TERMS AND CONDITIONS

(V2 7 MAR 2025)

**PREAMBLE**

**THESE TERMS AND CONDITIONS ARE A LEGALLY BINDING AGREEMENT BETWEEN THE USER OR SUBSCRIBER OF THE SERVICES, AS IDENTIFIED IN THE ORDER FORM, GOVERNED BY THESE TERMS (“CUSTOMER”), AND THE APPLICABLE BOTIFY ENTITY IDENTIFIED IN SECTION 19 BELOW (“BOTIFY”)**.

Botify provides Customers with cloud-based organic search optimization and agentic AI software as a service under a subscription model. Botify has presented its services to Customer as identified in the Order Form (the "**Customer**"). Prior to accepting these Terms and Conditions (the “**Agreement**”), the Customer, including any applicable affiliates have considered and determined it wishes to subscribe the services described in the Order Form(s) (hereinafter referred to together as the "**Service or Services**").

Botify and Customer are each referred to as a "**Party**" below, or collectively as the "**Parties**".

Customer acknowledges that it has read, understood, and retained a copy of the Agreement and agrees to be bound by them as modified by the Specific Conditions attached to the applicable Order Form. The date of this Agreement shall be the last date of signature on the Order Form it accompanies.

# STRUCTURE; PRECEDENCE.

This Agreement will govern Customer subscription to and use of Botify software and services (“**Services**”). The description applicable to each of the Services selected by the Customer is described in Exhibit of the applicable Order form. The provisions of this Agreement control over those in any Order Form unless explicitly stated otherwise in an Order Form.

# LICENSE GRANT.

1. **Botify.** Subject to Customer’s performance of its obligations under this Agreement, Botify hereby grants Customer a revocable, worldwide, non-exclusive, non-transferable, non-assignable (except as provided herein), non-sublicensable, time-limited subscription to use the Services solely for Customer’s internal business purposes.
2. **Customer.**
	1. **Customer Data.** Customer hereby grants Botify, for the sole and exclusive purpose of providing Services to Customer, a non-exclusive, worldwide, royalty-free, sub- licensable license to use, modify, and integrate into any derivative works all Customer Data (defined in Section 4(a) below), web server log files, and any other information provided to Botify under this Agreement.

 **ii. Aggregated Anonymous Data.** Botify may aggregate the metadata and usage data of Customer collected or otherwise made available through the Services so that the results contain no personally identifiable data of Customer or any authorized user (“**Aggregated Anonymous Data**”). Customer acknowledges and agrees that Botify may use the Aggregated Anonymous Data, both during and after these Terms and Condition’s term: **(A) to** develop and improve the Services; **(B)** to create and distribute reports and other materials regarding use of the Services; and **(C)** for assessment and inclusion in performance trend databases for commercial and non-commercial purposes. For purpose of clarity, nothing in this Section 2(b)(ii) gives Botify the right to publicly identify Customer as the source of any Aggregated Anonymous Data.

 **iii. Customer Affiliate Purchasing**. All rights granted under this Agreement with Customer will extend to Customer’s Affiliates. Any Customer Affiliate may execute an Order Form with Botify here under, and in such case, all obligations of, and references to, Customer in this Agreement shall instead refer to such Customer Affiliate. For the purpose of this Agreement, “Affiliate” means any entity that is, directly or indirectly, controlling, controlled by, or under common control with a party.

# RESTRICTIONS.

1. **Usage Restrictions.** Customer will use the Services in compliance with all applicable laws, this Agreement, the relevant Order Form, and any written documentation accompanying the Services (“**Documentation**”). Customer may not, and may not cause or permit others to: **(i)** modify, make derivative works of, disassemble, reverse engineer, decompile, reproduce, or copy any part of the Services; **(ii)** distribute, sublicense, disclose, market, rent, lease, or transfer to any third party any portion of the Services or Documentation; nor use the Services or Documentation in any service bureau arrangement; **(iii**) disclose Services performance benchmark results to any third party without Botify's prior written approval; **(iv)** use any third party software provided by Botify to Customer under this Agreement independently from the Services; **(v)** expose, repackage, or otherwise make available any Botify application programming interface (“**API**”) to third parties, including by pass-through ; nor **(vi)** allow a third party to modify the parameters or other implementation details of the Services as set forth in the relevant Order Form and Documentation.
2. **Access Restrictions.** Customer will access the Services by connecting to Botify’s systems with login credentials provided by Botify. In no event will Customer share its login credentials with any unauthorized third parties.
3. **Modification.** Botify may modify the Services at any time without prior notification to Customer, provided that such modifications do not materially decrease the functionality of the Services as defined in the relevant Order Form.

