



## Terms and Conditions

These terms and conditions (the 'Terms') represent the standard terms and conditions governing the agreement between Opious and the Customer, unless expressly stated otherwise in a mutually agreed upon order document or Service Schedule.

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## 1. Definitions

In these terms and conditions, the following definitions apply:

"**Agreement**" refers to the agreement between the Company and the Customer, in accordance with these terms and conditions (the "Terms") unless expressly stated otherwise in a mutually agreed upon order document or Service Schedule.

"**Additional Services**" encompass consultancy and other services provided by the Company upon the Customer's request, in addition to those specified in the Service Order.

"**Billing Period**" designates a calendar month unless otherwise specified in the Service Order.

"**Broadband Services**" denote the broadband internet services delivered by the Company as described in the Service Order.

"**Charges**" represent the fees due from the Customer for the Equipment and/or Services, detailed in the Service Order and these terms and conditions.

"**Commencement Date**" is the date which is the earlier of The Customer signature on the Order, the initiation of Services by the Company, or the delivery of Equipment.

"**Company, We, Us, Our**" represents Opious Ltd (Company Number: 09721770) whose Registered Office is at Cranfield Innovation Centre, University Way, Cranfield, Beds MK43 0BT.

"**Consultancy Work**" encompasses the consultancy work, related technician services, strategy, and consultancy services provided to the Customer.

"**Contract Term**" signifies the minimum term during which the Company will provide the Services, as indicated in the Service Order or communicated upon order placement.

"**Contract**" The agreement comprising these terms, an Order, and applicable service description.

"**Customer**" denotes the individual or entity purchasing the Services, as identified in the Service Order.

"**Data Controller**" refers to the entity controlling personal data as per Data Protection Law.

"**Data Processor**" refers to the entity processing personal data as per Data Protection Law.

"**Data Protection Law**" encompasses the Data Protection Act 2018 (DPA) and related regulations.

"**Data Subject**" designates an individual who is the subject of Personal Data.

"**Delivery Location**" has the meaning specified in clause 4.1.

"**Engineer Installation and Professional Services**": as described in Schedule 2 and further defined in the Order.

"**Equipment**" includes any hardware or equipment supplied, installed, or maintained by the Company as part of the Services, as detailed in the Order.

"**Force Majeure Event**" is as defined in clause 22.

"**Hardware**" denotes any hardware purchased by the Customer as outlined in the Order.

"**Initial Term**" means twelve (12) months (or such other initial term set out in the Order) from the Commencement Date.

"**Intellectual Property**" encompasses patents, utility models, rights to inventions, copyrights, neighbouring and related rights, moral rights, trademarks, service marks, business names, domain names, rights in get-up and trade dress, goodwill, the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use and protect the confidentiality of confidential information (including know-how and trade secrets), and all other intellectual property rights, whether registered or unregistered, including applications, renewals, extensions, and similar rights worldwide.

"**Managed Services**" refers to the managed services provided by the Company as described in the Order.

"**Order**" or "**Service Order**" is a formal document that outlines the specifics of Hardware, Equipment, Services, Consultancy Work, Engineer Installation and Professional Services, Managed Services, and/or Third-Party Services. This document includes associated costs, the delivery address, and the required delivery date, as provided by the Company. It represents a purchase order or service order that the Customer submits to the Company and which the Company accepts for the provision of Services or Equipment.

"**Personal Data Breach**" Characterises a security breach that results in the destruction, loss, alteration, unauthorised disclosure, or access to Personal Data.

"**Personal Data**" is defined as per Data Protection Law and pertains to personal data for which the Customer is the Data Controller and for which the Company provides services under the Contract.

"**Processing**" Encompasses all operations conducted on Personal Data, including but not limited to its collection, storage, and utilisation, as defined in Data Protection Law.

"**Service Specification**" refers to any specification related to the Services, if applicable.

"**Services**" encompass Managed Services, Support Services, Consultancy Work, Third Party Services, and any other services provided by the Company as specified in the Order.

"**Schedules**" are supplementary Service Schedules to this agreement which set out specific terms and conditions for certain goods and services. These form part of the agreement with the Customer.

"Software" is the software supplied and maintained by the Company for the Customer, as detailed in the Order.

"Support Services" Corresponds to the provision of support and helpdesk services, as articulated in the contractual agreement.

"Third Party Additional Terms" Signifies the supplementary terms and conditions that are applicable to Third Party Equipment, Hardware, Software and Services, as specified by the respective third parties.

