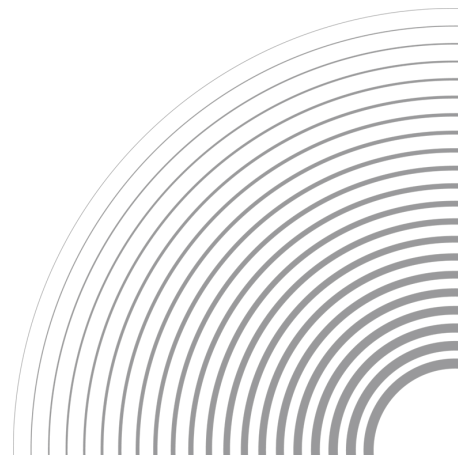


Terms of Service



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A. Definitions

1. Definitions of terms used

All capitalised terms used but not defined herein shall have the respective meanings given to them in the **Service Agreement**.

Business Day means working days (Monday to Friday) from 03:00 hours to 17:00 hours Central European Time (CET) or Central European Summer Time (CEST), as applicable. <https://www.timeanddate.com/worldclock/converter.html>

Confidential Data means information, including Personal Data, in whatever form that the Parties hereto are obligated, by Law or contract, to protect from unauthorised access, use, disclosure, modification or destruction together with any data owned or licensed by the Parties that is not intentionally shared with the general public or that is classified by the Parties with a designation that precludes sharing with the general public.

Data means electronic data and information that *You* input and update onto the *Services* and/or that *We* input, update, process and store at *Your* request in accordance with the Contract.

Malicious Code means code, files, scripts, agents or programs intended to do harm, including but not limited to viruses, worms, time bombs and trojan horses.

Non-Oradian Product and Service means any products and/or services that are not owned, and/or produced by *Oradian and* which are purchased for the purposes of interoperating with the *Services*.

Personal Data has the meaning set out in the Data Processing Agreement included herein under Appendix 1.

Security Breach is any event involving a known, actual, or suspected compromise of the security, confidentiality or integrity of *Confidential Data* and/or *Personal Data*.

B. Terms of Service

1. Services

These terms apply to the *Services* that *You* have engaged *Us* to provide under the *Service Agreement* and any addenda thereof. In case of any conflict between the Terms of Service and the Service Agreement or its addenda, the provisions of the Service Agreement and any such addenda shall govern.

Our responsibilities

2. Service levels

2.1 *We* will use commercially reasonable efforts to make *Our Services* available 100% of the time.

2.2 In the event that *We* do not meet the agreed service requirements as specified under the *Service Agreement*, *You* are eligible to receive a *Service Credit*. *Service Credits* apply only to the following year's subscription. If *You* do not renew, no monetary compensation or refund will be provided.

- (a) *Service Credits* are calculated based on a downtime percentage. The down time percentage is the percentage that 15-minute increments of service unavailability bears to the total time that the *Services* should be available to *You* during a *Subscription Term* ("Downtime Percentage"). *Service Credits* are calculated by multiplying the *Downtime Percentage* with the *Subscription Fee*.
- (b) There is a weekly software maintenance window occurring outside of our business hours ("*Weekly Maintenance*"). During the *Weekly Maintenance*, *Authorised Users* may experience brief controlled service interruptions outside of our *Business Day* for a maximum of 10 minutes.
- (c) In addition to the *Weekly Maintenance* there is also occasional planned maintenance for larger system updates ("*Planned Maintenance*"). *We* will send an email to *You* 24 (twenty- four) hours prior to the *Planned Maintenance* takes place. Subject to an email notification been sent to the *Customer Representative*, the downtime of *Services* during a *Planned Maintenance* shall not count towards the *Downtime Percentage* or a *Service Credit*. *We* will make reasonable efforts to carry out *Planned Maintenance* during a period of low activity such as weekends and/or public holidays.
- (d) Unavailability of *Services* resulting from downtime of *Your* Internet service provider and related Internet connectivity problems or resulting from *Your* equipment or technology shall not count towards the *Downtime Percentage* or a *Service Credit*.
- (e) Unavailability of *Our Services* due to a suspension of *Services* as detailed under Section J3 (Suspension of service and acceleration) of the *Terms of Service* shall not count towards the *Downtime Percentage* or a *Service Credit*.

- (f) We shall report any identified problems including errors and omissions to *You* if *We* suspect that any identified problems may affect the proper usage of *Our Services*. *We* will endeavour to fix any errors that *We* become aware of or are reported to *Us* in accordance with the established process under this Section B3 (Service Support) of the *Terms of Service*.
- (g) Unavailability of *Our Services* due to events beyond our reasonable control including, but not limited to Force Majeure events as defined in Section P1.5 of the *Terms of Service*, issues caused by any *Non-Oradian Product or Service* purchased directly by you, or a denial-of-service (DOS) attack that *We* could not have reasonably prevented using the then applicable industry security standards shall not count towards the *Downtime Percentage* or entitle you to a *Service Credit*.
- (h) Unavailability of *Our Services* due to DOS attacks that could have reasonably been prevented by following adequate security measures and practices shall count towards the *Downtime Percentage* and a *Service Credit*.
- (i) To receive a *Service Credit*, *You* must submit your claim by emailing support@oradian.com and describing the service interruption including dates and times within 15 *Business Days* of the service interruption. Your failure to submit *Your* claim and details about the service interruption within 15 *Business Days* after the service interruption will disqualify *You* from receiving a *Service Credit*.

3. Service Support

3.1 *We* will provide support for the *Services* specified in the *Service Agreement*. *We* do not provide support for any malfunction or difficulties in connection with *Your* use of any content or services *You* obtained directly from third parties.

In providing support, *We* will use reasonable efforts to:

- (a) Respond within the response times set forth below for all properly submitted cases from *Authorised Users*; and
- (b) Work to identify and resolve the cases submitted.

3.2 When submitting a case *We* will classify the severity of the case based on *Our* professional opinion as defined under clause 3.6 here below.

3.3 All response times are measured from the point when a case has been properly submitted by an appointed *Authorised User* and *Oradian* has confirmed that the case has been received. *Oradian* shall confirm that the case has been received within one hour of having received the relevant support request during a *Business Day* in accordance with clause 3.4 here below.

We do not represent, warrant, or guarantee that:

- (a) *We* will always be able to resolve a case fully;
- (b) *You* will no longer experience a problem; and
- (c) *We* will always be able to provide a bug fix, patch or other workaround in connection with the identified problem.

3.4 You may ask for support by logging in to *Our Services* and submitting a support ticket directly through Zendesk <https://support.instafin.com/> or by sending an email to Oradian Support Team via email support@oradian.com to which *You* have access at all times.

3.5 The response time indicates the time in which we guarantee to start working to resolve the submitted case, after *We* have confirmed receipt and confirmed the case.

3.6 Any changes and/or updates made to the below indicated response times shall be first notified to the *Customer* in advance via email to the duly appointed *Customer Representative* as defined under the *Service Agreement*.

