



## CudaMail™ Service Agreement

This agreement defines your rights and your obligations as a subscriber to the CudaMail™ service, a service offered by Optrics Inc., a corporation. By subscribing to the CudaMail™ service you acknowledge and accept that you are entering into binding contract with Optrics Inc. You further acknowledge having read this agreement in full and that you understand all of your rights and obligations as defined within this agreement, that you are of legal age to enter into this contract and that you accept all terms and conditions contained within this agreement and agree to be bound by the terms and conditions of this agreement. If you are subscribing to the CudaMail™ service as an agent, employee or representative of any legal entity (other than yourself acting in your private capacity or operating as a proprietorship) such as but not restricted to a corporation, a partnership, a trust, a non-profit organization, a society or a governmental or public organization, you acknowledge that you have the legal authority to enter into contract on behalf of this legal entity. Failure or refusal to accept the terms and conditions of this agreement or lack of legal authority to enter into contract shall constitute refusal on the part of Optrics Inc. to enter into contract to offer you the CudaMail™ service whether or not payment has been received or offered. Optrics Inc. further reserves the right and you agree to this right to cancel any contract for provision of the CudaMail service without notice or explanation followed by simple refund of fees already received for the current month of service plus any future months paid in advance less any applicable fees.

### 1. Definitions and Acknowledgements

CudaMail™ is a service of Optrics Inc. The terms “CudaMail”, “CudaMail.com” “The CudaMail Service”, “The Service”, “Service Offerings” or just “Service” (irrespective of capitalization used) shall interchangeably be understood and agreed to mean the CudaMail™ service being offered by Optrics Inc. The CudaMail™ Service shall at all times be bound by the terms and conditions of the CudaMail™ Service Agreement (CSA).

The CudaMail™ Service Agreement may be interchangeably referred to within this document and communications related to the Service as “The Service Agreement”, “The Agreement”, “Service Agreement”, “Agreement” or “SA” and it is understood and agreed that these terms (irrespective of capitalization used) shall mean the CudaMail™ Service Agreement .

Optrics Inc. is the legal name of the corporation doing business as CudaMail™ and offering theCudaMail™ Service. The use of the name Optrics shall be understood and agreed to mean Optrics Inc. for the purposes of this agreement or for any contract for the service or services and related communications. You understand and agree that all information, data, text, software, music, sound, photographs, graphics, video, messages or other data, information or materials transmissible via email or webmail shall constitute "Content" (irrespective of capitalization used) for the purposes of definition within this agreement and within communications related to the Service.

You or the legal entity that you are legally authorized to represent shall upon application for the Service or upon entering into contract with Optrics Inc. for the purposes of receiving the Service shall be known and identified as “The Subscriber” or “Subscriber”, “Account” or “User” (irrespective of capitalization used), a term which may be interchangeably used with your specific legal name, the specific legal name of the legal entity entering into contract to receive the Service or the account name used to identify the underlying contract for the Service. You agree that the use of brackets, braces, quotation or other offset marks within this agreement (excluding standard grammatical punctuation) shall not result in the exclusion of the text contained within from this agreement and are for clarification purposes only.

### 2. Intellectual Property

CudaMail™ and the CudaMail™ service are property of Optrics Inc. The CudaMail™ name and the CudaMail™ logo are trademarked property of Optrics Inc. Use of the CudaMail™ name within this agreement, within the service, on websites, within emails, notices, documents and related materials and communications with or without the ™ [trademark] designation and ™ [trademark] notice shall be understood and agreed to be and remain intellectual property of Optrics Inc. As a subscriber you agree not to infringe upon Optrics' intellectual property through the registration of similar or matching names, trademarks or internet domains. This obligation not to infringe shall also endure after termination or cancellation of any contract for the Service.

