

Service Order

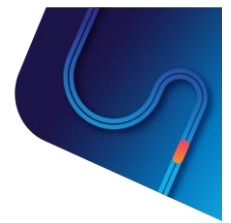
This Software as a Service Agreement Service Order is made and entered into as of [REDACTED] 2022, by and between Optibus Inc., (“**Optibus**”), and the City of Waukesha, having its principal offices at 201 Delafield Street, Waukesha, WI 53188, and its Transit Commission’s offices at 2311 Badger Drive, Waukesha, WI 53188-5932 (the “**Customer**”) (each may also be referred to as a “**Party**” and collectively the “**Parties**”).

Optibus Platform Pricing

Annual License Fees (recurring)

Description	Price (per vehicle per month in USD)	Peak Vehicle Requirement (PVR)	Annual Price (USD)	Term	Total
Optibus Core Modules. <ul style="list-style-type: none">Planning<ul style="list-style-type: none">Route PlanningTimetable PlanningImpact AnalysisGeospatial SuiteScheduling<ul style="list-style-type: none">Vehicle Scheduling & OptimizationCrew Scheduling & OptimizationRelief Vehicle OptimizationRostering<ul style="list-style-type: none">RostersRoster OptimizationOperations<ul style="list-style-type: none">Active Roster ControlAvailability AdjustmentsDriver Sign-On TrackingPayroll Matching	\$144.77	18	\$31,270	5 Years	\$156,350

The foregoing Service Order and the Terms, attached herein, represent Optibus’ proposal for the provision of services with respect to the City of Waukesha Transit Commission Run Cutting Software RFP (“**RFP**”). The services shall be in accordance with the Scope of Services as indicated under the RFP, as shall be applicable to Optibus being a SaaS company.



OPTIBUS TERMS OF USE

Optibus Inc. (“**Optibus**”) provides a proprietary software and/or platform as a service that uses unique algorithms designed to analyze and generate optimized arrangements for vehicles and drivers for transportation agencies that operate fixed-route transportation service vehicles (the “**Platform**”), and may include other services provided by Optibus, as further detailed in the relevant Service Order (as defined below) (collectively, the “**Services**”). You may use the Services (or any part thereof) in accordance with your specific applicable Service Order duly executed with Optibus and strictly subject to the terms and conditions provided hereunder.

1. Acceptance of these Terms

1.1. Please read carefully these terms and conditions of use (these “**Terms**”) before executing the Service Order and/or other ordering document that references or incorporates these Terms. By accepting these Terms through the execution of a Service Order, you agree to comply with and be bound by the following terms and conditions. If you are agreeing to these Terms not as an individual but on behalf of your company, government, or other entity for which you are acting (for example, as an employee or governmental official) you represent that you have the authority to bind such entity to these Terms, to use the Services on behalf of such entity and, in such event, “you” and “your” as used in these Terms shall refer to such entity. If you do not have such authority, or if you do not agree to these Terms, you may not access the Platform or use the Services. Each of Optibus and you may also be referred to herein as a “**Party**” and collectively as the “**Parties**.”

The “**Effective Date**” of these Terms is the date which is the earlier of (a) your initial access to or use of the Platform or Services or (b) the effective date of the first executed Service Order referencing these Terms.

2. Scope of Services

2.1. The scope of Services shall consist of performing the Services as stipulated and agreed in an applicable Service Order (the “**Service Order**”) that references these Terms. The Service Order (and any additional Service Order mutually executed by the Parties) is hereby incorporated by reference into these Terms. Unless otherwise expressly set forth in a Service Order, the Parties agree that these Terms shall apply to and govern each Service Order. In the event of any conflict between these Terms and a Service Order, these specific conflicting terms of the Service Order shall prevail.

3. Use of Services

3.1. Upon Optibus’ acceptance of your Service Order and for the duration of the Term (as defined below), Optibus grants you the nonexclusive, revocable, non-assignable, non-transferable, royalty-free and limited right to use the Platform and any standard published documentation provided by Optibus (“**Documentation**”) to receive the Services solely for your internal business operations and subject to these Terms. You may access the Platform via individuals who are authorized by you, in accordance with these



Terms, to access and use the Platform on your behalf (“**Authorized Users**”). You are solely responsible for maintaining the confidentiality of your account information and for anything that happens through your account information, including via your Authorized Users.

4. Use Restrictions

4.1. There is certain conduct which is strictly prohibited when using the Platform and Services. Please read the following restrictions carefully.

