

Terms of Service

Last Updated: 04/09/2021

Welcome, and thank you for your interest in Oak9, Inc. (“**oak9**,” “**we**,” or “**us**”) and our website at www.oak9.io, along with our related websites, platforms, networks, applications, mobile applications, and other services provided by us (collectively, the “**Service**”). These Terms of Service are a legally binding contract between you and oak9 regarding your use of the Service.

PLEASE READ THE FOLLOWING TERMS CAREFULLY.

BY CLICKING “I ACCEPT,” OR BY DOWNLOADING, INSTALLING, OR OTHERWISE ACCESSING OR USING THE SERVICE, YOU AGREE THAT YOU HAVE READ AND UNDERSTOOD, AND, AS A CONDITION TO YOUR USE OF THE SERVICE, YOU AGREE TO BE BOUND BY, THE FOLLOWING TERMS AND CONDITIONS, INCLUDING OAK9’S PRIVACY POLICY (TOGETHER, THESE “**TERMS**”). IF YOU ARE NOT ELIGIBLE, OR DO NOT AGREE TO THE TERMS, THEN YOU DO NOT HAVE OUR PERMISSION TO USE THE SERVICE. YOUR USE OF THE SERVICE, AND OAK9’S PROVISION OF THE SERVICE TO YOU, CONSTITUTES AN AGREEMENT BY OAK9 AND BY YOU TO BE BOUND BY THESE TERMS.

ARBITRATION NOTICE. Except for certain kinds of disputes described in Section 16, you agree that disputes arising under these Terms will be resolved by binding, individual arbitration, and BY ACCEPTING THESE TERMS, YOU AND OAK9 ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING. YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend your rights under this contract (except for matters that may be taken to small claims court). Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. (See Section 16.)

1. **oak9 Service Overview.** oak9’s mission is to power security at the speed of modern development. The Service is intended to integrate with your continuous integration/continuous delivery pipeline and intelligently remediate security issues within your infrastructure as code to assist you in delivering applications that are comprehensively secure and compliant by design.
2. **Eligibility.** You must be at least 18 years old to use the Service. By agreeing to these Terms, you represent and warrant to us that: (a) you are at least 18 years old; (b) you have not previously been suspended or removed from the Service; and (c) your registration and your use of the Service is in compliance with any and all applicable laws and regulations.

If you are an entity, organization, or company, the individual accepting these Terms on your behalf represents and warrants that they have authority to bind you to these Terms and you agree to be bound by these Terms.

3. **Accounts and Registration.** To access most features of the Service, you must register for an account. When you register for an account, you may be required to provide us with some information about yourself, such as your name, email address, phone number, or other contact information. You agree that the information you provide to us is accurate and that you will keep it accurate and up-to-date at all times. When you register, 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. If you believe that your account is no longer secure, then you must immediately notify us at info@oak9.io.
4. **General Payment Terms.** Certain features of the Service may require you to pay fees. Before you pay any fees, you will have an opportunity to review and accept the fees that you will be charged. All fees are in U.S. Dollars and are non-refundable.

4.1 **Price.** oak9 reserves the right to determine pricing for the Service. oak9 will make reasonable efforts to keep pricing information published on the website up to date. We encourage you to check our website periodically for current pricing information. oak9 may change the fees for any feature of the Service, including additional fees or charges, if oak9 gives you advance notice of changes before they apply. oak9, at its sole discretion, may make promotional offers with different features and different pricing to any of oak9's customers. These promotional offers, unless made to you, will not apply to your offer or these Terms.

4.2 **Authorization.** You authorize oak9 and its third party payment processors to charge all sums for the orders that you make and any level of Service you select as described in these Terms or published by oak9, including all applicable taxes, to the payment method specified in your account. If you pay any fees with a credit card, oak9 or its third party payment processors may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase.

4.3 **Delinquent Accounts.** oak9 may suspend or terminate access to the Service, including fee-based portions of the Service, for any account for which any amount is due but unpaid. In addition to the amount due for the Service, a delinquent account will be charged with fees or charges that are incidental to any chargeback or collection of any the unpaid amount, including collection fees.

5. Licenses

5.1 Limited License. Subject to your complete and ongoing compliance with these Terms, oak9 grants you, solely for your personal, use, a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use the Service.

5.2 License Restrictions. Except and solely to the extent such a restriction is impermissible under applicable law, you may not: (a) reproduce, distribute, publicly display, or publicly perform the Service; (b) make modifications to the Service; or (c) interfere with or circumvent any feature of the Service, including any security or access control mechanism. If you are prohibited under applicable law from using the Service, you may not use it.

