



Odysiant Customer Terms of Service

PLEASE READ THESE CUSTOMER TERMS OF SERVICE CAREFULLY.

Our Customer Terms of Service is a contract that governs our customers' use of the Odysiant services. It consists of the following documents:

- **General Terms:** These contain the core legal and commercial terms that apply to your use of our products and services. Any references to Master Terms mean these General Terms.
- **Jurisdiction Specific Terms:** Depending on your location, some of these jurisdiction specific terms will apply to you.
- **Data Processing Agreement (DPA):** This explains how we process your data and includes the EU Standard Contractual Clauses.
- **Acceptable Use Policy (AUP):** This is the rulebook setting out what you can and can't do while using our products and services.

Your Order Form: the order form is a duplicate of the quote that you have accepted. It contains all the details about your purchase, including your subscription term, products and services purchased and your fees.

We've aimed to keep these documents as readable as possible, but in some cases for legal reasons, some of the language is necessarily "legalese". By using the Subscription Service or receiving the Consulting Services, you are agreeing to these terms.

We update these terms from time to time. If you have an active Odysiant subscription, we will let you know when we update the terms via email (if you subscribe to receive email updates).

DEFINITIONS

"Add-Ons" means additional product enhancements (including Limit increases and other add-ons) that are made available for purchase.

"Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with a party to this Agreement. For purposes of this definition, control means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Agreement" or "Customer Terms of Service" means these General Terms and all materials referred or linked to in here, unless otherwise stated.

"Authorised Payment Method" means a current, valid, payment method accepted by us, as may be updated from time to time and which may include payment through your account with a third party.

"Billing Period" means the period for which you agree to pay fees under an Order Form. This may be the same length as the Subscription Term specified in the Order Form, or it may be shorter. For example, if you subscribe to the Subscription Service for a one (1) year Subscription Term, with a twelve (12) month upfront payment, the Billing Period will be twelve (12) months.

"Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or a reasonable person would consider confidential. Confidential Information includes all information concerning: the Disclosing Party's customers and potential customers, past, present, or proposed products, marketing plans, engineering and other designs, technical data, business plans, business opportunities, finances, research, development, and the terms and conditions of this Agreement. Confidential Information does not include any information that:

- (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party,
- (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party,
- (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or
- (iv) was independently developed by the Receiving Party. Subject to the foregoing exclusions, Customer Data will be considered Confidential Information under this Agreement regardless of whether it is designated as confidential.

"Consulting Services" means the professional services provided to you by us, which may include training services, installation, integration, or other consulting services.

"Customer Data" means all information that you submit or collect via the Subscription Service. Customer Data does not include Odysiant Content.

"Customer Materials" means all materials that you provide or post, upload, input or submit for public display through the Subscription Service.

"Free Services" means the Subscription Service or other products or features made available by us to you on an unpaid trial or free basis.

"Odysiant Content" means all information, data, text, messages, software, sound, music, video, photographs, graphics, images, and tags that we incorporate into the Subscription Service or Consulting Services, including Enrichment Data.

"Jurisdiction-Specific Terms" means the additional terms that apply to your subscription, depending on your location.

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"Order" or "Order Form" means the Odysiant-approved form or online subscription process by which you agree to subscribe to the Subscription Service and purchase Consulting Services.

"Product Specific Terms" means the additional product-related terms that apply to your use of Odysiant products, our Consulting Services.

"Sensitive Information" means credit or debit card numbers; financial account numbers or wire instructions, government issued identification numbers (such as Social Security numbers, passport numbers), biometric information, personal health information (or other information protected under any applicable health data protection laws), personal information of children protected under any child data protection laws, and any other information or combinations of information that falls within the definition of "special categories of data" under GDPR or any other applicable law relating to privacy and data protection.

"Subscription Fee" means the amount you pay for the Subscription Service.

"Subscription Service" means all of our web-based applications, tools and platforms that you have subscribed to under an Order Form or that we otherwise make available to you, and are developed, operated, and maintained by us, accessible via <https://Odysiant.com> or another designated URL, and any ancillary products and services that we provide to you.

"Subscription Term" means the initial term of your subscription to the applicable Subscription Service, as specified on your Order Form(s), and each subsequent renewal term (if any). For Free Services, the Subscription Term will be the period during which you have an account to access the Free Services.

"Total Committed Subscription Value" means the aggregate amount of Subscription Fees paid or payable to us during your then-current Subscription Term(s) for all of your Odysiant accounts, but this amount excludes fees for renewals, Consulting Services and applicable taxes.

"Users" means your employees, representatives, consultants, contractors or agents who are Authorised to use the Subscription Service for your benefit and have unique user identifications and passwords for the Subscription Service.

"Odysiant", "we", "us" or "our" means the entity Odysiant Limited a registered company in England.

"You", "your" or "Customer" means the person or entity using the Subscription Service or receiving the Consulting Services and identified in the applicable Order Form as the customer and your Affiliates included in the scope of your purchase.

USE OF SERVICES

Access. During the Subscription Term, we will provide your Users access to use the Subscription Service as described in this Agreement and the applicable Order. We may provide your Users access to use our Free Services at any time by activating them in your Odysiant account. We might provide some or all elements of the Subscription Service through third party service providers.