# BOTIFY OBLIGATIONS.

1. **Data Storage Retention Obligations.** Information provided by Customer for processing by the Services (“**Customer Data**”) is stored by Botify for limited periods as part of the Services as specified at [https://www.botify.com/data-retention-policy.](https://www.botify.com/data-retention-policy) Storage of Customer Data for longer periods may be available for additional fees and if elected will be recorded in a new Order Form.
2. **Availability**. The Services may be unavailable from time to time for reasonable periods due to system maintenance. Botify will use commercially reasonable efforts to notify Customer by email at least 24 hours before such maintenance. Specific availability and service level commitments are available at [https://www.botify.com/service-level-agreement-sla.](https://www.botify.com/service-level-agreement-sla)
3. **Customer Data.** Customer Data (and statistics about the use of the Services) are processed in order to provide the Services, including for the purpose of verification of compliance with this Agreement. Upon written request by Customer, Botify will delete all copies of Customer Data then in its possession, except that Botify will not be required to destroy or alter any computer archival and backup files where permitted under Applicable Data Protection Laws (defined below), provided that such archival and backup data will continue to be protected under the confidentiality provisions of this Agreement.
4. **Monthly Crawl Envelope.** Each Order Form will specify the Customer website(s) (“**WebPropert(ies)**”) to be processed by the Services (“**Crawls**”) and the maximum monthly number of URLs to be crawled for each WebProperty (“**Monthly Crawl Envelope**”). Botify will not charge Customer any additional fees if Crawls exceed the Monthly Crawl Envelope specified in the Order Form , provided that, during the term of the relevant Order Form, such Crawl overage does not exceed the Monthly Crawl Envelope by **(i)** 100% or more in any one month; or **(ii)** 50% to 99.9% for three months (“**Minimal Overage**”). If Customer exceeds the Minimal Overage, then Botify will confer in good faith with Customer to resolve such overage.

# CUSTOMER OBLIGATIONS.

1. **Customer Data.** Customer will provide Botify with all Customer Data, web server log files, and any other information that Botify reasonably requires to perform its obligations under this Agreement.
2. **Customer Resources.** Customer will provide **(i)** such personnel access and time as may be reasonably required for Botify’s delivery of the Services; and **(ii)** access to Customer’s web analytics tool(s) (such as the Google Analytics API), Google search console, and any other search engine or third-party data or services (collectively, “**Customer Analytics Tools**”) that Customer wishes to be processed by the Services. Customer acknowledges that such access by Botify to the Customer Analytics Tools may incur additional costs for Customer on the relevant Customer account(s), for which Customer will be solely responsible. Botify Services are cloud-based and Customer will be solely responsible for obtaining and maintaining all internet access, computer hardware, and any other equipment or resources required to use the Services.
3. **Account.** Customer will be solely responsible for maintaining the security of all credentials for the Services provided to it by Botify. Customer will use commercially reasonable efforts to prevent unauthorized access to, or use of, the Services and will promptly notify Botify of any unauthorized access or use. Customer will be solely responsible and liable for all activity on Customer’s Services account(s).