Case severity	Case description	Response time (up to)
Critical	<p>Critical production case that severely impacts <i>Your</i> use of the <i>Services</i>. The situation interrupts <i>Your</i> business operations, and no procedural workaround exists. <i>Services</i> are down or unavailable.</p> <p>Large set of data is corrupted or lost.</p> <p>A critical feature or function is not available.</p>	<p>1 (one) hour (if the support case is submitted during a <i>Business Day</i>)</p> <p>4 (four) hours (if the support case is submitted outside of a <i>Business Day</i>)</p>
High	<p>The <i>Services</i> are operational but important functionality is impacted, or performance degradation is experienced.</p> <p>The case is causing an impact to certain portions of <i>Your</i> business operations and no reasonable workaround exists.</p>	<p>4 (four) hours (if the support case is submitted during a <i>Business Day</i>)</p> <p>1 (one) <i>Business Day</i> (if the support case is submitted outside of a <i>Business Day</i>)</p>
Medium	<p>There is a partial, non-critical loss of use of the <i>Services</i> with a medium impact on <i>Your</i> business, but <i>Your</i> business continues to function.</p> <p>Short-term workaround is available, but not scalable.</p>	3 (three) <i>Business Days</i>
Low	<p>There is a partial, non-critical loss of use of the <i>Services</i> with a low impact on <i>Your</i> business and its function.</p> <p>A workaround is available.</p>	5 (five) <i>Business Days</i>
Planned	<i>Your</i> use of the <i>Services</i> is not affected but <i>You</i> have a proposal that would improve <i>Your</i> use of the <i>Services</i> .	Determined after the request is included in the product roadmap

4. Service changes

4.1 We will communicate changes, updates and interruptions to *Services* that may affect *Your* operations and availability thereof. *Oradian* uses service updates to update *Instafin* to the latest released version. We will notify *You* about upcoming *Planned Maintenance* that may affect the *Services* via email to the duly appointed *Customer Representative*.

4.2 Notification will be sent when a service interruption is expected during business working hours due to a *Planned Maintenance* 24 hours prior to the expected downtime window and service interruption.

4.3 In the event of unplanned or emergency maintenance, We will notify *You* as soon as reasonably possible and provide status updates until the issue is resolved.

4.4 It is important to note that a notification will not be sent to *You* when *Weekly Maintenance* takes place in accordance with section B2.2.2(b) (*Service levels*).

C. Your responsibilities

1. Service usage responsibilities

You are responsible for the following:

- (a) *Your Authorised Users'* compliance with the *Contract*;
- (b) Ensuring the accuracy, quality, and legality of the *Data* *You* input into the *Services*, as well as the lawful acquisition of such *Data* in compliance with applicable privacy and data protection laws;
- (c) Using commercially reasonable efforts to prevent unauthorised use of the *Services*, providing immediate notice of any unauthorised third-party use of the *Services* and/or any event which might lead to unauthorised use of the *Services*;
- (d) Using the *Services* only according to the *Service Agreement*, *Terms of Service* and any other relevant document that may apply, including all laws and government regulations that apply to *You*;
- (e) Ensuring appropriate security measures are in place at all times to monitor, control, and prevent fraud in compliance with *Your* regulatory requirements;
- (f) Promptly notifying *Us* and *Your* relevant regulatory authority of any security breach, misuse, irregularity, suspected fraudulent transaction, or suspicious activities that may be connected with attempts to commit fraud or other illegal activity through *Your* use of the *Services*; and
- (g) Immediately notifying *Us* of any act, omission, or error which may adversely affect *Your* ability to perform *Your* obligations under the *Contract* or cause loss or damage to *Oradian*.

2. Services Usage Restrictions

You shall not:

- (a) Make (or permit to be made) the *Services* available to, or use the *Services* for the benefit of any person or entity aside from *Your Authorised Users*;
- (b) Sell, resell, license, sublicense, distribute, rent or lease the *Services*, or include the *Services* in a service bureau or outsourcing offering;

- (c) Use the *Services* to store or transmit infringing, libellous, or otherwise unlawful material, or store or transmit material in violation of third-party privacy rights;
- (d) Use the *Services* to store or transmit Malicious Code;
- (e) Interfere with or disrupt the integrity or performance of the *Services* or third-party data contained within;
- (f) Attempt to gain unauthorised access to the *Services*, its related systems and/or networks;
- (g) Permit direct or indirect access to or use of the *Services* or content therein in a way that circumvents a contractual usage limit;
- (h) Copy the *Services* or any part thereof, feature, function or user interface;
- (i) Frame or mirror the *Services* or any part thereof, other than framing on *Your* own intranet or for *Your* own internal business purposes, or as permitted under the *Contract*;
- (j) Access the *Services* to build a competitive product or service;
- (k) Reverse engineer the *Services*; and
- (l) Use the *Services* for illegal activities including but not limited to fraud, money laundering, tax evasion or any other such illegal activity which is prohibited by the laws of the country where *You* and *Your Customers* operate in and/or have an established business.

D. Accountability and responsibility of the Parties in case of error, omission, fraud and breach of contract

1.1 In complying with *Your* local regulatory requirements, it is *Your* responsibility to ensure that:

- (a) Appropriate security measures to monitor, control and prevent fraud are in place;
- (b) To promptly notify *Us* and *Your* relevant regulatory authority of any security breach, misuse, irregularity, suspected fraudulent transaction or suspicious activities that may be connected with attempts to commit fraud or other illegal activity through the use of *Our Services*;
- (c) Immediately send notification to *Us* if *You* become aware of any act, omission or error which may adversely affect *Your* ability to perform *Your* obligations under this *Service Agreement* or cause loss or damage to *Oradian* and/or *Your Customers*; and
- (d) To provide immediate notice of any unauthorised third-party use of the *Services* and/or any event which might lead to unauthorised use of *Our Services*.

1.2 You will not in any manner use *Our Services* for the purpose of carrying out any activities which are considered illegal or unlawful under either the laws governing *You* or *Oradian*, including, but not limited to, fraud, money laundering, human trafficking and/or tax evasion. If We have reasonable belief that *Our Services* are being used to carry out illegal or unlawful activities, We will immediately suspend the provision of *Our Services* to *You* without prior written notification.

1.3 *Oradian* will report any identified incidents and/or problems, including but not limited to errors and omissions, security breach, misuse, irregularity, or fraud that may occur and affect the provision of *Our Services* to *You*, unless We are legally obliged not to report an incident of fraud that may be connected to *You*.

1.4 Except as otherwise set forth in the *Contract*, neither *Party* will be liable for immaterial breaches, provided that such breaches to the *Contract* are corrected following discovery thereof.

1.5 Upon the discovery of an inadvertent error, omission or breach by either *Party*, appropriate adjustments shall be made as soon as practicably possible to restore to the fullest extent possible to the position they would have been if no such inadvertent error, breach or omission had occurred.

1.6 Notifications of any errors, omissions and/or breaches to the *Contract* relating to the provision of *Services* shall be sent in English Writing in accordance with Section Q1 (Notices) of the *Terms of Service*.

E. Change of ownership and assignment

1.1 Subject to clause 1.2 below, the *Parties* may not assign any of their rights or obligations under the *Contract* whether by operation of law or otherwise, without the other *Party's* prior written consent which shall not be unreasonably withheld.

1.2 A *Party* may assign the *Contract* in its entirety without the other *Party's* consent where such assignment is made in connection with a merger, acquisition, corporate reorganisation, or sale of all or substantially all of the *Party's* assets PROVIDED THAT such assignment is made to:

- (a) a corporate related party which includes an entity that directly or indirectly controls, is under common control with, or is controlled by such *Party*; and/or
- (b) has entered into a *Sale and Purchase Agreement* to acquire all or substantially all of the assets of such *Party* and such assignment does not change and/or adversely affect the terms of the *Contract* including but not limited to security standards, data protection and service levels.