"Third Party Services" encompass any third-party services (including broadband services, internet connections, mobile services, installation, maintenance visits, equipment removal, and contracts) sold by the Company to the Customer as specified in the Order.

"Third Party" refers to any third party involved in the provision of the Services.

## 2. Basis of the Agreement

- 2.1 **Formation of Agreement:** An Order constitutes an offer by The Customer to procure Services under these stipulated terms.
- 2.2 **Commencement of Order:** An Order commences upon the earlier of The Customer signature, the initiation of Services by the Company, or the delivery of Equipment. It shall endure in accordance with the specifications outlined in the Order. In the absence of a specified term, the duration defaults to 12 months from the commencement date where applicable.
- 2.3 **Additional Orders and Term Extensions:** The Customer is entitled to make additional orders and request contract extensions beyond the Initial term. This provision allows for situations where services may continue on a month-to-month basis following the Initial Term, subject to mutual agreement between the customer and the supplier where applicable.
- 2.4 **Comprehensive Agreement:** These terms constitute the entirety of our agreement, superseding any and all preceding terms and conditions.
- 2.5 **Applicability of Terms:** These terms are applicable to both Services and Hardware, except where otherwise explicitly stipulated in Service Schedules.

## 3. Ordering Services

- 3.1 **Making an Order:** The Customer can order Services by telephone, online, or as otherwise agreed with the Company.
- 3.2 **Order acceptance:** The Order shall only be deemed to be accepted when the Company issues written acceptance of the Order or, if earlier, provides the

Services to the Customer at which point and on which date the Agreement shall come into existence (Commencement Date).

- 3.3 Cancellation after acceptance:** Once an Order has been accepted by the Company, the Customer may not cancel the Order
- 3.4 Service Obligation Confirmation:** the Company is not obliged to provide any Services unless and until it has sent the order confirmation.
- 3.5 Quotations:** Any quotation given by the Company shall not constitute an offer and is only valid for a period of 30 days from its date of issue and is subject to amendment in the event of an increase in third party costs.
- 3.6 Additional Installation Work:** If the Company' survey indicates additional work is required for installation, the Company may charge an additional fee, which will be notified to the Customer.
- 3.7 Service Unavailability and Order Cancellation:** If the survey shows the Company is unable to provide the Services to the Customer's property, the Company may cancel the order and terminate the Agreement.
- 3.8 Non-Contractual Descriptions:** Any samples, drawings, descriptive matter or advertising issued by the Company, and any descriptions contained in the Company's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Agreement or have any contractual force.

## 4. Delivery of Hardware

- 4.1 Delivery Location:** the Company shall deliver the Hardware to the agreed-upon Delivery Location.
- 4.2 Completion of Delivery:** Delivery shall be deemed complete upon unloading at the specified Delivery Location.
- 4.3 Delivery Timing:** The dates provided for delivery serve as estimations only, with timeliness not constituting a critical factor.
- 4.4 Non-Delivery Liability:** In cases of non-delivery, the Company's maximum responsibility extends to reimbursing the costs associated with acquiring replacement Hardware.
- 4.5 Delivery Delays:** the Company shall not be held accountable for delays in delivery stemming from the Customer's actions or unforeseen events.
- 4.6 Non-Acceptance of Delivery:** Should the Customer fail to accept the delivery, the Company reserves the right to store the Hardware at the Customer's expense or opt for its resale or disposal.

- 4.7 Instalment Deliveries:** the Company and the Customer may mutually agree to deliver Hardware in multiple instalments, with each instalment forming a separate contractual arrangement.
- 4.8 Duties and Customs:** The Customer is responsible for any duties, taxes, or customs fees related to international deliveries. These charges are not included in the quoted Hardware price. the Company will assist with customs clearance, but the Customer must comply with customs regulations and cover any additional costs.
- 4.9 Incorrect Address Charges:** If a delivery or visit fails due to an incorrect Customer-provided address, the Company may charge for additional expenses, including re-delivery or revisit fees. Ensuring accurate address information is the Customer's responsibility to avoid such charges.

## 5. Service Locations

- 5.1 Accurate Service Location Information:** The Customer must provide accurate service location information. The Company shall supply the Services:
  - 5.1.1** at the Service location Address as set out in the Order;
  - 5.1.2** in accordance with these Terms.