# TERM; TERMINATION.

1. **Agreement Term.** This Agreement will become effective on the first occurring of the following: the date of last signature on this Agreement (in the case of affixed signatures); the effective date of the associated Order Form; or the date of first use of the Services, and remain in effect for the duration of any active Order Form it governs **(“Agreement Term”)**.
2. **Order Form Term.** Each Order Form will state the subscription term of the Services provided thereunder (“**Initial Term**”) and, except when provided otherwise on the Order Form, such subscription term will automatically renew for successive periods of equal length (each, a “**Renewal Term**”) until either party provides to the other written notice of non-renewal at least 60 days prior to the start of the next renewal period (collectively, the “**Order Form Term**”). Customer shall send any written notice of termination to termination@botify.com.
3. **Termination**.
	1. **Termination for Breach.** Either party may terminate this Agreement with 30 calendar days’ written notice to the other party for its uncured material breach of this Agreement or any Order Form. Either party may terminate this Agreement immediately without notice in the event of **(A)** institution by or against the other party of insolvency, receivership, or bankruptcy proceedings; **(B)** the other party’s making an assignment for the benefit of creditors; or **(C)** upon the other party’s dissolution or cessation of business. Notwithstanding the foregoing, Botify may immediately suspend access to the Services if Botify determines that Customer’s use of the Services is likely to cause legal liability for Botify, its suppliers, or other customers.

##  Effect of Termination.

* + 1. Upon termination, Customer’s use of the Services must cease. Termination does not relieve either party of liability for breach occurring prior to termination.
		2. In the event of termination for Botify’s uncured material breach, Botify will refund to Customer the pro-rated balance of any prepaid fees for the remainder of the Order Form Term following the effective date of such termination (“**Termination Date**”).
		3. In the event of termination for Customer’s uncured material breach, Customer will pay any unpaid fees outstanding under the relevant Order Form as of the Termination Date within seven days of such date. In no event will any termination relieve Customer of the obligation to pay any fees owed to Botify for the period prior to the Termination Date.
1. **Term Commitment.** Except as otherwise provided herein, early termination of this Agreement or any Order Form hereunder is not permitted and will not relieve Customer of its financial commitment to the full subscribed Term recorded in the relevant Order. No refunds of fees paid will be made.

# PAYMENT TERMS; TAXES.

1. **Fees.** Fees for the Services are listed in the relevant Order Form and will be payable annually in advance, within 30 days of the Order Form Effective Date (defined below), unless explicitly provided otherwise in an Order Form. Auto renewal fees are payable within 30 days of each anniversary of such date thereafter during the Order Form Term for auto-renewing subscriptions, upon receipt of an invoice from Botify.
2. **Late Fees, Interest, and Effect of Non-Payment**. A monthly interest charge of the greater of 1.5% or the maximum legal rate will be assessed and payable on all payments more than 15 calendar days past due. Botify will provide notice to the Customer that payment is past due. If Customer fails to pay undisputed past due amounts within 30 days from such notice, Botify may suspend the Services.
3. **Fee Adjustments.** Botify reserves the right to increase the fees for each subsequent Renewal Term by up to 5% of the prior term’s fees. Fees may also be adjusted at renewal based on changes to the actual Services usage level of Customer. Botify will contact Customer no less than two months before the expiration of the current term to discuss renewal.
4. **Initial Pricing Calculations.** Pricing for certain Services is based on organic search results for the WebPropert(ies) as reported by Customer’s search analytic tool(s) (“**Organic Traffic**”) for the 12 months prior to the effective date of such Order Form (“**Order Form Effective Date**”). If Botify does not have access to the Organic Traffic on the Order Form Effective Date, then Customer will provide a good faith estimate of the Organic Traffic, and three months after the Order Form Effective Date Botify will verify the actual Organic Traffic. If there is a variance of 5% or more between the good faith estimate and the actual Organic Traffic, then Botify will invoice Customer for a correction fee equal to the difference between the initial Services fee invoiced and a revised fee based on the actual Organic Traffic, pro- rated over three months.
5. **Taxes.** Customer is solely responsible for payment of all taxes imposed on or incurred by Customer because of this Agreement or the provision of the Services, except any taxes based on Botify's net income.
6. **Google Cloud Marketplace Payment.** In the event Customer opts to pay the Fees listed in any applicable Order Form through Google Cloud Marketplace, all payments shall be governed by the terms agreed between Customer and Google Cloud Marketplace. Notwithstanding the foregoing, the use of all Botify Services shall be governed by this Agreement.