1.3 Subject to the foregoing, this *Contract* will bind and inure to the benefit of the *Parties*, their respective successors and permitted assigns.

F. Our personnel

1.1 *We* are responsible for the performance of *Our* personnel (including *Our* employees and contractors) and their compliance with *Our* obligations under the *Contract*, except as otherwise specified. Nothing under this *Terms of Service* and *Service Agreement* shall be construed to establish employer-employee relationship between *You* and *Our* personnel.

1.2 The roles and responsibilities of *Our* personnel are defined under Section F of the *Service Agreement*.

G. Our Service Security

1.1 *We* will ensure the security and integrity of the *Services* as well *Your Data* by complying with the following security measures:

- (a) Secure communication between the *Authorised User* and the *Services'* entry points by ensuring data is transmitted in encrypted form through HTTPS or other encrypted protocol;
- (b) Ensure the availability of password protection for all *Authorised User* accounts;
- (c) Use reasonable endeavours to ensure that the infrastructure hosting *the Data* is, at all times, physically located in secure data centres to enforce adequate security policies;
- (d) Implement network security measures to restrict network access, including but not limited to, usage of firewalls, VLANs and VPNs;
- (e) Implement multiple layer security policies to limit access to only those of *Our* employees who possess a legitimate business need for such access;
- (f) Use intrusion prevention technologies to monitor and detect suspicious behaviour; and
- (g) Continuously improve security of the *Services* and of its infrastructure.

1.2 We shall further ensure that all software and infrastructure related to *Our Services* are kept up to date by applying the latest available security patches and upgrades. We shall also ensure full segregation of *Your Data* so that each *Customer* is running inside an isolated environment where *Your Data* and can only communicate within its dedicated database as well as only respond to *Your Authorised User* requests.

1.3 A *Party* will notify the other *Party*, immediately upon discovery and without unreasonable delay, any *Security Breach* involving any *Confidential Data*. The *Party* undergoing a *Security Breach* will use commercially reasonable efforts to contain such a breach and provide the other *Party* with a description of the *Security Breach* and the type of data that was the subject of the *Security Breach*. The *Party* undergoing the *Security Breach* agrees to take action at its own expense, to investigate the *Security Breach*, to take all commercially reasonable actions to identify, prevent, and mitigate the effects of any such *Security Breach*, and to carry out any recovery or other action necessary to remedy the *Security Breach*. Each *Party* must keep the *Security Breach* and information it receives about the other *Party* in connection with the *Security Breach* confidential and must not use or disclose that information without the prior written consent of the other *Party* except to the extent that it is required by Law.

1.4. A *Security Breach* if not remedied within a reasonable time, that is by no later than the date and time agreed between the *Parties*, will be construed as a material breach of *Contract*.

1.5 Subject to the *Terms of Service* in the event that the breaching party fails to rectify its *Security Breach* within an agreed period of time the non-breaching party shall be entitled to seek any possible remedy including but not limited to claiming for compensation for any loss or damage.

H. Disaster Recovery and Business Continuity

1.1 We shall ensure availability of *Our Services* by implementing procedures and policies for backup, high availability and disaster recovery as well as continuously improve those procedures and policies to minimise possible data loss and recovery times, including periodically validating such procedures.

1.2 *Our Services* offers a maximum recovery point objective ("RPO") of 15 (fifteen) minutes and recovery time objective (RTO) of 8(eight) hours.

I. Non-Oradian Product and Service

1.1 Any acquisition by *You* of a *Non-Oradian Product and Service* and any exchange of data between *You* and the provider of a *Non-Oradian Product or Service* is solely between *You* and the provider of the *Non-Oradian Product and Service*. *We* do not warrant nor support any *Non-Oradian Product and Service* and shall not be held liable or responsible for any loss or damage to any persons, property or information arising from *Your* acquisition, maintenance or use of a *Non-Oradian Product and Service*.

1.2 In cases where *We* procure a *product and/or service* from a third-party service provider as part of *our services* to *You*, *We* guarantee that the service will be at all times fully licenced and/or legally authorised for the purposes for which it has been purchased. In instances where a service provider ceases to make available to *Us* usage of their application for whatever reason beyond *Our* control, *Oradian* shall in the first instance endeavour to rectify such position by engaging a suitable service provider to replace the original service provider. If *Oradian* is unable to find a suitable service provider to replace the original service provider, *You* will not be entitled to any refund, credit, or other compensation, unless the removal of the service materially decreases the functionality of the *Services*. In cases where a refund is determined *We* will compensate *You* with the equivalent value of the decrease in functionality.

1.3 If *You* procure, install and/or enable a *Non-Oradian Product and Service* for use with *Our Services*, *You* will automatically grant *Us* permission to allow the provider of the *Non-Oradian Product and Service* to access *Your Data* as required for the interoperation between the *Non-Oradian Product and Service* with *Our Services*. *We* are not responsible for any disclosure, modification or deletion of *Your Data* resulting from use of a *Non-Oradian Product and Service*.

1.4 Subject to obtaining confirmation that *Our* duly appointed service providers are complying with the relevant data protections laws, *You* also hereby consent to *Oradian* sharing *Your Data* with *Our* service providers in cases where *We* procure a service from a third-party service provider as part of *Our services* to *You*.

1.5 The *Services* may contain features designed to interoperate with a *Non-Oradian Product and Service*. To use such features, *You* may be required to obtain the relevant authorisation from the provider of the *Non-Oradian Product and Service* as well as grant *Us* access to *Your Non-Oradian Product and Service* account(s). If the provider of the *Non-Oradian Product and Service* ceases to make its product and/or service available for interoperation with the *Services* on reasonable terms, *We* may cease providing the relevant service features without entitling *You* to any refund, credit, or other compensation.

1.6 *We* shall notify *You* if *We* are required by a licensor to remove a *Non-Oradian Product and Service* or receive information that the *Non-Oradian Product and Service* provided to *You* may violate the applicable law or any third-party rights. In such an event, *You* must promptly remove the *Non-Oradian Product and Service* from *Your* systems. If *You* do not take the required action accordingly, *We* may disable the applicable *Non-Oradian Product and Service* until the potential violation is resolved.

J. Fees and payment for services

1. Fees

1.1 The *Service Agreement* shall stipulate the *Services* to be provided and any work to be performed.

1.2 *You* will pay all fees specified in the *Service Agreement*. Fees are based on the *Services* purchased and/or *Your* actual usage. Our fees are non-cancellable and non-refundable to the extent permitted by law.

1.3 *You* may not disclose the pricing terms and fee agreed under the *Contract* to any third party without prior consent from *Oradian*. *You* will notify *Us* immediately upon becoming aware of any unauthorised disclosure by *You* of the pricing terms and fee agreed under the *Contract* to a third party and will provide *Us* with assistance in remedying such unauthorised disclosure to the third party.

2. Overdue charges

If any invoiced amount is not received by *Us* within 5 (five) *Business Days* of the invoice date, without limiting *Our* rights or remedies, outstanding fees may accrue late interest at the rate of 1% of the outstanding balance per month or 12% per annum of the outstanding balance. *We* may also amend future *Subscription* renewals and the *Service Agreement* to include payment terms shorter than those specified under *Your* current *Service Agreement*.

3. Suspension of service and acceleration

3.1 If payment for any amount or any fees due under the *Service Agreement* is overdue for 15 (fifteen) or more *Business Days*, *We* may, without limiting *Our* rights and remedies, accelerate *Your* overdue fees in that the amount becomes immediately due and payable and *We* may suspend *Our Services* to *You* until the outstanding amount is paid in full.