You must ensure that all access, use and receipt by your Users is subject to and in compliance with this Agreement. You may provide access and use of the Subscription Service to your Affiliate's Users or allow them to receive the Consulting Services purchased under an Order; provided that, all such access, use and receipt by your Affiliate's Users is subject to and in compliance with the Agreement and you will at all times remain liable for your Affiliates' compliance with the Agreement.

Additional Features. You may subscribe to additional features of the Subscription Service by placing an additional Order or activating the additional features from within your Odysiant account (if this option is made available by us). This Agreement will apply to all additional Order(s) and all additional features that you activate from within your Odysiant account.

Availability and Uptime.

For the purposes of this 'Service Uptime Commitment' section, the following definitions will apply:

"Downtime" means a critical full outage/severe issue that constitutes a catastrophic problem causing complete inability to use the Subscription Service, across a significant portion of the production environment (e.g. crash or hang), resulting in production downtime and where there is no workaround or solution to the problem.

"Excluded" means the following: (i) unavailability caused by circumstances beyond our reasonable control, including, without limitation, act of God, acts of government, emergencies, natural disasters, flood, fire, civil unrest, acts of terror, strikes or other labour problems (other than those involving our employees), or any other force majeure event or factors; (ii) any problems resulting from Customer's combining or merging the Subscription Service with any hardware or software not supplied by us or not identified by us in writing as compatible with the Subscription Service; (iii) interruptions or delays in providing the Subscription Service resulting from telecommunications or internet service provider failures outside of our data centre as measured by our third party website availability monitoring provider; (iv) any interruption or unavailability resulting from the misuse, improper use, alteration, or damage of the Subscription Service; and (v) unavailability while we perform maintenance on the Subscription Service when necessary, in Odysiant's sole, reasonable discretion.

"Service Uptime" means $(\text{total hours in calendar month} - \text{Excluded duration} - \text{Downtime duration}) / (\text{total hours in calendar month} - \text{Excluded duration}) \times 100\% = \text{Service Uptime}$.

We will use commercially reasonable efforts to meet a Service Uptime of 99.5% for our Subscription Service in a given calendar month. All availability calculations will be based on our system records. Notwithstanding anything to the contrary in this Agreement, as Customer's sole and exclusive remedy for failure to meet Service Uptime commitments, in the event there are two (2) or more consecutive calendar months during which the Service Uptime falls below 99.5% in a given calendar month, Customer will be entitled to receive a credit equal to the pro-rated amount of fees applicable to the downtime as measured within two (2) or more consecutive calendar months during which the Service Uptime fell below 99.5%. The credit will be applied against an invoice or charge for the following renewal Subscription Term, provided Customer requests such credit within twenty (20) days of the end of the relevant calendar month in which Odysiant did not meet the Service Uptime of 99.5%. Notwithstanding anything to the contrary in the Agreement or this section.

Limits. The limits that apply to you will be specified in your Order Form.

You must be 18 years of age or older to use the Subscription Service.

Downgrades. Depending on your Odysiant product, you may be entitled to downgrade your subscription. For further information on the downgrade terms that apply to your subscription, please contact us at support@odysiant.org

Modifications. We modify the Subscription Service from time to time, including by adding or deleting features and functions, in an effort to improve your experience.

Customer Support

If you pay us a Subscription Fee for phone and email and support is included at no additional cost.

Phone Support

Phone support for is available from 9am Monday to 4pm Thursday GMT/BST (London/UK). Please note, these hours will be reduced i) during public holidays in the UK; and ii) during personal holidays of the support team. We accept email questions 24 hours per day x 7 days per week.

Email Support

Email responses are provided during phone support hours only. We attempt to respond to email support questions within one business day; in practice, our responses are generally even faster. We do not promise or guarantee any specific response time. We may limit or deny your access to support if we determine, in our reasonable discretion, that you are acting, or have acted, in a way that results or has resulted in misuse of support or abuse of Odysiant representatives.

Issues resulting from your use of API's or your modifications to code in the Subscription Service may be outside the scope of support. We will only provide support for integrations which are listed as being supported by Odysiant.

Acceptable Use.

You will comply with our Acceptable Use Policy:

This Odysiant Acceptable Use Policy ("AUP") applies to the use of any product, service or website provided by us (Odysiant), whether we provide it directly or use another party to provide it to you (each, a "Odysiant Service"). This AUP is designed to ensure compliance with the laws and regulations that apply to the Odysiant Service. This AUP also protects the interests of all of our clients and their customers, as well as our goodwill and reputation. These terms are so important that we cannot provide the Odysiant Service unless you agree to them. By using the Odysiant Service, you are agreeing to these terms.

If you are using any Odysiant Service, this AUP applies to you. Every client of ours agrees to abide by this AUP and is responsible for any violations. You are not allowed to assist or engage others in a way that would violate this AUP. We will enforce and ensure compliance with this AUP by using methods we consider to be appropriate, such as complaint and email failure monitoring. We may also suspend or terminate your use of Odysiant Services pursuant to our Customer Terms of Service for violations of this AUP.

We periodically update these terms and we will let you know when we do.

