

## **Primary Vision Terms of Use (as of January 1<sup>st</sup>, 2021)**

Please read all of the following terms and conditions of service for this website ("TOU") before using this site, by accessing or continuing using this website, currently located at primaryvision.com you signify your acceptance of any content which details the terms of a legal agreement (the "Terms of Use") between you and primary vision. You acknowledge and irrevocably represent that you have read and understood the Terms of Use and you voluntarily and irrevocably accept and agree to be bound by the Terms of Use.

You also agree to comply with all laws and regulations applicable to the use of this website, the use of the internet, and to the activities involved in using this website. If you do not agree with these Terms of Use, do not use this website.

Primary Vision reserves the right to vary, amend, remove or add to the Terms of Use at any time. Such modifications shall be effective immediately. Your continued access and use of this website and Content following the posting of modifications to the Terms of Use shall constitute your acknowledgement and acceptance of such modifications. If, at any time, you do not wish to accept the Terms of Use, you must immediately cease to access or use this website and all Content. Any additional terms, conditions or modifications to these Terms of Use that are proposed by you shall be of no force or effect unless and until expressly agreed to by Primary Vision in writing.

Contents of this "TOU" as below

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### **General Provisions**

These terms of use contain the complete and exclusive statement of the agreement between the parties with respect to the subject matter herein. The terms and conditions of these TOU shall prevail over any purchase order submitted by You. Neither party may assign this Agreement in whole or in part, whether by operation of law or otherwise, without the prior written consent of the other party. Notwithstanding the foregoing, either party may assign this Agreement in its entirety, without consent of the other party, to its Affiliate or in connection with the sale, merger or other corporate combination involving all or substantially all of the assets of the assigning party to a third party provided that the assigning party provides written notice to

the other party, and the assignee expressly assumes in writing all of the assigning party's obligations and liabilities hereunder. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. Except for the obligation to make payments, performance under this Agreement shall be postponed automatically to the extent that either party is prevented from meeting its obligations by causes beyond its reasonable control, including labor and government authorities.

### **License**

You acquire absolutely no rights or licenses in or to the Service and materials contained within the Service other than the limited right to utilize the Service in accordance with the TOU. Should you choose to download content from the Service, you must do so in accordance with the TOU. Such download is licensed to you by Primary Vision ONLY for your own personal, noncommercial use in accordance with the TOU and does not transfer any other rights to you.

You acknowledge that, with respect to any claim you may have relating to or arising out of Primary Vision's actual or alleged exploitation or use of any material you submit to this site the damage, if any, thereby caused will not be irreparable or otherwise sufficient to entitle you to injunctive or other equitable relief or to in any way enjoin the exploitation or other use of any Primary Vision product or service based on or allegedly based on the material, and your rights and remedies in any such event shall be strictly limited to the right to recover damages, if any, in an action at law.

### **Registration and Account Creation**

As part of the registration and account creation process necessary to obtain access to certain portions of the Service, you will select a username and a password. You will provide Primary Vision with certain registration information, all of which must be accurate, truthful, and updated. You shall not: (i) select a username already used by another person; (ii) create an account for anyone other than yourself without permission; (iii) use a username in which another person has rights without such person's authorization. Primary Vision reserves the right to deny creation of your account based on its inability to verify the authenticity of your registration information. You shall be solely responsible for maintaining the confidentiality of your password.

You are to notify Primary Vision immediately of any known or suspected unauthorized use(s) of your account, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of your password or credit card information. You are fully responsible for all usage and activity on your account, including, but not limited to, use of the account by any third party authorized by you to use your username and password. The use of your account by any individual under age eighteen (18) is strictly prohibited. If the computer system on which you accessed the Service is sold or transferred to another party, you warrant and represent that you will delete all cookies and software files obtained by or through use of the Service. Primary Vision reserves the right to terminate your account, in its sole discretion, at any time without notice. If we disable your account, you agree that you will not create another one without our permission. You may terminate your account at any time by submitting feedback, you will receive an automated confirmation via e-mail that the request was received, and your account will be terminated within 10 business days. You are responsible for all charges incurred up to the time the account is terminated.

### **Restrictions on Use**

You will not use the Subscription Service in any way that violates this “Terms of Use” or for any purpose or in any manner that is unlawful or prohibited by this Agreement. The Subscription Service is not designed to comply with industry-specific regulations such as the Health Insurance Portability and Accountability Act (HIPAA) or the Federal Information Security Management Act (FISMA), so you may not use the Subscription Service where your communications would be subject to such laws.

Restriction to use the Platform in any manner or for any purpose other than as expressly permitted by the Agreement or this TOU, the Privacy Policy, or any other policy, instruction or terms applicable to the Platform.