3.2 *We* will notify *You* at least 7 (seven) *Business Days* before *We* suspend *Our Services* in accordance with clause 3.1 above and *You* acknowledge that *We* are not obliged to continue providing the *Services* in such a case. It is in *Our* discretion to suspend *Our Services* to *You* or terminate the *Service Agreement* in accordance with Section P1.2 (Termination of Contract) of the *Terms of Service*.

3.3 *You* shall not, in any manner, use *Our Services* for the purpose of carrying out any activities which are considered illegal or unlawful under either of the laws governing *You* or *Oradian* including, but not limited to, fraud, money laundering, human trafficking, and/or tax evasion. In the event that *Oradian* has reasonable belief that the *Services* are being used to carry out illegal or unlawful activities, *We* will immediately suspend the provision of the *Services* to *You* without prior written notification.

3.4 During the period of suspension, *You will* continue to have access to *Your Data*. and *You* retain *Your* right to remove and/or extract your *Data*, except in cases of suspension based on

Section J3.3 (Suspension of service and acceleration) of the *Terms of Service*, or when *Oradian* is mandated or compelled by law, rules and regulations to restrict *Your* access to *Your Data* and the *Services*, or upon an order of a competent court of government entity to limit *Your* access and *Your* statutory right over *Your Data*.

4. Payment disputes

We may elect not to exercise *Our* rights under Section J2 (Overdue charges) or Section J3 (Suspension of service and acceleration) of the *Terms of Service* if in *Our* opinion *You* are disputing the applicable fees reasonably and are cooperating diligently to resolve the dispute.

K. Proprietary rights

1. Reservation of rights

1.1 Subject to the limited rights stated under this *Terms of Service*, *We* and *Our* licensors reserve all rights, titles and interest in and to all the software used for the purposes of *Your Subscription Services*, including training material, documents shared with *You* to assist *You* with the use of the *Services*. No rights, titles and interests are granted to *You* under the *Contract*.

1.2 *We* own the *Services* including its source code and *We* and/or *Our* contractors own the hardware and software infrastructure which the *Services* run on. *We* own all documentation including but not limited to infrastructure documentation and procedures documentation used to maintain the *Services*.

1.3 *You* own *Your Data* that is inputted into the *Services*. *You* may at any time request export or remove parts of or all *Your Data* within thirty (30) days of *Your* written request to *Us*.

2. Consent by *You* to host *Your* data and applications

2.1 *You* grant *Us* and *Our Affiliates* a worldwide, limited-term access to host, copy, transmit and display *Your Data*, any *Non-Oradian Product and Service* and program code created by or for *You* as necessary for the purposes of rendering the *Services*. Accordingly, *You* warrant that *Your Data* has been collected in accordance with the applicable laws, rules and regulations, prior consent has been secured and appropriate notice has been given to data subjects on the extent and purpose of the data sharing between *You* and *Oradian*, and all requirements for data sharing under the applicable laws are complied with.

2.2 *We* acquire no right, title or interest from *You* or *Your* licensors under the *Contract* to *Your Data* of any *Non-Oradian Product or Service*.

2.3 *You* grant *Us* and *Our Affiliates* free worldwide, perpetual, irrevocable consent to incorporate any suggestions, enhancement requests, recommendations, corrections and feedback provided by *You* in relation to the *Services*.

L. Confidentiality

1. Definition of confidential information

1.1 *Your Confidential Information* includes *Your Data*.

1.2 *Receiving Party* means a party when it receives *Confidential Information*, directly or indirectly, from the other party and *Disclosing Party* means a party when it discloses its *Confidential Information*, directly or indirectly to the other party.

1.3 *Our Confidential Information* includes:

- (a) *Our Services*;
- (b) *Terms of Service* and applicable *Service Agreements* and all other referenced contractual documents including pricing;
- (c) Business and marketing plans;
- (d) Technology and technical information;
- (e) Product plans and designs; and
- (f) Business processes.

1.4 *Confidential Information* does not include any information that:

- (a) Is or becomes generally known to the public without breach of any obligation owed to the *Disclosing Party*;
- (b) Was known to the *Receiving Party* prior to its disclosure by the *Disclosing Party* without breach of any obligation owed to the *Disclosing Party*;
- (c) Is received from a third party without breach of any obligation owed to the *Disclosing Party*; and
- (d) Was independently developed by the *Receiving Party*.

2. Protection of confidential information

2.1 The *Receiving Party* will use reasonable care to protect the *Disclosing Party's Confidential Information* and to only use the *Disclosing Party's Confidential Information* within the scope of the *Contract*.

2.2 Except as otherwise authorised by the *Disclosing Party* in writing, access to *Confidential Information* of the *Disclosing Party* shall be limited to the *Receiving Party*, its *Affiliates'* employees and contractors who need access to the *Confidential Information* for purposes of meeting their obligations under the *Contract*.

3. Compelled disclosure

The *Receiving Party* may disclose *Confidential Information* of the *Disclosing Party* to the extent compelled by law to do so, provided the *Receiving Party* gives the *Disclosing Party* prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the *Disclosing Party's* cost, if the *Disclosing Party* wishes to contest the disclosure. If the *Receiving Party* is compelled by law to disclose the *Disclosing Party's Confidential Information* as part of a legal proceeding to which the *Disclosing Party* is a part of, and the *Disclosing Party* is not

contesting the disclosure, the *Disclosing Party* will reimburse the *Receiving Party* for its reasonable cost of compiling and providing secure access to that *Confidential Information*.

4. Parties Consent to use each other's trademarks.

The *Parties* hereby grant each other the right to use and display each other's name and logo ("*Trademarks*"), as well as share and post articles, photos, videos and advertisements related to the *Services* for promotional means on their respective websites, social media platforms and other promotional material. Any usage of *Trademarks* and other promotional material and articles may be subject to the proprietor *Party's* guidelines as may be provided from time to time. The *Parties* may also notify each other by email to discontinue the use of each other's *Trademarks* with immediate effect. Neither *Party* shall use the other *Party's Trademarks* in any manner that will disparage, harm or otherwise damage the other *Party's* goodwill in its *Trademarks*. The *Party* using the *Trademarks* or sharing any social media articles related to the *Services* shall not, at any time, misuse the same or mispresent itself as an affiliate or other legal agent of the *Party* whose *Trademarks* are being used. Any rights relating to the usage of *Trademarks* or sharing of social media articles related to the *Services* shall be immediately discontinued in the event that the *Contract* between the *Parties* is terminated.

M. Representations, warranties, exclusive remedies and disclaimers

1. Representations

The *Parties* represent that they are validly entering and agreeing to the *Contract* with legal power to do so.

2. Our warranties

Oradian warrants that:

- (a) The *Contract* and any other relevant document that relates to *Our Services* accurately describe the applicable administrative, physical, and technical safeguards to protect the security, confidentiality and integrity of *Your Data*;
- (b) We will not materially decrease the overall security of the *Services*;
- (c) Subject to any unforeseen circumstances which are beyond *Our* control, the functionality of the *Services* will not materially decrease; and
- (d) The *Services* will not introduce Malicious Code into *Your* systems.

In case of a breach of the said warranties, *Your* exclusive remedies under the *Contract*, are those described under Section P1 (Termination of Contract) and Section P2 (Refund of payment upon termination) of the *Terms of Service*.

