

Customer Terms

These Customer Terms (the "**Agreement**") govern Customer's acquisition and use of LOKKER's Services. By executing an Order that incorporates or otherwise references these Customer Terms, Customer accepts and agrees to be bound by the terms of this Agreement. Capitalized terms have the definitions set forth herein. LOKKER may modify this Agreement from time to time, subject to the terms set forth in Section 9.10 below.

If an individual is accepting this Agreement on behalf of Customer, such individual represents that they have the authority to bind Customer to the terms of this Agreement. If the individual accepting this Agreement does not have such authority, such individual must not accept this Agreement and Customer may not use LOKKER's Services.

This Agreement was last updated on February 1, 2024, and is effective between Customer and Apomaya, Inc. dba LOKKER as of the date of Customer accepting this Agreement.

1. DEFINITIONS

"Customer Data" means electronic data and information submitted by Customer to LOKKER in connection with the Services, excluding LOKKER Data, the Services, and Non-LOKKER Applications.

"Customer Website" means the website(s) listed in an Order.

"Documentation" means any user guides, documentation, and help and training materials provided by LOKKER to Customer relating to the Services, as updated from time to time.

"LOKKER Data" means electronic data, datasets and information collected, analyzed, profiled and structured by LOKKER from data licensors or publicly available sources and made available to Customer as part of the Services.

"Laws" means all U.S. or foreign national, regional, state, provincial or local laws, statutes, rules, regulations, ordinances, administrative rulings, judgments, decrees, orders, directives or treaties applicable to LOKKER's provision and Customer's use of the Services.

"Malicious Code" means code, files, scripts, agents or programs intended to do harm, including viruses, worms, time bombs and Trojan horses.

"Non-LOKKER Applications" means a web-based or offline software application that is provided by Customer or someone other than LOKKER that interoperates with the Services.

"Order" means an order for Customer's access and use of the Services, or related services that is executed by the parties and incorporating or otherwise referencing these Customer Terms.

"Services" means the services made available by LOKKER to Customer as set forth in an Order. Services excludes Non-LOKKER Applications.

"Subscription Term" means the subscription term for Services set forth in the applicable Order.

"User" means an individual who is authorized by Customer to use the Services and to whom Customer has supplied a user identification and password. Users are limited to Customer's employees, consultants, contractors and agents.

2. SERVICES

2.1 **License.** Subject to the terms of this Agreement (including any additional limitations or restrictions set forth in the applicable Order and timely payment of all Fees), LOKKER hereby grants to Customer a non-exclusive, non-transferrable non-sublicensable right during the applicable Subscription Term to use the Services and the LOKKER Data in accordance with the Documentation.

2.2 **Service Modifications.** LOKKER may, in its sole discretion, change, enhance or modify features of the Services, but LOKKER will not materially reduce the core functionality or discontinue any features or capabilities without providing prior written notice to Customer. Customer will receive standard updates to the Services that are made generally available by LOKKER to its customer base. LOKKER may offer customization, additional functionality or premium feature improvements to Customer for an additional fee as set forth in an Order.

2.3 **Customer Responsibilities.** Customer will (a) obtain and maintain any equipment and ancillary services needed to connect to, access or otherwise use the Services, (b) use the Services and LOKKER Data only for its own internal business purposes, (c) be responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired any Customer Data provided to LOKKER in connection with the Services, (d) use reasonable efforts to prevent unauthorized access to or use of the Services and LOKKER Data, and notify LOKKER immediately if it becomes aware of any unauthorized use of any password or account or any other known or suspected breach of security or misuse of the Services, and (e) use the Services and LOKKER Data only in accordance with the Order, this Agreement, the Documentation and all applicable Laws.

2.4 **Usage Restrictions.** Customer will not (a) sell, resell, license, sublicense or otherwise distribute the Services or any LOKKER Data, (b) store or transmit material in violation of third-party privacy rights, (c) use the Services to store or transmit Malicious Code, (d) use the Services in a way that abuses, interferes with or disrupts LOKKER's network or the Services, (e) attempt to gain unauthorized access to the Services, LOKKER Data or LOKKER's systems or network, (f) copy the Services or LOKKER Data except as permitted herein or in the Documentation, or (g) modify, disassemble, decompile, prepare derivative works of, reverse engineer or otherwise attempt to discover the source code, object code, or underlying structure, ideas, know-how or algorithms of the Services or related software.

