

# Occuspace Terms of Use

Effective Date: November 1, 2020

Hello and welcome to Occuspace and Waitz (collectively, "Occuspace"). We hope you enjoy using our product and service and look forward to your support and hearing from you with any feedback or suggestions. Please don't hesitate to contact us at [support@occuspace.io](mailto:support@occuspace.io)

Occuspace, Inc. and/or its affiliates, assigns, successors and/or agents (collectively "Occuspace," "Company," "we," "us," and "our") makes available its software, hardware, and service under these Terms of Use ("Terms" or "Agreement") so please read them carefully as they affect your rights. "You" and "your" refer to you, as a user of the Service or Account holder. A "user" is someone who accesses or in any way uses the Service or creates an Account.

BEFORE YOU PROCEED, PLEASE READ THE TEXT MESSAGING AND NOTIFICATIONS SECTION BELOW THAT YOU CONSENT TO RECEIVE TEXT MESSAGES, INCLUDING SMS AND MMS, NOTIFICATIONS, CALLS USING ARTIFICIAL OR PRERECORDED VOICE MESSAGES, AND AUTOMATIC DIALING TECHNOLOGY FOR TELEMARKETING AND ALL OTHER PURPOSES NOT PROHIBITED BY APPLICABLE LAW.

These Terms govern your access to and use of our products and services, including those offered through our Waitz mobile application, websites, communications (e.g., emails, phone calls, telemarketing, and texts), third party partners, other applications or platforms by Company, and Hardware (as defined below) (collectively, the "Service"). Hardware devices may receive radio frequency signals from any device you own that transmits an anonymized or personally identifiable signal and will be processed by the Service. By accessing or using the Service, you are agreeing to these Terms, which form a legally binding contract with Occuspace, Inc., a Delaware corporation with its headquarters in Westlake Village, California.

IT IS IMPORTANT YOUR REVIEW THE ARBITRATION AGREEMENT SET FORTH BELOW CAREFULLY, AS IT WILL REQUIRE YOU TO RESOLVE DISPUTES WITH OCCUSPACE ON AN INDIVIDUAL BASIS THROUGH FINAL AND BINDING ARBITRATION. BY ENTERING THIS AGREEMENT, YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND ALL OF THE TERMS OF THIS AGREEMENT AND HAVE TAKEN TIME TO CONSIDER THE CONSEQUENCES OF THIS IMPORTANT DECISION.

By accessing or using the Services, you confirm your agreement to be bound by these Terms. If you do not agree to these Terms, you may not access or use the Services. These Terms expressly supersede prior agreements or arrangements with you. Occuspace may immediately terminate these Terms or any Services with respect to you, or generally cease offering or deny access to the Services or any portion thereof, at any time for any reason.

BY ACCESSING OR USING THE SERVICES, YOU CONFIRM THAT COMPANY MAY USE ANY OF YOUR NON-IDENTIFIABLE DATA IN ANY FORM FOR ITS SERVICE. TO ACCESS CERTAIN FEATURES OF THE SERVICE, YOU MAY NEED TO PROVIDE PERSONAL INFORMATION AND IF YOU CHOOSE TO DO SO, THE COMPANY WILL NOT SHARE PERSONALLY IDENTIFIABLE INFORMATION WITHOUT YOUR CONSENT.

IF YOU DO NOT AGREE TO ANY OF THESE TERMS AND OUR PRIVACY POLICY, PLEASE DO NOT USE OCCUSPACE OR ANY SERVICE FROM OCCUSPACE.

## DEFINITIONS

“Data” means any and all forms of information, text, signals, photos, videos, images, messages, and other forms of information or data that is used, collected, transmitted or in any way connected with the Service.

“Hardware” means the electronic sensors, physical devices, related equipment, supporting equipment, and integrated third party components offered by Occuspace.

“Intellectual Property” means all patents, copyrights, moral rights, trademarks, trade names, service marks, trade dress, trade secrets and any other form of intellectual property rights now or hereafter recognized in any jurisdiction, including applications and registrations for any of the foregoing.

“Account” means any personal account you create in order to access or use the Service. Your Account is for your personal, non-commercial use only, and you may only have one Account. You must be at least 18 years of age, or the age of legal majority in your jurisdiction, if different than 18, to obtain an Account, unless a specific Service permits otherwise. You may not create or use an Account for anyone other than yourself. Account registration requires you to submit certain personal information. You will provide complete and accurate information about yourself when creating an Account when using the Service. You may not impersonate someone else, provide an email address other than your own, create multiple Accounts, or transfer your Account to another person. Your failure to maintain accurate, complete, and up-to-date Account information, may result in your inability to access or use the Services. You are responsible for all activity that occurs under your Account, and you agree to maintain the security and secrecy of your Account username and password at all times. Failure to comply with any Account rules may result in an immediate suspension or termination of your Account. You agree to notify us immediately of any unauthorized use of your Account. We reserve the right to close your Account at any time for any or no reason. Unless otherwise permitted by Occuspace in writing, you may only possess one Account.

## CHANGES TO THE TERMS

We may modify the Terms from time to time. The most current version of the Terms will be located here. You understand and agree that your access to or use of the Service is governed by the Terms effective at the time of your access to or use of the Service. If we make material changes to these Terms, we will make reasonable efforts to notify you by email, regular mail, text message, in-app messaging, or other means as long as you have provided us your contact information. You should revisit these Terms on a regular basis as revised versions will be binding on you. You understand and agree that your continued access to or use of the Service after the effective date of changes to the Terms represents your acceptance of such changes. If you use our Service anonymously or do not provide us an accurate contact method, you should review these Terms on a regular basis or every time you use the Service. If you do not agree to these Terms or any modification of these Terms, your sole remedy is to discontinue your use of the Service.