The Company is not responsible for service issues due to incorrect location data provided by the Customer. Additional charges may be incurred as a result of inaccurate information provided.

## 6. Installation and Engineer Visits

- 6.1 Customer Installation of Equipment:** The Customer may be required to install some Equipment following the Company's instructions.
- 6.2 Temporary Service Disruption During Installation:** The Customer may experience temporary loss of internet, telephone services or security systems during installation.
- 6.3 Engineer Visits and Maintenance:** the Company's engineers may need to visit the Customer's property to install, maintain, or repair the Services and Equipment.
- 6.4 Appointment Scheduling with the Company:** the Company will agree appointment dates and times for engineer visits with the Customer.
- 6.5 Appointment Time Change Notice:** The Customer must give at least 5 working days' notice to change an agreed appointment time.

- 6.6 Engineer Visit Charges:** the Company may charge for an engineer visit in certain circumstances, such as missed or cancelled appointments or inaccurate location information provided.

## 7. Supply of Services

- 7.1 Service Quality:** the Company undertakes to provide Services with a reasonable degree of skill and care, although it does not guarantee uninterrupted availability or error-free performance.
- 7.2 Timeliness:** While the Company endeavours to adhere to agreed-upon timelines, they are to be regarded as approximate estimates.
- 7.3 False Service Reports:** Falsely reported service failures may result in the imposition of investigation costs.
- 7.4 Service Updates:** the Company may update Services to comply with legal requirements or enhance their quality without compromising on performance.
- 7.5 Remote Monitoring:** Installation of remote monitoring tools may be necessary for the provision of Services.
- 7.6** The Company shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services and shall notify the Customer in any such event.
- 7.7 Liability Limitations:** the Company is under no obligation to rectify issues resulting from the Customer's actions, misuse, unauthorised modifications, or similar factors.

## 8. Third Party Services

- 8.1 Adherence to Third Party Additional Terms:** The Customer's use of Third-Party Services shall be governed by the respective Third-Party Additional Terms, and the Customer is obligated to adhere to these Third-Party Additional Terms at all times.
- 8.2 the Company' Enforcement of Rights:** the Company' sole obligation to the Customer, in connection with any Third-Party Services, shall be limited to enforcing the Company' rights (if any) against the relevant third party. The Customer shall bear all expenses associated with such enforcement.
- 8.3 Customer Indemnification for Third Party Terms Breach:** The Customer shall indemnify and hold the Company harmless from any losses, costs, damages, or expenses incurred as a result of any breach by the Customer of the Third-Party Additional Terms.



## 9. Customer's Use of the Services

- 9.1 **Good Faith and Accepted Usage:** The Customer will use the Services in good faith and in accordance with the Company's Acceptable Use policy.
- 9.2 **Reselling Services Prohibited:** The Customer must not resell the Services without the Company's consent.
- 9.3 **Responsibility and Compliance:** The Customer is responsible for the use of the Services and Equipment and must comply with the Company's reasonable instructions and applicable laws.
- 9.4 **Password and Login Security:** The Customer must keep passwords and logins secure and confidential.
- 9.5 **Additional Service Costs:** The Customer must pay for any additional services, permits, or licenses needed to access the Services.
- 9.6 **Lawful and Non-Infringing Use:** The Customer must not use the Services unlawfully, for nuisance, or in breach of third-party rights.
- 9.7 **Fair Network Usage:** The Customer must not unfairly consume excessive network resources to the detriment of other customers.
- 9.8 **Service Suspension:** the Company may suspend the Services if it reasonably believes the Customer's use is inappropriate or unlawful.

## 10. Equipment and Installation

- 10.1 **Equipment Ownership:** Equipment remains the Company's property or that of the relevant third party, and the Customer has no rights to it beyond the specified usage, unless otherwise agreed.
- 10.2 **Representative Presence:** A representative of the Customer must be present during delivery.
- 10.3 **Inspection:** The Customer is required to inspect the Equipment upon delivery and report any issues promptly.
- 10.4 **Safeguarding After Delivery:** The Customer is responsible for safeguarding and insuring the Equipment on the Company's behalf.
- 10.5 **Site Preparation:** The Customer is responsible for adhering to the Company's instructions regarding site preparation and providing necessary utilities, including without limitation consents for any alterations to buildings, permission to cross other people's land and co-operation with any site-specific Health & Safety requirements, not to be unreasonably withheld. The Company retains the right to

charge for failed visits to sites not meeting the instructions issued by the Company.

