



OPTIVOLT LABS, INC.

TERMS OF SERVICE

Last Updated: 08/16/2023

These Terms of Service (“**Terms**”) apply to any use of the products and services provided by Optivolt Labs, Inc. and its affiliates (collectively, “**Optivolt**,” “**we**,” or “**us**”), including solar panels and any associated batteries and accessories (“**Optivolt Products**”), this website and its subdomains (the “**Website**”), and the services and resources available or enabled via the Website (together with the Website, the “**Services**”). These Terms along with any supplemental terms that may be presented to you for your review and acceptance (collectively, the “**Agreement**”) govern your purchase of the Optivolt Products and your access to and use of the Services. By clicking on the “I Accept” button, browsing the Website, reserving or placing an order for an Optivolt Product, or otherwise accessing or using any of the Services, you represent that (1) you have read, understand, and agree to be bound by the Agreement, (2) you are of legal age to form a binding contract with Optivolt, and (3) you have the authority to enter into the Agreement. **If you do not agree to be bound by the Agreement, you may not purchase an Optivolt Product or access or use any of the Services.**

PLEASE NOTE THAT JOINING A WAITLIST FOR ANY OPTIVOLT PRODUCT ONLY REPRESENTS A PRELIMINARY RESERVATION FOR YOU TO INDICATE YOUR INTEREST IN THAT PRODUCT. THE WAITLIST IS NOT A FINAL RESERVATION TO PURCHASE THE OPTIVOLT PRODUCT.

PLEASE BE AWARE THAT SECTION 11 OF THE AGREEMENT BELOW CONTAINS PROVISIONS GOVERNING HOW ANY DISPUTES BETWEEN US WILL BE RESOLVED. IN PARTICULAR, IT CONTAINS AN ARBITRATION AGREEMENT WHICH WILL, WITH LIMITED EXCEPTIONS, REQUIRE DISPUTES BETWEEN US TO BE SUBMITTED TO BINDING AND FINAL ARBITRATION. UNLESS YOU OPT OUT OF THE ARBITRATION AGREEMENT: (1) YOU WILL ONLY BE PERMITTED TO PURSUE CLAIMS AND SEEK RELIEF AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING; AND (2) YOU ARE WAIVING YOUR RIGHT TO PURSUE CLAIMS AND SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL.

For information about how we collect, use, disclose, and otherwise process information about you, please refer to our Privacy Policy, which is available at <https://optivolt.com/privatepolicy>.

The Agreement is subject to change by Optivolt in its sole discretion at any time. When changes are made, Optivolt will make a copy of the updated Terms available at the Website and update the “Last Updated” date at the top of these Terms. If we make any material changes to the Agreement, we will provide notice of such material changes on the Website and attempt to notify you by sending an email to the email address last provided by you. Any changes to the Agreement will be effective immediately for new users of the Services and will be effective for existing users of the Services upon the earlier of (a) thirty (30) days after the “Last Updated” date at the top of these Terms, or (b) your consent to and acceptance of the updated

Agreement if Optivolt provides a mechanism for your immediate acceptance in a specified manner (such as a click-through acceptance), which Optivolt may require before further use of the Services is permitted. If you do not agree to the updated Agreement, you must stop using all Services upon the effective date of the updated Agreement. Otherwise, your continued use of any of the Services after the effective date of the updated Agreement constitutes your acceptance of the updated Agreement. Please regularly check the Website to view the then-current Agreement. You agree that Optivolt's continued provision of the Services is adequate consideration for the changes in the updated Agreement.

1. Access to the Services

- 1.1. License.** Subject to these Terms, Optivolt grants you a non-transferable, non-exclusive, revocable, limited license to use and access the Services solely for your own personal or internal business use.
- 1.2. Certain Restrictions.** The rights granted to you in these Terms are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Services, whether in whole or in part, or any content displayed on the Services; (b) you shall not modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Services; (c) you shall not access the Services in order to build a similar or competitive website, product, or service; and (d) except as expressly stated herein, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Unless otherwise indicated, any future release, update, or other addition to the functionality of the Services will be subject to these Terms. All copyright and other proprietary notices on the Services (or on any content displayed on the Services) must be retained on all copies thereof.
- 1.3. Modification.** Optivolt reserves the right, at any time, to modify, suspend, or discontinue the Services (in whole or in part) with or without notice to you. You agree that Optivolt will not be liable to you or to any third party for any modification, suspension, or discontinuation of the Services or any part thereof.
- 1.4. No Support or Maintenance.** You acknowledge and agree that Optivolt will have no obligation to provide you with any support or maintenance in connection with the Services.

- 2. Waitlist Reservations for an Optivolt Product.** From time to time, Optivolt may provide customers with the opportunity to reserve a spot on a waitlist for an Optivolt Product that has yet to be produced or is not ready to be shipped. In such a case, the terms of this Section 2 apply to your participation in the reservation and waitlist program for the Optivolt Product to which it relates.