## USER REQUIREMENTS

The Service is not available for use by persons under the age of 18. You may not authorize third parties to use your Account, and you may not allow persons under the age of 18 to use your Account or Service unless they are accompanied and supervised by you at all times while using your Account or Service. You may not assign or otherwise transfer your Account to any other person or entity. You may not in your access or use of the Services cause nuisance, annoyance, inconvenience, theft, or harm, whether to the Third Party Provider or any other party. In certain instances you may be asked to provide proof of identity or other method of identity verification to access or use the Services, and you agree that you may be denied access to or use of the Services if you refuse to provide proof of identity or other method of identity verification.

## USING THE SERVICE

To access or use the Service, you must have the power and authority to enter into these Terms. You may not access or use the Service if Company has banned you from the Service, if Company has closed your Account, if you do not own a valid Account, if Company has notified you to not use the Service, or if Company has notified you to not use any other product or service offered by Occuspace.

- Company reserves the right to modify, update, interrupt, suspend or discontinue the Service at any time without notice or liability.
- Company grants you permission to use the Service subject to these Terms and your use of the Service is at your own risk, including the risk that you might be exposed to Content that is offensive, inaccurate, objectionable, incomplete, inappropriate, or lacks adequate warnings and risks.
- You agree to comply with all applicable laws when accessing or using the Services, and you may only access or use the Services for lawful purposes.

Your right to access and use the Service is personal to you and is not transferable by you to any other person or entity. Accurate records enable Occuspace to provide the Service to you. In order for the Service to function effectively, you must also keep your Account up to date and accurate. If you do not do this, the accuracy and effectiveness of the Service to you will be affected.

Your access and use of the Service may be interrupted from time to time for any of several reasons, including, without limitation, the malfunction of equipment, periodic updating, maintenance or repair of the Service or other actions that Occuspace, in its sole discretion, may elect to take.

You agree that Occuspace may use your feedback, suggestions, or ideas in any way, including in future modifications of the Service, other products or services, advertising or marketing materials. You grant Occuspace a perpetual, worldwide, fully transferable, sublicensable, irrevocable, fully paid-up, royalty free license to use the feedback you provide to Occuspace in any way.

## RESTRICTIONS

You represent, warrant, and agree that you will not contribute any content or otherwise use the Services or interact with the Services in a manner that:

- Infringes or violates the Intellectual Property rights or any other rights of anyone else (including Occuspace);
- Violates any law or regulation or this Agreement;
- Is harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable;
- Jeopardizes the security of your Occuspace Account or anyone else's (such as allowing someone else to log in to the Services as you);
- Attempts, in any manner, to obtain the password, account, or other security information from any other user;
- Violates the security of any computer network, or cracks any passwords or security encryption codes;
- Runs Maillist, Listserv, any form of auto-responder or "spam" on the Services, or any processes that run or are activated while you are not logged into the Services, or that otherwise interfere with the proper working of the Services (including by placing an unreasonable load on the Services' infrastructure) or that would bypass the navigational structure or presentation of the Service;
- "Crawls," "scrapes," or "spiders" any page, data, or portion of or relating to the Services or Content (through use of manual or automated means);
- Copies or stores any significant portion of the Content;
- Link to, mirror or frame any portion of the Services;

- Decompiles, reverse engineers, or otherwise attempts to obtain the source code or underlying ideas or information of or relating to the Services; or
- Circumvent, removes, alters, deactivates, degrades or thwarts any technological measure or content protections of the Service.

A violation of any of the foregoing is grounds for termination of your right to use or access the Services.

## TEXT MESSAGING AND NOTIFICATIONS

BY ACCESSING OR USING THE SERVICE, YOU CONSENT TO RECEIVE TEXT MESSAGES, INCLUDING SMS AND MMS, NOTIFICATIONS, CALLS USING ARTIFICIAL OR PRERECORDED VOICE MESSAGES, AND AUTOMATIC DIALING TECHNOLOGY FOR TELEMARKETING AND ALL OTHER PURPOSES NOT PROHIBITED BY APPLICABLE LAW FOR ANY ELECTRONIC OR PHYSICAL ADDRESSES THAT YOU HAVE PROVIDED IN CONNECTION WITH YOUR ACCOUNT. YOU ALSO UNDERSTAND THAT YOU MAY BE CHARGED BY YOUR PHONE CARRIER FOR CERTAIN COMMUNICATIONS SUCH AS SMS MESSAGES, MMS MESSAGES, OR PHONE CALLS. You certify that the mobile telephone number that you have provided to us is your personal contact number from a valid U.S. carrier in good standing. Your consent, provided by accepting these Terms and using the Service, will be effective even if the number you have provided is registered on any state or federal Do-Not-Call (DNC) list. This consent for telemarketing calls and texts shall remain in effect until you revoke it. You may revoke your consent at any time. Your consent to telemarketing calls and texts may be revoked by following any of the opt-out methods described below, or by any other method that ensures we receive the revocation.

You may revoke your consent to receive marketing phone calls (calls other than to verify or service your Account or collect any amounts you may owe), by sending an email with your mobile phone number and the subject line "Opt-Out" to support@Occuspace.io. You may also revoke your consent and opt out to receive marketing text messages by replying STOP from the mobile device receiving the messages. You may continue to receive text messages for a short period while we process Your request, and You may also receive text, email, or other forms of messages confirming the receipt of your opt-out request.

