



## MeisterLabs Terms of Service

IMPORTANT – PLEASE READ THESE TERMS OF SERVICE (“**TERMS OF SERVICE**” OR “**TERMS**”) CAREFULLY AS THEY CONTAIN THE LEGAL TERMS AND CONDITIONS THAT YOU AGREE TO WHEN YOU PURCHASE THE SERVICES OFFERED BY MEISTERLABS, INC., 113 CHERRY ST, SEATTLE, WA 98104, USA, THROUGH ITS WEBSITE(S) (THE “**SERVICES**”). BY CLICKING ON THE “I AGREE TO THE TERMS AND PRIVACY POLICY” BUTTON, (1) YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THESE TERMS, AND (2) YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THESE TERMS, PERSONALLY OR ON BEHALF OF THE ORGANIZATION OR COMPANY YOU HAVE NAMED AS THE CUSTOMER (THE “**CUSTOMER**”), AND TO BIND THE CUSTOMER TO THESE TERMS. THE TERM “YOU” REFERS TO THE INDIVIDUAL OR A LEGAL ENTITY, AS APPLICABLE, THAT REGISTERS FOR OR USES THE SERVICES. IF YOU DO NOT AGREE TO THESE TERMS, OR IF YOU DO NOT HAVE SUCH AUTHORITY, YOU SHOULD NOT CLICK ON THE “I AGREE TO THE TERMS AND PRIVACY POLICY” BUTTON AND THEREBY DECLINE TO USE THE SERVICES. AN ORDER PLACED BY YOU REPRESENTS AN OFFER TO MEISTERLABS FOR THE PURCHASE OF THE SERVICES UNDER THESE TERMS OF SERVICE. SUCH ORDER IS SUBJECT TO SUBSEQUENT ACCEPTANCE BY MEISTERLABS. YOUR ORDER IS ACCEPTED THROUGH EXPRESS CONFIRMATION OR, AT THE LATEST, BY THE PROVISION OF THE ORDERED SERVICES.

### 1 Services

- 1.1 **Scope of Services.** MeisterLabs offers and provides the Services as, and within the scope, described on its website(s). The Services are subject to changes in MeisterLabs’ discretion and without prior notice but MeisterLabs will try to inform you of any upcoming changes that may impact your use of the Services and you have the right to terminate your account and end the use of the Services at any time as further described in these Terms of Service.
- 1.2 **Use of Services.** The Services are not intended for, and should not be used by, anyone under the age of thirteen (13). You are permitted to use the Services only for your own personal or internal business use. Unauthorized use of the Services, or the resale of the Services, is expressly prohibited. Customer’s use of the Services shall be subject to any capacity limits set forth at the MeisterLabs websites. Customer agrees not to upload \*.exe files to the MeisterLabs servers, and not to use the Services to transmit (a) any material protected by copyright, trademark, trade secret, patents or other intellectual property right without proper authorization; (b) any computer viruses, worms, or any software intended to damage or alter a computer system or data; (c) any material that is unlawful, harassing, abusive, tortious, threatening, harmful, abusive, invasive of another’s privacy, vulgar, defamatory, trade libelous, pornographic, obscene, or otherwise objectionable material of any kind or nature or which is harmful to minors in any way; or (d) any material that violates any law or regulation, including without limitation the laws and regulations governing export control. In addition, you agree not to use the Services to: (i) use information from the Services in connection with sending unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or otherwise; (ii) harvest, collect, gather or assemble information or data regarding other users, including e-mail addresses, without their consent; (iii) interfere with or disrupt servers or networks connected to the Services or violate the regulations, policies or procedures of such networks; (iv) attempt to gain unauthorized access to the Services, other accounts, computer systems or networks connected to the Services, through password mining or other means; or (v) harass or interfere with another user’s use and enjoyment of the Services.
- 1.3 **Availability of Services.** MeisterLabs will provide the Services using state-of-the-art technology and will make commercially reasonable efforts to achieve high levels of availability. However, there will be occasions when the Services will be interrupted for maintenance, upgrades, and emergency repairs or due to failure of telecommunications links and equipment that are beyond the control of MeisterLabs.