- 2.1. Deposit and Waitlist Process.** If Optivolt offers customers the opportunity to reserve a spot on a waitlist for a particular Optivolt Product and you would like to participate, you may be required to place a deposit to make the reservation (the “**Deposit**”). The amount of the Deposit will be specified through the Services at the time you make the reservation, and payment of the Deposit must be completed successfully to validate your place on the waitlist for the Optivolt Product you wish to reserve. Optivolt reserves the right, in its sole discretion, to cap any waitlist, to refuse to accept Deposits, or to cancel your reservation, at any time for any reason it deems appropriate, including to avoid oversubscription. If we cancel your reservation, we will refund your Deposit in accordance with Section 2.4, below. When applying to make a reservation and paying your Deposit, you are solely responsible for the accuracy of any contact information you provide. It is important that this information be accurate and kept up-to-date because we will use it to notify you when the Optivolt Product you’ve registered for becomes available. We will not be liable for any inaccurate or out-of-date information you have provided. If we notify you that the Optivolt Product for which you’ve registered is available for purchase and shipment to you, we will ask you to confirm your intent to make the purchase and provide you with instructions on how to complete the purchase. If you do not complete your Optivolt Product purchase in accordance with Section 2.3, below, within the time period specified when we notify you that the Optivolt Product you’ve reserved is available for shipment to you (or if no such time period is provided, within fourteen (14) days of receiving such notice), we will skip over you on the waitlist and you will maintain your spot on the waitlist unless you or we cancel your reservation. If you cancel your reservation, you will be removed from the waitlist and we will refund your Deposit in accordance with Section 2.4, below.
- 2.2. No Obligations or Guarantees. Please note that we cannot guarantee when or if an Optivolt Product will become available to you.** Our acceptance of your Deposit ensures ONLY that you have a spot on the waitlist for the specific Optivolt Product for which you registered, which itself represents only that you have made a reservation to place a future purchase order for that Optivolt Product; it is not a pre-sale. If you place a Deposit for an Optivolt Product, you are under no obligation to purchase the Optivolt Product for which you paid the Deposit from us, and we are under no obligation to supply you with that Optivolt Product. Furthermore, nothing in this Section 2 constitutes an agreement for the sale of the Optivolt Product for which you have paid the Deposit, nor does it lock in pricing, a firm production slot, a firm delivery date, or specific product features or functionality.
- 2.3. Completing your Purchase.** Any purchase of an Optivolt Product, including one you may have reserved under this Section 2 and for which you have paid a Deposit, is subject to Optivolt’s standard terms of sale set forth in Section 3, below, or such other sales terms that are presented to you prior to you

completing your purchase. To complete the purchase of an Optivolt Product for which you have placed a Deposit, you will be required to assent to the applicable terms of sale, accessory and/or product sub-type selections if applicable, shipping details, and payment information, and pay the full balance due for the purchased Optivolt Product (less the amount of your Deposit), including any applicable taxes, within the time period specified when we let you know the Optivolt Product is available. We will confirm once your payment has processed and subsequently process the Optivolt Product for shipment and delivery in accordance with the applicable terms of sale governing your purchase.

- 2.4. Deposit Refunds.** You may cancel your Optivolt Product reservation and receive a full refund of your Deposit by sending us an email at support@optivolt.com from the address you used to make the reservation at any time before you complete your final purchase of the Optivolt Product. We will issue your refund to the payment method you used to make the Deposit within approximately 5-10 business days of Optivolt's receipt of your notice of cancellation. If we remove you from an Optivolt Product waitlist for any reason, we will cancel your reservation and refund any Deposit you made to the payment method you used to make the Deposit. In addition, if you have not completed your purchase within one (1) month after being notified by us that you are eligible to place a purchase order, we may try to automatically refund your Deposit to the payment method you used to make your Deposit. In all cases of refunds, your refund will only be for the amount we received from you and will not include any interest, taxes, or other amounts.

3. Terms of Sale

- 3.1. Optivolt Product Descriptions, Availability, "Final Sales".** Except as otherwise agreed in writing, descriptions, images, references, features, content, specifications, products, price and availability of any Optivolt Products set forth in our Services are subject to change without notice. We will make reasonable efforts to accurately display on the Website the attributes of any Optivolt Products made available for sale thereon . By placing an order to purchase an Optivolt Product, you represent that the purchased Optivolt Product will be used only for your personal purposes and in a lawful manner. We reserve the right, with or without prior notice, to limit the available quantity of or discontinue any Optivolt Product.
- 3.2. Purchase Orders.** Your purchase order will be deemed accepted by Optivolt upon delivery of the Optivolt Product(s) that you have ordered. Purchase orders may not be cancelled or rescheduled without the written consent of Optivolt. We may cancel or deny any purchase order placed by you at any time and for any lawful reason prior to our delivery of the Optivolt Product(s), including without limitation if an Optivolt Product is discontinued or otherwise becomes unavailable, provided

that we will refund any amounts that you prepaid for those Optivolt Products. In addition, we may designate certain Optivolt Products as not eligible for return and the sale of such Optivolt Products will be final, with notice of such final sale stated in the Optivolt Product description and/or your purchase order acceptance confirmation.