## LICENSE

Subject to your compliance with these Terms, Occuspace grants you a limited, non-exclusive, non-sublicensable, revocable, non-transferable license to: (i) access and use the Services on your personal device solely in connection with your Account; and (ii) access and use any Content, information and related materials that may be made available through the Services, in each case solely for your personal, noncommercial use. Any rights not expressly granted herein are reserved by Occuspace and Occuspace's licensors.

You agree Company will not be responsible for any malfunctions, errors or downtime of the Service You agree Company will not be responsible for any malfunctions, errors, data inaccuracies, or improper results.

You understand and acknowledge Company reserves the right to terminate this Agreement with you at any time for any reason.

## DATA OWNERSHIP

Company grants you a limited, non-exclusive, non-transferable, non-sublicensable right to Company provided Data only for legal and personal use. You may not adapt, modify, redistribute, sublicense, sell, or make available any portion of Company Data in whole, part, any derivative, or derived works related to the Data from the Service. Upon termination of this Agreement by you or Company, you agree to return or destroy all copies of any Company Data in your possession in any form or media. You agree that Company may use any Data in a non-identifiable form for its Service, reports, analysis, case studies, and Data products.

## APPLE APP STORE AND GOOGLE PLAY STORE

The following Terms apply to you if you are using the Waitz mobile application as part of the Service from the Apple App Store or Google Play Store. To the extent the other Terms of the rest of this Agreement conflict with the Terms of this paragraph, the Terms in this paragraph apply, but solely with respect to your use of the Waitz mobile application from the Apple App Store or Google Play Store as part of the Service:

- You acknowledge and agree that this Agreement is solely between you and Occuspace, not Apple or Google, and that Apple and Google have no responsibility for the Service or content thereof. You acknowledge that Apple and Google have no obligation whatsoever to furnish any maintenance and support services with respect to the Service.
- Your use of the Service must comply with the applicable Apple App Store or Google Play Store Terms of Use.
- To the maximum extent permitted by applicable law, Apple or Google will have no other warranty obligation whatsoever with respect to the Service, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be solely governed by this Agreement.
- You and Occuspace acknowledge that Apple and Google are not responsible for addressing any claims of yours or any third party relating to the Service or your possession and/or use of the Service, including, but not limited to: (a) product liability claims, (b) any claim that the Service fails to conform to any applicable legal or regulatory requirement, and (c) claims arising under consumer protection or similar legislation.
- You and Occuspace acknowledge that, in the event of any third party claim that the Service or your possession and use of the Service infringes that third party's intellectual property rights, Occuspace, not Apple or Google, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement.
- You must comply with applicable third party terms of agreement when using the Service.
- You and Occuspace acknowledge and agree that Apple and Google, and their subsidiaries, as applicable, are third party beneficiaries of this Agreement as it relates to your license and use of the Service, and that, upon your acceptance of this Agreement, Apple or Google (as applicable) will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third party beneficiary thereof.

## INFORMAL DISPUTE RESOLUTION

We would like an opportunity to address your concerns without a formal legal case. Before filing a claim against Company, you agree to try to resolve the dispute informally by sending an email with your mobile phone number and the subject line "Occuspace Dispute" to [support@Occuspace.io](mailto:support@Occuspace.io). We will try to resolve the dispute informally by contacting you in writing via email. If a dispute is not resolved within 30 days of submission to Company, then you or Company may bring a formal proceeding. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, and attorneys are confidential, privileged and inadmissible for any purpose, including as evidence of liability or for impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

## ARBITRATION AGREEMENT

BY ACCEPTING THESE TERMS, ANY CLAIM, CAUSE OF ACTION, REQUEST FOR RELIEF OR DISPUTE THAT MIGHT ARISE BETWEEN YOU AND OCCUSPACE ("CLAIMS") MUST BE RESOLVED BY ARBITRATION ON AN INDIVIDUAL BASIS AS SET FORTH IN THIS ARBITRATION AGREEMENT. YOU AND OCCUSPACE AGREE THAT EACH MAY BRING OR PARTICIPATE IN CLAIMS AGAINST THE OTHER ONLY IN OUR RESPECTIVE INDIVIDUAL CAPACITIES, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. UNLESS BOTH YOU AND OCCUSPACE

AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN THE CLAIMS OF OTHER PERSONS OR PARTIES WHO MAY BE SIMILARLY SITUATED, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING. YOU AND OCCUSPACE EXPRESSLY WAIVE THE RIGHT TO TRIAL BY A JURY.

## AGREEMENT TO BINDING ARBITRATION

You and Occuspace agree that any dispute, claim or controversy arising out of or relating to (a) these Terms or the existence, breach, termination, enforcement, interpretation or validity thereof, or (b) your access to or use of the Services at any time, whether before or after the date you agreed to the Terms, will be settled by binding arbitration between you and Occuspace, and not in a court of law. You acknowledge and agree that you and Occuspace are each waiving the right to a trial by jury or to participate as a plaintiff or class member in any purported class action or representative proceeding. Unless both you and Occuspace otherwise agree in writing, any arbitration will be conducted only on an individual basis and not in a class, collective, consolidated, or representative proceeding.

## EXCEPTIONS TO ARBITRATION

The following type of Claims shall not require arbitration: (a) Claims brought by you or Occuspace that could be brought in small claims court, if permitted by the rules of that court, or (b) Claims related to intellectual property, copyrights, trademarks, trade secrets, or patents. Any issues relating to the scope and enforceability of the arbitration provision will be resolved by the arbitrator. If any Claim cannot be arbitrated in accordance with this provision, then only that Claim may be brought in court and all other Claims remain subject to arbitration.