5.3 Feedback. If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Service ("**Feedback**"), then you hereby grant oak9 an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit the Feedback in any manner and for any purpose, including to improve the Service and create other products and services.

- 6. Ownership; Proprietary Rights.** The Service is owned and operated by oak9. 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 Service ("**Materials**") provided by oak9 are protected by intellectual property and other laws. All Materials included in the Service are the property of oak9 or its third party licensors. Except as expressly authorized by oak9, you may not make use of the Materials. oak9 reserves all rights to the Materials not granted expressly in these Terms.

7. Third Party Terms

7.1 Third Party Services and Linked Websites. oak9 may provide tools through the Service that enable you to export information, including User Content, to third party services. By using one of these tools, you agree that oak9 may transfer that information to the applicable third party service. Third party services are not under oak9's control, and, to the fullest extent permitted by law, oak9 is not responsible for any third party service's use of your exported information. The Service may also contain links to third party websites. Linked websites are not under oak9's control, and oak9 is not responsible for their content.

7.2 Third Party Software. The Service may include or incorporate third party software components that are generally available free of charge under licenses granting recipients broad rights to copy,

modify, and distribute those components ("**Third Party Components**"). Although the Service is provided to you subject to these Terms, nothing in these Terms prevents, restricts, or is intended to prevent or restrict you from obtaining Third Party Components under the applicable third party licenses or to limit your use of Third Party Components under those third party licenses.

8. User Content

8.1 User Content Generally. Certain features of the Service may permit users to upload content to the Service, including folders, data, text, and other types of works ("User Content") . You retain any copyright and other proprietary rights that you may hold in the User Content that you post to the Service.

8.2 Limited License Grant to oak9. By providing User Content to or via the Service, you grant oak9 a worldwide, non-exclusive, irrevocable, royalty- free, fully paid right and license (with the right to sublicense) to host, store, transfer, display, perform, reproduce, modify for the purpose of formatting for display, and distribute your User Content, in whole or in part, in any media formats and through any media channels now known or hereafter developed.

8.3 User Content Representations and Warranties oak9 disclaims any and all liability in connection with User Content. You are solely responsible for your User Content and the consequences of providing User Content via the Service. By providing User Content via the Service, you affirm, represent, and warrant that:

a. you are the creator and owner of the User Content, or have the necessary licenses, rights, consents, and permissions to authorize oak9 and users of the Service to use and distribute your User Content as necessary to exercise the licenses granted by you in this Section, in the manner contemplated by oak9, the Service, and these Terms;

b. your User Content, and the use of your User Content as contemplated by these Terms, does not and will not: (i) 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; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (iii) cause oak9 to violate any law or regulation; and

c. your User Content could not be deemed by a reasonable person to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate.

8.4 User Content Disclaimer. We are under no obligation to edit or control User Content that you or other users post or publish, and will not be in any way responsible or liable for User Content. oak9 may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates these Terms or is otherwise objectionable. You understand that when using the Service you will be exposed to User Content from a variety of sources and acknowledge that User Content may be inaccurate, offensive, indecent, or objectionable. You agree to waive, and do waive, any legal or equitable right or remedy you have or may have against oak9 with respect to User Content. If notified by a user or content owner that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice. For clarity, oak9 does not permit copyright-infringing activities on the Service.

8.5 Monitoring Content. oak9 does not control and does not have any obligation to monitor: (a) User Content; (b) any content made available by third parties; or (c) the use of the Service by its users. You acknowledge and agree that oak9 reserves the right to, and may from time to time, monitor any and all information transmitted or received through the Service for operational and other purposes. If at any time oak9 chooses to monitor the content, oak9 still assumes no responsibility or liability for content or any loss or damage incurred as a result of the use of content. During monitoring, information may be examined, recorded, copied, and used in accordance with our Privacy Policy.

9. Communications.

9.1 Email. We may send you emails concerning our products and services, as well as those of third parties. You may opt out of promotional emails by following the unsubscribe instructions in the promotional email itself.

10. Prohibited Conduct. BY USING THE SERVICE YOU AGREE NOT TO:

- a. use the Service for any illegal purpose or in violation of any local, state, national, or international law;
- b. violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third party intellectual property right;
- c. interfere with security-related features of the Service, including by: (i) disabling or circumventing features that prevent or limit use or copying of any content; or (ii) reverse engineering or otherwise

attempting to discover the source code of any portion of the Service except to the extent that the activity is expressly permitted by applicable law;

d. interfere with the operation of the Service or any user's enjoyment of the Service, 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 Service; (iii) collecting personal information about another user or third party without consent; or (iv) interfering with or disrupting any network, equipment, or server connected to or used to provide the Service;

e. perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation, accessing any other Service account without permission, or falsifying your age or date of birth;

f. sell or otherwise transfer the access granted under these Terms or any Materials (as defined in Section 6) or any right or ability to view, access, or use any Materials; or

g. attempt to do any of the acts described in this Section 9 or assist or permit any person in engaging in any of the acts described in this Section 9.