Unless prior written authorization is obtained from Optibus and/or otherwise specified in the applicable Service Order, you shall not, and shall not authorize others, to: (a) modify, alter, create derivative works from, reverse engineer, decompile, or disassemble any part of the Platform or Services, nor attempt in any other manner to obtain the source code or otherwise reduce to human-perceivable form any part of the Platform or Services; (b) frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform or Services (including any Documentation which accompanies the Services) in any form or media or by any means; (c) remove any proprietary notices, labels, or marks on or in any part of the Platform or Services, including without limitation any trademark or copyright notices; (d) disclose the results of testing or benchmarking of the Services to any third party, or access or use the Services or any part thereof in order to build or support, and/or assist a third party in building or supporting, products or services which are competitive to Optibus’ Platform or Services; (e) sublicense, rent, or lease, host, outsource, display, or commercially exploit any part of the Services, or use the Services to provide services to third parties; (f) attempt to obtain, or assist third parties in obtaining, access to the Platform, Services and/or associated Documentation; (g) use the Services in any manner not expressly authorized by these Terms; or (h) take any actions which (i) would disable the Platform or Services or impair in any way their operation based on the elapsing of a period of time, the exceeding of an authorized number of copies, or the advancement to a particular date or other numeral (referred to as “time bombs”, “time locks”, or “drop dead” devices); (ii) would prevent Optibus from accessing the Services for the purposes of its operations; or (iii) infringe or violate any of the Terms or allow and/or enable a third party to do any of the aforementioned.

5. Fees

5.1. In consideration for the Services, you shall pay Optibus the amounts set forth on each Service Order (the “**Fees**”). Optibus will issue an invoice to you referencing the applicable 12-month period at the beginning of each 12-month period, commencing upon the signing a respective Service Order.

5.2. Notwithstanding the above, in case of an increase or decrease in PVR (as defined above) of up to twenty percent (20%), Optibus will not charge You with additional fees (“**Approved Additional PVR**”) in the event the additional PVR is no greater than twenty percent (20%) of the PVR as indicated under the Service Order herein. It is hereby clarified, agreed and understood that in such an event, Optibus will not reduce the Fees as stipulated under the Service Order (“**Approved Reduced PVR**”) if the reduced PVR is no greater than twenty percent (20%) of the PVR as indicated under in the Service Order. In the event that the Approved Additional PVR or Approved Reduced PVR exceeds the amount of twenty percent (20%) of the PVR indicated under the Service Order, Optibus shall be entitled to revise its Fees due for the relevant invoice period based on the Fees contained within the Service Order.

5.3. Payment Terms. Unless otherwise provided in a Service Order, within thirty (30) days from the issue date of the invoice, you shall pay Optibus all amounts for Fees referenced in such invoice. Any payment not received by Optibus within such period shall accrue interest at a rate of one percent (1%) per



month, or the highest rate allowed by applicable law. All Fees are non-cancellable and non-refundable. All Fees are stated and payable in US Dollars, and are exclusive of VAT, which shall be added to Optibus' invoice(s) at the appropriate rate.

5.4. You will be responsible for, and will promptly pay, all taxes and duties of any kind (including but not limited to sales, use and withholding taxes) associated with these Terms or your receipt or use of the Services, except for taxes based on Optibus' income. Notwithstanding the foregoing, in the event you claim an exemption from the payment of such applicable taxes or duties, you will provide to Optibus any such exemption information at the time of payment.

5.5. You agree to make all payments under each Service Order and these Terms without set-off or counterclaim and free and clear of any withholding or deduction (save as required by law) for any present or future taxes and/or duties. All payment of amounts referenced in such invoice shall be made in readily available funds, directed to Optibus' bank account which details are:

Account name:	Optibus Inc.
Bank Name:	Bank Leumi USA
Branch Address:	350 Madison Avenue, Fourth Floor, New York, NY 10017
Account number:	1564394801
Swift code:	LUMIUS3N
Routing Number:	026002794

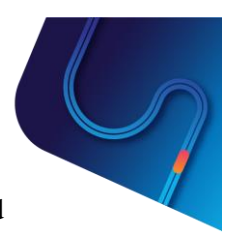
6. Intellectual Property

6.1. You retain all ownership and intellectual property rights in and to all data you provide to or make available to Optibus or which is generated by you during your use of the Services (collectively, "**Customer Data**"). You hereby grant Optibus the right to use your Customer Data (a) in order to provide the Services to you and (b) in aggregate, anonymized form for Optibus' internal business purposes.