3. Disclaimers

Except as expressly provided in this *Terms of Service*, neither *party* hereto makes any warranty of any kind, whether the warrant is express, implied, statutory or otherwise stated. Each party disclaims all implied warranties, including any implied warranties of merchantability, fitness for a particular purpose or non-infringement to the maximum extent permitted by law. Beta services are provided “as is” and are exclusive of any warranties. Each party disclaims all liability and indemnification obligations for any harm or damages caused by any third-party providers.

N. Mutual indemnification

1. Indemnification by Us

1.1 We will defend *You* against any claim, demand, suit or proceeding made or brought against *You* by a third party alleging that the use of the *Services* infringes or misappropriates their third-party rights to intellectual property (“*Third-Party Rights Claim*”). We will indemnify *You* from any damages, attorney fees and costs awarded against *You* as a result of the *Third-Party Rights Claim* and/or for amounts that *You* may have had to pay under a court-approved settlement in relation to a *Third-Party Rights Claim*, provided that *You*:

- (a) Promptly give *Us* written notice of the *Third-Party Rights Claim*;
- (b) Give *Us* sole control of the defence and settlement of the *Third-Party Rights Claim*, except in cases where *settlement of the Third-Party Rights Claim* does not release *You* of all liability; and
- (c) Provide *Us* with reasonable assistance at *Our* expense.

1.2 If *We* receive information in relation to an infringement or misappropriation claim related to the *Services*, *We* may in *Our* discretion and at no cost to *You*:

- (a) Modify the *Services* so that they no longer infringe or misappropriate, without breaching *Our* warranties detailed under Section M2 (Our warranties) of the *Terms of Service*;
- (b) Obtain a license for *Your* continued use of the *Services*;
- (c) Terminate *Your* subscriptions of the *Services* upon thirty (30) days’ written notice and refund *You* any prepaid fees covering the remainder of the *Subscription Term*; and
- (d) The above defence and indemnification obligations do not apply to the extent that a claim is made against *You* in relation to a subscription or use of a *Non-Oradian Product and Service that You purchased directly*, or *Your* breach of the *Contract*.

2. Indemnification by You

You will defend *Us* against any claim, demand, suit or proceeding made or brought against *Us* by a third party alleging that *Your Data*, or *Your* use of the *Services* is in breach of the

Contract, infringes or misappropriates such third party's intellectual property rights or violates the applicable law (a "*Third-Party Claim Against Us*"), and *You* will indemnify *Us* from any damages, attorney fees and costs finally awarded against *Us* as a result of, or for any amounts paid by *Us* under a court-approved settlement of, a *Third-Party Claim Against Us*, provided *We*:

- (a) Promptly give *You* written notice of the *Third-Party Claim Against Us*;
- (b) Give *You* sole control of the defence and settlement of the *Third-Party Claim Against Us* except in cases where settlement does not unconditionally release *Us* of all liability; and
- (c) Provide *You* all reasonable assistance at *Your* expense.

O. Limitation of liability

1. Limitation of liability

1.1 Neither *Party's* liability with respect to any single incident arising out of or related to the *Contract* will exceed the amount *You* pay within the 12 (twelve) months preceding the incident, provided that neither *Party's* aggregate liability for all claims, losses, damages and costs incurred or suffered out of or related to the *Contract* exceeds the total amount *You* paid. The foregoing limitations apply to the maximum extent permitted by law, whether an action is in contract or tort and regardless of the theory of liability. The above limitations will not limit *Your* payment obligations under Section J (Fees and payment for services) of the *Terms of Service*.

1.2 Nothing in this agreement limits any liability which cannot legally be limited, including but not limited to liability for:

- (a) death or personal injury caused by negligence; and
- (b) fraud or fraudulent misrepresentation.

2. Exclusion of consequential and related damages

To the maximum extent permitted by the law, in no event will *either Party* have any liability to the other *Party* for any lost profits, revenues or indirect, special, incidental, consequential, cover or punitive damages, whether an action is in contract or tort and regardless of the theory of liability, even if a *Party* has been advised of the possibility of such damages.

P. Term and termination

1. Termination of Contract

1.1 Either *Party* may terminate the *Contract* for cause:

- (a) Upon 30 (thirty) days written notice to the other *Party* of a material breach, if such breach remains unresolved at the expiration of such period; and

(b) If the other *Party* must file a petition for bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

1.2 *Oradian* may terminate the *Contract* by providing 10 (ten) *Business Days* written notice to *You* in case of late payment of any outstanding invoice issued to *You*. In such cases the *Contract* will terminate with the expiration of the notice period unless the full outstanding payment is paid by *You* and received by *Oradian* before the expiry of the notice period.

1.3 *You* may terminate the *Contract* in accordance with clause 1.1 above. In such cases the *Contract* will terminate with the expiration of the notice period unless there are no outstanding payments due to *Us* and in which case, *We* may agree to terminate the *Contract* prior to the expiration of the notice period.

1.4 The *Parties* will not be considered in breach nor incur any liability to the other *Party* for any losses or damages of any nature whatsoever incurred or suffered by that other *Party* if and to the extent that the performance of their respective obligations, excluding payment obligations, is prevented by an event of *Force Majeure* that arises during the *Subscription Term*.

1.5 An event of "Force Majeure" shall mean an event beyond the control of the Party, which prevents it from complying with any of its obligations under the Contract including but not limited to: acts of government or sovereignty; hostilities; war (whether declared or not); invasion; act of foreign enemies; embargo; rebellion; revolution; insurrection, or military or usurped power; riot; civil commotion; labour strike/dispute; slowdown; sabotage; pandemic; epidemic; other disturbances; flood; Acts of God; non-performance by suppliers or subcontractors due to an event of *Force Majeure* (other than by companies in the same group as the party seeking to rely on this clause); or any other causes and more generally any other circumstances or situation whether similar or different which is reasonably beyond the control of the *Party* claiming *Force Majeure*.

1.6 The *Party* affected by *Force Majeure* ("Affected Party") shall give notice to the other *Party* in writing within 2 (two) *Business Days* from the time of the occurrence of the *Force Majeure*.

1.7 Provided the *Affected Party* has complied with clause 1.6 above, if a party is prevented, hindered or delayed in or from performing its obligations under this agreement by a *Force Majeure* event, the *Affected Party* shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

1.8 If an event of *Force Majeure* prevents, hinders or delays the *Affected Party's* performance of its obligations for a continuous period of more than ten (10) *Business Days*, the *Party* not affected by the *Force Majeure* event may terminate this agreement by giving written notice to the *Affected Party*.

2. Refund of payment upon termination

If the *Contract* is terminated by *You* in accordance with Section P1 (Termination of Contract) of the *Terms of Service*, *We* will not refund any prepaid fees except in circumstances where it has been determined that *Oradian* has committed a material breach. If the *Contract* is terminated by *Us* in accordance with Section P1 (Termination of Contract) of the *Terms of Service*, *You* will pay any unpaid fees covering the *Subscription Term*. No event, including terminating the *Contract* with cause will relieve *You* of *Your* obligation to pay any outstanding

Subscription Fees payable to Us unless a material breach caused by Oradian has been determined.