**2 User Account.** A user account is required to access the Services and may be accessed and used only by those authorized individuals who are registered with MeisterLabs. To open a user account or an administrator user account, you or a representative of the Customer must complete the registration process by providing MeisterLabs with current, complete, and accurate information about you and the Customer, and promptly update such information if they have changed. Should MeisterLabs suspect that such information is untrue, inaccurate, not current, or incomplete, MeisterLabs has the right to suspend or terminate your use of the Service. If you are an individual, you represent that you are thirteen (13) years or older. When you register, MeisterLabs will ask you to provide a password. You will be responsible for all activities that occur under your password and therefore you should keep your password confidential; if you are using an administrator user account you are also responsible for all activities that occur under the user accounts that have been set up or approved through such administrator user account. You agree to notify MeisterLabs immediately of any unauthorized use of your account, administrator user account, and password or if you believe that your password is no longer confidential. MeisterLabs reserves the right to require you to alter your password if MeisterLabs believes that your password is no longer secure. No contract will exist between you and MeisterLabs for the Services until MeisterLabs accepts your order by a confirmatory e-mail, SMS/MMS message or other appropriate means of communication.

### **3 Fees and payment; Subscriptions**

**3.1 Usage variants and Subscription Fees.** MeisterLabs offers registered users two versions of use on its websites: a free version, which is functional but limited ("free version") and several paid versions with additional functions ("paid version"). You agree to pay all subscription fees or charges ("**Fees**") to your account in accordance with the fees, charges, and billing terms in effect at the time a Fee is due and payable. Details on fees for the individual paid versions can be found on the web pages in the "Prices" section. The fee will be adjusted accordingly for each use of the software exceeding the contractually agreed scope ("Overuse") in accordance with the prices in the Prices section (or the individually agreed prices determined in a written sales order, if any) automatically and without the need for a separate information by MeisterLabs. The corresponding remuneration shall accrue from the time the overuse occurs. If the time of the overuse cannot exactly be determined retroactively, MeisterLabs shall be entitled to determine the point in time at its reasonable discretion and taking into account all circumstances of the individual case. The Customer is at liberty to provide evidence of a later start of the overuse. You can pay by means of the debit procedures offered on the websites, in particular the accepted credit cards, or by means of the online payment procedures offered. MeisterLabs will send you the invoice for the fees paid by e-mail. Without limiting other remedies, MeisterLabs reserves the right to charge a late fee on all past due payments equivalent to the lesser of one and a half percent (1.5%) per month on the unpaid balance or the highest rate allowed by law. You will pay for all collection costs, attorneys fees, and court costs incurred in the collection of past due amounts. MeisterLabs' Fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you are generally responsible for payment of all such taxes, levies or duties. MeisterLabs may collect and remit taxes with respect to certain jurisdictions and you agree to pay any and all such taxes. All Fees for the Services are non-refundable.

**3.2 Recurring Subscription Charges and auto-renewal.** MeisterLabs will automatically renew and charge Fees for the subscriptions that it offers as follows: (a) every month for monthly subscriptions; (b) every half year for 6-month subscriptions; or (c) upon the commencement of an annual term and then at each subsequent anniversary of that initial term for continuous annual subscriptions. The renewal Fee shall be MeisterLabs' then-current Fee for the Services for which you were enrolled in the prior billing period. If timely payment is not received or cannot be charged to your selected payment method for any reason, MeisterLabs has the right to either suspend or terminate your access to the Services. If MeisterLabs receives a cancellation notice from you, you will be obligated to pay the balance due on your account. You agree that MeisterLabs may charge such unpaid Fees to your selected payment method or otherwise bill you for such unpaid Fees.