6.2. You acknowledge and agree that Optibus and/or its licensors own the Platform, the Services, Optibus' Confidential Information and/or any part of the foregoing, including any related Documentation, updates, upgrades, copies, emulations, modifications, adaptations, enhancements, or derivative works thereof and all intellectual property rights in the aforementioned. Except as expressly stated herein, these Terms does not grant you or your Authorized Users any rights or licenses in respect of the Platform and/or Services or any other intellectual property of Optibus. All rights not granted herein are expressly reserved by Optibus.

6.3. In the event that you decide to provide to Optibus any suggestions, ideas, comments, questions and/or other feedback relating to the Platform and/or Services ("**Feedback**"), you hereby grant Optibus the irrevocable right to freely use such Feedback and, accordingly, all rights to any improvements and/or enhancements to the Platform and/or Services, howsoever arising, including as a result of any ideas, input or information provided by you as aforesaid, shall vest solely with Optibus. Optibus may in connection with any of its products or services freely use, copy, disclose, license, distribute and exploit any Feedback in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise. No Feedback will be considered your Confidential Information, and nothing in these Terms limits Optibus' right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

7. Your Obligations



7.1. You represent that during the Term and at all relevant times, you shall: (a) hold and maintain any necessary rights, licenses, consents and/or permissions required to allow Optibus and its third party service providers to perform their obligations under these Terms, including without limitation, the use of your Customer Data by Optibus and its service providers as required under applicable law and as contemplated hereunder; (b) comply with all applicable laws and regulations with respect to your activities under these Terms; (c) ensure that your network and systems comply with the relevant specifications provided by Optibus from time to time; (d) be solely and fully responsible for any decision made or action taken or not taken in reliance on the use of the Services and/or any data output; (e) be solely responsible for regularly tracking, reviewing and verifying that the Platform and Services are duly performing in accordance with your requirements, specifications, expectations, and goals.

8. Privacy and Data Protection

8.1. Optibus may collect certain data and information from you and your Authorized Users in connection with your and your Authorized Users' use of the Platform and Services and otherwise in connection with these Terms. All such data and information will be collected and used by Optibus in accordance with Optibus' [Privacy Policy](#), which you acknowledge and agree to.

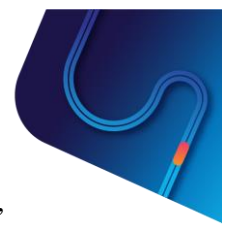
8.2. You hereby warrant and represent that any content, information, and data (including Customer Data) provided to Optibus during the course of your engagement with Optibus shall not include Personal Data of any third party. You alone, and not Optibus, shall be responsible for any information provided, uploaded to the Platform or otherwise made available to Optibus beyond the scope permitted hereunder. For the purposes of these Terms, "Personal Data" shall mean all information and data of any kind collected, received, held, accessed, maintained, stored, processed, controlled, or used, that is considered to be personal data or individually-identifiable information from or about an individual under applicable law, including but not limited to the CCPA, GDPR and/or other applicable data protection or privacy laws and regulations to which the you or Optibus are subject.

8.3. Without derogating from the aforementioned, in the event Personal Data is included in the Customer Data, you shall take all necessary measures to ensure and hereby represent and warrant to Optibus, that any third party (including, without limitation, your employees, suppliers, customers and contractors) whose Personal Data has been provided to Optibus hereunder, is aware of and has provided explicit consent to Optibus' processing, storing, displaying, transmitting, and performing any other actions on and in connection with such third party's Personal Data, as shall be required or advisable.

9. Indemnification

9.1. Optibus shall defend, indemnify and hold you harmless from and against any damages, liabilities, costs, and expenses (including reasonable attorney's fees) finally awarded by a court of competent jurisdiction to a third party claiming that the Services, when used in accordance with these Terms and any Documentation, infringe such third party's intellectual property rights ("**Infringement Claim**"), provided you do the following: (a) notify Optibus promptly in writing, not later than 30 days after you receive notice of the claim (or sooner if required by applicable law); (b) give Optibus sole control of the defense and any settlement negotiations; and (c) give Optibus the information, authority, and assistance Optibus needs to defend against or settle the Infringement Claim. Optibus shall have the sole right to control the defense of such Infringement Claim and all related settlement negotiations.