### ***3. Acceptance of Terms, Conditions and Guidelines***

Optrics Inc. provides its CudaMail Service to you subject to the following Description of Service and subject to the Terms and Conditions of this Agreement which may be updated by Optrics Inc. from time to time without specific personally delivered notice to yourself by the posting of these changes online to the CudaMail.com website located at <http://www.CudaMail.com/Legal>. You agree to be bound by the Terms and Conditions of the current version of the CudaMail Service Agreement as posted at this address on the CudaMail.com website. When using the Service you agree to be bound by any posted guidelines or rules applicable to the Service including Acceptable Use Policies (AUP) which may be posted from time to time and agree to be bound by all Acceptable Use Policies. All such guidelines, rules and Acceptable Use Policies are incorporated by reference into the current CudaMail Service Agreement as posted online <http://www.CudaMail.com/Legal> or as may be requested by email from Optrics Inc. or its authorized affiliates, agents or representatives. In the case of any discrepancy between versions, the version posted online at <http://www.CudaMail.com/Legal> shall be agreed to be the current version.

### ***4. Description of Service***

The CudaMail Service currently provides users with access to Internet email spam filtering, email anti-virus scanning and optional offsite mail backup. You understand and agree that the service may include certain communications from Optrics Inc. sent by email such as service and product announcements, administrative messages and communications related to your account and that these communications are considered part of the Service and that you will not be able to opt out of receiving these communications. Unless explicitly stated otherwise and in writing, any new features that augment, enhance or modify the current Service, including the release of new Service properties, features or options, shall be subject to this agreement. You understand and agree that the Service is provided "AS-IS" and that Optrics assumes no responsibility for the timeliness, deletion or incorrect delivery of any email communications processed by the Service. CudaMail is not a mail-hosting service (excluding mail backup store-and-forward) and that you must provide and are responsible for all equipment necessary to receive email forwarded to you through our Service.

### ***5. Acceptable Use Policy***

You agree to be bound by the Acceptable Use Policy or Policies (AUP) of the Service as shall be posted at <http://www.CudaMail.com/Legal>. You agree not to deliver mail to the Service or knowingly cause to have mail delivered to the Service that would be deemed illegal by authorities of competent jurisdiction or be deemed unacceptable use of the Service by Optrics. This includes but is not limited to (including mail attachments) hate email or email promoting racism, child pornography or email advocating or soliciting others to engage in illegal activities or email or content in violation of any statute or regulation. You agree not to use the Service to test SPAM (bulk or unsolicited email) or to use the service to send SPAM (bulk or unsolicited email). You agree not to use the Service or subject the Service to activities that may in any way impair the stability or good function of the Service or in any way negatively affect or impair the use of the Service by other Subscribers or use or access to the Service. Optrics reserves the right of sole determination as to what constitutes acceptable use of the Service and reserves the sole right to take whatever action or pursue whatever remedy Optrics deems is necessary to maintain or restore acceptable function of the Service or access to the Service. Optrics further reserves the right to take whatever legal action it deems necessary to maintain the reliability and good function of the Service including pursuit of damages as compensation for activities and behavior specifically and maliciously directed towards damaging the reliability and good function of the Service. You acknowledge that violation of the Acceptable Use Policy may result in immediate suspension or termination of your account at the sole discretion of Optrics Inc. without recourse, compensation or reimbursement.

### ***6. Your Registration Obligations***

In consideration of your use of the Service, you agree to: (a) provide true, accurate, current and complete information about yourself as prompted by the Service's registration form (such information being the "Registration Data") and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or Optrics Inc. has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Optrics Inc. has the right to suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

### ***7. Privacy Policy***

Registration Data and certain other information about you are subject to our Privacy Policy which may be reviewed at <http://www.CudaMail.com/Legal>.

### ***8. Subscriber Account, Password and Security***

You are responsible for maintaining the confidentiality of your account, account access and password and are fully responsible for all activities that occur within the Service and to the Service under access through your account. You agree to (a) immediately notify Optrics Inc. of any unauthorized use of your account or password or any other breach of security, and (b) ensure that you exit from all account sessions at the end of each user session whether at private or public access terminals. Optrics Inc. shall not be liable for any loss or damage arising from your failure to comply with the terms and conditions of this section.