11. Modification of these Terms. We reserve the right to change these Terms on a going-forward basis at any time upon 7 days' notice. Please check these Terms periodically for changes. If a change to these Terms materially modifies your rights or obligations, we may require that you accept the modified Terms in order to continue to use the Service. Material modifications are effective upon your acceptance of the modified Terms. Immaterial modifications are effective upon publication. Except as expressly permitted in this Section 11, these Terms may be amended only by a written agreement signed by authorized representatives of the parties to these Terms. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.

12. Term, Termination and Modification of the Service

12.1 Term. These Terms are effective beginning when you accept the Terms or first download, install, access, or use the Service, and ending when terminated as described in Section 12.2.

12.2 Termination. If you violate any provision of these Terms, your authorization to access the Service and these Terms automatically terminate. In addition, oak9 may, at its sole discretion, terminate these Terms or your account on the Service, or suspend or

terminate your access to the Service, at any time for any reason or no reason, with or without notice. You may terminate your account and these Terms at any time by contacting customer service at info@oak9.io.

12.3 Effect of Termination. Upon termination of these Terms: (a) your license rights will terminate and you must immediately cease all use of the Service; (b) you will no longer be authorized to access your account or the Service; (c) you must pay oak9 any unpaid amount that was due prior to termination; and (d) all payment obligations accrued prior to termination and Sections 5.3, 6, 12.3, 14, 15, 16, and 17 will survive.

12.4 Modification of the Service. oak9 reserves the right to modify or discontinue the Service at any time (including by limiting or discontinuing certain features of the Service), temporarily or permanently, without notice to you. oak9 will have no liability for any change to the Service or any suspension or termination of your access to or use of the Service.

13. Indemnity. To the fullest extent permitted by law, you are responsible for your use of the Service, and you will defend and indemnify oak9 and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (together, the “oak9 Entities”) from and against every claim brought by a third party, and any related liability, damage, loss, and expense, including reasonable attorneys’ fees and costs, arising out of or connected with: (a) your unauthorized use of, or misuse of, the Service; (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; or (d) any dispute or issue between you and any third party. 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 those claims.

14. Disclaimers; No Warranties

THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS. OAK9 DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (B) ANY

WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. OAK9 DOES NOT WARRANT THAT THE SERVICE OR ANY PORTION OF THE SERVICE, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICE, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND OAK9 DOES NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICE OR OAK9 ENTITIES OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OF THE OAK9 ENTITIES OR THE SERVICE THAT IS NOT EXPRESSLY STATED IN THESE TERMS. WE ARE NOT RESPONSIBLE FOR ANY DAMAGE THAT MAY RESULT FROM THE SERVICE AND YOUR DEALING WITH ANY OTHER SERVICE USER. YOU UNDERSTAND AND AGREE THAT YOU USE ANY PORTION OF THE SERVICE AT YOUR OWN DISCRETION AND RISK, AND THAT WE ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICE) OR ANY LOSS OF DATA, INCLUDING USER CONTENT.

THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS SECTION APPLY TO THE FULLEST EXTENT PERMITTED BY LAW. oak9 does not disclaim any warranty or other right that oak9 is prohibited from disclaiming under applicable law.

15. Limitation of Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE OAK9 ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICE OR ANY MATERIALS OR CONTENT ON THE SERVICE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY OAK9 ENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.

EXCEPT AS PROVIDED IN SECTION 16.5 AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF THE OAK9 ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICE OR OTHERWISE UNDER THESE TERMS,

WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE GREATER OF: (A) THE AMOUNT YOU HAVE PAID TO OAK9 FOR ACCESS TO AND USE OF THE SERVICE IN THE 12 MONTHS PRIOR TO THE EVENT OR CIRCUMSTANCE GIVING RISE TO CLAIM; OR (B) \$100.

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 16 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

16. Dispute Resolution and Arbitration

16.1 Generally. In the interest of resolving disputes between you and oak9 in the most expedient and cost effective manner, and except as described in Section 16.2 and 16.3, you and oak9 agree that every dispute arising in connection with these Terms will be resolved by binding arbitration. 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 OAK9 ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.

16.2 Exceptions. Despite the provisions of Section 16.1, nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law in aid of arbitration; or (d) to file suit in a court of law to address an intellectual property infringement claim.