9.2. If Optibus believes or it is determined that the Service be subject to an Infringement Claim, Optibus may at its discretion choose to either modify the Services to be non-infringing (while substantially



preserving their utility or functionality) or obtain a license to allow for your continued use thereof, or if in Optibus' sole discretion, these alternatives are not commercially practicable, Optibus may terminate these Terms and refund any unused, prepaid Fees paid by you for the Services. Notwithstanding anything to the contrary contained hereunder, Optibus will not indemnify or defend you for any Infringement Claim that is based on: (a) any modification to the Services by anyone apart from Optibus, without the prior written consent of Optibus; (b) use of the Service not in accordance with these Terms, any Documentation or other instructions provided by Optibus; (c) use of the Services with hardware or software that does not meet the minimum requirements set forth in the Documentation, and/or that has not been preapproved by Optibus; or (d) any information, design, specification, instruction, software, data, or material not furnished by Optibus.

9.3. You shall indemnify, defend, and hold Optibus (including its officers, employees, agents and affiliates) harmless from and against any claims, damages, liabilities, costs, and expenses (including reasonable attorney's fees) resulting from any third-party claims: (a) that Customer Data violates any third party rights, including without limitation infringement or violation of intellectual property rights or privacy rights; or (b) arising from your violation or alleged violation of any of your representations and/or obligations under these Terms.

10. Confidentiality

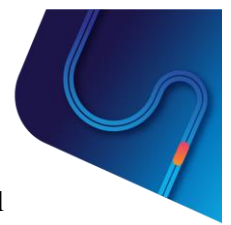
10.1. By virtue of these Terms and/or provision of the Services, the Parties may have access to information that is proprietary or confidential to one another ("**Confidential Information**"). A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other Party's lawful possession prior to the disclosure and had not been obtained by the other Party either directly or indirectly from the disclosing Party; (c) is lawfully disclosed to the other Party by a third party without restriction on the disclosure; (d) is independently developed by the other Party without use of or reference to the Confidential Information; or (e) is required to be disclosed by a court of competent jurisdiction or other governmental authority or otherwise as required by law.

10.2. The Parties agree to hold each other's Confidential Information in strict confidence for a period of five years from the date of disclosure and to only use such Confidential Information as necessary for performance under these Terms. Also, the Parties agree to disclose Confidential Information only to those employees or agents who have a need to know such information and are required to protect it against unauthorized disclosure in a manner no less protective than under these Terms. Optibus will protect the confidentiality of your Customer Data in accordance with its published [Privacy Policy](#).

10.3. The Parties each acknowledge and agree that a violation of the confidentiality undertakings in these Terms may cause significant harm to the disclosing Party. In addition to any other rights and remedies disclosing Party may have, receiving Party agrees that an injunction (whether temporary, preliminary, or final) may be sought in a court of competent jurisdiction against it upon the request of disclosing Party, without the requirement of posting a bond.

11. Disclaimer and Warranties

11.1. Optibus warrants and represents that, when used in accordance with these Terms and the Documentation: (a) the Platform does not infringe upon the intellectual property rights of any third party and (b) the Services will substantially conform to the Documentation. If the Services does not substantially



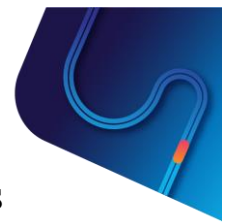
conform to the Documentation, Optibus will, at its expense, use all reasonable commercial endeavors to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the warranty set out above. The aforementioned warranty shall not apply to any problem caused by: (i) any modification or provision of the Services by anyone apart from Optibus, without the prior written consent of Optibus; (ii) use of the Services not in accordance with the Documentation or other instructions provided by Optibus; (iii) use of the Services with hardware or software that does not meet the minimum requirements set forth in the Documentation, and/or that has not been preapproved by Optibus; (iv) any computer virus or similar malicious code in the Services which is introduced into the Services by you, your Authorized Users or any other third party; or (v) any errors caused by you or users on your behalf and/or errors due to requests and/or specifications provided by you that are inconsistent with the Documentation, including problems caused by incorrect configuring or a failure to perform the required administrative obligations contained in the Documentation or instructions provided to you by Optibus.