2.5 **Customer Data.**

(a) LOKKER collects and processes Customer Data only at the direction of Customer and for no purpose other than the provision of Services hereunder. As between Customer and LOKKER, Customer retains ownership of all Customer Data. LOKKER will not be considered a Data Controller under any Law. LOKKER will not collect, process, or store any Customer Data from Customer's Website(s) that constitutes personal health information (PHI), personally identifiable information (PII), or sensitive personal information (SPI); rather, LOKKER's Privacy Edge™ Platform identifies instances where Customer Data is being sent outside Customer Website(s) without identifying specifically what Customer Data is being sent. For purposes of Section 4 ("Confidentiality"), Customer Data is not "disclosed" to LOKKER.

(b) Customer is solely responsible for ensuring that its disclosure to LOKKER of Customer Data and LOKKER's receipt, processing and use of Customer Data in performing the Services is in compliance with all Laws, including Laws requiring Customer to obtain the consent of a third party to use Customer Data and to provide appropriate notices of third-party rights. LOKKER will not be liable for (i) any Customer Data that is transmitted or viewed while using the Services, (ii) errors or omissions in Customer Data, or (iii) any loss or damage incurred as a result of LOKKER's access to, use of or denial of access to Customer Data.

(c) LOKKER will maintain reasonable physical and technical safeguards to prevent the unauthorized disclosure of or access to Customer Data. LOKKER will not access, view or process Customer Data except (i) as provided in this Agreement and LOKKER's Privacy Policy, (ii) as authorized or instructed by Customer, (iii) as required to perform its obligations under this Agreement, or (iv) as required by Law. LOKKER will promptly notify Customer if it becomes aware of unauthorized access to the Customer Data.

(d) **License.** Customer grants LOKKER a non-exclusive, non-transferable, worldwide, limited-term license to host, copy, transmit, modify, reproduce, distribute and display Customer Data and any Non-LOKKER Applications and program code created by Customer in order for LOKKER to provide the Services to Customer.

2.6 **Removal of LOKKER Data and Non-LOKKER Applications.** If LOKKER is required by a licensor to remove LOKKER Data, or reasonably believes that LOKKER Data may violate any Law or third-party rights, LOKKER will notify Customer and no longer make that LOKKER Data available to Customer. If LOKKER reasonably believes that a Non-LOKKER Application may violate any Law or third-party rights, LOKKER will notify Customer and Customer must promptly disable that Non-LOKKER Application or modify the Non-LOKKER Application to resolve the potential violation. If Customer does not take these actions, LOKKER may disable the LOKKER Data and/or Non-LOKKER Application until the potential violation is resolved.

2.7 **Maintenance.** The Services may be temporarily unavailable during scheduled maintenance windows. LOKKER will use reasonable efforts to provide advance notice of any scheduled service disruption. The Services may also be temporarily unavailable for unscheduled emergency maintenance, either by LOKKER or its vendors, or because of other causes beyond the reasonable control of LOKKER, but LOKKER will use reasonable efforts to provide notice to Customer of any unscheduled service disruption.

3. PROPRIETARY RIGHTS

3.1 Customer acknowledges that LOKKER has expended substantial time, effort and funds to develop, create, compile, provide and deliver the Services, LOKKER Data, LOKKER Confidential Information and improvements, technologies, inventions, developments, ideas, and discoveries associated therewith; all of which, when used in connection with the provision of, or access to, the Services shall be deemed part of the Services. Customer agrees that the Services and any other intellectual property that are part of the Services or related to the Services are owned by LOKKER (or its licensors or providers, as applicable). Nothing contained in the Agreement shall be deemed to convey to Customer or to any other party any ownership interest in or to any intellectual property provided in connection with the Services, LOKKER Data or LOKKER Confidential Information. Customer shall not acquire any license to use the Services, LOKKER Data or any LOKKER Confidential Information in excess of the scope and/or duration described in the Agreement

3.2 Reservation of Rights. Subject to the limited rights expressly granted herein, (a) LOKKER reserves all right, title and interest in and to the Services and LOKKER Data, including all related intellectual property rights, and (b) Customer reserves all right, title and interest in and to Customer Data, including all related intellectual property rights.