Restriction to use the Platform, or permit such to be used, for purposes of product benchmarking or other comparative analysis intended for publication without Primary Vision's prior written consent; or share passwords or other access information or devices or otherwise authorize any third party to access or use the Platform to cause, in Primary Vision's sole discretion, inordinate burden on the Platform or Primary Vision's system resources or capacity;

Restriction to use the Platform to: (i) store or transmit inappropriate content, such as content that violates the intellectual property rights or rights to the publicity or privacy of others; (ii) store or transmit any content that contains or is used to initiate a denial of Platform attack, Subscription Services viruses or other harmful or deleterious computer code, files or programs such as Trojan horses, worms, time bombs, cancelbots, or spyware; or (iii) otherwise violate the legal rights of a third party;

Restriction to sell, lend, rent, resell, lease, sublicense or otherwise transfer any of the rights granted to You with respect to the Platform to any third party; as well as remove, obscure or alter any proprietary rights notice pertaining to the Platform.

The subscriber acknowledges and agrees that the subscriber is the controller of personal data and remains responsible for the obligations of a controller, including but not limited to, the responsibility for complying with any laws and regulations providing for notice, choice, and/or consent prior to transferring the personal data to Primary Vision for processing. You may not use the Subscription Service in a way that would violate the Gramm-Leach-Bliley Act (GLBA).

### **Intellectual Property**

All contents of the Platform are the exclusive property of Primary Vision and/or the proprietary property of its suppliers, affiliates or licensors. Primary Vision reserves all rights to its trademarks, Platform marks and logos (collectively, the “Primary Vision Marks”).

Primary Vision retains all rights in and to Primary Vision's intellectual property, and in and to the Primary Vision Technology, and all modifications, enhancements, and other works derivative of the Primary Vision Technology. You shall not, at any time, during the Term or following termination of this Agreement, contest or aid others in contesting or doing anything which impairs the validity of any of Primary Vision's IPR, including but not limited to the Primary Vision Technology, modifications, enhancements and other derivative works of the Primary Vision Technology, or copyrights, trade secrets or Confidential Information.

You shall ensure that Primary Vision has the right to access and use Your Users' account information and any data they upload to the Platform for the purposes of delivering the Platform, responding to any technical problems, troubleshooting and testing.

you shall not use the Intellectual Property Rights or the Service, or the names of any individual participant in, or contributor to, the Service, or any variations or derivatives thereof, for any purpose, without Primary Vision's prior written approval.

### **Links to Third Party Websites**

The Platform may contain links to third-party websites or advertisers, as well as certain third-party services that your Organization may integrate with the Platform such as your Organization's human resource or information management systems (collectively "Third-Party Services"). We have no control over, and assume no responsibility for, the content, privacy policies, or practices of any Third-Party Services.

Our provision of links to Third Party Sites is not an endorsement of any information, product or service that is offered on or reached through such Third-Party Site Primary Vision is not responsible for the availability, content, or accuracy of other Web sites, services, or goods that may be linked to, or advertised on, the Service.

If you access a Third-Party Service from Primary Vision, you do so at your own risk and you agree that Primary Vision will not be responsible for any loss or damage of any sort relating to your dealings with advertisers or any Third-Party Service. We encourage you to be aware of when you leave the Platform, and to read the terms and conditions and privacy policy of any Third-Party Service that you visit. In the event that You have a dispute with a Partner You hereby expressly release Primary Vision and its affiliates from claims, demands and damages of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes. You expressly agree that You shall not be deemed a third-party beneficiary to any agreement or dealings between Primary Vision and any Partner.

### **Disclaimer of Warranties and Limitation of Liability**

Without limiting our obligations in the 'Confidentiality' and 'Customer Data' Sections of this Agreement, we make no warranties about the suitability, reliability, availability, timeliness, security or Accuracy of the subscription service, Data made available from the subscription service, HubSpot content or the consulting services for any purpose.

Primary Vision is also not responsible for the reliability or continued availability of the telephone lines, wireless services, communications media, and equipment you use to access the Service. You understand that Primary Vision and/or third-party contributors to the Service may choose at any time to inhibit or prohibit their content from being accessed under the TOU.

Primary Vision does not warrant that the Service is compatible with your equipment or that the Service, or e-mail sent by Primary Vision, is free of errors or viruses, worms or "Trojan horses,"

or any other harmful, invasive, or corrupted files, and is not liable for any damage you may suffer as a result of such destructive features.

You acknowledge that: Service is provided for information purposes only and is not intended for trading purposes; the Service may include certain information taken from stock exchanges and other sources from around the world. Primary Vision does not guarantee the sequence, accuracy, completeness, or timeliness of the Service or any information, facts, views, opinions, statements or recommendations contained on this site and/or the Service.

BY ACCESSING THIS SITE, YOU UNDERSTAND THAT YOU MAY BE WAIVING RIGHTS WITH RESPECT TO CLAIMS THAT ARE AT THIS TIME UNKNOWN OR UNSUSPECTED, AND IN ACCORDANCE WITH SUCH WAIVER, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND, AND HEREBY EXPRESSLY WAIVE, THE BENEFITS OF SECTION 1542 OF THE CIVIL CODE OF CALIFORNIA, AND ANY SIMILAR LAW OF ANY STATE OR TERRITORY.