11.2. EXCEPT FOR THE WARRANTIES SET FORTH ABOVE, YOU UNDERSTAND AND AGREE THAT THE PLATFORM, DOCUMENTATION, AND THE SERVICES ARE PROVIDED BY OPTIBUS ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITHOUT ANY OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, OR RELIABILITY, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW. WITHOUT DEROGATING FROM THE GENERALITY OF THE FOREGOING, YOU ACKNOWLEDGE THAT OPTIBUS DOES NOT GUARANTEE THAT THE PLATFORM OR THE PERFORMANCE OF THE SERVICES WILL BE SECURE, ACCURATE, COMPLETE, UNINTERRUPTED, WITHOUT ERROR, OR FREE OF ANY PROGRAM LIMITATIONS OR FAILURES, OR THAT THE PLATFORM AND/OR ANY FEATURE AVAILABLE THEREIN (WHETHER OR NOT CONFIGURABLE BY YOU) AND/OR ANY INFORMATION OBTAINED BY YOU THROUGH THE USE OF THE PLATFORM AND/OR SERVICES WILL MEET AND/OR PERFORM IN ACCORDANCE WITH YOUR REQUIREMENTS, SPECIFICATIONS, EXPECTATIONS, CONFIGURATIONS, OR GOALS, OR THAT OPTIBUS WILL CORRECT ANY OR ALL PRODUCT ERRORS, DEFICIENCIES, OR NON-PERFORMANCES. YOU ACKNOWLEDGE THAT OPTIBUS DOES NOT CONTROL THE TRANSFER OF DATA OVER TELECOMMUNICATIONS INFRASTRUCTURE, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, OR OTHER PROBLEMS INHERENT IN THE USE OF SUCH INFRASTRUCTURE AND TECHNOLOGIES. OPTIBUS IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

11.3. You acknowledge that the Platform will enable or assist you in accessing the website content of, correspond with, or use of the services of certain third-party websites/providers, and you do so solely at its own risk. Optibus makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, or any contract entered into by you, with any such third party. Any contract entered into and any transaction completed via any third-party website or service is between you and the relevant third party, and not Optibus. Optibus recommends that you refer to the third party’s website terms and conditions and privacy policy prior to using the relevant third-party service.

12. Limitation of Liability

12.1. UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT



LIMITATION, FOR ANY LOST PROFIT OR LOSS RESULTING FROM BUSINESS INTERRUPTION OR LOSS OF DATA, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES. EXCEPT IN CASES OF GROSS NEGLIGENCE AND WILLFUL MISCONDUCT, IN NO EVENT WILL OPTIBUS' AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS, LOSSES, OR DAMAGES ARISING OUT OF OR RELATING TO THESE TERMS OR ANY SERVICES (WHETHER IN CONTRACT, EQUITY, NEGLIGENCE, TORT, OR OTHERWISE) EXCEED THE AGGREGATE FEES PAID BY YOU TO OPTIBUS UNDER THE RELEVANT SERVICE ORDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE UPON WHICH THE APPLICABLE CAUSE OF ACTION ARISES. IN THE EVENT OF LIABILITY RESULTED DUE TO A BREACH OF INTELLECTUAL PROPERTY OR CONFIDENTIALITY OBLIGATIONS, OPTIBUS' AGGREGATE LIABILITY FOR ANY SUCH CLAIMS SHALL NOT EXCEED THE AGGREGATE FEES EQUAL TO THREE TIMES THE FEES PAID BY YOU TO OPTIBUS UNDER THE RELEVANT SERVICE ORDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE UPON WHICH THE APPLICABLE CAUSE OF ACTION ARISES. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER THE SECTION 6 ABOVE.

13. Government Customers

13.1. Any United States federal, state, or local government customers are subject to the Agency Amendment attached below, in addition to these Terms.

14. Term and Termination

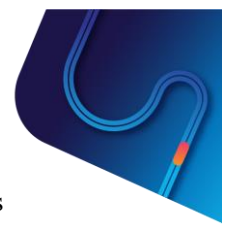
14.1. The Services provided under these Terms shall commence on the Effective Date and shall be provided for the subscription period defined in the Service Order unless earlier terminated in accordance with these Terms (the "**Term**").

14.2. Either Party may terminate a Service Order for cause: (a) upon 30 days' prior written notice to the other Party of a material breach of these Terms (including breach of any terms stated in the relevant Service Order), if such breach remains uncured at the expiration of such period; or (b) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

14.3. Upon expiration or termination of these Terms for any reason, any and all licenses and rights granted to you shall cease and you shall immediately cease all use of the Platform and Services and shall delete and purge all traces of the Services from your systems and custody. Each Party shall return or destroy all copies of the Confidential Information of the other Party in its possession, custody or control, and, in the case of destruction, upon receipt of written request from the disclosing Party, certify such destruction in a written notice to the disclosing Party.