No Disruption

You agree not to:

- (a) use the Odysiant Service in a way that impacts the normal operation, privacy, integrity or security of another's property. Another's property includes another's account(s), domain name(s), URL(s), website(s), network(s), system(s), facilities, equipment, data, other information, or business operations;
- (b) use or launch any automated system, including, "robots," "spiders," or "offline readers," that sends more request messages to our servers in a given period of time than a human can reasonably produce in the same period by using a conventional browser (also for example, scraping or harvesting);
- (c) use the Subscription Service in any manner that damages, disables, overburdens, or impairs any of our websites or interferes with any other party's use of the Subscription Service;
- (d) attempt to gain unAuthorised access to the Subscription Service;
- (e) access the Subscription Service using another User's unique login credentials, including reusing or sharing unique login credentials among multiple users;
- (f) allow any Users to access the Odysiant Service from an embargoed country, or allow access to the Odysiant Service to anyone included in the U.S. Commerce Department's Denied Persons List, Entry List, the U.S. Treasury Department's list of Specially Designated Nationals, or other similarly sanctioned individuals;
- (g) access the Subscription Service other than through our interface;
- (h) use the Odysiant Service to gain unAuthorised access to, use, monitor, make an unAuthorised reference to, another's property, unless you have the appropriate express prior consent to do so; or
- (i) use the Odysiant Service in a way that causes or may cause any Odysiant IP addresses, Odysiant domains, or Odysiant customer domains to be blacklisted.

Examples of prohibited actions include (without limitation) include hacking, spoofing, denial of service, mailbombing and/or sending any email that contains or transmits any virus or propagating worm(s), or any malware, whether spyware, adware or other such file or program.

These restrictions apply regardless of your intent and whether or not you act intentionally or unintentionally.

Proper Usage of the Odysiant Service

You will respect the limits that apply to your use of the Odysiant Service as specified in your order.

In addition, and without limiting the other requirements in this AUP, you may not (directly or indirectly) use the Odysiant Service with content, or in a manner that:

is threatening, abusive, harassing, stalking, or defamatory;

is deceptive, false, misleading or fraudulent;

is invasive of another's privacy or otherwise violates another's legal rights (such as rights of privacy and publicity);

contains vulgar, obscene, indecent or unlawful material;

infringes a third party's intellectual property right(s);

publishes, posts, uploads, or otherwise distributes any software, music, videos, or other material protected by intellectual property laws (or by rights of privacy or publicity) unless you have all necessary rights and consents to do so;

uploads files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of another person's computer;

downloads any file that you know, or reasonably should know, cannot be legally distributed in that way;

falsifies or deletes any author attributions, legal or proprietary designations, labels of the origin or source of software, or other material contained in a file that is uploaded;

restricts or inhibits any other user of the Odysiant Service from using and enjoying our website and/or the Odysiant Service;

harvests or otherwise collects information about others, including e-mail addresses, without their consent;

violates the usage standards or rules of an entity affected by your use, including without limitation any ISP, ESP, or news or user group (and including by way of example and not limitation circumventing or exceeding equipment use rights and restrictions and/or location and path identification detail);

is legally actionable between private parties;

is not a good faith use of the service and/or is in violation of any law or regulation;

encourages, promotes, facilitates or instructs others to engage in illegal activity;

promotes, encourages, or facilitates: hate speech, violence, discrimination based on race, colour, sexual orientation, marital status, gender or identity expression, parental status, religion or creed, national origin or ancestry, sex, age, physical or mental disability, veteran status, genetic information, citizenship and/or any other characteristic protected by law.

Organizations or individuals who promote, encourage, or facilitate hate speech, violence, discrimination, either through their own content or through distribution of user generated content, are prohibited from using the Odysiant Service, regardless of whether the Odysiant Service is used specifically for the

prohibited activities. Violation of these standards may result in termination of your use of the Odysiant Service.

You are responsible for moderating user generated content or user activity on your platform or service. User generated content that violates these standards may result in termination of your use of the Odysiant Service.

You will use the Odysiant Service for your internal business purposes and will not: (i) willfully tamper with the security of the Odysiant Service or tamper with our customer accounts; (ii) access data on the Odysiant Service not intended for you; (iii) log into a server or account on the Odysiant Service that you are not Authorized to access; (iv) attempt to probe, scan or test the vulnerability of any Odysiant Service or to breach the security or authentication measures without proper authorization; (v) willfully render any part of the Odysiant Service unusable; (vi) lease, distribute, license, sell or otherwise commercially exploit the Odysiant Service or make the Odysiant Service available to a third party other than as contemplated in your subscription to the Odysiant Service; (vii) use the Odysiant Service for timesharing or service bureau purposes or otherwise for the benefit of a third party; or (viii) provide to third parties any evaluation version of the Odysiant Service without our prior written consent.

Restricted Industries

Some industries have higher than average abuse complaints, which can directly impact our ability to provide the Odysiant Service to other customers. To protect our customers, we reserve the right to discontinue your use of the Odysiant Services if you are in one of these industries. Some examples include:

Cryptocurrency

Non-fungible tokens (NFTs)

Escort and dating services

Pharmaceutical products

Work from home, make money online, and lead generating opportunities

Gambling services or products

Multi-level marketing or affiliate marketing

List brokers or list rental services

Selling 'Likes' or followers for a social media platform

Odysiant Trademark Use

Unless you have our express prior written permission, you may not use any name, logo, tagline or other mark of ours or the Odysiant Service, or any identifier or tag generated by the Odysiant Service, including without limitation: (a) as a hypertext link to any website or other location (except as provided for or enabled expressly by us); or (b) to imply identification with us as an employee, contractor, agent or other similar representative capacity. You also agree not to remove or alter any of these items as we may have provided or enabled.