4. CONFIDENTIALITY

4.1 Definition. “**Confidential Information**” means all information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information does not include any information that Receiving Party can demonstrate (a) is or becomes generally known to the public without breach of any obligation owed to Disclosing Party, (b) was known to Receiving Party prior to its disclosure by Disclosing Party without breach of any obligation owed to Disclosing Party, (c) is received from a third party without breach of any obligation owed to Disclosing Party, or (d) was independently developed by Receiving Party.

4.2 Protection of Confidential Information. Receiving Party will not disclose Confidential Information of Receiving Party to any third parties and will use the same degree of care to protect Disclosing Party’s Confidential Information that Receiving Party uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care). Receiving Party will (a) not use Confidential Information of Disclosing Party for any purpose except as expressly permitted in this Agreement, and (b) except as otherwise authorized by Disclosing Party in writing, limit access to Confidential Information of Disclosing Party to their respective employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with Receiving Party containing protections no less stringent than those herein.

4.3 Compelled Disclosure. Receiving Party may disclose Confidential Information of Disclosing Party to the extent compelled by Law to do so, provided Receiving Party gives Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if Disclosing Party wishes to contest the disclosure.

5. FEES AND PAYMENT

5.1 Fees. Customer will pay LOKKER the fees specified in an Order (the “**Fees**”). The Fees are based on the Services and not actual usage thereof, payment obligations are non-cancelable, and the Fees paid are non-refundable. Customer will pay all invoices within thirty (30) days of the invoice date. Invoices may be e-mailed to Customer. If any invoiced amount is not received by LOKKER by the due date, those charges will be assessed a late payment fee of 1.5% of the outstanding balance per month or the maximum rate permitted by Law, whichever is lower.

5.2 Taxes. The Fees do not include any taxes, levies, duties or similar governmental assessments, including value-added, sales, use or withholding taxes, assessable by any jurisdiction (collectively, “**Taxes**”). Customer will be invoiced for all Taxes associated with Customer’s purchases hereunder that LOKKER is required to collect and remit; Customer will pay all other Taxes directly to the appropriate governmental entities.

5.3 Suspension of Service. If any amount owing by Customer under this or any other agreement for the Services is thirty (30) or more days overdue, LOKKER may, without limiting its other rights and remedies, suspend the provision of the Services on ten (10) days’ notice until such amounts are paid in full.

5.4 Disputes and Setoff. If Customer believes that LOKKER has billed Customer incorrectly, Customer must contact LOKKER within thirty (30) days after the date of the invoice believed to be in error in order to receive an adjustment or credit. The Parties will cooperate in good faith to timely resolve any billing or payment disputes. All amounts payable to LOKKER will be paid by Customer in full without any setoff, counterclaim, deduction or withholding for any reason.

6. WARRANTIES AND DISCLAIMERS

6.1 LOKKER Warranties. LOKKER warrants to Customer that the Services will materially conform to the functionality described in the Documentation, and that LOKKER will use industry standard efforts to perform the Services as described in this Agreement and the Documentation. LOKKER's sole and exclusive obligation, and Customer's sole and exclusive remedy, for a breach of this warranty will be that LOKKER will use commercially reasonable efforts to modify the Services to materially conform to the Documentation, and if LOKKER is unable to materially restore such functionality within thirty (30) days of receipt of written notice of such breach, Customer will be entitled to terminate the Agreement upon written notice and will be entitled to receive a *pro-rata* refund of the unused Fees that have been paid in advance (if any) under this Agreement. This warranty will be in effect for the first year of the Term ("**Warranty Period**"). In the event a material non-conformance is reported after the Warranty Period, LOKKER's sole and exclusive obligation, and Customer's sole and exclusive remedy, will be to seek assistance through LOKKER's technical support services.

