Terms and Agreement

By purchasing our products and services, continuing to review our website and accompanying materials, and by clicking on "I accept the terms and conditions", you are entering into a contract with Webshop Marketing Kft., operator of the OptiMonk system and features (collectively "OPTIMONK"), and are agreeing to the Terms and Agreement for use of OPTIMONK, along with any amendments thereto and any operating rules or policies that may be published from time to time by OPTIMONK, hereinafter referred to as (the "Terms").

These Terms govern your use of the OPTIMONK website "Website", services "Services", and review of any other information or materials ("Accompanying Materials") provided by OPTIMONK.

You agree that you have read and understand, and have the capacity and authority to accept, agree to and be bound by these Terms.

Read these Terms carefully. If you do not agree to these Terms, do not click "I accept the terms and conditions" and do not use our services, website, or accompanying materials.

These Terms may be modified from time to time at the sole discretion of OPTIMONK, and such changes or modifications are effective immediately upon the earliest of (a) OPTIMONK's email notification to you advising you of such changes or modifications, (b) your electronic acceptance of the Terms after such changes or modifications have been made to the Terms as indicated by the "Date of Last Revision" date at the top of the Terms, or (c) your continued use of the Services after OPTIMONK posts the updated Terms to optimonk.com. In addition, when using particular OPTIMONK services, you and OPTIMONK will be subject to any posted guidelines or rules applicable to such Services that may be posted from time to time.

This is an electronic contract.

You acknowledge that your electronic submissions constitute your agreement and intent to be bound by and to pay for such agreements and purchases of products and services. Your agreement to be bound by electronic submissions applies to all records relating to all transactions you enter into with OPTIMONK, including any notices of cancellation, policies, contracts, and applications. In order to use the OPTIMONK Website and to access and retain electronic records, you may be required to have certain hardware and software, which are your sole responsibility. OPTIMONK is not responsible for typographic errors in these Terms, on our Website, in descriptions of Products and Services, or in Accompanying Materials.

Description of Services

- OPTIMONK provides a "customizable exit popup overlay" system (hereinafter referred to as a "Popup"), with which you can present messages in overlay "windows"

- Any new features or tools which are added to the current Popup shall also be subject to this contract.

Account

- As a registered user of OPTIMONK, you may establish an account ("Account") on our Website.

- You acknowledge that OPTIMONK will use the email address provided during Account registration as the primary method for communication.

- You are responsible for keeping your password and Account secure. OPTIMONK cannot and will not be liable for any loss or damage that results from failure to maintain the security of your Account and password.

- You are responsible for all activity and content such as data, graphics, photos and links that are uploaded under your OPTIMONK Account. You must secure the rights for use of any content. You must not transmit any worms or viruses or any code of a destructive nature.

- These Terms constitute an agreement for use of a Popup, and you are not granted a license to any software. You will not, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of or included in the Popup or any software, documentation or data related to the Services ("Software"); modify, translate or create derivative works based on the Popup or any Software; or copy (except for archival purposes), distribute, pledge, assign or otherwise transfer or encumber rights to the Popup or any Software; use the Popup or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.

Payment

- In consideration of the Popup provided, you will pay OPTIMONK all fees due according to the prices and terms agreed in this contract.

- By agreeing to these terms and paying all fees due according to the prices and terms agreed in this contract, you, or the company or organization you are fully authorized to represent will be a "Customer" of OPTIMONK.

- OPTIMONK reserves the right to modify its pricing and terms at any time, and such changes or modifications will be effective immediately upon the next renewal, billing period, upgrade or downgrade of the Services with notice to Customer.

- A valid credit card is required for accounts to process payment. OPTIMONK will automatically charge Customer's credit card on file based on Customer's billing cycle (monthly, partial yearly or yearly, depending on the Services selected and billing terms for individual services) until Customer validly terminates the Popup.