3.3. Shipping.

- a.** All shipping times shown on the Website or otherwise presented to you are estimates only. Actual delivery dates may vary. Shipping and delivery of the Optivolt Products may be performed by Optivolt's authorized third-party logistics partners and technicians. While Optivolt will make a good faith effort to deliver the Optivolt Products you have purchased in accordance with this Section 3.3 in a timely manner, Optivolt is not responsible or liable for any delays or failure in such delivery, including without limitation, delays based on weather or other events beyond Optivolt's reasonable control.
- b.** Optivolt ships Optivolt Products to street addresses within [the United States and its territories]. Upon shipment, we will send you notice confirming the shipment at the email address associated with your purchase order. We do not allow address changes after we send such email confirmation of your shipment. Not all delivery options are available in all areas. All shipments are FOB Destination and the risk of loss and title for Optivolt Products you purchase passes to you upon our delivery of the Optivolt Products to the address you provided in the applicable purchase order; provided, however, shipping and freight will be arranged and invoiced by Optivolt but paid by you.
- c.** Replacement of Optivolt Products and credits for shipped Optivolt Products claimed as not received are subject to investigation, which may include notifying the applicable carrier. No casualty or damage, after such delivery, will entitle you to a refund. Your acceptance of delivery of any Optivolt Product hereunder will be deemed your acknowledgement that (i) you have received the Optivolt Product, and (ii) such Optivolt Product shows no obvious signs of physical damage. Your Optivolt Product shipment will be delivered via FedEx or any other carrier we may engage. All reports of damages to an Optivolt Product incurred during shipment must be reported to Optivolt via email to Optivolt's customer support at support@optivolt.com within one (1) business day after your receipt of the affected Optivolt Product. Optivolt Products damaged during shipment will be subject to the terms of Optivolt's Return Policy.

3.4. Tracking your Purchase Order. As the Optivolt Product(s) in your accepted purchase order ship, we will send you an email providing the shipment tracking number(s). To see the detailed progress of your shipment, click on the tracking

number link provided in your email. Please note that tracking details may not be active immediately; in that case, check back in several hours or the following day

- 3.5. Return Policy.** Optivolt Product returns are subject to our Return Policy located at optivolt.com/files/return-policy.pdf. If you are eligible for a return under our Return Policy, please follow the procedures specified in the policy.
 - 3.6. Limited Optivolt Product Warranty.** For Optivolt Products, the only warranty is the Limited Optivolt Product Warranty available at optivolt.com/files/warranty.pdf.
 - 3.7. Restriction on Resale.** Optivolt Products sold on the Website or otherwise by Optivolt are not authorized for commercial resale to any third parties. Optivolt reserves the right to decline any purchase order that we deem to possess characteristics of reselling.
 - 3.8. Safety.** Prior to using any Optivolt Product for the first time, you must complete our onboarding procedures and review any safety warnings and instructions we provide, including the warnings and instructions identified in our safety card. You agree to always follow these warnings and instructions while using an Optivolt Product.
 - 3.9. Setup and Use.** You are responsible for the setup and use of any Optivolt Product you purchase in accordance with the instructions we provide, including those described in the product's user manual.
- 4. Payments.**
- 4.1. Ordering and Fees.** Optivolt reserves the right at any time to change its prices and billing methods upon posting to the Website or otherwise providing notice to you. You agree to pay all fees or charges (collectively "**Fees**") you incur in connection with making a reservation on a waitlist under Section 2 (e.g., your Deposit) or any purchase order you place under Section 3 in accordance with the Fees and billing terms (e.g., as set forth on the Website, or under the terms of any supplemental terms between you and Optivolt) in effect at the time such Fees are due and payable. To make a Deposit or complete a purchase on the Website or otherwise, you must provide us with a valid Payment Method (as defined below), a current billing address, and any other information you are prompted to provide during the ordering or checkout process.
 - 4.2. Payments.** Payments for Deposits and purchases must be made via credit card at the time you make the Deposit or complete the purchase, as applicable. To place a Deposit or make a purchase, you will need to provide Optivolt's third-party payment processor with the information necessary to process the transaction, which may include a valid credit card (Visa, MasterCard, or any other credit card

made available by an issuer accepted by us) (each, a “**Payment Method**”). Your Payment Method agreement governs your use of your designated Payment Method account, and you must refer to that agreement, not these Terms, to determine your rights and liabilities with respect thereto. By providing Optivolt’s third-party payment processor with your payment information, you authorize us to immediately charge your Payment Method for all Fees as they become due and payable and that no additional notice or consent is required. You agree to notify Optivolt immediately of any change in your billing address or Payment Method to be used for payment hereunder. You represent and warrant that you will not use any Payment Method unless you have all necessary authorization to do so.