## **9. Member Conduct**

You understand that all information, data, text, software, music, sound, photographs, graphics, video, messages or other materials ("Content"), whether publicly posted or privately transmitted, are the sole responsibility of the person from which such Content originated. This means that you, and the sender and not Optrics Inc. are entirely responsible for all content that you email, transmit or otherwise make available via the Service. Optrics Inc. does not control the Content transmitted via the Service and, as such, does not guarantee the accuracy, integrity or quality of such Content. You understand that by using the Service, you may be exposed to Content that is offensive, indecent or objectionable. Under no circumstances will Optrics Inc. be liable in any way for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content posted, emailed, transmitted or otherwise made available via the Service. You agree to not use the Service to:

1. Email, transmit or otherwise make available any Content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable
2. Harm minors in any way.
3. Impersonate any person or entity, including, but not limited to an Optrics Inc. official or falsely state or otherwise misrepresent your affiliation with a person or entity
4. Forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Service
5. Email, transmit or otherwise make available any Content that you do not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements)
6. Email, transmit or otherwise make available any Content that infringes any patent, trademark, trade secret, copyright or other proprietary rights ("Rights") of any party
7. Email, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation.
8. Email, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment
9. Interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service
10. Intentionally or unintentionally violate any applicable local, state, provincial, national or international law, including, but not limited to, regulations promulgated by the U.S. Securities and Exchange Commission, any rules of any national or other securities exchange, including, without limitation, the New York Stock Exchange, the American Stock Exchange, the NASDAQ, Toronto Stock Exchange, and any regulations having the force of law.
11. Stalk" or otherwise harass another.
12. You acknowledge that the Service does not pre-screen Content, and that Optrics Inc. shall have the right (but not the obligation) in its sole discretion to refuse to forward or transmit any Content that is deemed objectionable. Without limiting the foregoing, Optrics Inc. and its designees shall have the right to remove any Content that violates the SA or is otherwise objectionable. You agree that you must evaluate, and bear all risks associated with the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content. In this regard, you acknowledge that you may not rely on any Content transmitted through Optrics Inc. CudaMail Service.
13. You acknowledge and agree that Optrics Inc.'s CudaMail Service may preserve Content and may also disclose Content if required to do so by law or in the good-faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the SA; (c) respond to claims that any Content violates the rights of third-parties; or (d) protect the rights, property, or personal safety of Optrics Inc., its users and the public. You understand that the technical processing and transmission of the Service, including your Content, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices.

## **10. Special Admonitions for International Use**

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable Content. Specifically, you agree to comply with all applicable laws regarding the transmission of technical data exported from Canada or the country in which you reside.

## **11. Indemnity**

You agree to indemnify and hold Optrics Inc. and its subsidiaries, affiliates, officers, agents, cobranders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of Content you email, receive, transmit or make available through the Service, your use of the Service, your connection to the Service, your violation of the SA, or your violation of any rights of another.

## **12. No Resale of Service**

You agree not to reproduce, duplicate, copy, sell, resell or exploit for any commercial purposes, any portion of the Service, use of the Service, or access to the Service.

## **13. General Practices Regarding Use and Storage**

You acknowledge that Optrics Inc. may establish general practices and limits concerning use of the Service, including without limitation the maximum number email messages that may be sent from or received by an account on the Service and the maximum size of any email message that may be sent from or received by an account on the Service. You agree that Optrics Inc. has no responsibility or liability for the deletion or failure to transmit any messages and other communications or other Content transmitted by the Service. You acknowledge that Optrics Inc. reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

## **14. Modifications to Service**

Optrics Inc. reserves the right at any time and from time to time to modify or temporarily discontinue the Service (or any part thereof) with or without notice. You agree that Optrics Inc. shall not be liable to you or to any third party for any modification, suspension or temporary discontinuance of the Service.

## **15. Termination**

Due to the sensitive and critical nature of maintaining email services to our customers, Optrics Inc.'s policy is to not immediately terminate services for customers over issues regarding nonpayment of account and/or service renewal fees. This grace-period policy is offered solely as a gesture of goodwill to Subscribers in recognition of the fact that circumstances do occur that may delay payment on accounts due.

You agree that it is your responsibility to properly notify Optrics Inc. via email at support@CudaMail.com no less than 5 business days prior to your service renewal date should you decide to discontinue your service. Should you fail to properly notify Optrics Inc. no less than 5 business days prior to your service renewal date of your intent to discontinue services and then utilize Optrics Inc.'s CudaMail Service in any way for any part of any following monthly subscription period, you agree to pay Optrics Inc. in full for that month at the then posted monthly subscription rate for the service level subscribed.