General Terms

We may immediately suspend your access to the Odysiant Service if you breach this AUP or don't respond to us in a reasonable period after we've contacted you about a potential breach of this AUP. We may also suspend your access as we explain in our [Customer Terms of Service](#) and, if you breach this AUP, we may terminate your subscription agreement for cause. You acknowledge we may disclose information regarding your use of any Odysiant Service to satisfy any law, regulation, government request, court order, subpoena or other legal process. If we make this type of required disclosure we will notify you, unless we are required to keep the disclosure confidential.

We are not obligated to, but may choose to, remove any prohibited materials and deny access to any person who violates this AUP. We further reserve all other rights.

We may update and change any part or all of this AUP.

Prohibited and UnAuthorised Use. You will not use the Subscription Service in any way that violates the terms of the AUP or for any purpose or in any manner that is unlawful or prohibited by this Agreement.

You may not use the Subscription Service if you are legally prohibited from receiving or using the Subscription Service under the laws of the country in which you are resident or from which you access or use the Subscription Service.

The Subscription Service is not designed to comply with industry-specific regulations such as the Health Insurance Portability and Accountability Act (HIPAA) or the Federal Information Security Management Act (FISMA), so you may not use the Subscription Service where your communications would be subject to such laws. You may not use the Subscription Service in a way that would violate the Gramm-Leach-Bliley Act (GLBA). Nothing contained in this section limits the usage restrictions specific to Sensitive Information under the Agreement.

You will notify us promptly of any unAuthorised use of your Users' identifications and passwords or your account by email.

1.1 No Sensitive Information. YOU ACKNOWLEDGE THAT THE SUBSCRIPTION SERVICES HAVE NOT BEEN DESIGNED TO PROCESS OR MANAGE SENSITIVE INFORMATION AND ACCORDINGLY YOU AGREE NOT TO USE THE SUBSCRIPTION SERVICE TO COLLECT, MANAGE OR PROCESS SENSITIVE INFORMATION. WE WILL NOT HAVE AND WE SPECIFICALLY DISCLAIM ANY LIABILITY THAT MAY RESULT FROM YOUR USE OF THE SUBSCRIPTION SERVICE TO COLLECT, PROCESS OR MANAGE SENSITIVE INFORMATION.

1.2 Customer Responsibilities. To realize the full value of the Subscription Service and Consulting Services, your participation and effort are needed. Resources that may be required from you include a project manager, one or more content creators, a sales sponsor, an executive sponsor and a technical resource (or equivalent). Responsibilities that may be required include planning of content programs; setting of a content creation calendar; creating nurturing content, and other materials; acting as internal liaison between sales and marketing; providing top level internal goals for the use of the Subscription

Service; attending regular success review meetings; and supporting the integration of the Subscription Service with other sales and marketing systems.

FEES

Subscription Fees. The Subscription Fee will remain fixed during the initial term of your subscription unless: (i) you exceed your applicable limits per your order form, (ii) you upgrade products or base packages, (iii) you subscribe to additional features or products, (iv) otherwise agreed to in your Order. We may also choose to decrease your fees upon written notice to you.

Fee Adjustments at Renewal. Upon renewal, we may increase your fees up to our then- current list price. If this increase applies to you, we will notify you at least thirty (30) days in advance of your renewal and the increased fees will apply at the start of the next renewal term. If you do not agree to this increase, either party can choose to terminate your subscription at the end of your then-current term by giving the notice required in the 'Notice of Non-Renewal' section below.

Payment of Fees. If you are paying by credit card, you authorize us to charge your Authorised Payment Method for all fees payable during the Subscription Term. You further authorize us to use a third party to process payments, and consent to the disclosure of your payment information to such third party.

In the event of a failed attempt to charge your Authorised Payment Method (for example, if your Authorised Payment Method has expired or is no longer valid), we reserve the right, and you authorize us, to retry billing your Authorised Payment Method. If you update your Authorised Payment Method to remedy a change in validity or expiration date, we will automatically resume billing; we may also receive updates on your Authorised Payment Method through our payment service providers and automatically resume billing. We may suspend your access in accordance with the 'Suspension' section or terminate your account in accordance with the 'Termination for Cause' section if we remain unable to successfully charge a valid Authorised Payment Method.

Payment against invoice. If you are paying by invoice, we will invoice you no more than forty-five (45) days before the beginning of the Subscription Term and each subsequent Billing Period, and other times during the Subscription Term when fees are payable. All amounts invoiced are due and payable within thirty (30) days from the date of the invoice, unless otherwise specified in the Order Form.

Payment Information. You will keep your business information up to date, including your company name, address, and primary contact. You will also keep your Authorised Payment Method and billing information up to date for the payment of incurred and recurring fees, including your tax information. Changes may be made on your Billing Page within your Odysiant account. You authorize Odysiant to continue to charge your Authorised Payment Method for applicable fees during your Subscription Term and until any and all outstanding Fees have been paid in full. All payment obligations are non-cancellable and all amounts paid are non- refundable, except as specifically provided for in this Agreement. All fees are due and payable in

advance throughout the Subscription Term. If you are a Odysiant Solutions Partner that purchases on behalf of a client, you agree to be responsible for the Order Form and to guarantee payment of all fees.