- 10.6 Unauthorised Modification:** The Customer must not modify, interfere with or relocate the Equipment without the Company explicit consent, and the Customer is liable for any resulting loss or damage beyond reasonable wear and tear.
- 10.7 Equipment Care and Usage:** The Customer must take care of the Company Equipment and only use it in accordance with the Company' instructions.
- 10.8 Consent for Installation:** All required consents and permits for installation, including without limitation, consents for any alterations to buildings or permission to cross other people's land, must be obtained prior to attendance at site. The Company retains the right to charge for failed visits to sites not meeting the instructions issued by the Company.
- 10.9 Data Access:** the Company may access the Customer's data as required for the provision of Services and compliance monitoring.
- 10.10 Immediate Notification of Equipment Damage or Loss:** The Customer must notify the Company immediately of any damage, loss or relocation of the Company Equipment. The Company retains the right to charge for any damage or loss of Equipment.
- 10.11 Warranty:** Any equipment or hardware provided by the Company comes with the manufacturer's warranty only. The Company' sole responsibility regarding such hardware is to make reasonable efforts, at the customer's expense, to enforce any rights the Company may have against the manufacturer. It is important to note that, unless otherwise agreed as a separate service, the Company will not offer maintenance beyond what is specified in the Order and/or Service Specification related to the hardware.

## 11. Title and Risk

- 11.1 Risk Transfer:** The risk associated with the Hardware is transferred to the Customer upon delivery.
- 11.2 Title Retention:** Title to the Hardware remains vested in the Company until the receipt of full payment.
- 11.3 Responsibilities Pre-Title Transfer:**
  - 11.3.1** The Customer shall refrain from modifying or concealing the Hardware.
  - 11.3.2** The Customer must ensure that the Hardware is fully insured for its assessed value.
  - 11.3.3** Notification of any insolvency events affecting the Customer is obligatory.

**11.3.4** The Customer is obliged to return the Hardware at the Company's request prior to title transfer.

**11.3.5** Recovery of Unpaid Hardware: In the event of non-payment, the Company reserves the right to reclaim the Hardware, and the Customer grants the Company a license to access the premises for this purpose.

## **12. Customer Responsibilities**

### **12.1 General Obligations:**

**12.1.1** The Customer must furnish complete and accurate Order details and information.

**12.1.2** The Customer must cooperate with the Company as necessary.

**12.1.3** The Customer must grant access to facilities, information, and personnel requisite for Service provision.

**12.1.4** The Customer must adequately prepare and maintain the site.

**12.1.5** The Customer must obtain required licenses, consents, and permissions.

**12.1.6** The Customer must adhere to health and safety regulations.

**12.1.7** The Customer must ensure the safety and security of the Company's materials and equipment.

**12.1.8** The Customer must implement security advice.

**12.1.9** The Customer must promptly notify the Company of any service security threats.

**12.1.10** The Customer must abide by the terms of this agreement without engaging in illegal or improper usage of Services.

### **12.2 Specific Acknowledgment:**

**12.2.1** the Company reserves the right to change carriers or service providers as needed.

**12.2.2** Authorisation for acting on the Customer's behalf with third parties to provide Services is granted.

**12.2.3** Responsibility for data backup rests with the Customer.

**12.2.4** Connection of equipment to the network necessitates the Company's consent.

**12.2.5** Equipment that could potentially harm the network must not be connected.

**12.2.6** the Company retains the authority to change phone numbers associated with Services.

**12.2.7** Security of the Customer's use of Services is the Customer's responsibility.

**12.2.8** The Customer is responsible for all data stored, transmitted, or processed through the Company's services. The Company does not monitor or back up Customer data.

**12.3** **Acceptable Use Policy:** The Customer must use the Company's services in compliance with applicable laws and the Company's Acceptable Use Policy. the Company may suspend services if it reasonably believes the Customer's use violates the Acceptable Use Policy.

## 13. Charges and Payment

**13.1** **Payment Obligations:** The Customer must remit charges and any additional usage charges as specified in Orders. The Customer is also obliged to remit for any additional Services and data allowance overage charges incurred, as invoiced by the Company.

**13.2** **Expense Coverage:** the Company may charge the Customer for expenses tied to Services, including travel, accommodation, subsistence, third-party services, and materials, as reasonably incurred and agreed in advance with the Customer.