6.2 Customer Warranties. Customer warrants to LOKKER that Customer has the right to upload Customer Data to LOKKER and that LOKKER's receipt, processing and use thereof does not violate any rights of third parties.

6.3 Disclaimers. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 6, NEITHER LOKKER NOR CUSTOMER MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND LOKKER AND CUSTOMER SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, OR THE CONTINUOUS, UNINTERRUPTED, ERROR-FREE, VIRUS-FREE, OR SECURE ACCESS TO OR OPERATION OF THE SERVICES TO THE MAXIMUM EXTENT PERMITTED BY LAW. LOKKER AND CUSTOMER EXPRESSLY DISCLAIM ANY WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION OR DATA ACCESSED OR USED IN CONNECTION WITH THE SERVICES. TO THE EXTENT EITHER PARTY CANNOT DISCLAIM ANY SUCH WARRANTY AS A MATTER OF LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

7. LIMITATION OF LIABILITY

7.1 Exclusions. LOKKER WILL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF CUSTOMER'S WEBSITE, ANY CONTENT, CUSTOMER DATA, SYSTEM DATA, OTHER DATA FILES, PROGRAMS OR INFORMATION THROUGH ERROR, OMISSION, ACCIDENT OR FRAUDULENT MEANS OR DEVICES NOT DIRECTLY ATTRIBUTABLE TO LOKKER'S GROSSLY NEGLIGENT ACTS OR OMISSIONS, OR FOR OTHER CIRCUMSTANCES OUTSIDE OF LOKKER'S REASONABLE CONTROL.

7.2 Limitation of Liability. EXCEPT IN CONNECTION WITH A BREACH OF SECTION 4 (CONFIDENTIALITY) OR CLAIMS OF GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT BY A PARTY, NEITHER PARTY'S LIABILITY WITH RESPECT TO THIS AGREEMENT WILL EXCEED THE AMOUNT PAID BY CUSTOMER IN THE 12 MONTHS PRECEDING THE DATE THE CLAIM AROSE. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING BREACH OF CONTRACT, MISREPRESENTATIONS, NEGLIGENCE, STRICT LIABILITY AND OTHER TORTS. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS FOR SERVICES UNDER THIS AGREEMENT.

7.3 Exclusion of Consequential and Related Damages. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOSS OF REVENUES OR PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, BREACH OF DATA, OR THE COST OF SUBSTITUTE SERVICES, WHETHER IN AN ACTION IN

CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY WILL TAKE REASONABLE ACTION TO MITIGATE ITS DAMAGES.

8. TERM AND TERMINATION

8.1 Term of Agreement. This Agreement will commence on the earliest “Start Date” set forth in an Order and, unless terminated earlier in accordance with this Agreement, will continue until all Orders have expired or been terminated. The term of each Order will begin on the “Start Date” set forth therein and continue, unless otherwise terminated in accordance with this Agreement, until the end of the last-to-expire Subscription Term of such Order.

8.2 Termination for Breach. Either party may terminate this Agreement by delivering written notice of the termination to the other party, if the other party fails to perform or materially breaches any of its obligations, covenants, or representations, and the failure or breach continues for thirty (30) days after receipt of notice of such breach. If LOKKER reasonably believes that Customer is in material breach of Sections 2.3, 2.4 or 5.1, LOKKER may upon written notice immediately suspend or disconnect access to Customer’s use of the Services until such breach is cured. LOKKER may immediately terminate Customer’s access to the Services if it reasonably believes Customer is in breach of Section 2.4. Any such suspension, disconnection or termination will be without liability of LOKKER, and Customer will remain responsible for all Fees incurred during the period of suspension or disconnection. LOKKER may also suspend Customer’s use of or access to any Service if it reasonably believes that such suspension is necessary to prevent imminent harm to LOKKER, LOKKER’s network or any other customers of LOKKER.