All fees are exclusive of any VAT and you represent that you are registered for VAT purposes in your member state. At our request, you will provide us with the VAT registration number under which you are registered in your member state. If you do not provide us with a VAT registration number prior to your transaction being processed, we will not issue refunds or credits for any VAT that was charged. If you are subject to GST, all fees are exclusive of GST. If you are located in Canada, all fees are exclusive of GST, PST and HST.

TERM AND TERMINATION

Term and Renewal. Your initial subscription term will be specified in your Order, and, unless otherwise specified in your Order, your subscription will automatically renew for the shorter of the subscription term, or one year.

Notice of Non-Renewal. Unless otherwise specified in your Order, to prevent renewal of your subscription, you or we must give written notice of non-renewal. The deadline for sending this notice varies depending on the Odysiant product and edition you have subscribed to.

If you decide not to renew, you may send this non-renewal notice to us by indicating that you do not want to renew by turning auto-renew off by accessing the billing details information in your Odysiant account.

Early Cancellation. You may choose to cancel your subscription early at your convenience provided that, we will not provide any refunds of prepaid fees or unused Subscription Fees, and you will promptly pay all unpaid fees due through the end of the Subscription Term. See the 'Notice of Non-Renewal' section for information on how to cancel your subscription.

Termination for Cause. Either party may terminate this Agreement for cause, as to any or all Subscription Services: (i) upon thirty (30) days' notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) immediately, if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, cessation of business, liquidation or assignment for the benefit of creditors.

We may also terminate this Agreement for cause on thirty (30) days' notice if we determine that you are acting, or have acted, in a way that has or may negatively reflect on or affect us, our prospects, or our customers.

This Agreement may not otherwise be terminated prior to the end of the Subscription Term.

Suspension

Suspension for Prohibited Acts.

We may suspend any User's access to any or all Subscription Services without notice for:

- (i) use of the Subscription Service in a way that violates applicable laws or regulations or the terms of this Agreement,
- (ii) repeated instances of posting or uploading material that infringes or is alleged to infringe on the copyright or trademark rights of any person or entity.

We may, without notice, review and delete any Data or Materials that we determine in good faith violate these terms or the AUP, provided that, we have no duty (unless applicable laws or regulations provide otherwise) to pre-screen, control, monitor or edit your Data or Materials.

Suspension for Non-Payment.

We will provide you with notice of non-payment of any amount due. Unless the full amount has been paid, we may suspend your access to any or all of the Subscription Services ten (10) days after such notice. We will not suspend the Subscription Service while you are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute. If a Subscription Service is suspended for non-payment, we may charge a re-activation fee to reinstate the Subscription Service.

Suspension for Present Harm.

If your website, or use of, the Subscription Service:

- (i) is being subjected to denial of service attacks or other disruptive activity,
- (ii) is being used to engage in denial of service attacks or other disruptive activity,
- (iii) is creating a security vulnerability for the Subscription Service or others,
- (iv) is consuming excessive bandwidth or storage, or
- (v) is causing harm to us or others, then we may, with electronic or telephonic notice to you, suspend all or any access to the Subscription Service.

We will make commercially reasonable efforts to limit the suspension to the affected portion of the Subscription Service, and each party will make reasonable efforts to promptly resolve the issues causing the suspension of the Subscription Service. Nothing in this clause limits our right to terminate for cause as outlined above, if we determine that you are acting, or have acted, in a way that has or may negatively reflect on or affect us, our prospects, or our customers.

Suspension and Termination of Free Services.

We may suspend, limit, or terminate the Free Services for any reason at any time without notice. We may terminate your subscription to the Free Services due to your inactivity.

Effect of Termination or Expiration. If your paid subscription is terminated or expires, we will continue to make available to you our Free Services provided however, this may not be the case if your Agreement was terminated for cause.

You will continue to be subject to this Agreement for as long as you have access to a Odysiant account.

Upon termination or expiration of this Agreement, you will stop all use of the Subscription Service and Odysiant Content. If you terminate this Agreement for cause, we will promptly refund any prepaid but unused fees covering use of the Subscription Service after termination. For the avoidance of doubt, this refund does not include any fees owed from your use of Odysiant Payments, which is separately governed under the Odysiant Payments Terms of Use. If we terminate this Agreement for cause, you will promptly pay all unpaid fees due through the end of the Subscription Term. Fees are otherwise non-refundable.

INTELLECTUAL PROPERTY

This is an agreement for access to and use of the Subscription Service, and you are not granted a license to any software by this Agreement. We retain all intellectual property rights to the Odysiant Content, the Subscription Service, the Consulting Services, and any other products or services provided under this Agreement. You agree not to copy, rent, lease, sell, distribute, or create derivative works based on the Odysiant Content, the Subscription Service, or the Consulting Services in whole or in part, by any means, except as expressly Authorised in writing by us.

We encourage all customers to comment on the Subscription Service or Consulting Services, provide suggestions for improving it, and vote on suggestions they like. You agree that all such comments and suggestions will be non-confidential and that we own all rights to use and incorporate them into the Subscription Service or Consulting Services, without payment or attribution to you.