This Section 14, and Sections 4-6, 10-13, and 16 shall survive the termination or expiration of these Terms.

15. Support and Training



During the Term, you will be entitled to receive Optibus' standard customer support services ("Support Services") 9:00 a.m. to 8:00 p.m., Monday-Friday, ET, in connection with the Services, as well as emergency tech support on a 24/7 basis, all in accordance with the terms as stipulated under **Annex A** herein. You may be entitled to receive enhanced Support Services in the event such are included under the Order.

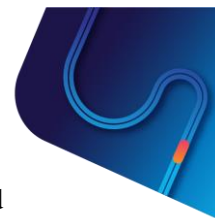
16. Miscellaneous

16.1. Any notice provided pursuant to this Terms shall be in writing and shall be sent to the addresses of the Parties set forth in the Service Order, by registered mail, or facsimile with telephone confirmation, or e-mail with notice of receipt requested. Nothing in these Terms shall in any way be construed to constitute you or Optibus as an agent, partner, joint-venturer, employee, or representative of the other, and both you and Optibus shall remain independent contractors. You may not assign these Terms or any Service Order or an interest in them to another individual or entity without the prior written consent of Optibus. Subject to the foregoing, these Terms shall bind and inure solely and exclusively to the benefit of the Parties hereto and their successors and assigns, and not to the benefit of any third party whatsoever. You agree that Optibus may use your name and/or logo on Optibus' website and in Optibus' promotional materials as a user of the Services. Each of you and Optibus will be excused for delays in performing or from its failure to perform hereunder (other than an obligation to make a payment of money when due) to the extent that the delays or failures result from causes beyond the reasonable control of such Party; provided that, in order to be excused from delay or failure to perform, such Party must inform the other Party of the reason for such delay or failure and act diligently to remedy the cause of the delay or failure. No waiver by either you or Optibus of any breach of these Terms will constitute a waiver of any other breach of the same or other provisions of these Terms. No waiver by either You or Optibus will be effective unless made in writing and signed by an authorized representative of that Party. These Terms (including reference to information contained in a URL or referenced policy), together with any outstanding Service Order executed pursuant thereto, constitutes the entire agreement and understanding of you and Optibus relating to the subject matter hereof. These Terms supersedes all prior written and oral agreements and all other communications between you and Optibus. If any provision in these Terms is found by a competent court to be invalid or unenforceable under any circumstance, its application in any other circumstance and the remaining provisions of these Terms will not be affected thereby. Unless designated as replacing a specific outstanding Service Order, a new Service Order will be considered to be in addition to a then-outstanding Service Order.

16.2. Optibus may modify the terms and conditions of these Terms (including related policies) from time to time, with notice given to you by email, through the Platform or Services, or through posting updated terms to our website. Together with such notice, Optibus will specify the effective date of any modifications. Otherwise, all other changes to these Terms are effective as of the stated "Last Revised" date noted above and your continued use of the Services after the Last Revised date will constitute acceptance of, and agreement to be bound by, those changes.

16.3. These Terms and any relevant Service Order and any claim arising from these Terms or any relevant Service Order will be governed by and interpreted in accordance with the laws of the State of New York, without regard to conflicts of laws and principles. Any and all actions brought to enforce or resolve any dispute arising out these Terms or any relevant Service Order must be brought exclusively in courts having jurisdiction in New York, New York and each party hereby consents to and agrees to submit to the exclusive personal jurisdiction and venue of such courts.

For information, questions, or notification of errors, please contact Optibus:



If you have any questions (or comments) concerning the Terms, you are most welcomed to send Optibus an e-mail at: info@optibus.com, and we will make an effort to reply within a reasonable timeframe.

City of Waukesha

Optibus Inc.