8.3 Refund or Payment upon Termination. If this Agreement is terminated by Customer pursuant to Section 8.2 (Termination for Breach), LOKKER will refund to Customer any prepaid fees for the remainder of the Term. If this Agreement is terminated by LOKKER pursuant to Section 8.2, Customer will pay any unpaid Fees for the remainder of the Term. No termination will relieve Customer of its obligation to pay any Fees to LOKKER for the period prior to the date of termination.

9. GENERAL PROVISIONS

9.1 Notice. All notices required or permitted hereunder will be in writing and will be deemed to have been given upon: (a) personal delivery, (b) the second business day after mailing, or (c) the first business day after sending by e-mail (provided e-mail will not be allowed for notices of termination). Notices will be sent to the following addresses, except as they may be changed by either party on notice to the other party:

To LOKKER: Apomaya, Inc. dba LOKKER
PO Box 5545
Redwood City, CA 94063
Attn: _____
E-mail: _____

To Customer: _____

Attn: _____
E-mail: _____

9.2 Governing Law. This Agreement will be governed, construed and enforced under the domestic laws of the State of Delaware (without reference to its conflicts of Law provisions). The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

9.3 Binding Arbitration. Any dispute or controversy arising out of or relating to this Agreement, or the breach thereof, which the parties are unable to settle amicably will be finally resolved by binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. There will be one (1) arbitrator and the arbitration will take place in the home city of the party against whom arbitration is sought. Judgment on the written award rendered by the arbitrator may be enforced in any court having jurisdiction thereof.

9.4 Marketing. Customer grants LOKKER permission to identify Customer as a customer and use Customer’s logo in LOKKER’s marketing materials (e.g., the LOKKER website, e-mails, presentations, brochures, etc.). Customer further grants LOKKER permission to develop content describing Customer’s experience as a LOKKER

customer (e.g., a written and/or video case study), but this content will only be created with Customer's prior written approval.

9.5 Export Compliance. The Services, LOKKER Data, other technology LOKKER makes available to Customer hereunder, and derivatives thereof, may be subject to export Laws and regulations of the United States and other jurisdictions. Customer will not permit Users to access or use the Services or LOKKER Data in a U.S.-embargoed country or in violation of any export control Laws of the United States or a foreign agency or authority.

9.6 Survival. Any provisions of this Agreement that either expressly or by their nature indicate that the parties intend them to survive past termination of this Agreement will remain in effect after termination.

9.7 Entire Agreement. This Agreement represents the entire agreement between Customer and LOKKER regarding Customer's use of the Services and LOKKER Data and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted.

9.8 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of Law or otherwise, without the other party's prior written consent (not to be unreasonably withheld, delayed or conditioned); provided that, LOKKER may assign this Agreement in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

9.9 Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

9.10 Waiver. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right. LOKKER may modify this Agreement on a go-forward basis at any time. If a modification is made to this Agreement, an updated version of this Agreement will be posted to LOKKER's website (which, notwithstanding Section 9.1, shall serve as adequate notice). By continuing to access or use the Services after LOKKER posts such modification(s), Customer accepts and agrees to the Agreement as revised by such modification(s). Modifications are effective upon publication.

9.11 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to Law, the provision will be deemed null and void and the remaining provisions of this Agreement will remain in effect.

9.12 Force Majeure. Neither party will be liable for defaults or delays (other than the non-payment of Fees) due to acts of God or the public enemy, acts or demands of any government or governmental agency, fires, floods, accidents, or other unforeseeable causes beyond a party's control and not due to its fault or negligence, but excluding failures or delays resulting from general economic conditions or other general market effects.

9.13 Interpretation. The captions and headings appearing in this Agreement are for reference only and will not be considered in construing this Agreement. No text or information set forth on any purchase order, preprinted form or document may add to or vary the terms and conditions of this Agreement.

9.14. Order of Precedence. In the event of any conflict or inconsistency among the following documents, the order of precedence will be: (a) the applicable Order(s), (b) the terms set forth in the body of these Customer Terms, (c) any other terms incorporated by reference herein or any other exhibits or attachments hereto, and (d) the applicable Documentation. For clarity, any "Additional Terms" set forth on an Order apply solely with respect to that Order.