CONFIDENTIALITY

The Receiving Party will: (i) protect the confidentiality of the Confidential Information of the Disclosing Party using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind, but in no event less than reasonable care, (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, (iii) not disclose Confidential Information of the Disclosing Party to any third party (except those third party service providers used by us to provide some or all elements of the Subscription Service or Consulting Services and except for your Odysiant Solutions Partner bound by confidentiality obligations), and (iv) limit access to Confidential Information of the Disclosing Party to those of its and its affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

The Receiving Party may disclose Confidential Information of the Disclosing Party if required to do so under any federal, state, or local law, statute, rule or regulation, subpoena or legal process; provided, however, that (i) the Receiving Party will provide the Disclosing Party with prompt notice of any request that it disclose Confidential Information, sufficient to allow the Disclosing Party to object to the request and/or seek an appropriate protective order or, if such notice is prohibited by law, the Receiving Party will disclose the minimum amount of Confidential Information required to be disclosed under the applicable legal mandate; (ii) the Receiving Party will refer the request to the Disclosing Party and will provide reasonable assistance to the Disclosing Party, at the Disclosing Party's cost, in opposing such disclosure or seeking a protective order, unless the Receiving Party is explicitly prohibited from doing so by law or court order; and (iii) in no event will the Receiving Party disclose Confidential Information to a party other than a government agency except under a valid order from a court having jurisdiction requiring the specific disclosure, including in circumstances where the Disclosing Party refuses to provide their consent or fails to respond to the Receiving Party's inquiries in connection with the request to disclose the Confidential Information.

PUBLICITY

You grant us the right to add your name and company logo to our customer list and website.

INDEMNIFICATION

You will indemnify, defend and hold us and our Affiliates harmless, at your expense, against any third-party claim, suit, action, or proceeding (each, an Action) brought against us (and our officers, directors, employees, agents, service providers, licensors, and Affiliates) by a third party not affiliated with us or our Affiliates to the extent that such Action is based upon or arises out of

- (a) unauthorised or illegal use of the Subscription Service by you or your Affiliates,
- (b) your or your Affiliates' noncompliance with or breach of this Agreement,
- (c) your or your Affiliates' use of Third-Party Products, or
- (d) the unauthorised use of the Subscription Service by any other person using your User information.

We will: notify you in writing within thirty (30) days of our becoming aware of any such claim; give you sole control of the defence or settlement of such a claim; and provide you (at your expense) with any and all information and assistance reasonably requested by you to handle the defence or settlement of the claim. You will not accept any settlement that (i) imposes an obligation on us; (ii) requires us to make an admission; or (iii) imposes liability not covered by these indemnifications or places restrictions on us without our prior written consent.

DISCLAIMERS; LIMITATION OF LIABILITY

Performance Warranty. We warrant that: (i) the Subscription Service and Consulting Services will be provided in a manner consistent with generally accepted industry standards, and (ii) we will not knowingly introduce any viruses or other forms of malicious code into the Subscription Service; provided however, this warranty will not apply to you if you only use the Free Services.

In the event of non-conformance with this warranty, we will use commercially reasonable efforts to correct such non-conformance. If we cannot correct such non-conformance within sixty (60) days from the date when you notified us of the non-conformity (the "Remedy Period"), then either party may terminate this Agreement by providing the other party written notice within thirty (30) days after the end of the Remedy Period. If you terminate the Agreement for this reason, we will promptly refund any prepaid but unused fees covering use of the Subscription Service after termination in accordance with the 'Effect of Termination or Expiration' provision of this Agreement.

We will not have any obligation or liability under this section if the non-conformance is caused by or based on: (i) any combination of the Subscription Service with any hardware, software, equipment, or data not provided by us, (ii) modification of the Subscription Service by anyone other than us, or modification of the Subscription Service by us in accordance with specifications or instructions that you provided, or (iii) use of the Subscription Service in violation of or outside the scope of this Agreement.

THIS SECTION STATES OUR ENTIRE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM PROVIDED FOR UNDER THIS SECTION.

Disclaimer of Warranties. EXCEPT AS SET FORTH IN THE 'PERFORMANCE WARRANTY' SECTION AND WITHOUT LIMITING OUR OBLIGATIONS IN THE 'PROTECTION OF CUSTOMER DATA' SECTION OF THIS AGREEMENT, WE AND OUR AFFILIATES AND AGENTS MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS, SECURITY, ACCURACY OR COMPLETENESS OF THE SUBSCRIPTION SERVICE, DATA SYNCHED TO OR MADE AVAILABLE FROM THE SUBSCRIPTION SERVICE, ODYSSEANT CONTENT, OR THE CONSULTING SERVICES FOR ANY PURPOSE. APPLICATION PROGRAMMING INTERFACES (APIs) MAY NOT BE AVAILABLE AT ALL TIMES. TO THE EXTENT PERMITTED BY LAW, THE SUBSCRIPTION SERVICE, ODYSSEANT CONTENT AND CONSULTING SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND. WE DISCLAIM ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH REGARD TO THE SUBSCRIPTION SERVICE AND THE CONSULTING SERVICES, INCLUDING ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

No Indirect Damages. TO THE EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, DATA OR BUSINESS OPPORTUNITIES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF

LIABILITY; PROVIDED THAT, THIS LIMITATION WILL NOT APPLY TO YOU IF YOU ONLY USE THE FREE SERVICES.