Claims that cannot be arbitrated must be brought in court. California law will govern these Terms (to the extent not preempted or inconsistent with federal law), as well as any such Claim that cannot be arbitrated, without regard to conflict of law provisions. You or Occuspace may seek relief in any small claims court of competent jurisdiction. All other Claims that cannot be arbitrated are subject to the exclusive jurisdiction in, and the exclusive venue of, the state and federal courts located within Ventura County, California and you consent to the personal jurisdiction of these courts for the purpose of litigating any such Claim.

## RULES AND GOVERNING LAW

Arbitration shall be administered by the American Arbitration Association ("AAA") in accordance with its Consumer Arbitration Rules then in effect. For more information, visit [www.adr.org](http://www.adr.org). Arbitration may be conducted in person, through the submission of documents, by phone or online. The arbitrator may award damages to you individually as a court could, including declaratory or injunctive relief, but only to the extent required to satisfy your individual claim.

You and Occuspace agree that the arbitrator ("Arbitrator"), and not any federal, state, or local court or agency, shall have exclusive authority to resolve any disputes relating to the interpretation, applicability, enforceability or formation of this Arbitration Agreement, including any claim that all or any part of this Arbitration Agreement is void or voidable. The Arbitrator shall also be responsible for determining all threshold arbitrability issues, including issues relating to whether the Terms are unconscionable or illusory and any defense to arbitration, including waiver, delay, laches, or estoppel.

Notwithstanding any choice of law or other provision in the Terms, the parties agree and acknowledge that this Arbitration Agreement will be subject to and governed by the Federal Arbitration Act ("FAA"). You and Occuspace agree that the FAA and AAA Rules shall preempt all state laws to the fullest extent permitted by law. If the FAA and AAA Rules are found to not apply to any issue that arises under this Arbitration Agreement or the enforcement thereof, then that issue shall be resolved under the laws of the state of California.

## PROCESS

A party who intends to seek arbitration must first send a written notice of the dispute to the other party as specified by the AAA Rules. A Demand for Arbitration form can be found at Consumer Arbitration Rules at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879.

## LOCATION AND PROCEDURE

Unless you and Occuspace otherwise agree, the arbitration will be conducted in the county where you reside. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents you and Occuspace submit to the Arbitrator, unless you request a hearing or the Arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the Arbitrator will have the discretion to direct a reasonable exchange of information by the parties.

## ARBITRATOR'S DECISION

The Arbitrator will render an award within the time frame specified in the AAA Rules. Judgment on the arbitration award may be entered in any court having competent jurisdiction to do so. The Arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant's individual claim. An Arbitrator's decision shall be final and binding on all parties. An Arbitrator's decision and judgment thereon shall have no precedential or collateral estoppel effect. If you prevail in arbitration you will be entitled to an award of attorneys' fees and expenses, to the extent provided under applicable law. Occuspace will not seek, and hereby waives all rights Occuspace may have under applicable law to recover attorneys' fees and expenses if Occuspace prevails in arbitration.

## FEES

Your responsibility to pay any AAA filing, administrative and arbitrator fees will be solely as set forth in the AAA Rules. However, if your claim for damages does not exceed \$10,000, Occuspace will pay all such fees, unless the Arbitrator finds that either the substance of your claim or the relief sought in your Demand for Arbitration was frivolous or was brought for an improper purpose. Each party agrees that any written decision and information exchanged during arbitration will be kept confidential except to the extent necessary to enforce or permit limited judicial review of the award.

## SEVERABILITY AND SURVIVAL

If any portion of this Arbitration Agreement is found to be unenforceable or unlawful for any reason, (1) the unenforceable or unlawful provision shall be severed from these Terms; (2) severance of the unenforceable or unlawful provision shall have no impact whatsoever on the remainder of the Arbitration Agreement or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to the Arbitration Agreement; and (3) to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims shall be stayed pending the outcome of any individual claims in arbitration.

## CHANGES TO THE ARBITRATION AGREEMENT

Notwithstanding the provisions above, regarding consent to be bound by amendments to these Terms, if Occuspace changes this Arbitration Agreement after the date you first agreed to the Terms or to any subsequent changes to the Terms, you may reject any such change by providing Occuspace written notice of such rejection within 30 days of the date such change became effective, as indicated in the "Effective" date above. This written

notice must be provided either (a) by U.S. mail, or (b) by email from the email address associated with your Account to: support@occuspace.io. In order to be effective, the notice must include your full name and clearly indicate your intent to reject changes to this Arbitration Agreement. By rejecting changes, you are agreeing that you will arbitrate any dispute between you and Occuspace in accordance with the provisions of this Arbitration Agreement as of the date you first agreed to the Terms or to any subsequent changes to the Terms.

## CALIFORNIA CONSUMER RIGHTS NOTICE

California Consumer Rights Notice. Under California Civil Code Section 1789.3, California users of the Service receive the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (800) 952- 5210.

## COPYRIGHT

Occuspace takes copyright infringement seriously and will respond to notices of alleged copyright infringement from the copyright owner or the copyright owner's legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on the Service in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (1) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (2) a description of the copyrighted work that you claim has been infringed; (3) a description of the location on the Service of the material that you claim is infringing; (4) your address, telephone number and e-mail address; (5) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (6) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Contact information for Occuspace's Copyright Agent for notice of claims of copyright infringement is as follows: support@occuspace.io.

## DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE AND PRODUCTS AND PROMOTIONS ASSOCIATED WITH THE SERVICE ARE PROVIDED TO YOU ON AN "AS-IS" AND "AS AVAILABLE" BASIS. OCCUSPACE DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, NOT EXPRESSLY SET OUT IN THESE TERMS. OCCUSPACE MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, REGARDING THE ACCURACY, RELIABILITY OR COMPLETENESS OF THE SERVICE, AND EXPRESSLY DISCLAIMS ANY WARRANTIES OF NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, COMPANY DOES NOT WARRANT, GUARANTEE OR MAKE ANY REPRESENTATIONS REGARDING THE QUALITY OR ACCURACY OF INFORMATION FOR ANY PRODUCTS OR SERVICES OFFERED OR PROVIDED BY ITS THIRD PARTY AFFILIATES, LICENSEES, OR OTHER PARTIES IN CONJUNCTION WITH THE SERVICE. COMPANY DOES NOT WARRANT THAT THE FUNCTIONALITY OF COMPANY PROPERTIES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THEY WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOU AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE SERVICES, AND ANY THIRD PARTY SERVICE OR GOOD IN CONNECTION THEREWITH, REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW. YOU EXPRESSLY AGREE THAT YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK.

## NOTIFICATION DISCLAIMER

You understand and agree that any notifications provided to you through the Service may be delayed or prevented by a variety of factors. Occuspace does its best to provide notifications in a timely manner with accurate information. However, we neither guarantee the delivery nor the accuracy of the content of any

notification. You also agree that Occuspace shall not be liable for any delays, failure to deliver, or misdirected delivery of any notification; for any errors in the content of a notification; or for any actions taken or not taken by you or any third party in reliance on a notification.

## LIMITATION OF LIABILITY

OCCUSPACE SHALL IN NO EVENT BE RESPONSIBLE OR LIABLE TO YOU OR TO ANY THIRD PARTY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, LIQUIDATED OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, REVENUE OR BUSINESS, ARISING IN WHOLE OR IN PART FROM YOUR ACCESS TO THE SERVICE, YOUR USE OF THE SERVICE OR THIS AGREEMENT, OR FOR ANY LOSS OR DAMAGE CAUSED BY YOUR RELIANCE ON INFORMATION OBTAINED ON OR THROUGH THE SERVICE, EVEN IF OCCUSPACE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, OCCUSPACE'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO \$500.00 (FIVE HUNDRED UNITED STATES DOLLARS). BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, THE LIABILITY OF OCCUSPACE SHALL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW. THEREFORE, THE FOREGOING LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW. NOTHING IN THIS AGREEMENT AFFECTS STATUTORY RIGHTS THAT CANNOT BE WAIVED OR LIMITED BY CONTRACT.

## INDEMNIFICATION

You agree to indemnify Occuspace and its affiliates and their officers, directors, employees, successors, agents and affiliates, for any and all claims, damages, losses and causes of action (including attorneys' fees and court costs) arising out of or relating to your breach of this Agreement or for any materials or content in any form whatsoever that are provided by you (or through your username and/or password). You agree to cooperate as fully as reasonably required in our defense and/or settlement of any claim. We reserve the right, in our reasonable discretion, to assume exclusive control over the defense and settlement of any matter subject to indemnification by you.

## TERMINATION

You may terminate the Terms at any time by closing your Account, discontinuing any access to or use of the Service, and providing Occuspace with a notice of termination to support@occuspace.io. We may, in our sole discretion, suspend, limit, or terminate your Account and your access to and use of the Services, including any and all reward balances in your Account, at any time for any reason, without notice or liability to you, including, but not limited to, if we suspect that your access to or use of the Services violates these Terms or applicable law. Upon the termination of your Account, you must cease all use of the Services, and you shall forfeit any reward balance remaining in your Account. Termination of your Account and your access to and use of the Services will not affect any of our rights or your obligations arising under these Terms prior to such termination. In the event you or Occuspace terminates your Account, you agree that we may retain your data, including personal and transaction information, for one year from the date of termination for audit and merchant invoicing purposes. Provisions of these Terms that, by their nature, should survive termination of your Account and your access to and use of the Services will survive such termination.

## CHOICE OF LAW

These Terms are governed by and construed in accordance with the laws of the State of California, U.S.A., without giving effect to any conflict of law principles, except as may be otherwise provided in the Arbitration

Agreement above or in supplemental terms applicable to your region. However, the choice of law provision regarding the interpretation of these Terms is not intended to create any other substantive right to non-Californians to assert claims under California law whether that be by statute, common law, or otherwise. These provisions, and except as otherwise provided in the Arbitration Agreement of these Terms, are only intended to specify the use of California law to interpret these Terms and the forum for disputes asserting a breach of these Terms, and these provisions shall not be interpreted as generally extending California law to you if you do not otherwise reside in California. The foregoing choice of law and forum selection provisions do not apply to the Arbitration Agreement or to any arbitrable disputes as defined therein. Instead, as described in the Arbitration Agreement, the Federal Arbitration Act shall apply to any such disputes.

## NOTICES

Occuspace will send all notices and other communications regarding the Services to you at the email address or physical address you provided for your Account, as may be updated by you from time to time. You will be considered to have received a notice from us regarding the Services when we send it to the email address or physical address we have in our records for you or when we post such notice on the Occuspace website or in the Occuspace Mobile App.

Except as otherwise provided in these Terms, all notices to us that are intended to have a legal effect must be delivered via email to support@occuspace.io. All such notices are deemed effective upon documented receipt by us.

## GENERAL PROVISIONS

We reserve the right to modify, update, or discontinue the Service at our sole discretion, at any time, for any or no reason, and without notice or liability.

Except as otherwise stated in Third Party Information and Services above, nothing herein is intended, nor will be deemed, to confer rights or remedies upon any third party.

