

These Terms of Use ("Terms") apply to you and to any employees or commercial users that you authorize to use our products or services (collectively, "you" or "your"). These Terms apply to your access to and use of the websites, mobile applications and other online products and services, including but not limited to integration through application programming interface or "API" (collectively, the "Services") provided by Ocululus Inc. (together with its subsidiaries, affiliates, successors and assigns, "Ocululus", "us" or "we") and are an agreement between you and Ocululus.

**These Terms provide that all disputes between you and Ocululus with respect to your use of the Services will be resolved by binding arbitration unless a separate agreement between you and Ocululus governs your relationship. If you do not agree to these Terms, do not use the Services.**

**Services:** The purpose of the Services is to provide a tool for aggregating, parsing, and displaying data, including personal or financial data users collect from third parties in an efficient and easily reviewable format.

**Accounts and Information You Provide Us:** To access most features of the Services, you may be required to provide us with some information such as credentials (e.g. usernames, passwords, PIN numbers) used to log into online portals at third party financial institutions or records from those financial institutions which you provide. You agree that the information you provide to us is accurate. You understand and agree that we may use this information to verify eligibility to use the Services and to retrieve information from third party financial institutions (such as account number, account holder information, account transactions, account statements, account position and balance information). When you register for the Services, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your account. You agree to promptly notify us if you discover or suspect unauthorized account access. If you permit others to use your account, you are responsible for activities of such users.

**Privacy and Ending Data Collection:** For information about how Ocululus collects, uses or otherwise processes your information, and to request that Ocululus delete any financial account data, please see our [Privacy Policy](#).

We reserve the right to change and update the Terms at any time without notice. Any changes to the Terms will be effective immediately upon updating the date at the top of these Terms. Your continued use of our Services will confirm your acceptance of the changes. If you do not agree to the amended Terms, you must stop using our Services. We may supply additional terms in relation to some of our Services as part of a Master Service Agreement or other agreement, and those additional terms become part of your agreement with us if you use those Services. If there is a conflict between these Terms and the additional terms, the additional terms will control for that conflict.

## **1. OWNERSHIP; LIMITED LICENSE**

The Services are owned and operated by Ocululus. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Services ("Materials") provided by Ocululus are protected by intellectual property and other laws. All Materials included in the Services are the property of Ocululus. Except as expressly authorized by Ocululus, you may not make use of the Materials. Subject to your compliance with these Terms, you are hereby granted a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use the Services for your own commercial use. Any use of the Services other than as specifically authorized herein, without our prior written permission or separate agreement between you and Ocululus, is strictly prohibited, will terminate the license granted herein and violate the intellectual property rights of Ocululus. We reserve all rights not expressly granted to you in these Terms. Except for the limited rights and licenses expressly granted under these Terms, nothing in these Terms grants, by implication, waiver, estoppel, or otherwise, to you or any third party any intellectual property rights or other right, title, or interest in or to Ocululus' intellectual property. We reserve the right to modify our Services or to suspend or stop providing all or portions of our Services at any time. You also have the right to stop using our Services at any time.

Ocululus's trademarks and our logos, our product and service names, our slogans and the look and feel of the Services are trademarks of Ocululus and may not be copied, imitated or used, in whole or in part, without our prior written consent. All other trademarks,

registered trademarks, product names and company names or logos mentioned on the Services are the property of their respective owners. Reference to any products, services, processes or other information by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation by us. Nothing contained in the Services should be construed as granting any license, interest or right of any kind to use any trade names, trademarks, service marks, or logos appearing in the Services without the express prior written consent of the owner.

Oculus reserves the right to, and may, terminate or temporarily suspend your access to all or any part of the Services, without notice, for conduct that Oculus believes violates these Terms or any of our policies, procedures, rules, regulations or guidelines, or for any other reason in our sole discretion.

## **2. ELIGIBILITY**

You must be at least 18 years old to use the Services. By agreeing to these Terms, you represent and warrant to us that: (a) you are an individual who is at least 18 years old; (b) you have not previously been suspended or removed from the Services; (c) your registration and your use of the Service is in compliance with all applicable laws and regulations; and (d) you have read and agree to our [Privacy Policy](#). If you are under 18 years of age (or the age of legal majority where you live), you may not use the Services. If you use our Services on behalf of another person or entity, all references to “you” throughout these Terms will include that person or entity. You represent that you are authorized to accept these Terms on that person’s or entity’s behalf; and in the event you or the person or entity violates these Terms, the person or entity agrees to be responsible to us.