Limitation of Liability. EXCEPT FOR YOUR LIABILITY FOR PAYMENT OF FEES, YOUR LIABILITY ARISING FROM YOUR OBLIGATIONS UNDER THE 'INDEMNIFICATION' SECTION, AND YOUR LIABILITY FOR VIOLATION OF OUR INTELLECTUAL PROPERTY RIGHTS, IF, NOTWITHSTANDING THE OTHER TERMS OF THIS AGREEMENT, EITHER PARTY OR ITS AFFILIATES IS DETERMINED TO HAVE ANY LIABILITY TO THE OTHER PARTY, ITS AFFILIATES OR ANY THIRD PARTY, THE PARTIES AGREE THAT THE AGGREGATE LIABILITY OF A PARTY AND ITS AFFILIATES WILL BE LIMITED TO A SUM EQUAL TO THE TOTAL AMOUNTS PAID OR PAYABLE FOR THE SUBSCRIPTION SERVICE IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO A CLAIM; PROVIDED HOWEVER, THIS LIMITATION WILL NOT APPLY TO YOU IF YOU ONLY USE THE FREE SERVICES, AND IN THIS CASE, IF WE ARE DETERMINED TO HAVE ANY LIABILITY TO YOU OR ANY THIRD PARTY ARISING FROM YOUR USE OF THE FREE SERVICES, THEN OUR AGGREGATE LIABILITY WILL BE LIMITED TO ONE HUNDRED U.S. DOLLARS.

Third Party Products. WE AND OUR AFFILIATES DISCLAIM ALL LIABILITY WITH RESPECT TO THIRD-PARTY PRODUCTS THAT YOU USE. OUR LICENSORS WILL HAVE NO LIABILITY OF ANY KIND UNDER THIS AGREEMENT.

Agreement to Liability Limit. YOU UNDERSTAND AND AGREE THAT ABSENT YOUR AGREEMENT TO THIS LIMITATION OF LIABILITY, WE WOULD NOT PROVIDE THE SUBSCRIPTION SERVICE TO YOU.

Additional Coverage Terms. If your Total Committed Subscription Value exceeds thirty- five thousand pounds (GBP£35,000), then the Odysiant Additional Coverage Terms will apply. If these terms apply to you, then they are incorporated into the Agreement.

MISCELLANEOUS

Amendment; No Waiver. We may modify any part or all of the Agreement. The revised version will become effective and binding the next business day after it is published on our site. We will provide you notice of this revision by email or in-app notification.

If you do not agree with a modification to the Agreement, you must notify us in writing within thirty (30) days after we send notice of the revision. If you give us this notice, then your subscription will continue to be governed by the terms and conditions of the Agreement prior to modification until your next renewal date. However, if we can no longer reasonably provide the subscription to you under the terms prior to modification (for example, if the modifications are required by law or result from general product changes), then the Agreement and/or affected Subscription Services will terminate upon our notice to you and we will promptly refund any prepaid but unused fees covering use of the Subscription Service after termination in accordance with the 'Effect of Termination or Expiration' provision of this Agreement.

No delay in exercising any right or remedy or failure to object will be a waiver of such right or remedy or

any other right or remedy. A waiver on one occasion will not be a waiver of any right or remedy on any future occasion.

Force Majeure. Except for payment obligations of amounts due under this Agreement, neither party will be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions; pandemic; or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event.

Actions Permitted. Except for actions for non-payment or breach of a party's proprietary rights, no action, regardless of form, arising out of or relating to this Agreement may be brought by either party more than one (1) year after the cause of action has accrued.

Relationship of the Parties. You and we agree that no joint venture, partnership, employment, or agency relationship exists between us.

Compliance with Laws. We will comply with all UK laws (where applicable) in our provision of the Subscription Service, the Consulting Services and our processing of Customer Data. We reserve the right at all times to disclose any information as necessary to satisfy any law, regulation, legal process or governmental request.

You must comply with all applicable laws related to the recording of phone calls and ensure all proper consent to record is obtained prior to making any such recording.

You will not directly or indirectly export, re-export, or transfer the Subscription Service or Consulting Services to prohibited countries or individuals or permit use of the Subscription Service or Consulting Services by prohibited countries or individuals.

Severability. If any part of this Agreement or an Order Form is determined to be invalid or unenforceable by applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement will continue in effect.

Notices. To Odysiant: Notice will be sent to the contact address will be deemed delivered as of the date of actual receipt.

To you: your address as provided in our Odysiant Subscription account information for you. We may give electronic notices by general notice via the Subscription Service and may give electronic notices specific to you by email to your e-mail address(es) on record in our account information for you or through the notifications centre of the Subscription Service. We may give notice to you by telephone calls to the telephone numbers on record in our account information for you. You must keep all of your account information current.

Entire Agreement. This Agreement (including each Order), along with our [Privacy Policy](#) is the entire agreement between us for the Subscription Service and Consulting Services and supersedes all other proposals and agreements, whether electronic, oral or written, between us. We object to and reject any additional or different terms proposed by you, including those contained in your purchase order, acceptance, supplier portal, or website. Our obligations are not contingent on the delivery of any future functionality or features of the Subscription Service or dependent on any oral or written comments made by us regarding future functionality or features of the Subscription Service. We might make versions of this Agreement available in languages other than English. If we do, the English version of this Agreement will govern our relationship and the translated version is provided for convenience only and will not be interpreted to modify the English version of this Agreement.

Assignment. You will not assign or transfer this Agreement without our prior written consent, except that you may assign this Agreement to a successor by reason of merger, reorganisation, sale of all or substantially all of your assets, change of control or operation of law, provided such successor is not a competitor of ours. We may assign this Agreement to any Odysiant Affiliate or in the event of merger, reorganisation, sale of all or substantially all of our assets, change of control or operation of law.