**13.3** **Price Changes:** The Company reserves the right to make changes to Charges as set out in clauses 13.3.1 and 13.3.2. Any changes will be reasonable and take effect in the Billing Period following the Company's notice.

**13.3.1** After the Initial Term, the Company may alter Charges by providing 30 days' prior written notice to the Customer. This notice may be included on an invoice to the Customer. In the case of increased Charges, the Customer can terminate the Service Order within one month of notice receipt, by providing written notice to the Company.

**13.3.2** During the initial term, if the Company's costs of providing the Services increase as a result of

**13.3.2.1** any changes in legislation or regulations applying to the performance of the Services or

**13.3.2.2** increased taxation or

**13.3.2.3** increases in the charges of any relevant Service Provider,

the Company may increase the Charges to reasonably reflect the increase in the cost of providing the Service(s) by giving not less than thirty (30) days' prior written notice to

the Customer, such notice to identify the amount of the increase in the Charges. This notice may be included on an invoice to the Customer.

- 13.4 Invoicing:** Services will be billed according to Order terms. Unless otherwise stated in these Terms, we will invoice the Customer monthly or annually in advance and the Customer shall pay the Charges in pounds sterling without set-off or deduction.
- 13.5 Disputes:** If the Customer disputes an invoice's amount, they must inform the Company in writing within 10 days of receiving the invoice. Failure to do so implies acceptance of the invoice.
- 13.6 Timely Payment:** The Customer must pay invoices according to Order terms. If not specified, payment is due within 30 days of the invoice date. Payment must be made in full to the Company's designated bank account. the Company reserve the right to charge interest at the rate of 4% per annum above the base rate of the Bank of England on any amount outstanding from the due date for payment until payment is made in full. The Customer must promptly notify the Company of any payment issues. The Company reserves the right to suspend the Services or modify payment terms or credit facilities immediately upon written notice if the Customer breaches these Terms.
- 13.7 Credit checks:** the Company retains the right to conduct a credit check on the Customer before accepting the Service Order.
- 13.8 Bank fees:** The Customer is responsible for any banking transaction costs.
- 13.9 Immediate Payment on Termination:** All Charges due to the Company become immediately payable upon termination (excluding terminations resulting from the Company's breach).
- 13.10 VAT and Taxes:** Service charges, as stated in the Order, do not include VAT or local Taxes. The Customer must pay applicable VAT or local Taxes upon receipt of the Company' invoice, concurrent with the service payment.
- 13.11 Legal fees:** The Customer agrees to cover the Company's legal fees and costs incurred while collecting overdue payments under this Service Contract. Outstanding payments (excluding those under dispute with written notification to the Company) empower the Company to suspend services. Service charges will continue to accumulate until full payment is received.
- 13.12 No Deductions:** The Customer cannot make deductions or withhold payments. Any necessary deductions or withholdings must leave the Company with the full payment it would receive without them. Unless otherwise agreed by the Company, all sums due to the Company under this Service Contract must be paid by the Customer in full (without any set-off, deductions, or withholdings) via electronic transfer or an agreed-upon method by the Company.

## 14. Faults and Quality of Service

- 14.1 Service Reliability:** the Company will exert reasonable efforts to minimise disruptions, but it cannot guarantee continuous, fault-free service.
- 14.2 Fault Reporting:** The Customer is responsible for promptly reporting any service faults. The Company must be allowed a reasonable timeframe to investigate and rectify reported faults.

## 15. Limitation of Liability

- 15.1 Liability Exceptions:** Nothing in these Conditions shall limit or exclude the Company's liability for:
- 15.1.1** death or personal injury resulting from the Company's negligence or the negligence of its employees, agents or subcontractors; or
  - 15.1.2** fraud or fraudulent misrepresentation; or
  - 15.1.3** for any liability that, by law, cannot be limited or excluded.
- 15.2 Limitation of Liability:** Subject to clause 15.1, the Company shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for: loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of or damage to goodwill; and any indirect or consequential loss.
- 15.3 Total Liability:** Subject to clause 15.1, 15.2, and 15.5 the Company' total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract, shall:
- 15.3.1** be limited to the charges paid or payable by the Customer for the applicable Services and/or Equipment (as applicable) to which the breach relates in the 12-month period before such breach or in the event 12 months have not elapsed the charges which would have been payable for 12 months of such Services; and
  - 15.3.2** where the breach does not fall within the scope of clause 15.3.1 be limited to £5000.
- 15.4 Warranty Disclaimer:** Except as expressly provided in this Agreement, all warranties, conditions, and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 15.5 Survival:** This clause 15 shall survive termination of the Contract.