**3.3 Price Adjustment.** MeisterLabs is continuously working to be able to offer the Customer further features and product benefits, for a small price increase. MeisterLabs therefore is entitled to unilaterally increase the Fees annually by 5% with effect from January 1 of each year, in order to compensate for any increase in the total costs occurring after the conclusion of the contract (costs incurred for the maintenance, operation and functional expansion of the software). Such an increase of the Fees can take place for the first time after the expiration of 12 months from the beginning of the initial subscription term.



#### 4 Term and Termination; data retention; surviving terms

- 4.1 **Term and Termination and cancellation of Services.** These Terms of Service are effective on the date you accept them and shall continue for as long as you pay the required Fees for the Services, unless the Services are terminated earlier by either party with or without cause by providing thirty (30) days' notice, prior to the end of the respective subscription term. MeisterLabs may terminate the Services effective immediately upon notice to you in the event that you materially breach any of the Terms hereof. You may terminate the Service by canceling your subscription under "My Account", by sending an email to support@meisterlabs.com or by using the contact form accessible from any page on the websites. The user name and the e-mail address registered on the websites must be stated when giving notice of termination.
- 4.2 **Data retention.** MeisterLabs shall have no obligation to maintain any data stored in your account or to forward any data to you or any third party after the termination has become effective.
- 4.3 **Surviving terms.** The sections titled "Intellectual Property Rights", "Indemnification", "Warranties", "Limitation of Liability", "Applicable Law and Binding Arbitration", and "Miscellaneous" will survive the termination or expiration of the Services.

#### 5 Intellectual Property Rights

- 5.1 **Ownership of Services.** MeisterLabs is, unless otherwise stated, the owner of all intellectual property rights in the Services and its content. You agree that you will not publish, distribute, extract, re-utilize, or reproduce any such content in any material form other than in connection with your use of the Services.
- 5.2 **Feedback.** MeisterLabs alone will own all right, title, and interest, including all related intellectual property rights, to any suggestions, ideas, feedback, recommendations, or other information provided by you relating to the Services and you hereby assign and agree to assign such submissions to MeisterLabs free of charge. MeisterLabs may use such submissions as it deems appropriate in its sole discretion.
- 5.3 **Ownership of and responsibility for Customer Content.** MeisterLabs does not claim ownership rights in any data contained in your account (the "**Customer Content**"). For the sole purpose of enabling MeisterLabs to display such Customer Content through the Services, you grant MeisterLabs a non-exclusive, royalty-free license to use, copy, distribute, and display such Customer Content. Regular backups of Customer Content shall be your exclusive responsibility. MeisterLabs is not responsible and liable to you in any way for any data contained in the account of other users of the Services that may be accessed by or provided to you in connection with your use of the Services.
- 5.4 **Copyright Infringement.** If you believe that the copyright in your work has been violated through the Services, please contact MeisterLabs' Support Team at support@meisterlabs.com, or at MeisterLabs, Inc., 113 Cherry St, PMB 29372, Seattle, WA 98104 and provide the following information, which MeisterLabs may then forward to the alleged infringer:
- (1) Identify the material on the Services that you believe infringes your work, with enough detail so that MeisterLabs may locate it on the Services;
  - (2) Provide a statement that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
  - (3) Provide your address, telephone number, and email address;
  - (4) Provide a statement that (i) the information that you have provided to MeisterLabs is accurate, and (ii) you are the owner of the copyright interest involved or are authorized to act on behalf of the owner; and
  - (5) Provide your physical and electronic signature.
- Upon receiving your complaint, MeisterLabs may remove content that you believe infringes its copyright. In addition, MeisterLabs may terminate the account of the member who appears to be infringing your intellectual property rights.

- 6 **Privacy.** Please review MeisterLabs' Privacy Policy <https://www.meisterlabs.com/privacy>. The terms of the Privacy Policy are incorporated into, and considered a part of, these Terms.



**7 Indemnification.** You agree to indemnify and hold MeisterLabs harmless from and against any and all claims, costs, damages, losses, liabilities, and expenses (including attorneys' fees and costs) arising out of or in connection with your use of the Services, the Customer Content, or breach of these Terms of Service.