The Terms contain the entire agreement between you and us regarding the use of the Service, and supersede any prior agreement between you and us on such subject matter. The parties acknowledge that no reliance is placed on any representation made but not expressly contained in these Terms.

Any failure on Occuspace's part to exercise or enforce any right or provision of the Terms does not constitute a waiver of such right or provision. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder. The Terms may not be waived, except pursuant to a writing executed by Occuspace.

If any provision of the Terms is found to be unenforceable or invalid by an arbitrator or court of competent jurisdiction, then only that provision shall be modified to reflect the parties' intention or eliminated to the minimum extent necessary so that the Terms shall otherwise remain in full force and effect and enforceable.

The Terms, and any rights or obligations hereunder, are not assignable, transferable or sublicensable by you except with Occuspace's prior written consent, but may be assigned or transferred by us without restriction. Any attempted assignment by you shall violate these Terms and be void.

You agree that no joint venture, partnership, employment, agency, special or fiduciary relationship exists between you and Occuspace as a result of these Terms, creation of an Account, or your use of the Service. The section titles in the Terms are for convenience only and have no legal or contractual effect.

## CONTACT INFORMATION

If you have questions or comments about this Agreement, you may email us at support@occuspace.io or by post to:

Occuspace, Inc.  
1840 Bridgegate St., Suite #2  
Westlake Village, CA 91361  
United States

# Occuspace Privacy Policy

Effective Date: November 1, 2020

Occuspace and Waitz (collectively “Occuspace,” “Company,” we,” “us,” and “our”) is committed to protecting your personal information and your right to privacy. “You” and “your” refer to you, as a user of the Service or Account holder. A “user” is someone who accesses or in any way uses the Service or creates an Account. This Privacy Policy describes how we collect, use, share and protect information in connection with the websites, mobile websites, mobile applications, browser applications, marketing programs, content, related software applications, and Hardware (collectively, the “Service”). This Privacy Policy is incorporated by reference into the Terms of Use.

We take your privacy very seriously. In this Privacy Policy, we seek to explain to you in the clearest way possible what information we collect, how we use it and what rights you have in relation to it. If there are any terms in this Privacy Policy that you do not agree with, please discontinue use of any Occuspace Service or related property.

## COLLECTION OF INFORMATION

Company receives certain information about you and your devices from our Service Hardware and third-party business partners who collect and provide this information to us. We may then analyze this information to better understand users and the places, spaces, and devices that they interact with. This information does not directly identify you but it may still be considered “personal information” or “personal data” under applicable privacy or data protection laws. The information that we collect falls within the following categories:

- Devices identifiers that include advertising identifiers (“Ad-IDs”) such as iOS IDFAs or Android Ad-IDs; media access control (“MAC”) addresses; router service set identifiers (“SSIDs”); beacon and BLE signal identifiers; and other similar identifiers.
- Internet or other electronic network activity information, including information about app usage, app version and settings, and mobile device and operating system version and settings.
- Geolocation information that includes location derived from GPS and from proximity to WiFi access points.
- Company may also collect additional information that you provide to us if you voluntarily contact us regarding the Service through our website, by email, or over the phone.

Occuspace does not collect information that directly identifies you, such as name, contact information, or government-issued identifier unless you voluntarily or opt-in to provide this information to us.

The information collected and sent through the Service is used to provide the Service’s functionality, fulfill your requests, improve the Service’s quality, engage in research and analysis relating to the Service, personalize your experience, track usage of the Service, provide feedback to third party businesses that are listed or partner with the Service, display relevant advertising, market the Service, provide customer support, message you, back up our systems, allow for disaster recovery, enhance the security of the Service, and comply with legal obligations. Even when we do not retain such information, it still must be transmitted to our servers initially and stored long enough to process.

The personal information that we collect depends on the context of your interactions with the Service, the choices you make, and the products and features you use. We collect, process, and use your information below when you:

- Register for our Service or sign in to an existing account
- Access any Service related software application(s)

- Connect to our Services using third party accounts, such as your email, social media or payment account(s)
- Are in proximity to our Service Hardware and any electronic device you own transmits anonymized or identifiable electronic information or signals
- Contact us for support
- Participate in our social media or influencer programs
- Participate in a sweepstakes, contest, promotion, survey or poll, program, or reward program
- Invite people using the Service
- Post or share content about the Company or Service

Occuspace and third party service providers may automatically collect information through:

- Interaction with the Company or Service in any way
- Cookies and other tracking technologies
- Location-identifying technologies or location-based services sent by your mobile device or any other device that sends a signal of any type
- Monitoring and analyzing trends, usage and activities
- Device identifiers from any device that transmits or receives a radio frequency signal
- Data analytics such as analyzing anonymized and aggregated data generated by the Service
- Application identifiers
- Session ID and User ID in connection with the Service
- Third party accounts currently or previously connected to the Service
- Mobile device settings and operating information
- Your device settings that allow transmission of electronic signals
- Total amount of time spent in the Services
- Length of Services session

The types of information you provide may include personal information. “Personal information” means information that can be used to identify you (whether alone or in combination). The personal information you may provide to us includes:

- First and last name, email address, telephone number, and other information you may provide to us.
- Unique personal identifier
- Mobile phone number
- Personal and device information from radio frequencies signals sent by any of your devices
- How you connect to our Services, such as your IP address, unique device identifiers, device or session IDs and information regarding the network and connected hardware (e.g., computer or mobile device and carrier), and system configuration information
- Your geolocation, to the extent you have configured your device to permit us to collect such information, date and time stamps associated with transactions, and locale preferences
- Inferences about your preferences, characteristics, behavior and attitudes
- Responses to survey questions regarding the Services
- Information, including usage information, such as frequency of use or average number of minutes for use, generated through use of the Service
- Date and time when interacted with the Service
- Your contacts you connect with the Service
- Third party account information connected to the Service that includes transactions, locations, history, and other data allowed by each third party

## SOCIAL LOGINS

By signing into the Service through a third party social networking service (“Social Networking Service”), such as Facebook or Google, you give us permission to access, store and use any information that you permit the Social Networking Service to share with us in accordance with the privacy settings applicable to your account with that

Social Networking Service. We will use the information we receive only for the purposes that are described in this Privacy Policy or that are otherwise made clear to you in the Service.