- OPTIMONK shall issue a prepayment request for the Customer eight (8) days prior to the expiration of the applicable billing period for the next period billing based on the current prices and terms. The prepayment request will be sent to the email address provided by the Customer at the time of registration or as currently stored in their Account.

- Within five working days of the settlement of the payment amount, OPTIMONK produces an electronic invoice for the Customer.

- All billing invoices and payment notifications will be maintained directly in Customer's Account Portal.

- The rental fee of the Popup which can be rented as an online service includes the continuous operation of the software defined further on.

- OPTIMONK plans are based on a limit of the number of visitors to your domain(s). This limit varies based on the plan you have chosen. Counting of visitors starts on the first day of every month. Should you choose to pay for your plan before the course of a month, counting of visitors will still begin at the first of every month.

- The counting of visitors at OptiMonk is based on the number of unique visitors. A unique visitor is a one-time visitor that visits your website in a given month. Each unique visitor is only counted once regardless of the frequency of their return within a given month. For instance, a visitor who visits your website once (1 time) and then returns later in the same month – one (1), two (2) or even ten (10) times – to visit your website, only counts as one (1) unique visitor.

OPTIMONK rights and obligations

- All OPTIMONK products and services, website and accompanying materials are provided as-is, with no guarantee or warranty expressed or implied.

- OPTIMONK shall immediately notify the Customer if it becomes aware of any circumstances that would impact the performance of the services, or website and will

keep Customer informed during the process to remedy any deficiencies in performance that may be caused by OPTIMONK.

- At no time shall OPTIMONK be liable for loss or damages resulting from use of the OPTIMONK system, or any deficiencies of performance while using OPTIMONK, whether or not these deficiencies are the result of any negligence on the part of OPTIMONK.

- OPTIMONK staff shall be entitled to login the Customer's Popup for maintenance purposes.

Customer rights and obligations

- Customer is required to provide OPTIMONK assistance required to deliver Service.

- Customer is responsible for treating, recording and administering the products found in the Popup in all cases. OPTIMONK does not participate in the sales process registered in the Customer's Popup. These Terms to display the Popup do not imply any sort of business relationship or sales partnership, and the only relationship between the Customer and OPTIMONK is for the use of OPTIMONK as outlined herein.

- OPTIMONK has no form of relationship and no liability, expressed or implied, with the people to whom Customer displays the Popup. The Customer is solely liable for the content and solidity of data found in the Popup and is solely liable to anyone who views the Popup.

- Customer assumes all legal obligations required in connection with the website and Popup operation, (all-time valid indication of company data, etc), as well as to set any changes in the company's information in the Popup administration interface. OPTIMONK provides resources to do so through Service functions. In the event of failure to provide updated information or respond to queries, OPTIMONK is entitled to suspend the publicly accessible portion of the Service until Customer submits completion of documents.

- Customer declares that he is aware of the rules of the Internet mail sending. OPTIMONK is not responsible for the content of the data traffic generated during the use of the Service.

- Customer hereby grants OPTIMONK a non-exclusive right and license to use Customer's name and Customer's trade names, trademarks, and service marks (collectively, "Customer's Marks") as provided to OPTIMONK in connection with these Terms: (a) on OPTIMONK's own websites, (b) in printed and online advertising, publicity, directories, newsletters, and updates describing OPTIMONK's Services and (c) in applications reasonably necessary and ancillary to the foregoing.

Customer Service

- OPTIMONK provides support to Customer, which includes a dedicated account manager who is responsible for the campaign settings and will also monitor the performance of OPTIMONK on the Customer's website.

- OPTIMONK provides the design and setup of all campaigns and creatives as agreed by Customer in Customer's Account.

- Electronic communications between the Customer and OPTIMONK are made between info@optimonk.hu, info@optimonk.com or the address of the dedicated account manager; and, the email address provided at the time of registration by the Customer or the current email address as configured in the Customer's Account.