16.3 Opt-Out. If you do not wish to resolve disputes by binding arbitration, you may opt out of the provisions of this Section 16 within 30 days after the date that you agree to these Terms by

sending a letter to Oak9, Inc., Attention: Legal Department – Arbitration Opt-Out, 515 N State S., Suite 12-104, Chicago, IL 60654-4854 that specifies: your full legal name, the email address associated with your account on the Service, and a statement that you wish to opt out of arbitration (“**Opt-Out Notice**”). Once oak9 receives your Opt-Out Notice, this Section 16 will be void and any action arising out of these Terms will be resolved as set forth in Section 17.2. The remaining provisions of these Terms will not be affected by your Opt-Out Notice.

16.4 Arbitrator. Any arbitration between you and oak9 will be settled under the Federal Arbitration Act and administered by the American Arbitration Association (“**AAA**”) under its Consumer Arbitration Rules (collectively, “**AAA Rules**”) as modified by these Terms. The AAA Rules and filing forms are available online at www.adr.org, by calling the AAA at 1-800-778-7879, or by contacting oak9. The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding arbitration agreement.

16.5 Notice of Arbitration; Process. 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 that other party has not provided a current physical address, then by electronic mail (“**Notice of Arbitration**”). oak9’s address for Notice is: Oak9, Inc., 515 N State S., Suite 12-104, Chicago, IL 60654-4854. The Notice of Arbitration must: (a) describe the nature and basis of the claim or dispute; and (b) 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 of Arbitration is received, you or oak9 may commence an arbitration proceeding. All arbitration proceedings between the parties will be confidential unless otherwise agreed by the parties in writing. During the arbitration, the amount of any settlement offer made by you or oak9 must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the arbitrator awards you an amount higher than the last written settlement amount offered by oak9 in settlement of the dispute prior to the award, oak9 will pay to you the higher of: (i) the amount awarded by the arbitrator; or (ii) \$10,000.

16.6 Fees. If you commence arbitration in accordance with these Terms, oak9 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 Chicago, Illinois, but if the claim is for \$10,000 or less, you may

choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) 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 oak9 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.

16.7 No Class Actions. YOU AND OAK9 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 oak9 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.

16.8 Modifications to this Arbitration Provision. If oak9 makes any future change to this arbitration provision, other than a change to oak9's address for Notice of Arbitration, you may reject the change by sending us written notice within 30 days of the change to oak9's address for Notice of Arbitration, in which case your account with oak9 will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.

16.9 Enforceability. If Section 16.7 or the entirety of this Section 16 is found to be unenforceable, or if oak9 receives an Opt-Out Notice from you, then the entirety of this Section 16 will be null and void and, in that case, exclusive jurisdiction and venue described in Section 17.2 will govern any action arising out of or related to these Terms.

17. Miscellaneous

17.1 General Terms. These Terms, together with the Privacy Policy and any other agreements expressly incorporated by reference into these Terms, are the entire and exclusive understanding and agreement between you and oak9 regarding your use of the Service. Notwithstanding the foregoing, if you have signed oak9's Enterprise Cloud Services agreement, that Enterprise Cloud Services agreement will govern your use of the Service. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. Throughout these Terms the use of the word "including" means "including but not limited to". If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect.

17.2 Governing Law. These Terms are governed by the laws of the State of Illinois without regard to conflict of law principles. You and oak9 submit to the personal and exclusive jurisdiction of the state courts and federal courts located within Chicago, Illinois for resolution of any lawsuit or court proceeding permitted under these Terms. We operate the Service from our offices in Illinois, and we make no representation that Materials included in the Service are appropriate or available for use in other locations.

17.3 Privacy Policy. Please read the oak9 [Privacy Policy](#) carefully for information relating to our collection, use, storage, disclosure of your personal information. The oak9 Privacy Policy is incorporated by this reference into, and made a part of, these Terms.

17.4 Additional Terms. Your use of the Service is subject to all additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to from the Service (the "**Additional Terms**"). All Additional Terms are incorporated by this reference into, and made a part of, these Terms.

17.5 Consent to Electronic Communications. By using the Service, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic

communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.

17.6 Contact Information. The Service is offered by Oak9, Inc., located at 515 N State St., Suite 12-104, Chicago, IL 60654-4854. You may contact us by sending correspondence to that address or by emailing us at info@oak9.io.

17.7 Notice to California Residents. If you are a California resident, under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at (800) 952-5210 in order to resolve a complaint regarding the Service or to receive further information regarding use of the Service.

17.8 No Support. We are under no obligation to provide support for the Service. In instances where we may offer support, the support will be subject to published policies.

17.9 International Use. The Service is intended for visitors located within the United States. We make no representation that the Service is appropriate or available for use outside of the United States. Access to the Service from countries or territories or by individuals where such access is illegal is prohibited.