## USE OF INFORMATION

We use information we collect to: conduct business and improve the effectiveness of Services; develop new products; provide information and support for the Services; conduct research and analysis including focus groups and surveys; better understand your needs and interests; personalize communications and advertising/offers; promote a quality experience for users of Services; and to perform other business activities related to the Services as needed or as otherwise described in this Policy.

For example, we will use your information to:

- Create and maintain your Occuspace Account(s)
- Communicate, interact and build the Occuspace relationship with you
- Gather transaction statistics relating to your use of Occuspace in order to collect information to measure, analyze and improve the Services
- Manage dispute resolution and perform customer service activities
- Customize the content, products, and features that are offered to you in the Services
- Process, fulfill, and follow up on transactions and requests for products, services, support, and information via the Services
- Engage in market research and analysis
- Comply with legal requirements
- Enforce our agreements
- Deter, detect, and prevent fraud and other prohibited or illegal activities

## SHARING OF INFORMATION

We may share information with Third Parties for the purpose of running the Service and fulfilling our commitments to you. These include businesses that perform services on our behalf, including to help us maintain our products, provide support for legal, security protection, our own marketing, and customer service. Occuspace may share or disclose your information with:

- Third party providers involved in providing the Services
- Third party providers using your information on Occuspace's behalf in connection with signing up for an Occuspace Account
- Third party providers using your information on Occuspace's behalf in connection with connecting a payment method with the Service
- Third party providers using your information to evaluate and enhance the performance of the Services

Occuspace reserves the right to disclose any personal information necessary to protect the rights or safety of any person or entity at its sole discretion.

## PROTECTION OF RIGHTS AND LEGAL MATTERS

Occuspace reserves the right to disclose any personal information necessary to detect or respond to instances of potential or actual fraud or other illegal activities, to respond to a law enforcement agency's request for information or cooperation in an investigation, or to respond to judicial process or other valid government investigation or process, at its sole discretion.

## BUSINESS TRANSFERS

We may share the information we collect, including personal information, with any third party in connection with, or during negotiations of, any proposed or actual merger, purchase, sale (including a liquidation, realization,

foreclosure or repossession) or any other type of acquisition of all or any portion of Company assets, conveyance or transfer of all or a portion of our business to another company.

## REFERRAL PROGRAMS

Company may offer features that allow you to inform an individual about our Services. If you choose to use our referral features, we will ask for your referral's email address, mobile phone number, social media handle, or other personally identifiable information to send them an electronic communication ("Referral Invite") inviting them to join our Services. Company will store this information for the sole purpose of sending this Referral Invite and tracking the success of our referral program. If you choose to participate in our referral programs, you represent and warrant that you have a personal relationship with your referral and that you are authorized to share their information with Company for the purpose of sending this Referral Invite to join the Services.

If you believe that one of your contacts has provided us with your personal information and you would like to request that it be removed from our database, please contact us at [support@occuspace.io](mailto:support@occuspace.io).

## THIRD PARTY DISCLAIMER

The Services contain hyperlinks to websites of merchants, retailers and other websites or locations that we do not control and are operated and controlled by third parties ("Third-Party Websites"). Our Privacy Policy does not apply to these Third-Party Websites and we make no representations regarding the policies or business practices of any such Third-Party Websites. We encourage you to review, and if necessary, adjust, your privacy settings on the applicable Third Party Websites.

## CONTROLLING YOUR PERSONAL DATA

You may in some cases have the option to decline providing us information. However, your choice not to provide information may impact your use of certain features or the capabilities of the Service. You may unsubscribe or opt out of receiving marketing communications from us by using the unsubscribe link on the footer of our marketing emails, reply STOP to text messages, or by contacting [support@occuspace.io](mailto:support@occuspace.io). We encourage you to maintain the accuracy of the information you submit to us, such as the information you provide to register for your Account. The Services may allow you to access, review, correct, update and remove or make inaccessible personal information you have provided through your Account settings. With respect to the Occuspace mobile applications, you can prospectively stop all collection of information by the application by uninstalling the application. You may at any time opt out from further allowing us to have access to your location data by adjusting the permissions in your mobile device. We will make good-faith efforts to make requested changes as soon as reasonably practicable.

## COOKIES AND RELATED TECHNOLOGIES

Occuspace does not track your activities on other mobile apps. Occuspace does not allow third parties that we have agreements with to track your activities across different mobile apps when you use Occuspace. Occuspace may share information with software companies that power your mobile device or app stores and companies that provide tools and information for apps about consumers.

We and our partners use cookies and similar technologies to analyze trends, administer the website, track users' movements around the website and gather demographic information about our user base. We use cookies for many purposes, including, without limitation, authentication and tracking user preferences or web pages visited while using the Services. You may control the use of cookies at the browser level. If you choose to disable cookies, it may limit your use of certain features or functions on the Service.