# SUPPORT; MAINTENANCE SERVICES.

During the Order Form Term, Botify will **(a)** correct Services malfunctions to bring the Services into conformity with then-current specifications provided in the relevant Documentation for the most current version of the Services under an Order Form, unless such malfunctions were caused by Customer’s or a third party’s use or modification of the Services in violation of this Agreement or the relevant Order Form; and **(b)** provide Customer with account management and technical support to provide guidance, answer operational questions about, and report issues with the Services, as provided for in more specific detail in the relevant Order Form.

# OWNERSHIP.

Botify. All rights, title, and interest in and to the Services, Documentation, and all related intellectual property rights, including any inventions, creations, or improvements, whether patentable or copyrighted or not, conceived, made, or reduced to practice in connection with the performance of Botify's obligations hereunder, are and will remain Botify’s sole and exclusive property.

This Agreement is a subscription license to use and not a sale. It does not convey to Customer any rights or ownership in the software, Services or any Documentation, or any intellectual property rights therein. Customer acknowledges that it is obtaining only a limited right to the Services and the Documentation solely as provided for in this Agreement and any Order Form hereunder, that the Services are offered online and no right to obtain or retain a physical copy of the Services or Documentation is granted, unless otherwise stated herein.

Customer. Customer maintains sole and exclusive ownership of all Customer Data and Botify has no right, title, or interest in or to any Customer Data other than as expressly granted in this Agreement.

Feedback. Customer acknowledges and agrees that all feedback, suggestions, ideas, enhancement requests, recommendations, or other information provided in any form by Customer to Botify regarding the Services or the Documentation (“**Feedback**”) may be freely used by Botify for any purpose whatsoever, including commercial purposes and the development, production, and marketing of products and services that incorporate such information, without compensation or attribution to Customer.

# CONFIDENTIALITY.

During the Agreement Term, the parties will maintain the confidentiality of information shared by the other party that **(a)** is labeled as confidential; **(b)** should be reasonably understood to be confidential given its nature; or **(c)** is protected by intellectual property law (“**Confidential Information**”). Each party will **(i)** protect the other party’s Confidential Information using commercially reasonable efforts in no event less than the degree of care and security it uses to maintain its own Confidential Information; **(ii)** use the other party’s Confidential Information only to perform its obligations under this Agreement; and **(iii)** not disclose such information to any third party except as permitted under this Agreement or as required by law.

A party may disclose the other party’s Confidential Information to its or its affiliates’ employees and sub-contractors with a legitimate need to know such information to perform its obligations under this Agreement; and accountants, attorneys, potential investors, acquirers, and financing partners, provided that prior to any such disclosure each such individual is bound by written or professional confidentiality obligations at least as protective as those contained herein.

If either party is compelled by legal order to disclose any portion of the other party's Confidential Information, then that party will, if legally permissible, promptly notify and assist the other party (at the other party’s sole expense) in obtaining a protective or other similar order and will disclose only the minimum Confidential Information necessary to comply with such compelled disclosure.

**Exclusions.** Information will not be considered to be Confidential Information if it: **(A)** was in the public domain at the time it was disclosed or enters the public domain without violation of this Agreement; **(B)** was known to either party without restriction at the time of the disclosure; **(C)** was independently developed by the receiving party; or **(D)** becomes known to the receiving party without restriction from a third party, without breach of this Agreement, and otherwise not in violation of either party’s rights.