### **Customer Data**

You own and retain all rights to the Customer Materials and Customer Data. This Agreement does not grant us any ownership rights to Customer Materials or Customer Data. You grant permission to us and our licensors to use the Customer Materials and Customer Data only as necessary to provide the Subscription Service and Consulting Services to you and as otherwise permitted by this Agreement. If you are using the Subscription Service or receiving Consulting Services on behalf of another party, then you represent and warrant that you have all sufficient and necessary rights and permissions to do so) (Protection of Customer Data).

Customer Data are any and all data and information that is entered or loaded into the Platform by, or for, a customer of Primary Vision. For the avoidance of doubt, all data is comingled with appropriate administrative security measures to ensure all data is reasonably secure.

*Sensitive Data* means collectively (i) personal health information (“PHI”), (ii) “Special Categories of Data” as defined in Article 9 of GDPR and (iii) individual’s first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such individual: (x) Social Security number; (y) driver’s license number or state or government issued identification card number; or (z) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to an individual or businesses financial account. You expressly acknowledge and agree that You shall not submit to, or process via the Platform, and Primary Vision shall have no liability for any Sensitive Data. Primary Vision may immediately upon notice suspend all or portion of Your access to the Platform (without any liability to You or Your customer in connection with such suspension), if Primary Vision has a good faith belief that You have breached the restrictions in this Section.

### **Confidentiality**

“**Confidential Information**” means non-public information that the party disclosing the information designates at the time of disclosure as being confidential, or, if disclosed orally or

visually, is identified as such prior to disclosure, or which, under the circumstances surrounding the disclosure, the receiving party knows or has reason to know should be treated as confidential without the need to be marked as such. Without limiting the foregoing, Confidential Information shall include any information regarding a party's financial condition, business opportunities, plans for development of future products, unreleased versions of products, know-how, technology, customer information, and customer data. The Platform shall be deemed 'Primary Vision' Confidential Information.

**Non-Disclosure.** The receiving party shall not disclose the disclosing party's Confidential Information to any third party and may only use the disclosing party's Confidential Information for the intended business purpose related to these TOU and for the benefit of the disclosing party. Both parties shall protect Confidential Information from disclosure or misuse by using the same degree of care used for their own confidential information, and no less than a reasonable degree of care.

### **Indemnification**

You agree to indemnify and hold Primary Vision, its officers, agents, partners, employees, and licensors harmless from any claim or demand, including reasonable attorney's fees, made by any third party due to or arising out of Your data, Customer Data, content or Your usage of the Platform, Your breach of this TOU, any additional legal terms, or Privacy Policy, Your unauthorized use of any Primary Vision Intellectual Property, or Your alleged violation of any other rights of a third party, Your violation of any law, rule or regulation of the United States or any other country; any claim or damages that arise as a result of any of your User Content you submit; or any other party's access and use of the Platform with your unique username, password or other appropriate security code.

Primary Vision will notify you in writing within thirty (30) days of our becoming aware of any such claim; give you sole control of the defense or settlement of such a claim; and provide you (at your expense) with any and all information and assistance reasonably requested by you to handle the defense or settlement of the claim)

### **Compliance with Laws**

We will comply with all U.S. state and federal laws (where applicable) in our provision of the Subscription Service, the Consulting Services and our processing of Customer Data. We reserve the right at all times to disclose any information as necessary to satisfy any law, regulation, legal process or governmental request. (You must comply with all applicable laws related to the recording of phone calls and ensure all proper consent to record is obtained prior to making any such recording. You will comply with the sanctions programs administered by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury in your use and receipt of the Subscription Service and Consulting Services.

You will comply with SEC Regulation FD (Fair Disclosure) of the U.S. federal securities laws to avoid the selective disclosure of material nonpublic information for the purpose of Insider Trading. Disclosing material nonpublic information directly or indirectly to others who then trade

based on that information or making recommendations or expressing opinions as to transactions in securities while aware of material nonpublic information (which is referred to as “tipping”) is illegal.

### **Suspension and Termination of your Use of the Platform**

We reserve the right, to temporarily suspend or terminate Your access to the Platform at any time in Our sole discretion, in the event that You violate these TOU, with or without notice, without incurring liability of any kind and without cause for maintenance purposes. For example, We may suspend or terminate Your access to or use of the Platform for: (a) the actual or suspected violation of the Agreement or this TOU; (b) the use of the Platform in a manner that may cause Primary Vision to have legal liability or disrupt others’ use of the Platform; (c) the suspicion or detection of any malicious code, virus or other harmful code by You or in Your account; (d) scheduled downtime and recurring downtime; (e) use of excessive storage capacity or bandwidth; or (f) unplanned technical problems and outages.

You acknowledge that if Your access to the Platform is suspended or terminated, You may no longer have access to the Results, if any, and/or the Platform.

End of Primary Vision Services Terms of Use