We, and third parties with which we partner, may also use cookies, pixels and other technologies to automatically collect information about your use of the Services, such as your click-stream data, browsing history, IP address, web browser, pages viewed, time spent on pages, links clicked and conversion information. Data collected from a browser or device may be used with another computer or device that is linked to the browser or device on which such data was collected (also known as cross-linking). We may also work with third parties to serve ads to you as part of a customized campaign on other websites or platforms. These third parties may also collect personal information about your online activities over time and across different websites when you use our Services to help predict your preferences and to display (and to enable other third parties to display) ads to be more likely to be of interest to you. Some third party service providers that we engage (including third party advertisers) may also place their own cookies on your browser. Note that this Privacy Policy covers only our use of cookies and does not include use of cookies by such third parties.

## CHILDREN'S PRIVACY

The Service is intended for general audiences and is not directed to children under 13. We do not knowingly collect personal information from children under 13. If you become aware that a child has provided us with personal information without parental consent, please contact us at [support@occuspace.io](mailto:support@occuspace.io). If we become aware that a child under 13 has provided us with personal information without parental consent, we take steps to remove such information and terminate the child's account.

## CALIFORNIA PRIVACY RIGHTS

This section applies only to California Residents. If you live in California and use Occuspace, you have some additional rights when it comes to your data.

## PERSONAL INFORMATION COLLECTED

Pursuant to the California Consumer Privacy Act of 2018 ("CCPA"), below is a summary of the personal information categories, as identified and defined by the CCPA, that the Company collects, the reason we collect your personal information, where we obtain the personal information, and the third parties that we share your personal information.

For information about the personal information we collect, please refer to the "Collection of Information" section. In relation to the personal information described, the Company collects such information for the business and commercial purposes described in the section "Use of Information". The section "How We Share and Disclose Information" describes the categories of third parties with whom the Company shares such information.

We share information about you with our merchant partners, third parties or affiliates for providing rewards and benefits to you and for marketing purposes. As a result of certain instances of sharing, the Company may receive a benefit, which California law considers a "sale" of personal information.

## PRIVACY RIGHTS

If you are a California resident, you have rights in relation to your personal information.

- You have the right to know the personal information we collect, use, disclose, and sell about you during the preceding 12 months. You may request access to your personal information twice in a 12 month period.
- You have the right to request in writing from us a copy of the:
  - Categories of information we have collected about you
  - The categories of sources from which we collected that information
  - Why we collected that information about you
  - The categories of third parties with whom we shared your personal information

- The categories of personal information that the business disclosed about you for a business purpose
- The specific pieces of personal information we have collected about you.
- You have the right to request that the Company delete any personal information we have collected from you or maintain about you, subject to certain exceptions.

How to exercise your CCPA rights. You may email us with your request and the subject titled "Privacy" at [support@occuspace.io](mailto:support@occuspace.io). If we cannot verify your identity from the information we have on file, we may request additional information from you, which we will only use to verify your identity, and for security or fraud-prevention purposes. We will confirm receipt of your request, and will provide a response to you within 45 days of your request, though in some exceptional cases it might take longer and if that is the case, we will let you know.

We will not discriminate against you if you exercise your right to know, delete, opt-out of sale, or other CCPA rights. Please note that to the extent you opt-out of Occuspace, some of the functionality and features available to you may change or no longer be available to you upon deletion of your personal information or opt-out of sale of your personal information.

We reserve the right to charge a fee where permitted by law, for instance, if your request is unfounded or excessive. If we determine that the request warrants a fee, we will tell you why we made that decision and provide you with a cost estimate before completing your request.

Only you, or someone legally authorized to act on your behalf, may make a verifiable consumer request related to your personal information. In order to designate an authorized agent to make a request on your behalf, you must provide written proof that you have consented to this designation unless the agent has power of attorney pursuant to California Probate Code. You must also verify your identity directly with us by providing a copy of your government issued identification.

## NEVADA PRIVACY RIGHTS

Nevada law (SB 220) requires website operators to provide a way for Nevada consumers to opt out of the sale of certain information that the website operator may collect about them. If you decide to opt-out or have any questions regarding our data privacy practices or our compliance with Nevada data privacy law, please contact us at [support@occuspace.io](mailto:support@occuspace.io).

## INFORMATION SECURITY

We have implemented appropriate technical and organizational security measures designed to protect the security of any personal information we process. We use safeguards to protect the personal information submitted to us, both during transmission and after we receive it. However, no method of transmission over the Internet or via mobile device, or method of electronic storage, is 100% secure. Therefore, while we strive to use commercially acceptable means to protect your personal information, we cannot guarantee its absolute security.

## DATA RETENTION

We retain the information collected via our Services until you choose to close your account. After that time, we may aggregate the data and retain it for analytical purposes. We may also retain your information on backup media to comply with applicable law, to support financial audits, to resolve disputes, to maintain compliance efforts and for other legitimate business reasons.

## CHANGES TO THIS PRIVACY POLICY

This Privacy Policy is current as of the effective date set forth above. Company reserves the right to change this Privacy Policy from time to time consistent with applicable privacy laws and principles. If we make changes to this Privacy Policy, we will notify you by revising the date on this Privacy Policy. In some cases, we may provide you with additional notice through the Occuspace Mobile App, statement on the homepages of our Services, or sending you an email notification.

## CONTACT INFORMATION

If you have questions or comments about this Privacy Policy, you may email us at [support@occuspace.io](mailto:support@occuspace.io) or by post to:

Occuspace, Inc.  
1840 Bridgegate St., Suite #2  
Westlake Village, CA 91361  
United States