# PERSONAL DATA.

If Botify should use any Personal Data in the Services, as that term is defined in Applicable Data Protection Laws, then Botify will collect and process such Personal Data as a data processor in compliance with Applicable Data Protection Laws. If applicable, in respect of the processing of any Personal Data , the Parties agree that the provisions of Botify’s standard Data Processing Agreement (located at: <https://www.botify.com/emea-legal> ) shall apply except where the Parties have agreed and executed a bespoke Data Processing Agreement (either, together with its annexes, the “DPA”). Each Party agrees to comply with the terms of the DPA, which shall be incorporated into this Agreement by reference. Execution of this Agreement and/or any Order Form shall be deemed as execution of the DPA and the Standard Contractual Clauses incorporated by reference there. Customer acknowledges that it has read, understood, and retained a copy of the Data Processing Addendum and agrees to be bound by it as modified from time to time. “**Applicable Data Protection Laws**” means: **(a)** Regulation 2016/679 of the European Parliament and of the Council (“**Regulation**”) on the protection of natural persons regarding the processing of personal data and the free movement of such data, and the data protection laws of any European Union Member State, including all member country laws implementing the Regulation; **(b)** the data protection laws of the UK; and (c) many and several data protection regulations of the States and federal government of the United States.

# REPRESENTATIONS AND WARRANTIES; DISCLAIMER.

1. **General.** Each party represents and warrants that it has all necessary rights, power, and authority to enter into this Agreement and perform its obligations hereunder, and that the individuals accepting this Agreement on a party’s behalf, through use or signature or Order Form, are authorized to do so.
2. **Customer Data Warranty.** Customer represents and warrants that **(i)** Customer Data has been collected, processed, and transferred in compliance with all applicable laws, rules, and regulations and without violating any third-party rights or agreements; **(ii)** it has all necessary right and authority to provide all Customer Data to Botify under this Agreementto allow Botify to process such data through the Services.
3. **Limited Warranty.** Botify warrants that, during the Agreement Term, the Services will substantially conform with the relevant Documentation and will be free of material defects. Botify does not make any representations or warranties that the functions performed by the Services will meet Customer’s preferences or requirements; that the operation of the Services will be uninterrupted or error free; or that all defects in the Services will be corrected.
4. **WAIVER**. TO THE EXTENT PERMITTED BY APPLICABLE LAW, BOTIFY PROVIDES THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, AND DISCLAIMS ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED, ORAL, OR WRITTEN, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER OR NOT BOTIFY KNOWS OR HAS REASON TO KNOW OF ANY SUCH PURPOSE. BOTIFY FURTHER DISCLAIMS ALL WARRANTIES, AND REPRESENTATIONS OF TITLE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY BOTIFY, ITS AGENTS, OR ITS EMPLOYEES WILL CREATE ANY WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTIES IN THIS AGREEMENT OR ANY ORDER FORM. THE PARTIES MUTUALLY AGREE THAT NO ACTION FOR BREACH OF WARRANTY MAY BE COMMENCED MORE THAN ONE YEAR FOLLOWING THE EXPIRATION DATE OF SUCH WARRANTY.

# INDEMNIFICATION.

1. **Customer.** Customer will defend and indemnify Botify against any third party claims, damages, settlements, losses, liabilities, fines, penalties, and costs (including court costs and reasonable attorneys’ fees) arising from or relating to: **(i)** Customer’s use of the Services not in compliance with this Agreement, any Order Form, or any Documentation; **(ii)** Botify’s use of Customer Data as permitted under this Agreement infringes or misappropriates the intellectual property rights of a third party; or **(iii)** Customer’s violation of any applicable law.
2. **Botify.** Botify will defend and indemnify Customer against third-party claims that the Services or Documentation infringe on any intellectual property rights of a third party existing as of the Effective Date (“**Claim**”). Botify will pay any damages, settlements, losses, liabilities, fines, penalties, and costs (including court costs and reasonable attorneys’ fees) finally awarded against Customer for a Claim, provided that Botify will not be responsible for any settlement of a Claim without Botify’s prior written approval. The foregoing indemnity does not apply to Claims arising from or relating to: **(i)** Customer’s use of the Services not in compliance with this Agreement, Order Form, or Documentation,; **(ii)** portions or components of the Services not created by Botify; **(iii)** modifications to the Services made by Botify as instructed by Customer; **(iv)** modifications to the Services made by Customer after delivery by Botify; **(v)** a combination of the Services with non-Botify services, products, processes, components, or materials where the alleged infringement results expressly from such combination; or **(vi)** Customer’s continuation of allegedly infringing activity after being notified thereof and informed of modifications that would have avoided the alleged infringement ((i)-(vi) collectively, “**Excluded Claims**”).
3. **Procedure.** For the indemnification obligations above to apply, a party must: **(i)** promptly notify the other party in writing of a claim that is not an Excluded Claim and cede to the other party sole control of all claim defense and related settlement negotiations; and **(ii)** provide reasonablecooperation to the other party, at the indemnifying party's expense, in defending or settling such claim. The indemnifying party will not have any right, without the indemnified party’s written consent, to settle any claim if such settlement contains a stipulation to, or admission of, any liability or wrongdoing on the part of the indemnified party.
4. **Mitigation.** In response to a Claim, Botify may: **(i)** procure for Customer the right to continue using the Services; **(ii)** settle such Claim; **(iii)** modify the Services to make them non-infringing; or **(iv)** replace the Services with a non-infringing substitution, provided that such modification or substitution is made without additional charge to Customer; and provides functionality substantially similar to the Services. If, in Botify’s sole discretion, none of the foregoing are commercially reasonable, Botify may terminate this Agreement and refund to Customer any pre-paid unused Fees. Any election by Botify under this subsection will fully discharge Botify’s liability for such Claim other than the right to indemnification of such Claim under this Section prior to such termination.
5. **ENTIRE LIABILITY.** THIS SECTION 13 CONTAINS THE SOLE AND ENTIRE LIABILITY OF BOTIFY REGARDING ALLEGED INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY BY THE SERVICES OR DOCUMENTATION.