## 16. Intellectual Property

- 16.1 Ownership:** Any Intellectual Property owned by the Company as at the date of this Agreement shall remain the property of Opious.
- 16.2 IP Created in Performance:** If the Company develop or otherwise creates any Intellectual Property as a result of rendering the Services, said Intellectual Property shall be the exclusive property of the Company. The Customer shall be granted a non-exclusive and limited license to utilise this Intellectual Property solely for the duration of this Agreement, with the sole purpose of deriving the benefits offered by the Services.
- 16.3 Document Confirmation:** The Customer hereby agrees that it shall at the Company's request, execute any necessary assignments, documents, or actions as may be required to vest in Opious absolutely the property, right title and interest in any Intellectual Property arising as a result of clause 16.2.

## 17. Data Protection

- 17.1 Role:** The Customer and the Company acknowledge that for the purposes of the Data Protection Law, the Customer is the Data Controller, and the Company is the Data Processor in respect of any Personal Data.
- 17.2 Responsibilities and Liability of Data Controller:** It is the responsibility and liability of the Customer to implement effective measures to control Personal Data that is processed and stored under their control. Personal Data will not be stored longer than necessary and will be securely deleted by the Customer in a timely manner in accordance with Data Protection Law. The Customer warrants it adheres to the principals of Data Protection Law and has obtained the permission of the data subject and their employees for processing their Personal Data.
- 17.2.1 Responsibilities and Liability of Data Processor:** The Company shall process the Personal Data only in accordance with the Customer's instructions and in the execution of the Contract. The Company shall not process the Personal Data for any purposes other than those expressly authorised by the Customer except where otherwise required by Data Protection Law (and shall inform the Customer of that legal requirement before processing, unless Data Protection Law prevents it from doing so).
- 17.3 Confidentiality:** The Company shall take reasonable steps to ensure the integrity of all its employees who have access to the Personal Data and ensure that they are bound to keep Personal Data confidential.
- 17.4 Warrants by the Company:** The Company warrants that, having regard to the state of technological development and the cost of implementing any measures, it will:
- 17.4.1** take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the

accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to:

- 17.4.1.1 the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
- 17.4.1.2 the nature of the Personal Data to be protected; and
- 17.4.1.3 take reasonable steps to ensure compliance with those measures.

- 17.5 Customer Indemnification:** The Customer shall indemnify and keep indemnified and defend at its own expense the Company against all costs, claims, damages or expenses incurred by the Company or for which the Company may become liable due to any failure by the Customer or its employees or agents to comply with any of its obligations under this clause 17 and under Data Protection Law.
- 17.6 Directional Reliance Liability:** The Customer acknowledges that the Company is reliant on the Customer for direction as to the extent to which the Company is entitled to use and process the Personal Data. Consequently, the Company will not be liable for any claim brought by a Data Subject or a regulatory body arising from any action or omission by the Company, to the extent that such action or omission resulted directly from the Customer's instructions.
- 17.7 Third party processors:** The Company may authorise a third party (subcontractor) to process the Personal Data provided that the subcontractor's contract is on terms which are substantially the same as those set out in these Conditions. The Customer shall ensure that it obtains any consent required for Data Subjects to allow the Company to process Personal Data outside the EEA should this be required.
- 17.8 Audit:** The Company will make available to the Customer all information reasonably requested by the Customer in writing to demonstrate its compliance with the obligations set out in this clause 17, and will contribute to audits, including inspections, to verify compliance with such obligations conducted by the Customer or an independent third-party auditor acting under their direction. Such audits or inspections may take place no more than once per calendar year and will be at the Customer's cost. The Customer will give the Company not less than 30 days' prior written notice of any such audit or inspection, and such audit or inspection will be carried out during the Company's normal working hours with minimal disruption to its business.
- 17.9 Personal Data Breach:** The Company shall notify the Customer without undue delay (and in any event within 72 hours) and in writing on becoming aware of any Personal Data Breach in respect of any Personal Data. The Company will make reasonable efforts to identify the cause of the data breach and to take such steps as are deemed necessary and reasonable to mitigate the effects of such data breach, to the extent that such steps are within the Company's reasonable control.
- 17.10 Privacy Notice Details:** the Company's Privacy Notice, available on the Company website, gives full details of how the Company handles personal data.