- 4.3. Taxes.** For purposes of this section, “**Sales Tax**” means any sales or use tax and any other tax measured by sales proceeds that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax. Unless otherwise specified at the time of purchase, all applicable shipping and handling costs, taxes and other charges, if any, are in addition to the prices shown for the Optivolt Products. If Optivolt determines it has a legal obligation to collect Sales Tax from you in connection with the Agreement, Optivolt may collect such Sales Tax in addition to the payments required for Deposits or purchases made hereunder. If any transactions made through the Website or otherwise, or your use of any Optivolt Product, or payments for any other services or products, under the Agreement are subject to any Sales Tax in any jurisdiction and you have not remitted the applicable Sales Tax to Optivolt, you will be responsible for the payment of such Sales Tax and any related penalties or interest to the relevant tax authority, and you will indemnify Optivolt for any liability or expense Optivolt may incur in connection with such Sales Taxes. Upon Optivolt’s request, you will provide us with official receipts issued by the appropriate taxing authority, or other such evidence that you have paid all applicable taxes. Additionally, you agree to make all payments of Fees to Optivolt free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments of Fees to Optivolt will be your sole responsibility, and you will provide Optivolt with official receipts issued by the appropriate taxing authority, or such other evidence as we may reasonably request, to establish that such taxes have been paid.
- 4.4. Billing Inquiries and Errors.** If you believe you have been billed in error, please notify us within thirty (30) days from purchase by contacting us at support@optivolt.com. In the event of a billing error, we reserve the right to correct the error and revise your payment accordingly, which may include charging the correct price.
- 4.5. No Refunds.** Except as otherwise expressly described by the Agreement (including as provided by Section 2.4), the Limited Warranty and the Refund Policy, all Fees for the Optivolt Products are non-refundable.

- 4.6. Discounts and Promotions.** We may choose, at our sole discretion, to offer discounts or promotions, including but not limited to, coupons, credits, and promotional campaigns (“**Promotions**”) in connection with an Optivolt Product or any of the Services. To qualify for and receive any Promotion, you must meet the requirements indicated in the applicable promotional offer. Unless otherwise indicated in the terms of the offer, Promotions can only be used with future purchases. Only Promotions sent to you through official Optivolt communications channels are valid. You agree that Promotions: (a) must be used for the intended audience and purpose, and in a lawful manner; (b) may not be duplicated, sold, or transferred in any manner, or made available to the general public (whether posted to a public forum or otherwise), unless expressly permitted by us; (c) may be disabled by us at any time for any reason without liability to us; (d) may only be used pursuant to the specific terms that we establish for such Promotion; (e) are not redeemable for cash; and (f) may expire prior to your use. We may alter the terms and conditions applicable to any Promotion at any time and for any reason.
5. **International Access and Use.** The Services can be accessed from countries around the world and may contain references to services, products, including the Optivolt Products, and content that are not available in your country. These references do not imply that Optivolt intends to announce such services, products, or content in your country. The Services are controlled and offered by Optivolt from its facilities in the United States of America. Optivolt makes no representations that the Services or any Optivolt Products are appropriate or available for use in other locations. Those who access or use the Services from other countries or use the Optivolt Products in other countries do so at their own volition and are responsible for compliance with local law.
6. **Intellectual Property**
- 6.1. Ownership.** The Services, including the text, graphics, images, photographs, videos, illustrations, and other content contained therein, are owned by us or our licensors and are protected under both United States and foreign laws. All rights in and to the Services and any intellectual property rights in the firmware or software embedded in the Optivolt Products, the Website, or otherwise used to provide the Services, are reserved by us or our licensors.
- 6.2. Feedback.** You may voluntarily submit or otherwise communicate to us any questions, comments, suggestions, ideas, or other feedback you have about us, the Optivolt Products, the Website or any other Services. You understand that we may use such feedback for any purpose, commercial or otherwise, without restriction or acknowledgment or compensation to you. You understand that we may treat feedback as nonconfidential.

6.3. Trademarks. Optivolt’s name and all related stylizations, graphics, logos, service marks and trade names used on or in connection with any Services or the Optivolt Products are the trademarks of Optivolt and may not be used without permission in connection with your, or any third-party, products or services. Third-party trademarks, service marks and trade names that may appear on or in the Services or the Optivolt Products are the property of their respective owners.

7. Term and Termination

Subject to this Section, the Agreement will remain in full force and effect while you use the Services. We may suspend or terminate your rights to use the Services at any time for any reason at our sole discretion, including for any use of the Services in violation of the Agreement. Upon termination of your rights under the Agreement, your right to access and use the Services will terminate immediately. Optivolt will not have any liability whatsoever to you for any termination of your rights under the Agreement. Even after your rights under the Agreement are terminated, the following provisions of these Terms will remain in effect: Sections 2.1, 2.2, 2.4, 3.1, 3.2, 3.5–3.9, 4.3–4.5, and 5–12.