**8 Warranties.** THE SERVICES (AND ANY ASSOCIATED SERVICES) ARE PROVIDED BY MEISTERLABS ON AN "AS-IS" BASIS. MEISTERLABS AND ITS SUPPLIERS DISCLAIM ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES RELATING TO THE SERVICES, INCLUDING BUT NOT LIMITED TO, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. MEISTERLABS DOES NOT WARRANT THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SERVICES, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF THE RESPECTIVE USAGE.

YOU UNDERSTAND AND AGREE THAT THE SUBMISSION OF ANY CUSTOMER CONTENT TO MEISTERLABS THROUGH THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY LOSS OR DAMAGE TO SUCH CUSTOMER CONTENT OR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT MAY RESULT IN THE DOWNLOAD OR UPLOAD OF ANY MATERIAL. YOU ARE SOLELY RESPONSIBLE FOR CREATING BACK-UPS OF THE CUSTOMER CONTENT.

**9 Limitation of Liability.** IN NO EVENT SHALL MEISTERLABS' AGGREGATE CUMULATIVE LIABILITY EXCEED THE AMOUNT PAID BY YOU IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM; IF YOU ARE USING A FREE VERSION OF THE SERVICES, MEISTERLABS' AGGREGATE CUMULATIVE LIABILITY SHALL NOT EXCEED US\$20.00. MEISTERLABS WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES RESULTING FROM THE USE OR PROVISION OF THE SERVICE, MEISTERLABS' WEBSITES, AND ALL RELATED PRODUCTS AND SERVICES, EVEN IF MEISTERLABS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMERS, WAIVERS AND LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

## **10 Applicable law and Binding Arbitration**

**10.1 Local Laws and Export Control.** MeisterLabs controls and operates this Service from its location in the United States and is subject to U.S. export laws and regulations. MeisterLabs makes no representation that the Services are appropriate or available for use at other locations. If you use the Services from outside the U.S., you are solely responsible for compliance with all applicable laws, including, without limitation, export and import regulations of other countries.

**10.2 Applicable law.** These Terms of Service shall be governed by and construed in accordance with the laws of the State of Washington and the United States without regard to the conflict of laws provisions therein that would require application of the laws of another state.

**10.3 Binding Arbitration.** MeisterLabs and you agree to arbitrate all disputes and claims between the two parties (the "Parties"). This agreement to arbitrate is intended to be broadly interpreted. It includes, but is not limited to:

- Claims arising out of or relating to any aspect of the relationship between the Parties, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory;
- Claims that arose before this or any prior agreement between the Parties (including, but not limited to, claims relating to advertising);
- Claims that are currently the subject of purported class action litigation in which Customer is not a member of a certified class; and
- Claims that may arise after the termination of any agreement between the Parties.

Notwithstanding the foregoing, either party may bring an individual action in small claims court. You agree that, by accepting these terms and conditions, Customer and MeisterLabs are each waiving the right to a trial by jury or to participate in a class action. The transaction between the Parties evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This arbitration provision shall survive termination of the agreement entered into by the Parties.

A party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute ("Notice"). The Notice to MeisterLabs should be addressed to: MeisterLabs, Inc., 113 Cherry St, PMB 29372, Seattle,



WA 98104 ("**Notice Address**"). The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("**Demand**"). If MeisterLabs and Customer do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, Customer or MeisterLabs may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by MeisterLabs or Customer shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or MeisterLabs is entitled. You may download a [form Notice](#).