- The customer service form found on www.optimonk.hu and www.optimonk.com can be used for reporting errors. In the case of error reporting, the message should include the operating system used when the failure occurred, its version number, any data on installed software and updates, the name and the exact version number of the browser, the time of the error causing, the steps taken and the URL the error can be viewed at. If the service error code is written, it should also be included in the message.

- OPTIMONK agrees to comply with the response time providing the following conditions: The response time is calculated from when the problem is filed by OPTIMONK, but no later than from 9:00 am the first working day following dispatch. The response time provided is the time the customer service gives feedback to the error reported, and starts troubleshooting. Troubleshooting time is not included in this response time.

Difficulty of problem	Response time	Definition
1 (Very important)	4 hours	A certain critical function does not work in the Popup
2 (Important)	16 hours	Some Popup function cannot be performed, and it is a UX problem for the people to whom the Popup is displayed

3 (General)	5 days	A Popup function which is not visible to the people to whom the Popup is displayed and does not prevent them from using the Popup

Force majeure

OPTIMONK will have no liability to Customer or any third-party for any failure by OPTIMONK to perform its obligations under these Terms in the event that such non-performance arises as a result of the occurrence of an event beyond the reasonable control of OPTIMONK, including without limitation an act of war or terrorism, natural disaster, failure of electricity supply, riot, civil disorder, or civil commotion or other event of force majeure.

Term and Termination

- Customer may terminate this agreement or the Services at any time with or without cause, and with notice.

- OPTIMONK may terminate this agreement or the Services at any time with or without cause, and with or without notice. OPTIMONK will have no liability to Customer or any third-party because of such termination.

- Upon termination or expiration of these Terms by either party for any reason, (a) OPTIMONK will cease providing the Popup, (b) Customer will not be entitled to any refunds of any usage fees or any other fees, pro rata or otherwise and (c) any outstanding balance owed to OPTIMONK for your usage of the Popup through the effective date of such termination or expiration will immediately become due and payable in full. All sections of these Terms, which by their nature should survive termination will survive termination, including, without limitation, warranty disclaimers and limitations of liability.

- Upon termination or expiration of this agreement by either party for any reason, OPTIMONK may delete any Customer archived data within 30 days after the date of termination.

- OPTIMONK is entitled to immediately suspend Customer's Popup operation without notice, and, if the root cause for the suspension is not resolved, to remove the Popup for the following reasons:

  o Customer displays or sells an unlawful product or service in his Popup.

- Customer displays content in his Popup which is not certified to be ethical by OPTIMONK

- Customer's popup interface displays no real company data.

- Visualizing violent, racist content or inciting against any person, church, group or body.

- When using irrelevant keywords, description fields in Popup content or code.

- Deceptive, manipulative content at visualizing.

- Using malicious code.

- Visualizing any kind of content ruining the reputation or service of OPTIMONK.

- Visualizing or advertising any competing product or service of OPTIMONK.

- If OPTIMONK deletes Customer popup due to any of the above reasons Customer is not entitled to a refund of any fees, and cannot demand the content of the popup from OPTIMONK.

Settlement of disputes

Both OPTIMONK and Customer will do everything in their best power to resolve any disputes or disagreements that may arise between them regarding the framework of these Terms or the Terms, through direct negotiation. Parties are obliged to inform each other about any and all obstacles arising after the conclusion of the contract, specifically circumstances hindering the completion of the contract having learnt about the fact without delay.

The laws of Hungary will govern the validity and construction of these Terms and any dispute arising out of or relating to these Terms, without regard to the principles of conflict of laws. Customer hereby consents (and waives all defenses of lack of personal jurisdiction and forum non conveniens) with respect to the jurisdiction and venue of the federal and state courts located in Hajdu Bihar County, Hungary. Customer agrees to waive the right to trial by jury in any action or proceeding that takes place relating to or arising out of these Terms.

Debrecen, 9th December, 2015

[Click here to download the General Terms and Conditions of 30 April, 2014](#)