8. Indemnification

You shall indemnify and hold Optivolt, its parents, subsidiaries, affiliates, officers, employees, agents, partners, suppliers, and licensors (each, a “**Optivolt Party**” and collectively, the “**Optivolt Parties**”) harmless from any losses, costs, liabilities and expenses (including reasonable attorneys’ fees) relating to or arising out of any and all of the following: (a) your use of the Services or Optivolt Products in violation of the Agreement; (b) your violation of any rights of another individual or entity; or (c) your violation of any applicable laws, rules or regulations. Optivolt reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you agree to fully cooperate with Optivolt in asserting any available defenses. This provision does not require you to indemnify any Optivolt Party for any unconscionable commercial practice by such party or for such party’s fraud, deception, false promise, misrepresentation or concealment, or suppression or omission of any material fact in connection with any Services provided hereunder. You agree that the provisions in this section will survive any termination of the Agreement or your access to the Services.

9. Disclaimer of Warranties

9.1. YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW AND WITH RESPECT TO ANY OPTIVOLT PRODUCT, SUBJECT TO THE TERMS OF THE LIMITED WARRANTY, (A) YOUR USE OF THE SERVICES AND ANY OPTIVOLT PRODUCTS IS AT YOUR SOLE RISK, AND (B) THE SERVICES AND OPTIVOLT PRODUCTS ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITH ALL FAULTS; (B) OPTIVOLT EXPRESSLY DISCLAIMS ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT ARISING FROM USE

OF THE SERVICES OR ANY OPTIVOLT PRODUCT; (C) OPTIVOLT MAKES NO WARRANTY, REPRESENTATION OR CONDITION THAT: (I) THE SERVICES WILL MEET YOUR REQUIREMENTS; (II) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (III) ANY RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE.

INSO FAR AS ANY OF THE FOREGOING WARRANTIES CANNOT BE DISCLAIMED WITH RESPECT TO ANY OPTIVOLT PRODUCT, OPTIVOLT LIMITS THE DURATION AND REMEDIES OF SUCH WARRANTIES TO THE DURATION OF OPTIVOLT'S EXPRESS LIMITED WARRANTY FOR SUCH OPTIVOLT PRODUCT AND, AT OPTIVOLT'S OPTION, THE REFUND AND REPLACEMENT REMEDIES DESCRIBED THEREIN.

9.2. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM OPTIVOLT OR THROUGH THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. WITHOUT LIMITING THE FOREGOING, YOU UNDERSTAND AND AGREE THAT THE IMAGES AND OTHER CONTENT REGARDING PRODUCTS AND SERVICES, AS WELL AS THEIR DESIGN AND TECHNICAL FEATURES, ARE CURRENTLY UNDER FURTHER DEVELOPMENT AND THAT THE PRODUCTS AND SERVICES THAT MAY BE AVAILABLE FOR PURCHASE ON THE SERVICES FROM TIME TO TIME MAY BE MATERIALLY DIFFERENT FROM ANY MODELS, PROTOTYPES, PRE-PRODUCTION SAMPLES AND TEST VERSIONS DISPLAYED ON THE SERVICES.

9.3. From time to time, Optivolt may offer new "beta" features or tools via the Services with which its users may experiment. Such features or tools are offered solely for experimental purposes and without any warranty of any kind (except as expressly provided by Optivolt in connection with such features or tools), and may be modified or discontinued at Optivolt's sole discretion. The provisions of this section apply with full force to such features or tools.

10. Limitation of Liability

10.1. Disclaimer of Certain Damages. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, OPTIVOLT SHALL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE OR DATA, RESULTING FROM ANY BREACH OF ANY EXPRESS OR IMPLIED WARRANTY OR CONDITION, OR UNDER ANY OTHER LEGAL THEORY, EVEN IF OPTIVOLT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY. THE FOREGOING LIMITATION WILL NOT APPLY TO DEATH OR PERSONAL INJURY CLAIMS, OR ANY STATUTORY LIABILITY FOR INTENTIONAL AND GROSS NEGLIGENT ACTS AND/OR OMISSIONS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THE AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION),

WILL AT ALL TIMES BE LIMITED TO THE ONE HUNDRED U.S. DOLLARS (\$100.00). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. YOU AGREE THAT OUR SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO THE AGREEMENT

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN OPTIVOLT AND YOU.

11. ARBITRATION AGREEMENT. Please read this Section 11 (sometimes referred to herein as this “Arbitration Agreement”) carefully. It is part of your agreement with Optivolt and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION.

11.1. Applicability of Arbitration Agreement. Subject to the terms of this Arbitration Agreement, you and Optivolt agree that any dispute, claim, disagreements arising out of or relating in any way to your access to or use of the Website, any communications you receive from Optivolt, or the Agreement and prior versions of the Agreement, including claims and disputes that arose between us before the effective date of the Agreement (each, a “**Dispute**”) will be resolved by binding arbitration, rather than in court, except that: (1) you and Optivolt may assert claims or seek relief in small claims court if such claims qualify and remain in small claims court; and (2) you or Optivolt may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). For purposes of this Arbitration Agreement, “Dispute” will also include disputes that arose or involve facts occurring before the existence of this or any prior versions of the Agreement as well as claims that may arise after the termination of the Agreement.