You agree that Optrics Inc. in its sole discretion, may terminate your password, account (or any part thereof) or use of the Service, and remove and discard any Content within the Service, for any reason, including, without limitation, if Optrics Inc. believes that you have violated or acted inconsistently with the letter or spirit of the SA. You agree that any termination of your access to the Service under any provision of this SA may be effected without prior notice, and acknowledge and agree that Optrics Inc. may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the Service. Further, you agree that Optrics Inc. shall not be liable to you or any third-party for any termination of your access to the Service.

## **16. Proprietary Rights**

You acknowledge and agree that the Service and any necessary software used in connection with the Service ("Software") contain proprietary and confidential information that is protected by applicable intellectual property and other laws. You further acknowledge and agree that Content contained in sponsor advertisements or copyrights, trademarks, service marks, patents or other proprietary rights and laws protect information presented to you through the Service or advertisers. Except as expressly authorized by Optrics Inc. you agree not to modify, rent, lease, loan, sell, distribute or create derivative works based on the Service or the Software, in whole or in part.

## **17. Disclaimer of Warranties**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

a. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. OPTRICS INC. EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

b. OPTRICS INC. MAKES NO WARRANTY THAT (i) THE SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS. ANY MATERIAL OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE RECEIPT OF ANY SUCH MATERIAL.

c. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM OPTRICS INC. OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE SA.



### **18. Limitation of Liability**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT OPTRICS INC. SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF OPTRICS INC. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SERVICE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE SERVICE.

### **19. Exclusions and Limitations**

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS OF SECTIONS 14 AND 15 MAY NOT APPLY TO YOU.

### **20. Special Admonition for Services Relating to Financial Matters**

If you intend to create or join any service, receive or request any news, messages, alerts or other information from the Service concerning companies, stock quotes, invest<sup>TM</sup>ments or securities, please read the above Sections 14 -16 again. They go doubly for you. In addition, for this type of information particularly, the phrase "Let the investor beware" is apt. The Service is provided for informational purposes only, and NO CONTENT TRANSMITTED THROUGH THE SERVICE is intended for trading or investing purposes. Optrics Inc. and its licensors shall not be responsible or liable for the accuracy, usefulness or availability of any information transmitted or made available via the Service, and shall not be responsible or liable for any trading or invest<sup>TM</sup>ent decisions made based on such information.

### **21. Notice**

The Service shall provide primary notices of changes to the SA or other matters by displaying notices or links to notices to you at <http://www.CudaMail.com/Legal>. Notices to you may also be made at the discretion of the Service via email or regular postal mail to the addresses you have provided to the Service. It is your responsibility to maintain current contact and address information with the Service and to maintain a valid post<sup>TM</sup>master@<your-domain> email address that delivers or redirects mail from the CudaMail Service to the person responsible for your CudaMail subscriber account.

### **22. Trademark Information**

The Optrics Inc. and CudaMail logos are trademarks of Optrics Inc. The Subscriber agrees not to display or use in any manner, the Optrics Inc. or CudaMail Marks without the prior written permission of Optrics Inc.

### **23. Jurisdiction and Severability**

The current CudaMail Service Agreement as posted at <http://www.CudaMail.com/Legal> shall constitute the entire agreement between you and Optrics Inc. and governs your use of the Service, superceding any prior agreements between you and Optrics Inc. You also may be subject to additional terms and conditions that may apply when you use affiliate services, thirdparty content or third-party software. The SA and the relationship between you and Optrics Inc. shall be governed by the laws of the Province of Alberta without regard to its conflict of law provisions. The failure of Optrics Inc. to exercise or enforce any right or provision of the SA shall not constitute a waiver of such right or provision. If any provision of the SA is found by a court of competent jurisdiction to be invalid, the offending section shall be severed from the SA without negating the remaining sections of the SA. The Subscriber and Optrics further agree that the court should endeavor to give effect to the parties' intentions as reflected in the invalid provision, and the other provisions of the SA remain in full force and effect. You, the Subscriber agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the SA must be filed within one (1) year after such claim or cause of action arose or be forever barred.

### **24. Section Titles**

The section titles in the SA are for convenience only and have no legal or contractual effect.

End of SA

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