By: _____

Shawn N. Reilly, Mayor

Date: _____

By: _____

Amos Haggiag - CEO

Date: _____

Attest: _____

Gina L. Kozlik, City Clerk

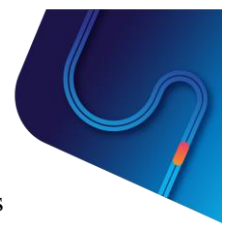
Date: _____

AGENCY AMENDMENT

This Agency Amendment (“**Amendment**”) modifies the Optibus Terms of Use (the “**Terms**”) and applies to United States federal, state, and local government customers (hereinafter “**Agency**”) only. Agency and Optibus agree to modify the Terms only to the extent required to accommodate any statutory restrictions or obligations that apply, without exception, to the Terms. Accordingly, the Terms are hereby modified as set forth below as it pertains to use of the Platform and Services by Agency. Optibus may update or modify this Amendment from time to time as set forth in the Terms.

All capitalized terms not defined in this Amendment have the meanings given to them in the Terms. Except as expressly set forth herein, all of the terms and conditions of the Terms shall remain in full force and effect.

1. **Commercial Items.** The Optibus Platform and Services (together, “**Products**”), Documentation, and related services are commercial in nature and available in the open marketplace. The Products, Documentation, and related services are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, and all software provided by Optibus is "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are defined at 48 C.F.R. §252.227-7014(a)(5) and 48 C.F.R. §252.227-7014(a)(1), and used in 48 C.F.R. §12.212 and 48 C.F.R. 227.7202, as applicable. All sales to Agency shall be consistent with 48 C.F.R. §12.212, 48 C.F.R. §252.227-7015, 48 C.F.R. §227.7202 through 227.7202-4, 48 C.F.R. §52.227-14, and other relevant sections of the Code of Federal Regulations, as applicable. The Products, Documentation, and related services are licensed to Agency with only those rights as granted to all other customers, according to the terms and conditions contained in the Terms.



2. **Government Purpose.** Agency's use of the Products, Documentation, and related services under the Terms as amended herein shall only be for a governmental purpose. Any private, personal, or non-governmental purposes shall result in the waiver of this Amendment and the terms and conditions of the Terms shall apply without modification.

3. **Indemnification, Liability, Statute of Limitations.** Any provisions in the Terms imposing indemnification by Agency are hereby waived and shall not apply except to the extent expressly authorized by applicable law. Liability for any breach of the Terms as modified by this Amendment or any claim arising from the Terms as modified by this Amendment, shall be determined under the Contract Disputes Act, the Federal Tort Claims Act, or other governing federal or state authority. Federal Statute of Limitations provisions or, if applicable, state statute of limitations, shall apply to any breach or claim. In the event of a dispute between the Parties, Agency agrees that Optibus shall have standing and direct privity of contract to bring a claim directly against Agency in a court of competent jurisdiction or an agency board of contract appeals.

4. **Governing Law.** Any terms regarding choice of law and venue in the Terms are hereby waived. The Terms and this Amendment shall be governed by, and interpreted and enforced in accordance with, the laws of the state in which Agency is established without reference to conflict of laws principles. The laws of the State of New York will apply in the absence of such applicable law.

5. **Intellectual Property Ownership.** Except as expressly stated in the Terms, no rights to any derivative works, inventions, products or product modifications, or documentation are conferred to Agency or any other party. All such rights belong exclusively to Optibus.

6. **Publicity Rights.** Optibus may identify Agency as a customer in its promotional materials to the extent permitted by GSAR 552.203-71-RESTRICTION IN ADVERTISING. Optibus will not suggest that Agency endorses the Products but only that Agency is an Optibus customer. Agency may request that Optibus stop doing so by submitting an email to the applicable contact address set forth in the Terms. Optibus will make reasonable commercial efforts to promptly process Agency's request.

7. **Order of Precedence.** If there is any conflict between this Amendment and the Terms, or between this Amendment and other terms, rules, or policies on the Optibus website or otherwise related to our Products or related services, this Amendment shall prevail.

8. **No Additional Terms.** Agency hereby acknowledges and agrees that other than the Mandatory Provisions expressly set forth in Section 9 below, no other linked, click-acceptance or other terms and conditions presented or otherwise provided with Agency's Service Order or other ordering document ("**Additional Terms**") will be binding on Optibus, even if acceptance of the Service Order requires an affirmative "acceptance" of such Additional Terms. Any Additional Terms are hereby deemed rejected by Optibus in their entirety and shall be of no force or effect.