After MeisterLabs receives notice at the Notice Address that Customer has commenced arbitration, it will promptly reimburse Customer for Customer's payment of the filing fee. (If Customer is unable to pay this fee, MeisterLabs will pay it directly upon receiving a written request at the Notice Address. The arbitration will be governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (collectively, "**AAA Rules**") of the American Arbitration Association ("**AAA**"), as modified by these terms and conditions, and will be administered by the AAA. The AAA Rules are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by writing to the Notice Address. All issues are for the arbitrator to decide, including the scope of this arbitration provision, but the arbitrator is bound by the terms of these terms and conditions. Unless MeisterLabs and Customer agree otherwise, any arbitration hearings will take place in the county (or parish) of Customer's billing address. If Customer's claim is for Ten Thousand U.S Dollars (US\$10,000) or less, MeisterLabs agrees that Customer may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If Customer's claim exceeds Ten Thousand U.S Dollars (US\$10,000), the right to a hearing will be determined by the AAA Rules. Except as otherwise provided for herein, MeisterLabs will pay all AAA filing, administration, and arbitrator fees for any arbitration initiated in accordance with the notice requirements above. If, however, the arbitrator finds that the substance of Customer's claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all such fees will be governed by the AAA Rules. In such case, Customer agrees to reimburse MeisterLabs for all monies previously disbursed by it that are otherwise Customer's obligation to pay under the AAA Rules.

If, after finding in Customer's favor in any respect on the merits of Customer's claim, the arbitrator issues Customer an award that is:

- Equal to or less than the greater of (a) Two Thousand U.S. Dollars (US\$2,000) or (b) the maximum claim that may be brought in small claims court in the county of your billing address, and
- Greater than the value of MeisterLabs' last written settlement offer made before an arbitrator was selected, then MeisterLabs will:
- Pay Customer the greater of (a) Two Thousand U.S. Dollars (US\$2,000) or (b) the maximum claim that may be brought in small claims court in the county of Customer's billing address ("**the premium**") instead of the arbitrator's award; and
- Pay Customer's attorney, if any, twice the amount of attorneys' fees, and reimburse any expenses that Customer's attorney reasonably accrues for investigating, preparing, and pursuing your claim in arbitration (the "**Attorney Premium**").

If MeisterLabs did not make a written offer to settle the dispute before an arbitrator was selected, Customer and Customer's attorney will be entitled to receive the premium and the Attorney Premium, respectively, if the arbitrator awards Customer any relief on the merits. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees, expenses, and the premium and the Attorney Premium at any time during the proceedings and upon request from either party made within fourteen (14) days of the arbitrator's ruling on the merits.

The right to attorneys' fees and expenses set forth above supplements any right to attorneys' fees and expenses Customer may have under applicable law. Thus, if Customer would be entitled to a larger amount under the applicable law, this provision does not preclude the arbitrator from awarding Customer that amount. However, Customer may not



recover duplicative awards of attorneys' fees or costs. Although under some laws MeisterLabs may have a right to an award of attorneys' fees and expenses if it prevails in arbitration, MeisterLabs agrees that it will not seek such an award.

The arbitrator may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. CUSTOMER AND MEISTERLABS AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN CUSTOMER'S OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both Customer and MeisterLabs agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this arbitration provision shall be null and void.

## 11 Miscellaneous

- 11.1 MeisterLabs reserves the right to change the terms and conditions of these Terms of Service at any time, and shall notify you by posting an updated version of these Terms of Service on the Services. You are responsible for regularly reviewing these Terms of Service. Your continued use of the Services after any such changes shall constitute your consent to such changes. Neither the rights nor obligation arising under these Terms of Service are assignable by you, and any such attempted assignment or transfer shall be void and without effect. In the event that any provision of these Terms of Service is found to be contrary to law, then such provision shall be construed as nearly as possible to reflect the intention of the parties, with the other provisions remaining in full force and effect. These Terms of Service constitute the entire agreement between the parties pertaining to the subject matter hereof, and any and all written or oral agreements existing between the parties regarding the subject matter contained herein are expressly canceled.

**QUESTIONS OR ADDITIONAL INFORMATION.** If you have questions regarding these Terms of Service, or wish to obtain additional information, please send an e-mail to [info@meisterlabs.com](mailto:info@meisterlabs.com)

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