# LIMITATION OF LIABILITY.

1. **Exceptions.** Botify will have no liability to Customer to the extent that such liability arises from or relates to: **(i)** Customer’s non-compliance with this Agreement, the relevant Order Form, the relevant Documentation, or Botify’s instructions, procedures, or other specifications; **(ii)** Customer’s use of software or equipment that is incompatible with the Services as identified in the Documentation; **(iii)** any corruption of, damage to, or loss of software or data if the same could have been avoided by Customer’s implementation of a regular backup system; **(iv)** a computer virus, worm, trojan, or other malicious code, not introduced by Botify, affecting the operation of the WebPropert(ies); **(v)** intrusion of a third party into the computer system affecting the operation of the WebPropert(ies) not directly attributable to Botfy’s failure to comply with the Security requirements of this Agreement; **(vii)** a change in the host or hosting system of the WebPropert(ies ); **(viii)** a network failure rendering the WebPropert(ies) inaccessible; **(ix)** an incident concerning Customer’s technical infrastructure; or **(x)** data received by Botify from third parties on behalf of the Customer.

**LIMITATION OF LIABILITY.** NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR THE LIKE) ARISING FROM OR RELATING TO THIS AGREEMENT, ANY ORDER FORM, OR ANY DOCUMENTATION, OR THE USE OR INABILITY TO USE THE SERVICES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER PARTY’S AGGREGATE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT AND ANY ORDER FORM ENTERED INTO UNDER THIS AGREEMENT WILL EXCEED THE FEES PAID OR PAYABLE TO BOTIFY BY CUSTOMER UNDER THIS AGREEMENT IN THE 12 MONTHS PRECEDING THE CLAIM(S) GIVING RISE TO SUCH LIABILITY, IT BEING SPECIFIED THAT IF ONE OR MORE CLAIMS GENERATE THE SAME DAMAGE OR LOSS, ALL SUCH CLAIMS ARE DEEMED A SINGLE CLAIM.

NOTWITHSTANDING THE FOREGOING, EITHER PARTY’S LIABILITY FOR CLAIMS OF BREACH OF ITS OBLIGATIONS UNDER SECTION 10 (CONFIDENTIALITY), SECTION 11 (PERSONAL DATA), OR SECTION 13 (INDEMNIFICATION) WILL NOT EXCEED $1,000,000.00 USD IN THE AGGREGATE, IT BEING SPECIFIED THAT IF ONE OR MORE INDEMNIFICATION CLAIMS GENERATE THE SAME DAMAGE OR LOSS, ALL SUCH CLAIMS ARE DEEMED A SINGLE CLAIM. NOTHING IN THIS SECTION SHALL LIMIT OR EXCLUDE THE LIABILITY OF THE PARTIES FOR DEATH, PERSONAL INJURY, FRAUD, OR ANY OTHER LIABILITY WHICH CANNONT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