9. **Mandatory Provisions.** Optibus acknowledges that certain public agencies and authorities are bound to contract with their vendors and suppliers under specific terms and conditions mandated by United States federal, state, and local municipal laws and regulations ("**Mandatory Provisions**"). To the extent that any Mandatory Provisions are applicable to Agency and to the engagement of the Parties under the Terms, this Amendment, and applicable law, such Mandatory Provisions will be set forth below:

Agency Mandatory Provisions:



Annex A

Service Level Agreement

This Service Level Agreement (“**SLA**”) pertains to the service level that You (the “**Customer**”) are entitled to receive from Optibus in accordance with Section 15 of the Terms, of which this SLA is a part, with respect to the access and use of the Optibus platform and related services as described therein (the “**Service**”).

1. Definitions

- a) “**Business Day**” means every day of the week, other than Saturday, Sunday or public holiday in the United States when banks in the United States are open for business.
- b) “**Business Support Hours**” means 9:00AM to 8:00PM ET, during a Business Day.
- c) “**Fault**” means an error or failure in the Service to operate in all material respects with the then-applicable Services’ documentation.
- d)
- e) “**Helpdesk**” means the point of contact that Optibus makes available to Customer for resolution of Faults as set out in this SLA.

2. Support Services

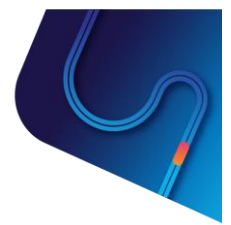


- a) Customer may contact the Helpdesk and submit Faults using one of the following communication channels:
- The Support function included within the Services' user interface.
 - E-mail: support@optibus.com

The Services shall be provided only in the English language.

- b) When a new Fault is properly submitted to the Helpdesk, the Helpdesk shall use reasonable commercial efforts to try to identify the origins of the Fault and to respond to the Customer within the time periods specified in the table below, according to the Fault's severity level. A Fault's severity level may be re-evaluated upon submission of a workaround.

Severity Level	Description	Examples	Coverage	Response Time	Workaround/ Resolution Time
1 - Urgent	The Optibus Platform is down, preventing the customer from accessing and using the service.	<ul style="list-style-type: none"> • A failure of connecting the system • Substantial data loss 	24/7	Within 1 business support hour	1 Business day
2 - High	Critical functionality is not working, preventing the customer from working	<ul style="list-style-type: none"> • Can't access a specific schedule • Some loss of data 	Business Support Hours	Within 1 Business Day	
3 - Medium	Some product functionality isn't working, but work can still be done	<ul style="list-style-type: none"> • Critical errors which have a workaround • Repeated errors in manual editing • Integrations/export/Import issues 	Business Support Hours	Within 1 Business Day	-
4 - Low	Issues that aren't related to the main workflow (e.g. KPIs not correct, color issues etc)	<ul style="list-style-type: none"> • Non-critical features which do not work properly • Cosmetic issues • New feature request 	Business Support Hours	Within 1 Business Day	-



- c) For the purposes of the table above:
 - i) Response time: duration between the time from the Fault being reported by Customer or detected by Optibus, until the time that the on-call engineer has begun to work on the Fault.
 - ii) Resolution time: duration from ticket creation to deployment of a fix or workaround (or availability of the Service to Customer). A Fault is considered as “resolved” once the Service substantially performing in conformity with the then-current Service documentation.
3. **Availability.** The Services will be available 99 percent of the time measured monthly, excluding regularly scheduled maintenance. If Optibus requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. Any downtime resulting from outages of third-party connections or utilities or other reasons beyond Optibus' control will also be excluded from any such calculation.
4. **SLA Exclusions.** Optibus' obligations hereunder are based on and subject to the Customer: (i) complying with Optibus' instructions, if any, for performing any corrective action; and (ii) maintaining the connectivity (with acceptable bandwidth) of the Customer's workstations to the main Internet, as well as creating and maintaining firewall definitions and opening required ports that permit access to the Services. The following shall not be considered within the definition or calculation of downtime: (i) Scheduled Downtime; (ii) Services unavailability that is attributable to: (a) causes beyond Optibus' reasonable control or the performance of any third party hosting provider or communications or internet service provider; (b) any actions or omissions of the Customer or any third party acting on its behalf; and/or (c) Customer's or any third party's equipment or software; (d) Services unavailability caused by the suspension and termination of Customer's right to use the Services in accordance with the Terms; and (iii) separate instances of Services unavailability of less than 5 (five) minutes duration each.
5. **General Support Terms.** Optibus obligations under this SLA do not include on-site services or training. On-Site services and/or training services shall be provided to Customer by Optibus subject to an additional payment.