## **3. DATA SUBMISSION FROM THIRD PARTY INSTITUTIONS AND RESPONSIBILITY FOR AUTHORIZATION**

The purpose of the Services is to review financial account data (including, but not limited to, account numbers and account holder information, account transactions, account statements, account position and balance information) (together, “Records”) from a variety of users, groups, advisors, clients, and other parties, retrieved from third party financial institutions, such as brokerages and banks, and parsed and summarized in a way that is searchable, verifiable and provides benefits to users.

You agree that the use of our Services, is subject to the following terms and conditions:

- **Accuracy of Records.** You agree to provide true, accurate, current and complete information in the Records, and you agree to not misrepresent the account information provided in the Records in any way.
- **Right to Share Records.** You represent and warrant that you are entitled to submit Records to Oculus for the uses described herein, and are responsible for obtaining all rights, permissions, and authorizations, if any, to provide Records to Oculus.
- **Record Ownership and User Content.** As between you and Oculus, and except for the licenses you grant Oculus below, you retain all rights in and to User Content, but are responsible for obtaining any necessary authorizations or licenses sublicense Records from your customers or other Record owners, as stated above and to provide Oculus with Records for purposes of the Services. Certain features of the Services may permit you or other users to upload content to the Services, including communications data and other messages, images, text, and other types of information (“User Content”). You retain any copyrights, moral rights, and any other proprietary rights that you may hold in the User Content. With respect to User Content, you grant Oculus a perpetual, nonexclusive, royalty-free, worldwide, fully paid, transferable and sublicensable license to use, reproduce, modify, adapt and translate your User Content. When you submit User Content on or through our Services, you understand that User Content and any associated information (such as your username) may be visible to others. Any User Content you submit to us is provided at your own risk of loss. You are solely responsible for all User Content you provide to Oculus or others via the Services. You may not create, post, store or share any User Content that violates these Terms or for which you do not have all the rights necessary to grant us the license described above. Although we have no obligation to screen, edit or monitor User Content, we may delete or remove User Content at any time and for any reason with or without notice. With respect to Records, you must have the authority to grant and will grant Oculus a non-exclusive, world-wide, royalty-free, non-transferable license to use the Records and any other related materials input or otherwise provided to Oculus pursuant to these Terms or a separate agreement between you and Oculus. Except for the license granted in this section, nothing contained in these Terms grants Oculus any right, title or interest in the Records. Except as expressly authorized by these Terms or a separate agreement, you will not, and will not allow others to (i) permit any third party not under your control to access or use the Services, (ii) decompile, disassemble, reverse engineer, or otherwise attempt to derive the trade secrets embodied in the Services, or (iii) use the Service to violate any applicable laws.

- No Financial Advice; No Verification. You acknowledge and agree that Oculolus is not a fiduciary, financial institution, financial or investment adviser; or a provider of investment, tax or legal advice; and does not endorse any company, property, product, service, security, or instrument. You also acknowledge and agree that Oculolus is not a consumer reporting agency and does not provide reports on Records to third parties.

#### **4. PROHIBITED CONDUCT AND CONTENT**

You will not violate any applicable law, contract, intellectual property right or other third party right or commit a tort, and you are solely responsible for your conduct while using our Services. You will not:

- use or access the Services (i) from a jurisdiction where such use or access is not authorized, (ii) for any illegal purpose, or (iii) in violation of any local, state, national, or international law;
- conduct activities that may be harmful to others or that could damage Oculolus' reputation;
- violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third party intellectual property right, or violating any third party privacy right;
- post, upload, or distribute marketing or advertising links or content, or any User Content or other content that is unlawful, defamatory, libelous, inaccurate, or that a reasonable person could deem to be objectionable, profane, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate;
- use scrapers, robots, or other data gathering devices not provided by Oculolus on or through the Services;
- interfere with security-related features of the Services, including by: (i) disabling or circumventing features that prevent or limit use or copying of any content; or (ii) reverse engineering, decompiling, or otherwise attempting to discover the source code of any portion of the Services, including the app(s), except to the extent that such activity is expressly permitted by applicable law notwithstanding this restriction;
- interfere with the operation of the Services or any user's enjoyment of the Services, including by: (i) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (ii) making any unsolicited offer or advertisement to another user of the Services; (iii) attempting to collect personal information, communications data, or other information about another user or third party without their consent; or (iv) interfering with or disrupting any network, equipment, or server connected to or used to provide the Services, or violating any regulation, policy, or procedure of any such network, equipment, or server;
- perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation or accreditation, accessing any other account without permission, or falsifying your account registration information;
- modify, translate, or create derivative works, adaptations or compilations of, or based on, the Services or part thereof, or use, copy or reproduce the Services or any part thereof other than as expressly permitted in these Terms;
- assign, sublicense, lease, sell, grant a security interest in, or otherwise transfer the access granted under these Terms or any right or ability to view, access, or use any Records; or
- attempt to do any of the acts described in this Section 4, or assist or permit any person in engaging in any of the acts described in this Section 4.

You may also post or otherwise share only User Content that is non-confidential and that you have all necessary rights to disclose. You are solely responsible for your User Content and the consequences of posting or publishing User Content. By posting or publishing User Content, you affirm, represent, and warrant that:

- you are the creator and owner of the User Content, or have the necessary licenses, rights, consents, and permissions to authorize Oculolus and users of the Services to use and distribute your User Content as necessary to exercise the licenses granted by you in this section, in the manner contemplated by the Service, Oculolus, and these Terms; and
- your User Content, and the use of the Services as contemplated by these Terms, does not and will not: (x) infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity,

or any other intellectual property or proprietary right; (y) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (z) cause Oculolus to violate any law or regulation, including laws related to the privacy of personal or health information.

The enforcement of this Section 4 is solely at Oculolus' discretion, and the failure to enforce this Section 4 in some instances does not constitute a waiver of our right to enforce it in other instances.

## **5. FEEDBACK**

If you choose to provide input or suggestions regarding your experience with the Services ("Feedback"), then you hereby grant Oculolus an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit such Feedback in any manner and for any purpose, including to improve the Service and create other products and services.

## **6. THIRD PARTY CONTENT**

We may provide information about third party products, services, activities or events, or we may allow other third parties to make their content and information available on or through the Services (collectively, "Third Party Content"). We provide Third Party Content as a service to those interested in such content. Your dealings or correspondence with third parties and your use of or interaction with any Third Party Content are solely between you and the third party.

## **7. DISCLAIMER OF WARRANTIES**

THE SERVICES AND ALL MATERIALS, PRODUCTS, AND CONTENT AVAILABLE THROUGH THE SERVICE ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. ALL OCROLUS ENTITIES (DEFINED BELOW) DISCLAIM, AND YOU HEREBY EXPRESSLY WAIVE, ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, RELATING TO THE SERVICE AND ALL MATERIALS, PRODUCTS, AND CONTENT AVAILABLE THROUGH THE SERVICE, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; (B) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE; AND (C) ANY WARRANTY AS TO WHETHER ANY RECORDS, COMMUNICATIONS DATA OR OTHER INFORMATION AVAILABLE THROUGH OR TRANSMITTED BY THE SERVICES IS TRUE, COMPLETE OR ACCURATE. OCROLUS DOES NOT WARRANT THAT THE SERVICES OR ANY PORTION OF THE SERVICES, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICES, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND DO NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.

NO INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM OCROLUS OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OCROLUS ENTITIES OR THE SERVICES THAT IS NOT EXPRESSLY STATED IN THESE TERMS. YOU ASSUME ALL RISK FOR ANY HARM OR DAMAGE THAT MAY RESULT TO YOU FROM YOUR USE OF OR ACCESS TO THE SERVICES, YOUR DEALING WITH ANY OTHER SERVICES USER, AND ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICES. YOU UNDERSTAND AND AGREE THAT YOU USE THE SERVICES, AND USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN MATERIALS OR CONTENT THROUGH THE SERVICES AND ANY ASSOCIATED SITES OR SERVICES, AT YOUR OWN DISCRETION AND RISK, AND THAT YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICES), OR THE LOSS OF DATA THAT RESULTS FROM THE USE OF THE SERVICES OR THE DOWNLOAD OR USE OF THAT MATERIAL OR CONTENT.