3. Your data portability and deletion

Upon termination of the *Contract*, *We* will make *Your Data* available to *You* for export or download within 30 (thirty) days after the *Contract* is terminated or expired provided that all *Your* fees payable to *Us* are paid in full. After the 30 (thirty) days following *Your Contract's* termination or expiration, *We* are not obliged to maintain or provide *Your Data* unless there is a dispute as to the fees payable by *You*, in which case *We* shall be obliged to maintain *Your Data* until the dispute is resolved. *We* will delete or destroy all copies of *Your Data* stored in *Our* systems or otherwise in *Our* possession or control, unless legally prohibited or there is an unresolved dispute between the *Parties*. Upon request, *Oradian* shall issue a certificate confirming that *Your Data* has been deleted.

4. Surviving Provisions

Section J (Fees and Payment for Services), Section K (Proprietary rights), Section L (Confidentiality), Section M (Representations, warranties, exclusive remedies and disclaimers.), Section N (Mutual Indemnification), Section O (Limitation of liability), Section P2 (Refund of Payment upon termination), Section P3 (Your data portability and deletion), Section Q (Governing law jurisdiction, notices) and Section R (General provisions) of the *Terms of Service* will survive any termination or expiration of the *Contract*.

Q. Governing law, jurisdiction, notices

1. Notices

- Any notice or other communication to be given or made hereunder shall be in English and made in writing (which for the avoidance of doubt includes email or letter).
- Notices to *Oradian* must be addressed and sent to the *Oradian Customer Success Manager* via e-mail to the corresponding contact details specified under section F (Key Roles) of the *Service Agreement*.
- Notices to *You* shall be addressed and sent to the appointed Customer Representative via e-mail to the corresponding contact details specified under the *Service Agreement*.
- All notices shall be deemed to have been delivered on the first Business Day after sending by e-mail.
- In the cases where a *Security and/or personal data breach* has been determined notices are to be submitted to each *Party's* legal and compliance manager and/or Data Protection Officer as specified under section F (Key Roles) of the *Service Agreement*.

2. Governing Law

The *Contract* shall be governed by, and construed in accordance with, the laws of England and Wales. The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with the *Contract*.

The *Parties* agree to the applicable governing law above without regard to conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

R. General provisions

1. Anti-corruption

By accepting the *Terms of Service* You confirm that You have not received, been offered and/or will accept any illegal or improper bribe, kickback, payment, gift, or thing of value from any of *Our* employees or agents in connection with the *Contract*. Reasonable gifts and entertainment provided in the ordinary course of business do not form part of the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify *Our* legal department at legal@oradian.com.

2. Contract and order of precedence

2.1 Subject to section B1 (Services) of the *Terms of Service* the *Terms of Service* supersedes all prior and current agreements, proposals or representations, written or oral, concerning its subject matter.

2.2 We have the right to modify and amend the *Terms of Service* from time to time and the most current version will be posted on *Oradian's* website and/or sent to You by email. If an amendment is material, as determined in *Oradian's* reasonable discretion We will notify You by email 30 (thirty) days in advance of any material change being effected. Except in the case of an amendment being made to satisfy legal requirements We will provide You with advance notice of material amendments.

2.3 The terms and conditions of the updated version of the *Terms of Service* shall apply to all existing *Service Agreements* following the date of publication of the updated version.

2.4 Any changes made to the *Service Agreement* must be in writing and signed by both *Parties*. The *Service Agreement* shall take precedence in cases of a conflict or inconsistency between the *Service Agreement* and the *Terms of Service*.

3. Relationship of the parties

The *Parties* are independent contractors. The *Contract* does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the *Parties*.

4. Third-party beneficiaries

This *Contract* is entered into solely between and may only be enforced by *the Customer* and *Oradian*, and, subject to section N (Mutual indemnification), and section O (Limitations of

liability) hereof “, this *Contract* will not be deemed to create any rights in third parties, or to create any obligations of a *Party* to any such third parties.

5. Waiver

No failure or delay by a *Party* to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

6. Severability

6.1 If any provision or part-provision of the *Contract* is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the *Contract*.

6.2 If any provision or part-provision of the *Contract* is deemed deleted under clause 6.1 above, the *Parties* shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

7. Attorney fees

You will pay on demand all of *Our* reasonable attorney fees and other costs incurred by *Us* to collect any fees or charges due to *Us* under the *Contract* following *Your* breach of Section J (Fees and payment for services).

8. Data Privacy and Protection

Our Services include processing of personal data on behalf of and in accordance with *Your* instructions. *Your Data* is processed in accordance the EU General Data Protection Regulation 2016/679 and other applicable laws.

By signing the *Service Agreement* *You* are agreeing and providing consent for *Us* to process *Your Data* and those of *Your* clients in accordance with the *Data Processing Agreement* included under Appendix 1 herein for the purposes of providing the *Services*.

You also confirm that *You* have obtained the necessary consent from *Your* clients, the data subjects to share their personal data with *Us* for the purposes of procuring the *Services* for which you have engaged *Us*.

Appendix 1: Data Processing Agreement

Background

- (A) This *Data Processing Agreement* ("**DPA**") forms part of the *Contract*, namely the *Service Agreement* and its *Terms of Service* ("**the Contract**") made between the *Customer* and *Oradian* ("**Provider**")
- (B) This DPA sets out the additional terms, requirements and conditions on which the *Provider* will process *Personal Data* when providing services under the *Contract*. This *Agreement* contains the mandatory clauses required by Article 28(3) of the retained EU law version of the General Data Protection Regulation ((*EU*) 2016/679) for contracts between controllers and processors and the General Data Protection Regulation ((*EU*) 2016/679).

Operative Provisions

1. Definitions and Interpretation

The following definitions and rules of interpretation apply in this *Agreement*.

1.1 Definitions:

Authorised Persons: the Data Protection Officers as defined in the *Service Agreement*;

Business Purposes: the services to be provided by the *Provider* to the *Customer* as described in the *Contract*.

Commissioner: the Information Commissioner (see Article 4(A3), UK GDPR and section 114, DPA 2018);

Controller, Processor, Data Subject, Personal Data, Personal Data Breach and Processing: have the meanings given to them in the Data Protection Legislation;

Data Protection Legislation:

- (a) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Customer or Provider is subject, which relates to the protection of personal data.
- (b) To the extent applicable any other data protection legislation that the Customer or Provider is subject to.

EU GDPR: the General Data Protection Regulation ((EU) 2016/679);

EEA: the European Economic Area;

Records: has the meaning given to it in Clause 12.

DPA Term: this Agreement's term as defined in Clause 10.1.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018.

- 1.2 This *Agreement* is subject to the terms of the *Contract* and is incorporated into the *Contract*. Interpretations and defined terms set forth in the *Contract* apply to the interpretation of this *Agreement*.
- 1.3 A reference to writing or written includes faxes and email.

2. Personal data types and processing purposes

- 2.1 The *Customer* and the *Provider* agree and acknowledge that for the purpose of the Data Protection Legislation:
 - (a) the *Customer* is the *Controller* and the *Provider* is the *Processor*.
 - (b) the *Customer* retains control of the *Personal Data* and remains responsible for its compliance obligations under the Data Protection Legislation, including but not limited to, providing any required notices and obtaining any required consents, and for the written processing instructions it gives to the *Provider*.

3. Provider's obligations

- 3.1 The *Provider* will only process the *Personal Data* to the extent, and in such a manner, as is necessary for the *Business Purposes* in accordance with the *Customer's* written instructions. The *Provider* will not process the *Personal Data* for any other purpose or in a way that does not comply with this *Agreement* or the Data Protection Legislation. The *Provider* must promptly notify the

Customer if, in its opinion, the *Customer's* instructions do not comply with the Data Protection Legislation.