No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or will confer upon any third-party person or entity any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Authority. Each party represents and warrants to the other that it has full power and authority to enter into this Agreement and that it is binding upon such party and enforceable in accordance with its terms. You further warrant and represent that you have the authority to procure your Affiliates compliance with the terms of this Agreement.

Insurance. During the term of this Agreement, we will, at our own cost and expense, obtain and maintain in full force and effect, with reputable insurers liability insurance with coverage and minimum limits of liability.

Survival. The following sections will survive the expiration or termination of this Agreement: 'Definitions', 'Fees', 'Prohibited and Unauthorised Use', 'Early Cancellation', 'Termination for Cause', 'Suspension for Prohibited Acts', 'Suspension for Non-Payment', 'Suspension for Present Harm', 'Suspension and Termination of Free Services', 'Effect of Termination or Expiration', 'Intellectual Property', 'Customer's Proprietary Rights', 'Confidentiality', 'Publicity', 'Indemnification', 'Disclaimers; Limitations of Liability', 'Miscellaneous' and 'Contracting Entity and Applicable Law'.

Precedence. In the event of a conflict between the terms of the Agreement and an Order, the terms of the Order will control, but only as to that Order.

APPENDIX 1 ADDITIONAL COVERAGE TERMS

If your Total Committed Subscription Value exceeds thirty-five thousand GB pounds (GBP£35,000), then these Additional Coverage Terms apply. If, at any point during your Subscription Term, your Total Committed Subscription Value is below this amount, then these terms will not apply. We may update or change these terms in the same way as we can update or change our Agreement, as we describe in the 'Amendment; No Waiver' section of the General Terms.

1. Odysiant Indemnification

We will indemnify, defend and hold you harmless, at our expense, against any Action brought against you (and your officers, directors, employees, agents, service providers, licensors, and Affiliates) by a third party not affiliated with you to the extent that such Action is based upon or arises out of (1) an allegation that the Subscription Service infringes a valid patent in a member state of the Patent Cooperation Treaty, registered trademark, or registered copyright ("IP Indemnification"), or (2) our breach of our confidentiality obligations or our use of Customer Data in violation of this Agreement ("Confidentiality and Data Misuse Indemnification").

You will: notify us in writing within thirty (30) days of you becoming aware of any such claim; give us sole control of the defence or settlement of such a claim; and provide us (at our expense) with any and all information and assistance reasonably requested by us to handle the defence or settlement of the claim. We will not accept any settlement that (i) imposes an obligation on you; (ii) requires you to make an admission; or (iii) imposes liability not covered by these indemnifications or places restrictions on you without your prior written consent.

We will not have any obligation or liability under this section if the alleged claim is caused by or based on: (i) any combination of the Subscription Service with any hardware, software, equipment, or data not provided by us, (ii) modification of the Subscription Service by anyone other than us, or modification of the Subscription Service by us in accordance with specifications or instructions that you provided, (iii) use of the Subscription Service in violation of or outside the scope of this Agreement, (iv) an allegation that the Subscription Service consists of a function, system or method traditionally utilized in marketing, sales or services software that is not commercially unique to the Subscription Service, and the commercially unique aspects of the Subscription Service are not identified in the allegation giving rise to the claim, or (v) user interface or related user design elements not provided by us.

Notwithstanding the foregoing, in the event of such a claim, or if we believe that such a claim is likely, we may, at our sole option and expense: (a) modify the Subscription Service or provide you with substitute Subscription Service that is non-infringing; or (b) obtain a license or permission for you to continue to use the Subscription Service, at no additional cost to you; or (c) if neither (a) nor (b) is, in our judgment, commercially practicable, terminate your access to the Subscription Service (or to a portion of the Subscription Service as necessary to resolve the claimed infringement) and refund any prepaid but unused fees covering use of the Subscription Service after termination in accordance with the 'Effect of Termination or Expiration' provision of this Agreement.

THIS SECTION STATES OUR ENTIRE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM PROVIDED FOR UNDER THIS SECTION.

2. Limitation of Liability

The 'Limitation of Liability' sub-section in the 'Disclaimers; Limitations of Liability' section of the General Terms is revised to read as follows:

"EXCEPT FOR YOUR LIABILITY FOR PAYMENT OF FEES, YOUR LIABILITY ARISING FROM YOUR OBLIGATIONS UNDER THE 'INDEMNIFICATION' SECTION, OUR LIABILITY ARISING FROM OUR IP INDEMNIFICATION OBLIGATIONS UNDER THE 'ODYSSIAN INDEMNIFICATION' SECTION AND YOUR LIABILITY FOR VIOLATION OF OUR INTELLECTUAL PROPERTY RIGHTS, IF, NOTWITHSTANDING THE OTHER TERMS OF THIS AGREEMENT, EITHER PARTY OR ITS AFFILIATES IS DETERMINED TO HAVE ANY LIABILITY TO THE OTHER PARTY, ITS AFFILIATES OR ANY THIRD PARTY, THE PARTIES AGREE THAT THE AGGREGATE LIABILITY OF A PARTY AND ITS AFFILIATES WILL BE LIMITED TO A SUM EQUAL TO THE TOTAL AMOUNTS PAID OR PAYABLE FOR THE SUBSCRIPTION SERVICE IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO A CLAIM".