11.2. Informal Dispute Resolution. There might be instances when a Dispute arises between you and Optivolt. If that occurs, Optivolt is committed to working with you to reach a reasonable resolution. You and Optivolt agree that good faith informal efforts to resolve Disputes can result in a prompt, low-cost and mutually beneficial outcome. You and Optivolt therefore agree that before either party commences arbitration against the other (or initiates an action in small claims court if a party so elects), we will personally meet and confer telephonically or via videoconference, in a good faith effort to resolve informally any Dispute covered by this Arbitration Agreement (“**Informal Dispute Resolution Conference**”). If you are represented by counsel, your counsel may participate in the conference, but you will also participate in the conference.

The party initiating a Dispute must give notice to the other party in writing of its intent to initiate an Informal Dispute Resolution Conference (“**Notice**”), which shall occur within forty-five (45) days after the other party receives such Notice, unless an extension is mutually agreed upon by the parties. Notice to Optivolt that you intend to initiate an Informal Dispute Resolution Conference should be sent by email to support@optivolt.com or regular mail to our offices located at 1501 Vermont St, San Francisco, CA 94107. The Notice must include: (1) your name, telephone number, mailing address, and email address (if you have one); (2) the name, telephone number, mailing address and email address of your counsel, if any; and (3) a description of your Dispute.

The Informal Dispute Resolution Conference shall be individualized such that a separate conference must be held each time either party initiates a Dispute, even if the same law firm or group of law firms represents multiple users in similar cases, unless all parties agree; multiple individuals initiating a Dispute cannot participate in the same Informal Dispute Resolution Conference unless all parties agree. In the time between a party receiving the Notice and the Informal Dispute Resolution Conference, nothing in this Arbitration Agreement shall prohibit the parties from engaging in informal communications to resolve the initiating party’s Dispute. Engaging in the Informal Dispute Resolution Conference is a condition precedent and requirement that must be fulfilled before commencing arbitration. The statute of limitations and any filing fee deadlines shall be tolled while the parties engage in the Informal Dispute Resolution Conference process required by this section.

11.3. Waiver of Jury Trial. YOU AND OPTIVOLT HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and Optivolt are instead electing that all Disputes shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 11.1 (Applicability of Arbitration Agreement). There is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

11.4. Waiver of Class and Other Non-Individualized Relief. YOU AND OPTIVOLT AGREE THAT, EXCEPT AS SPECIFIED IN SECTION 11.9, EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT ON A CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS, AND THE PARTIES HEREBY WAIVE ALL RIGHTS TO HAVE ANY DISPUTE BE BROUGHT, HEARD, ADMINISTERED, RESOLVED, OR ARBITRATED ON A CLASS, COLLECTIVE, REPRESENTATIVE, OR MASS ACTION BASIS. ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND DISPUTES OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. Subject to this Arbitration Agreement, the arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by the party’s individual claim. Nothing in this paragraph is intended to, nor shall it, affect the

terms and conditions under Section 11.9. Notwithstanding anything to the contrary in this Arbitration Agreement, if a court decides by means of a final decision, not subject to any further appeal or recourse, that the limitations of this Section are invalid or unenforceable as to a particular claim or request for relief (such as a request for public injunctive relief), you and Optivolt agree that that particular claim or request for relief (and only that particular claim or request for relief) shall be severed from the arbitration and may be litigated in the state or federal courts located in San Francisco, California. All other Disputes shall be arbitrated or litigated in small claims court. This subsection does not prevent you or Optivolt from participating in a class-wide settlement of claims.

11.5. Rules and Forum. The Agreement evidences a transaction involving interstate commerce; and notwithstanding any other provision herein with respect to the applicable substantive law, the Federal Arbitration Act, 9 U.S.C. § 1 et seq., will govern the interpretation and enforcement of this Arbitration Agreement and any arbitration proceedings. If the Informal Dispute Resolution Conference described above does not resolve satisfactorily within sixty (60) days after receipt of your Notice, you and Optivolt agree that either party shall have the right to finally resolve the Dispute through binding arbitration. The arbitration will be administered by the American Arbitration Association (“**AAA**”), in accordance with the Consumer Arbitration Rules (the “**AAA Rules**”) then in effect, except as modified by this section of this Arbitration Agreement. The AAA Rules are currently available at

<https://www.adr.org/sites/default/files/Consumer%20Rules.pdf>.

A party who wishes to initiate arbitration must provide the other party with a request for arbitration (the “**Request**”). The Request must include: (1) the name, telephone number, mailing address, e-mail address of the party seeking arbitration and the account username (if applicable) as well as the email address associated with any applicable account; (2) a statement of the legal claims being asserted and the factual bases of those claims; (3) a description of the remedy sought and an accurate, good-faith calculation of the amount in controversy in United States Dollars; (4) a statement certifying completion of the Informal Dispute Resolution process as described above; and (5) evidence that the requesting party has paid any necessary filing fees in connection with such arbitration.