THE ABOVE PARAGRAPHS APPLY TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW. SOME JURISDICTIONS MAY PROHIBIT A DISCLAIMER OF WARRANTIES, IN PARTICULAR A DISCLAIMER OF WARRANTIES PROVIDED OR IMPLIED BY LAW, AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

## **8. REPEAT INFRINGER POLICY; COPYRIGHT COMPLAINTS**

We comply with the provisions of the Digital Millennium Copyright Act (the "DMCA") applicable to our operations (17 U.S.C. §512, as amended). If you have an intellectual property rights-related complaint about material posted on the Service, you may contact us at the information provided below. Please note that under applicable law, if you knowingly give false, misleading or inaccurate information that User Content is infringing, you may be subject to civil or criminal penalty. Any notice under the Digital Millennium Copyright Act (the "DMCA") alleging that materials hosted by or distributed through the Service infringe intellectual property rights must include all of

the information required by the DMCA for such notices. Oculolus will take steps to promptly terminate without notice the accounts of users that are determined by Oculolus to be "Repeat Infringers." A Repeat Infringer is a user who has been notified of infringing activity or has had User Content removed from the Services at least three times.

## **9. FAIR CREDIT REPORTING ACT ("FCRA")**

As stated, Oculolus does not provide reports on Records to third parties and is not a consumer reporting agency. However, to the extent that your information is being used by an Oculolus client for the purpose of providing a "Consumer Report" (as defined by the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §1681 et seq.), you consent for Oculolus and its suppliers to obtain and provide such data on your behalf for such purposes, or you represent that have obtain such consent as necessary. In such event, Oculolus is transmitting such data solely in a mechanical manner without altering the substance of the data. Oculolus is not the provider of the Consumer Report, but is acting solely as a service provider and conduit in connection with the data, and not as a consumer reporting agency.

## **10. INDEMNIFICATION**

To the fullest extent permitted under applicable law, you are responsible for your use of the Services, and you will defend and indemnify Oculolus and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (together, the "Oculolus Entities") from and against every claim, liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or in any way connected with: (a) your access to, use of, or alleged use of, the Services; (b) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (c) your violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; (d) any dispute or issue between you and any third party; and (e) fraud, intentional misconduct, criminal acts, gross negligence, or negligence committed by you. To the fullest extent permitted under applicable law, we reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of that claim. This indemnity is in addition to, and not in lieu of, any other indemnities set forth in a written agreement between you and Oculolus or the other Oculolus Entities.

## **11. LIMITATION OF LIABILITY**

IN NO EVENT WILL THE OCROLUS ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS, GOODWILL, REPUTATION, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO THESE TERMS OR YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICES OR ANY MATERIALS, PRODUCTS, OR CONTENT AVAILABLE ON OR THROUGH THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY OCROLUS ENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.

THE AGGREGATE LIABILITY OF THE OCROLUS ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR YOUR USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICE, PRODUCTS SOLD THROUGH THE SERVICE, OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO \$100, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. ACCORDINGLY, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. FURTHERMORE, NOTHING IN THESE TERMS LIMITS OR EXCLUDES ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED BY LAW.

EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 10 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## **12. RELEASE**

To the fullest extent permitted by applicable law, you release Oculolus and the other Oculolus Parties from all Claims of every kind and

nature, known and unknown (including, but not limited to, claims of negligence), arising out of or related to disputes between users and the acts or omissions of third parties. If you are a consumer who resides in California, you hereby waive your rights under California Civil Code § 1542, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

### **13. TRANSFER AND PROCESSING DATA**

In order for us to provide our Services and in accordance with our [Privacy Policy](#), you agree that we may process, transfer and store information about you in the United States and other countries, where you may not have the same rights and protections as you do under local law.