# Generative AI Technologies: Transparency Disclosure, Terms of Use and Limitation of Liability.

# Certain of Botify’s Services will use generative artificial intelligence technologies (“GenAI”), either developed by Botify or licensed from third party vendors specializing in development of GenAI. GenAI is used by Botify to introduce automation and processing efficiencies. Where GenAI is used in Botify Services to glean insights from Customer Data or provide recommendations, disclosure will be made in the description of the offering and within the Services at time of first access. Customer acknowledges and agrees that recommendations, insights, or suggestions provided by Botify through its use of any GenAI ("Botify GenAI Recommendations"), are generated based on algorithms and data analytics, and are intended solely for informational purposes as suggested enhancements to Customer's WebProperties, or process recommendations, which in all cases require human oversight and review to determine appropriateness for Customer’s specific requirements. The Customer understands that the effectiveness of such Botify GenAI Recommendations is influenced by various factors beyond the control of Botify, including but not limited to search engine algorithms, market conditions, validity of Customer Data, and competitor strategies.Customer acknowledges that use of any Botify GenAI Recommendations provided by Botify is solely at the Customer's discretion and risk and Botify offers no warranty with regard to such recommendations. Botify shall not be liable for any direct, indirect, incidental, consequential, or special damages arising from or related to the use or reliance on such Botify AI Recommendations.

Data Protection and Processing Notice: In the use of GenAI, Botify may process personal data. Botify will process such data in accordance with the Applicable Data Protection Laws. The processing of personal data is subject to the terms of Botify’s Data Processing Agreement (DPA), available at https://www.botify.com/emea-legal, or a bespoke DPA if agreed and signed between the parties. Botify acts as a data processor when processing personal data.

# PUBLICITY.

Upon Customer’s prior written consent, email being acceptable, **(a)** Botify may publicly refer to the relationship created by this Agreement and use Customer’s name, logo, and/or trademarks on its website, in its marketing materials, and in sales presentations, subject to Customer’s trademark use guidelines. From time to time, Customer may be invited to participate in Botify’s Customer Reference Program which may include reference calls, press releases, case studies, and co-speaking engagements, and **(**b) Botify may request to showcaseCustomer’s success with the Services in a press release, white paper, blog post, or shared media interview, subject to Customer’s final sign off.

# NON-SOLICITATION.

During these Terms and Condition’s Term and one year thereafter neither party will hire or solicit for employment, on behalf of itself or a third party, any personnel of the other party who have been engaged in work related to this Agreement; provided, however, that the foregoing will not apply to any personnel of the other party who respond to a public job advertisement or other general public solicitation of a party without active solicitation from the hiring party.

# ANTI-CORRUPTION; ANTI-SLAVERY; ANTI-TAX EVASION.

The parties will, at all times, in performing their obligations under this Agreement and any Order Form:

1. comply with all applicable anti-bribery and anti-corruption laws, including the Bribery Act 2010 (UK) and the United States Foreign Corrupt Practices Act;
2. comply with all applicable laws relating to anti-slavery and human trafficking prevention, including the Modern Slavery Act 2015 (UK); and
3. not engage in any activity, practice, or conduct which would constitute either a tax evasion facilitation offense under section 45(1) of the Criminal Finances Act 2017 (UK) or a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017(c). Each party will have, and will maintain in place throughout this Agreement’s Term, its own policies, and procedures to ensure compliance with this section, including adequate procedures under the Bribery Act 2010 (UK), and will enforce them where appropriate. Each party will promptly report to the other:
	1. any request or demand for any undue financial or other advantage of any kind received in connection with this Agreement or any Order Form;
	2. any slavery or human trafficking in a supply chain that it becomes aware of in connection with this Agreement; and
	3. any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017 of the United Kingdom, in connection with the performance of this Agreement.
4. **CUSTOMER’S BOTIFY CONTRACTING PARTY BY REGION**
	1. If Customer has its registered office in Canada, the United States of America, or South America, then (i) Customer is contracting with **Botify Corporation**, c/o The Square, 205 Hudson St., 8th Fl, New York, NY 10013; (ii) this Agreement shall be governed by the laws of the State of New York; and (iii) any dispute regarding the interpretation, the conclusion, the performance or the termination of this Agreement which is not resolved amicably by the Parties shall be subject to the exclusive jurisdiction of the Federal Court for New York City, or if that court lacks subject matter jurisdiction, in any New York State court, and both hereby agree to submit to personal jurisdiction of such court.
	2. If Customer has its registered office in Southern Europe, Eastern Europe, Switzerland, or Africa, then (i) Customer is contracting with **Botify SAS**, 12, rue d’Amsterdam, 75009 Paris, France, registered in the Paris Trade and Companies Register under number 519 350 813; (ii) this Agreement shall be governed by the laws of France; and (iii) any dispute regarding the interpretation, the performance, or the termination of this Agreement, which is not resolved amicably by the Parties, will be exclusively decided by courts located in Paris, France.
	3. If Customer has its registered office in Northern Europe, the United Kingdom, or Nordic countries, then (i) Customer is contracting with **Botify Ltd**., 23 Copenhagen Street, London N1 0JB, Great Britain, United Kingdom; (ii) this Agreement shall be governed by the laws of England and Wales; and (iii) any dispute regarding the interpretation, the performance, or the termination of this Agreement, which is not resolved amicably by the Parties, will be exclusively decided by the courts located in London, United Kingdom.
	4. If the Customer has its registered office in Australia or New Zealand, Singapore, Japan, India, or any other country in Asia, then (i) Customer is contracting with **Botify Asia Pte. Ltd**., a Singapore private limited company with registered offices at The Hive Coworking Space Singapore Pte Ltd, Carpenter Haus, 36 Carpenter St., #02-01, Singapore 059915; (ii) this Agreement shall be governed by the laws of Singapore; and (iii) any dispute regarding the interpretation, the performance, or the termination of this Agreement or any Order Form, which is not resolved amicably by the Parties, will be exclusively decided by the courts located in Singapore, Singapore.
5. **GENERAL. Entire Agreement**. This Agreement together with any DPA, any Exhibits, and all Order Forms collectively constitutes the sole, entire, and exclusive agreement between the parties regarding the subject matter thereof, and supersedes and renders void all prior communications, representations, agreements, or discussions between the parties, whether written or oral, regarding such subject matter. **Amendment**. This Agreement may not be amended or modified without the written consent of both parties. **No Waiver**. No term or provision of this Agreement will be deemed waived, and no breach consented to, without the written consent of both parties. Any waiver or consent that is so granted will not constitute a waiver or consent for any future occurrence. The failure to exercise any remedy available to either party will not be deemed to be a waiver of any rights or remedies of either party under this Agreement, at law, or in equity. **No Third-Party Beneficiaries**. There are no intended third-party beneficiaries to this Agreement, except as expressly stated. **Assignment**. Neither party may sell, assign, or delegate any rights or obligations under this Agreement, except as expressly provided herein, without the written consent of the other party, except that either Botify may assign this Agreement to a successor entity in a merger, acquisition, or other change of control transaction. **Severability**. If any provision of this Agreement is found to be invalid or unenforceable under applicable law, such provision will be deemed reformed to the minimum extent necessary to comply with such law or, if compliance is not possible, deemed stricken from this Agreement in such law’s jurisdiction, but will not affect the validity or enforceability of the remainder of this Agreement in such jurisdiction. **Notices**. All notices required or permitted by this Agreement must be **(a)** in writing; **(b)** emailed, mailed by first class, registered, or certified mail (return receipt requested, postage prepaid), or hand delivered; and **(c)** sent to the party addresses provided herein (in the case of email to Botify, to legal@botify.com), and will be deemed valid upon delivery. **E-Signature.** This Agreement and its Order Forms may be executed electronically, and in one or more counterparts, all of which together will constitute a single binding agreement.