If the party requesting arbitration is represented by counsel, the Request shall also include counsel’s name, telephone number, mailing address, and email address. Such counsel must also sign the Request. By signing the Request, counsel certifies to the best of counsel’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that: (1) the Request is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution;

(2) the claims, defenses and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and (3) the factual and damages contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Unless you and Optivolt otherwise agree, or the Batch Arbitration process discussed in Section 11.9 is triggered, the arbitration will be conducted in the county where you reside. Subject to the AAA Rules, the arbitrator may direct a limited and reasonable exchange of information between the parties, consistent with the expedited nature of the arbitration. If the AAA is not available to arbitrate, the parties will select an alternative arbitral forum. Your responsibility to pay any AAA fees and costs will be solely as set forth in the applicable AAA Rules.

You and Optivolt agree that all materials and documents exchanged during the arbitration proceedings shall be kept confidential and shall not be shared with anyone except the parties' attorneys, accountants, or business advisors, and then subject to the condition that they agree to keep all materials and documents exchanged during the arbitration proceedings confidential.

11.6. Arbitrator. The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of California and will be selected by the parties from the AAA's roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within thirty-five (35) days of delivery of the Request, then the AAA will appoint the arbitrator in accordance with the AAA Rules, provided that if the Batch Arbitration process under Section 11.9 is triggered, the AAA will appoint the arbitrator for each batch.

11.7. Authority of Arbitrator. The arbitrator shall have exclusive authority to resolve any Dispute, including, without limitation, disputes arising out of or related to the interpretation or application of the Arbitration Agreement, including the enforceability, revocability, scope, or validity of the Arbitration Agreement or any portion of the Arbitration Agreement, except for the following: (1) all Disputes arising out of or relating to Section 11.4, including any claim that all or part of Section 11.4 is unenforceable, illegal, void or voidable, or that Section 11.4 has been breached, shall be decided by a court of competent jurisdiction and not by an arbitrator; (2) except as expressly contemplated in Section 11.9, all Disputes about the payment of arbitration fees shall be decided only by a court of competent jurisdiction and not by an arbitrator; (3) all Disputes about whether either party has satisfied any condition precedent to arbitration shall be decided only by a court of competent jurisdiction and not by an arbitrator; and (4) all Disputes about which version of the Arbitration Agreement applies shall be

decided only by a court of competent jurisdiction and not by an arbitrator. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties, except as expressly provided in Section 11.9. The arbitrator shall have the authority to grant motions dispositive of all or part of any Dispute. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The award of the arbitrator is final and binding upon you and us. Judgment on the arbitration award may be entered in any court having jurisdiction.

11.8. Attorneys' Fees and Costs. The parties shall bear their own attorneys' fees and costs in arbitration unless the arbitrator finds that either the substance of the Dispute or the relief sought in the Request was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). If you or Optivolt need to invoke the authority of a court of competent jurisdiction to compel arbitration, then the party that obtains an order compelling arbitration in such action shall have the right to collect from the other party its reasonable costs, necessary disbursements, and reasonable attorneys' fees incurred in securing an order compelling arbitration. The prevailing party in any court action relating to whether either party has satisfied any condition precedent to arbitration, including the Informal Dispute Resolution Conference, is entitled to recover their reasonable costs, necessary disbursements, and reasonable attorneys' fees and costs.

11.9. Batch Arbitration. To increase the efficiency of administration and resolution of arbitrations, you and Optivolt agree that in the event that there are one hundred (100) or more individual Requests of a substantially similar nature filed against Optivolt by or with the assistance of the same law firm, group of law firms, or organizations, within a thirty (30) day period (or as soon as possible thereafter), the AAA shall (1) administer the arbitration demands in batches of one hundred (100) Requests per batch (plus, to the extent there are less than one hundred (100) Requests left over after the batching described above, a final batch consisting of the remaining Requests); (2) appoint one arbitrator for each batch; and (3) provide for the resolution of each batch as a single consolidated arbitration with one set of filing and administrative fees due per side per batch, one procedural calendar, one hearing (if any) in a place to be determined by the arbitrator, and one final award ("**Batch Arbitration**").

All parties agree that Requests are of a "substantially similar nature" if they arise out of or relate to the same event or factual scenario and raise the same or similar legal issues and seek the same or similar relief. To the extent the parties disagree on the application of the Batch Arbitration process, the disagreeing party shall advise the AAA, and the AAA shall appoint a sole standing arbitrator to determine the applicability of the Batch Arbitration process ("**Administrative**

Arbitrator”). In an effort to expedite resolution of any such dispute by the Administrative Arbitrator, the parties agree the Administrative Arbitrator may set forth such procedures as are necessary to resolve any disputes promptly. The Administrative Arbitrator’s fees shall be paid by Optivolt.

You and Optivolt agree to cooperate in good faith with the AAA to implement the Batch Arbitration process including the payment of single filing and administrative fees for batches of Requests, as well as any steps to minimize the time and costs of arbitration, which may include: (1) the appointment of a discovery special master to assist the arbitrator in the resolution of discovery disputes; and (2) the adoption of an expedited calendar of the arbitration proceedings.

