITS DATA AND/OR CONTENT AND FOR ENSURING THAT ITS DATA AND/OR CONTENT IS APPROPRIATELY BACKED UP. TO THE FULL EXTENT PERMITTED UNDER APPLICABLE LAWS, IN NO EVENT SHALL OXMIQ'S TOTAL LIABILITY ARISING OUT OF, RELATED TO AND/OR IN CONNECTION WITH THIS AGREEMENT, PROGRAM, PLATFORM ANY SOFTWARE, MATERIALS, DOCUMENTATION OR SERVICES PROVIDED HEREUNDER BY AND/OR ON BEHALF OF OXMIQ, SHALL NOT IN ANY EVENT EXCEED FIVE HUNDRED DOLLARS (\$500.00 USD).

17. **Indemnification.**

17.1 EXCEPT AS PROVIDED IN SECTION 17.2 BELOW, USER SHALL DEFEND, INDEMNIFY AND HOLD OXMIQ AND ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, LICENSORS, CONTRACTORS AND/OR OTHER REPRESENTATIVES (COLLECTIVELY, "OXMIQ GROUP") HARMLESS FROM AND AGAINST ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES OF ANY KIND (COLLECTIVELY, "LOSSES") ARISING FROM, RELATED TO AND/OR IN CONNECTION WITH ANY ALLEGATION, CLAIM OR CAUSE OF ACTION (EACH, A "CLAIM") AND BASED UPON USER'S AND/OR ITS AUTHORIZED USER'S (A) BREACH OF THIS AGREEMENT, (B) WILLFUL MISCONDUCT, GROSS NEGLIGENCE AND/OR FRAUD, (C) PARTICIPATION IN THE PROGRAM AND/OR USE OR ACCESS TO THE PLATFORM, AND/OR (D) THE DESIGN, DEVELOPMENT, MARKETING, ADVERTISING, PROMOTION, DISTRIBUTION, SALE OR MAINTENANCE OF ANY CONTENT, OR ANY USE OF OR INABILITY TO USE ANY CONTENT, INCLUDING WITHOUT LIMITATION ANY ALLEGATION THAT ANY CONTENT OR ANY USE THEREOF INFRINGES, MISAPPROPRIATES OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY, PRIVACY OR OTHER PROPRIETARY RIGHT OF ANY INDIVIDUAL OR ENTITY OR HAS RESULTED IN ANY INJURY TO ANY PERSON AND/OR ANY PROPERTY DAMAGE; *PROVIDED THAT*, IN EACH CASE, USER IS PROVIDED PROMPT WRITTEN NOTICE OF SUCH CLAIM, THE SOLE RIGHT TO CONDUCT THE DEFENSE AND/OR SETTLEMENT OF SUCH CLAIM, AND ALL ASSISTANCE THEREWITH AS USER MAY REASONABLY REQUEST.

17.2 EXCEPT AS PROVIDED IN SECTION 17.1 ABOVE, OXMIQ SHALL DEFEND, INDEMNIFY AND HOLD USER HARMLESS FROM AND AGAINST ANY LOSSES ARISING FROM ANY THIRD PARTY CLAIM AND BASED UPON (A) OXMIQ GROUP'S BREACH OF THIS AGREEMENT, (B) OXMIQ GROUP'S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, AND/OR (C) ANY ALLEGATION THAT THE PLATFORM OR ANY AUTHORIZED USE THEREOF, INCLUDING ANY DOCUMENTATION AND/OR MATERIALS INFRINGE, MISAPPROPRIATE OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY, PRIVACY OR OTHER PROPRIETARY RIGHT OF ANY INDIVIDUAL OR ENTITY; *PROVIDED THAT* OXMIQ IS GIVEN PROMPT WRITTEN NOTICE OF SUCH CLAIM, THE SOLE RIGHT TO CONDUCT THE DEFENSE AND/OR SETTLEMENT OF SUCH CLAIM, AND ALL ASSISTANCE THEREWITH AS OXMIQ MAY REASONABLY REQUEST. NOTWITHSTANDING THE FOREGOING, OXMIQ SHALL HAVE NO OBLIGATION TO USER UNDER THIS SECTION 17.2 TO THE EXTENT ANY CLAIM IS BASED UPON (Y) THE COMBINATION OF ANY PORTION OF THE PLATFORM WITH ANY CONTENT OR ANY OTHER ITEMS NOT PROVIDED TO USER BY OR ON BEHALF OF OXMIQ UNDER THIS AGREEMENT; AND/OR (Z) ANY MODIFICATION OF THE PLATFORM BY ANY INDIVIDUAL OR ENTITY OTHER THAN OXMIQ. THIS SECTION 17.2 STATES THE ENTIRE LIABILITY AND OBLIGATION OF OXMIQ WITH RESPECT TO ANY

ALLEGED INFRINGEMENT OR OTHER VIOLATION, BY THE PLATFORM, OR USE THEREOF, OF INTELLECTUAL PROPERTY OR OTHER PROPRIETARY RIGHTS OF ANY THIRD PARTY.

18. Miscellaneous. This Agreement shall be governed by the laws of the State of California, without regard to principles of conflicts of law. User irrevocably submits to the jurisdiction of federal and state courts located within San Francisco, California. This Agreement supersedes all prior oral or written agreements between the Parties, and constitutes the entire agreement between OXMIQ and User, with respect to the subject matter hereof. Except as expressly provided for herein, no modification or amendment of this Agreement, or any waiver of any right, power, or privilege under this Agreement, will be binding upon either OXMIQ or User unless set forth in a writing signed by the authorized representatives of OXMIQ and User. If one or more of the provisions of this Agreement is deemed invalid, unlawful, or unenforceable by law, then the remaining provisions will continue in full force and effect. No failure on the part of OXMIQ to exercise, and no delay in exercising, any right, power or privilege hereunder operates as a waiver thereof; nor does any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. User may not assign this Agreement without the prior written consent of OXMIQ. All rights granted to OXMIQ under this Agreement shall extend also to OXMIQ's assignees and successors in interest. All notices hereunder must be in writing, must be addressed to such address as the relevant Party specifies for notice purposes through the Platform for otherwise, and will be effective upon receipt thereof. The Parties hereto are independent contractors. This Agreement does not create nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties. Except as expressly provided for herein, the terms and conditions contained herein are intended solely for the benefit of the Parties and are not intended to confer third-party beneficiary rights upon any other person or entity.