### **14. DISPUTE RESOLUTION; BINDING ARBITRATION**

Please read the following section carefully because it requires you to arbitrate certain disputes and claims with Oculolus and limits the manner in which you can seek relief from us unless a separate agreement between you and Oculolus controls resolution of any dispute with respect to that agreement. You have the right to opt out of binding arbitration within 30 days of the date you first accepted the terms of this Section 13 by sending written notice to us at the address listed below. In order to be effective, the opt-out notice must include your full name and address and clearly indicate your intent to opt out of binding arbitration.

In the interest of resolving disputes between you and Oculolus in the most expedient and cost effective manner, you and Oculolus agree that every dispute arising in connection with these Terms will be resolved by binding arbitration, to the fullest extent permitted under applicable law and unless a separate agreement between you and Oculolus applies. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND OCROLUS ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW.

Despite the provisions of Section 13, nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (i) bring an individual action in small claims court; (ii) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (iii) seek injunctive relief in a court of law; or (iv) to file suit in a court of law to address an intellectual property infringement claim.

To the fullest extent permitted under applicable law, any arbitration between you and Oculolus will be settled under the Federal Arbitration Act, and governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by these Terms, and will be administered by the AAA. The AAA Rules and filing forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by contacting Oculolus.

A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if such other party has not provided a current physical address, then by electronic mail ("Notice"). The Notice must: (i) describe the nature and basis of the claim or dispute; and (ii) set forth the specific relief sought ("Demand"). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice is received, you or Oculolus may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or Oculolus must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any.

If you commence arbitration in accordance with these Terms, Oculolus will reimburse you for your payment of the filing fee, unless your claim is for more than \$10,000, in which case the payment of any fees will be decided by the AAA Rules. Any arbitration hearing will take place at a location to be agreed upon in New York City, New York, but if the claim is for \$10,000 or less, you may choose whether the arbitration will be conducted: (i) solely on the basis of documents submitted to the arbitrator; (ii) through a non-appearance based telephone hearing; or (iii) by an in-person hearing as established by the AAA Rules in the county (or parish) of your billing address. If the



arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In that case, you agree to reimburse Ocrolos for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, YOU AND OCROLOS AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and Ocrolos agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

If Ocrolos makes any future change to this arbitration provision, other than a change to Ocrolos's address for Notice, you may reject the change by sending us written notice within 30 days of the change to Ocrolos's address for Notice, in which case your account with Ocrolos will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.

If Section 13 is found to be unenforceable then the entirety of this Section 13 (except this sentence) will be null and void and, in that case, the parties agree that the exclusive jurisdiction and venue described in Section 14 will govern any action arising out of or related to these Terms.

## **15. GOVERNING LAW AND VENUE**

These Terms and your use of the Services are governed by the laws of the State of New York without regard to conflict of laws principles. If a lawsuit or court proceeding is permitted under these Terms, then you and Ocrolos agree to submit to the exclusive jurisdiction of the state courts and federal courts located within New York, New York for the purpose of litigating any dispute, and you hereby consent to the personal jurisdiction and venue thereof. We operate the Service from our offices in the United States, and we make no representation that Materials included in the Service are appropriate or available for use in other locations.

## **16. SERVICE PROVIDERS**

You agree that our Service Providers may rely upon any provisions in these Terms relating to intellectual property, disclaimer of warranties, limitation of liability, and indemnification, and that our Service Providers are, for purposes of such provisions, third party beneficiaries of these Terms, with the power to enforce such provisions as applicable.

## **17. ELECTRONIC NOTICES AND DISCLOSURES**

You acknowledge and agree that Ocrolos may provide notices and other disclosures to you electronically (with the same effect as a paper copy) by posting such notices or other disclosures on our website or by emailing you at the email address provided to Ocrolos by you. Such notices or other disclosures shall be considered received by you after being posted on our website or twenty-four (24) hours after being emailed to you.

## **18. MISCELLANEOUS**

If any provision or part of a provision of these Terms is unlawful, void or unenforceable, that provision or part of the provision is deemed severable from these Terms and does not affect the validity and enforceability of any remaining provisions. The failure of Ocrolos to exercise or enforce any right or provision of these Terms will not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. You agree that communications and transactions between us may be conducted electronically.

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