This Batch Arbitration provision shall in no way be interpreted as authorizing a class, collective and/or mass arbitration or action of any kind, or arbitration involving joint or consolidated claims under any circumstances, except as expressly set forth in this provision.

- 11.10. 30-Day Right to Opt Out.** You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to: 339 Bernardo Avenue, Suite 100, Mountain View, CA 94043 within thirty (30) days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, the email address provided to Optivolt (if applicable), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of the Agreement will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.
- 11.11. Invalidity, Expiration.** Except as provided in Section 11.4, if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect. You further agree that any Dispute that you have with Optivolt as detailed in this Arbitration Agreement must be initiated via arbitration within the applicable statute of limitation for that claim or controversy, or it will be forever time barred. Likewise, you agree that all applicable statutes of limitation will apply to such arbitration in the same manner as those statutes of limitation would apply in the applicable court of competent jurisdiction.
- 11.12. Modification.** Notwithstanding any provision in the Agreement to the contrary, we agree that if Optivolt makes any future material change to this Arbitration Agreement, we will notify you. Unless you reject the change within thirty (30)

days of such change become effective by writing to Optivolt at 339 Bernardo Avenue, Suite 100, Mountain View, CA 94043, your continued use of the Website, including the acceptance of products and services offered on the Website following the posting of changes to this Arbitration Agreement constitutes your acceptance of any such changes. Changes to this Arbitration Agreement do not provide you with a new opportunity to opt out of the Arbitration Agreement if you have previously agreed to a version of the Agreement and did not validly opt out of arbitration. If you reject any change or update to this Arbitration Agreement, and you were bound by an existing agreement to arbitrate Disputes arising out of or relating in any way to your access to or use of the Website, any communications you receive, any products sold or distributed through the Website or the Agreement, the provisions of this Arbitration Agreement as of the date you first accepted the Agreement (or accepted any subsequent changes to the Agreement) remain in full force and effect. Optivolt will continue to honor any valid opt outs of the Arbitration Agreement that you made to a prior version of the Agreement.

12. General Provisions

- 12.1. Governing Law.** Any dispute, claim or request for relief relating in any way to your use of the services will be governed and interpreted by and under the laws of the state of California, consistent with the Federal Arbitration Act, without giving effect to any principles that provide for the application of the law of any other jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from the Agreement.
- 12.2. Exclusive Venue.** To the extent the parties are permitted under the Agreement to initiate litigation in a court, both you and Optivolt agree that all claims and disputes arising out of or relating to the Agreement will be litigated exclusively in the state or federal courts located in San Francisco, California.
- 12.3. Electronic Communications.** The communications between you and Optivolt may take place via electronic means, whether you visit the Services or send Optivolt emails, or whether Optivolt posts notices on the Services or communicates with you via email. For contractual purposes, you (i) consent to receive communications from Optivolt in an electronic form; and (ii) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Optivolt provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights, including but not limited to the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. §7001 et seq.
- 12.4. Assignment.** The Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without

Optivolt's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

- 12.5. Force Majeure.** Optivolt shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, pandemics, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.
- 12.6. Questions, Complaints, Claims.** If you have any questions, complaints or claims with respect to the Services, please contact us at: support@optivolt.com. We will do our best to address your concerns. If you feel that your concerns have been addressed incompletely, we invite you to let us know for further investigation.
- 12.7. Choice of Language.** It is the express wish of the parties that the Agreement and all related documents have been drawn up in English.
- 12.8. Notice.** Where Optivolt requires that you provide an email address, you are responsible for providing Optivolt with your most current email address. In the event that the last email address you provided to Optivolt is not valid, or for any reason is not capable of delivering to you any notices required/permitted by the Agreement, Optivolt's dispatch of the email containing such notice will nonetheless constitute effective notice. You may give notice to Optivolt at the following address: 339 Bernardo Avenue, Suite 100, Mountain View CA 94043. Such notice shall be deemed given when received by Optivolt by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.
- 12.9. Waiver.** Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- 12.10. Severability.** If any portion of the Agreement is held invalid or unenforceable, that portion shall be construed in a manner to reflect, as nearly as possible, the original intention of the parties, and the remaining portions shall remain in full force and effect.
- 12.11. Export Control.** You may not use, export, import, or transfer any Services, including any Optivolt Product, except as authorized by U.S. law, the laws of the jurisdiction in which you obtained the Services, and any other applicable laws. In particular, but without limitation, the Services may not be exported or re-exported (i) into any United States embargoed countries, or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using the

Services, you represent and warrant that (a) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country and (b) you are not listed on any U.S. Government list of prohibited or restricted parties. You also will not use the Services for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You acknowledge and agree that products, services or technology provided by Optivolt are subject to the export control laws and regulations of the United States. You shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer Optivolt products, services or technology, either directly or indirectly, to any country in violation of such laws and regulations.

12.12. Consumer Complaints. In accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (800) 952-5210.

12.13. Entire Agreement. The Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.