- 3.2 The *Provider* must comply promptly with any *Customer* written instructions requiring the *Provider* to amend, transfer, delete or otherwise process the *Personal Data*, or to stop, mitigate or remedy any unauthorised processing.
- 3.3 The *Provider* will maintain the confidentiality of the *Personal Data* and will not disclose the *Personal Data* to third parties unless the *Customer* or this *Agreement* specifically authorises the disclosure, or as required by domestic or EU law, court or regulator (including the Commissioner). If a domestic or EU law, court or regulator (including the Commissioner) requires the *Provider* to process or disclose the *Personal Data* to a third-party, the *Provider* must first inform the *Customer* of such legal or regulatory requirement and give the *Customer* an opportunity to object or challenge the requirement, unless the domestic or EU law prohibits the giving of such notice.
- 3.4 The *Provider* will reasonably assist the *Customer*, at no additional cost to the *Customer*, with meeting the *Customer's* compliance obligations under the Data Protection Legislation, taking into account the nature of the *Provider's* processing and the information available to the *Provider*, including in relation to Data Subject rights, data protection impact assessments and reporting to and consulting with the Commissioner under the Data Protection Legislation.
- 3.5 The *Provider* must notify the *Customer* promptly of any changes to the Data Protection Legislation that may reasonably be interpreted as adversely affecting the *Provider's* performance of the *Contract* or this *Agreement*.

4. Provider's employees

- 4.1 The *Provider* will ensure that all of its employees:
 - (a) are informed of the confidential nature of the *Personal Data* and are bound by written confidentiality obligations and use restrictions in respect of the *Personal Data*;
 - (b) have undertaken training on the Data Protection Legislation and how it relates to their handling of the *Personal Data* and how it applies to their particular duties; and
 - (c) are aware both of the *Provider's* duties and their personal duties and obligations under the Data Protection Legislation and this *Agreement*.

5. Security

- 5.1 The *Provider* must at all times implement reasonable appropriate technical and organisational measures against accidental, unauthorised or unlawful processing, access, copying, modification, reproduction, display or distribution of the *Personal Data*, and against accidental or unlawful loss, destruction, alteration, disclosure or damage of *Personal Data*.
- 5.2 The *Provider* must implement such measures to ensure a level of security appropriate to the risk involved, including as appropriate:
- (a) the pseudonymisation and encryption of personal data;
 - (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and
 - (d) a process for regularly testing, assessing and evaluating the effectiveness of the security measures.

6. Personal data breach

- 6.1 The *Provider* will within 48 (forty-eight) hours and in any event without undue delay notify the *Customer* in writing if it becomes aware of:
- (a) the loss, unintended destruction or damage, corruption, or non-usability of part or all of the *Personal Data*. The *Provider* will restore such *Personal Data* at its own expense as soon as possible.
 - (b) any accidental, unauthorised or unlawful processing of the *Personal Data*; or
 - (c) any *Personal Data Breach*.
- 6.2 Where the *Provider* becomes aware of (a), (b) and/or (c) above, it will, without undue delay, also provide the *Customer* with the following written information:
- (a) description of the nature of (a), (b) and/or (c), including the categories of in-scope *Personal Data* and approximate number of both *Data Subjects* and the *Personal Data* records concerned;
 - (b) the likely consequences; and

- (c) a description of the measures taken or proposed to be taken to address (a), (b) and/or (c), including measures to mitigate its possible adverse effects.
- 6.3 Immediately following any accidental, unauthorised or unlawful *Personal Data* processing or *Personal Data Breach*, the *Parties* will co-ordinate with each other to investigate the matter. Further, the *Provider* will reasonably co-operate with the *Customer* at no additional cost to the *Customer*, in the *Customer's* handling of the matter, including but not limited to:
 - (a) assisting with any investigation;
 - (b) providing the *Customer* with physical access to any facilities and operations affected;
 - (c) facilitating interviews with the *Provider's* employees, former employees and others involved in the matter including, but not limited to, its officers and directors;
 - (d) making available all relevant records, logs, files, data reporting and other materials required to comply with all Data Protection Legislation or as otherwise reasonably required by the *Customer*; and
 - (e) taking reasonable and prompt steps to mitigate the effects and to minimise any damage resulting from the *Personal Data Breach* or accidental, unauthorised or unlawful *Personal Data* processing.
- 6.4 The *Provider* will not inform any third-party of any accidental, unauthorised or unlawful processing of all or part of the *Personal Data* and/or a *Personal Data Breach* without first obtaining the *Customer's* written consent, except when required to do so by domestic or EU law.
- 6.5 The *Provider* agrees that the *Customer* has the sole right to determine:
 - (a) whether to provide notice of the accidental, unauthorised or unlawful processing and/or the *Personal Data Breach* to any *Data Subjects*, the *Commissioner*, other in-scope regulators, law enforcement agencies or others, as required by law or regulation or in the *Customer's* discretion, including the contents and delivery method of the notice; and
 - (b) whether to offer any type of remedy to affected *Data Subjects*, including the nature and extent of such remedy.
- 6.6 The *Provider* will cover all reasonable expenses associated with the performance of the obligations under clause 6.1 to clause 6.3 unless the matter arose from the *Customer's* specific written instructions, negligence, wilful

default or breach of this *Agreement*, in which case the *Customer* will cover all reasonable expenses.

- 6.7 The *Provider* will also reimburse the *Customer* for actual reasonable expenses that the *Customer* incurs when responding to an incident of accidental, unauthorised or unlawful processing and/or a *Personal Data Breach* to the extent that the *Provider* caused such, including all costs of notice and any remedy as set out in clause 6.5.

7. Cross-border transfers of personal data

- 7.1 The *Provider* (and any subcontractor) may only transfer, process or permit the processing of *Personal Data* outside the UK or, the EEA if the transfer and/or processing complies with at least one of the following conditions:
- (a) the *Provider* is processing the *Personal Data* in a territory which is subject to adequacy regulations under the Data Protection Legislation that the territory provides adequate protection for the privacy rights of individuals. The *Provider* has identified in Annex A the territory that is subject to such adequacy regulations;
 - (b) the *Provider* participates in a valid cross-border transfer mechanism under the Data Protection Legislation, so that the *Provider* (and, where appropriate, the *Customer*) can ensure that appropriate safeguards are in place to ensure an adequate level of protection with respect to the privacy rights of individuals as required by Article 46 of the UK GDPR and/or EU GDPR. The *Provider* has identified in Annex A the transfer mechanism that enables the parties to comply with these cross-border data transfer provisions and the *Provider* must immediately inform the *Customer* of any change to that status; or
 - (c) the transfer otherwise complies with the Data Protection Legislation for the reasons set out in Annex A.

8. Subcontractors

- 8.1 The *Provider* may not authorise any third party or subcontractor to process the *Personal Data*.

- 8.2 The *Provider* may only authorise a third-party (subcontractor) to process the *Personal Data* if:
- (a) the *Customer* is provided with an opportunity to object to the appointment of each subcontractor within 3 (three) working days after the *Provider* supplies the *Customer* with full details in writing regarding such subcontractor];
 - (b) the *Provider* enters into a written contract with the subcontractor that contains terms substantially the same as those set out in this *Agreement*, in particular, in relation to requiring appropriate technical and organisational data security measures, and, upon the *Customer's* written request, provides the *Customer* with copies of the relevant excerpts from such contracts;
 - (c) the *Provider* maintains control over all of the *Personal Data* it entrusts to the subcontractor; and
 - (d) the subcontractor's contract terminates automatically on termination of this *Agreement* for any reason.
- 8.3 Where the subcontractor fails to fulfil its obligations under the written agreement with the *Provider* which contains terms substantially the same as those set out in this *Agreement*, the *Provider* remains fully liable to the *Customer* for the subcontractor's performance of its agreement obligations.
- 8.4 The *Parties* agree that the *Provider* will be deemed by them to control legally any *Personal Data* controlled practically by or in the possession of its subcontractors.

9. Complaints, data subject requests and third-party rights

- 9.1 The *Provider* must, at no additional cost to the *Customer*, take such technical and organisational measures as may be appropriate, and promptly provide such information to the *Customer* as the *Customer* may reasonably require, to enable the *Customer* to comply with:
- (a) the rights of *Data Subjects* under the Data Protection Legislation, including, but not limited to, subject access rights, the rights to rectify, port and erase personal data, object to the processing and automated processing of personal data, and restrict the processing of personal data; and

- (b) information or assessment notices served on the *Customer* by the *Commissioner* under the Data Protection Legislation.
- 9.2 The *Provider* must notify the *Customer* immediately in writing if it receives any complaint, notice or communication that relates directly or indirectly to the processing of the *Personal Data* or to either party's compliance with the Data Protection Legislation.
- 9.3 The *Provider* must notify the *Customer* within 5 (five) days if it receives a request from a *Data Subject* for access to their *Personal Data* or to exercise any of their other rights under the Data Protection Legislation.
- 9.4 The *Provider* will give the *Customer*, at no additional cost to the *Customer*, its full co-operation and assistance in responding to any complaint, notice, communication or *Data Subject* request.
- 9.5 The *Provider* must not disclose the *Personal Data* to any *Data Subject* or to a third-party other than in accordance with the *Customer's* written instructions, or as required by domestic or EU law.

10. Term and termination

- 10.1 This *Agreement* will remain in full force and effect so long as the *Contract* remains in effect.
- 10.2 Any provision of this *Agreement* that expressly or by implication should come into or continue in force on or after termination of the *Contract* in order to protect the *Personal Data* will remain in full force and effect.
- 10.3 If a change in any Data Protection Legislation prevents either party from fulfilling all or part of its *Contract* obligations, the *Parties* may agree to suspend the processing of the *Personal Data* until that processing complies with the new requirements. If the *Parties* are unable to bring the *Personal Data* processing into compliance with the Data Protection Legislation within 30 (thirty) days, either party may terminate the *Contract* on not less than 30 (thirty) working days on written notice to the other *Party*.

11. Data return and destruction

- 11.1 At the *Customer's* request, the *Provider* will give the *Customer*, or a third party nominated in writing by the *Customer*, a copy of or access to all or part of the

Personal Data in its possession or control in the format and on the media reasonably specified by the *Customer*.

- 11.2 If any law, regulation, or government or regulatory body requires the *Provider* to retain any documents, materials or *Personal Data* that the *Provider* would otherwise be required to return or destroy, it will notify the *Customer* in writing of that retention requirement, giving details of the documents, materials or *Personal Data* that it must retain, the legal basis for such retention, and establishing a specific timeline for deletion or destruction once the retention requirement ends.

12. Records

- 12.1 The *Provider* will keep detailed, accurate and up-to-date written records regarding any processing of the *Personal Data*, including but not limited to, the access, control and security of the *Personal Data*, approved subcontractors, the processing purposes, categories of processing, and a general description of the technical and organisational security measures referred to in clause 5.1 (“Records”).
- 12.2 The *Provider* will ensure that the *Records* are sufficient to enable the *Customer* to verify the *Provider’s* compliance with its obligations under this *Agreement* and the Data Protection Legislation and the *Provider* will provide the *Customer* with copies of the *Records* upon request.

13. Audit

- 13.1 On the *Customer’s* written request, the *Provider* will make all of the relevant audit reports available to the *Customer* for review, including as applicable: Statement on Standards for Attestation Engagements No. 16 audit reports for Reporting on Controls at a Service Organisation, reports relating to its ISO/IEC 27001 certification. The *Customer* will treat such audit reports as the *Provider’s* confidential information under the *Contract*.
- 13.2 The *Provider* will promptly address any exceptions noted in the audit reports with the development and implementation of a corrective action plan by the *Provider’s* management.

14. Warranties

The *Customer* warrants and represents that the *Provider's* expected use of the *Personal Data* for the Business Purposes and as specifically instructed by the *Customer* will comply with the Data Protection Legislation.

ANNEX A

ORADIAN APPOINTED SUB-PROCESSORS

(A) CORE SUBSCRIPTION SERVICES

Personal Data Processing Purposes and Details

- Subject matter of processing: Oradian provides software as a service.
- Duration of Processing: for the duration of the customer subscription agreement.
- Nature of Processing: data hosting and processing of personal data and financial data.
- Business Purposes: delivery of software subscription services in accordance with customer subscription agreements.
- Personal Data Categories: names, bank account number, loan, and loan deposit details. The precise Personal Data is determined and controlled by the Customer.
- Data Subject Types: Customers and their end- clients.
- Authorised Persons: Customer Support Team for the legitimate purpose of providing customer support services as stipulated in the customer service agreement.

1. Cloud Service Providers (Sub-processors) for Customers located in Asia Pacific (APAC):

Amazon Web Services Singapore Private Limited
1 Robinson Road, # 17-00, AIA Tower
048542 Singapore

2. Cloud Service Providers (Sub-processors) for Customers located in Europe, Middle East and Africa (EMEA):

Amazon Web Services EMEA SARL
38 Avenue John F. Kennedy,
L-1855, Luxembourg

Legal basis for processing Personal Data outside the EEA to comply with cross-border transfer restrictions:

- EU Standard Contractual Clauses included in the Data Processing Agreement.

Special Categories of Personal Data

The Provider does not intentionally collect or process any special categories of Personal Data unless the Customer includes such types of data that are uploaded or submitted to the Provider while using the services.

(B) ORADIAN NOTIFIER SERVICES

Personal Data Processing Purposes and Details

- Subject matter of processing: Oradian provides software as a service.

- Duration of Processing: for the duration of the customer subscription agreement
- Nature of Processing: processing of personal data and financial data for the purposes of providing messaging/bank notification services.
- Business Purposes: delivery of messaging services in accordance with customer subscription agreements.
- Personal Data Categories: Receiver/ Sender contact data (MSISDN, land phone number, e-mail address), and communications content (e.g. message text, voice, files or other media content).
- The precise Personal Data is determined and controlled by the Customer.
- Authorised Persons: Customer Support Team for the legitimate purpose of providing customer support services as stipulated in the customer service agreement.

1. Messaging service provider (sub-processor) details for Customers located in Asia Pacific (APAC):

Infobip Limited
5th Floor
86 Jermyn Street
London SW1Y 6AW
England

2. Messaging service provider (sub-processor) details for Customers in Europe, Middle East and Africa (EMEA):

Infobip Nigeria Limited
Close Off Ahmadu Bello Way
Victoria Island
Lagos
Nigeria

Special Categories of Personal Data

The Provider does not intentionally collect or process any special categories of Personal Data unless the Customer includes such types of data that are uploaded or submitted to the Provider while using the services.