## 18. Confidentiality

- 18.1 Non-Disclosure:** Both parties undertake not to disclose the other's confidential information without prior consent, except to personnel or representatives requiring access for the performance of this agreement.
- 18.2 Legal Disclosure:** Confidential information may be disclosed as mandated by law or regulation, and its utilisation is solely permitted for the fulfilment of this agreement.

## 19. Breach of Contract

- 19.1 Material Breach:** A material breach of this agreement by either party shall be defined as any of the following:
- 19.1.1** Failure to provide the agreed-upon services as specified in this agreement or the schedules.
  - 19.1.2** Violation of confidentiality obligations, data security, or privacy requirements.
  - 19.1.3** Non-payment of fees or charges within the agreed-upon timeframe.
  - 19.1.4** Substantial service interruptions or downtime beyond acceptable limits.
  - 19.1.5** Non-compliance with applicable regulatory requirements or industry standards.
- 19.2 Notice of Breach:** In the event of a material breach, the non-breaching party shall provide written notice to the breaching party, specifying the nature of the breach, the affected service(s), and any relevant details.
- 19.3 Remedies:** The remedies for a material breach may include the termination of the affected service.
- 19.4 Cure Period:** The breaching party shall have 30 days from the receipt of the notice to cure the breach. If the breach is not cured within the specified period, the non-breaching party may proceed with the remedies outlined in this agreement.

## 20. Termination and suspension

- 20.1 Commencement and Termination:** This agreement initiates on the Commencement Date and may be terminated by the Company after the initial Term, upon 1 month's written notice.

**20.2 Immediate Termination:** Without affecting any other right or remedy available to it, either party may terminate the Contract or individual Service with immediate effect by giving written notice to the other party if:

**20.2.1** Commits a material breach that remains unremedied for 30 days after notice.

**20.2.2** The other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.

**20.2.3** The other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

**20.2.4** The other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

**20.3 Immediate Termination:** the Company may also terminate or suspend or vary the Services with immediate effect by giving written notice to the Customer if:

**20.3.1** The Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than seven (7) days after being notified in writing to make such payment, or;

**20.3.2** A change of control of the Customer occurs, or;

**20.3.3** The Company needs to modify, expand, improve, maintain or repair the Services; or;

**20.3.4** The Customer's credit rating decreases at any time, and the Customer fails to supply reasonable security in response to a request from the Company; or;

**20.3.5** The Company considers that there is a significant credit risk, or;

**20.3.6** The Company considers that there is a fraud risk; or

**20.3.7** The Company's contract with its Authorised Provider to the Services is suspended, varied or terminated, or;

**20.3.8** If the Company reasonably believe the Customer has provided false or misleading Customer Information.

- 20.4 Reinstatement:** The re-instatement of suspended Services shall be at the Company's sole discretion and the Customer shall nevertheless be responsible for payment of the Charges during any period where the Services are suspended.
- 20.5 Suspension by the Company:** Without affecting any other right or remedy available to it, the Company may:
- 20.5.1** suspend the supply of Services under the Contract or any other contract between the Customer and the Company and/or
  - 20.5.2** disable the Customer's access (whether remotely or on-site) to the Services provided under the Contract or any other contract between the Customer and the Company if
    - 20.5.2.3** the Customer fails to pay any amount due under the Contract on the due date for payment, or
    - 20.5.2.4** the Customer becomes subject to any of the events listed in clause 20.3 or the Company reasonably believes that the Customer is about to become subject to any of them.
- 20.6 Access:** The Customer hereby grants the Company, and where necessary, shall procure the grant of any and all consents, licences and permissions required by the Company to access any equipment, systems and premises for the purposes specified in clause 20.5.

### Consequences of Termination

- 20.7 Post-Termination Obligations:** Upon termination, the Customer must promptly settle all outstanding amounts and return all Equipment, including third-party equipment within 30 days of the termination date. Until Equipment has been returned, the Customer shall be solely responsible for its safe keeping and will not use the Equipment for any purpose not connected with this Contract. The Customer shall ensure third-party equipment is clearly marked as not being their property and cannot be subject to a lien. The Company will seek H&S approval for site access within 30 days of the termination date, which the Customer agrees not to unreasonably withhold. Delays in access may result in continued liability for equipment rental and costs.
- 20.8 Unreturned Service Equipment:** If the Customer fails to return the Equipment, including third-party equipment, and repossession is hindered by factors like refusal of access, the Customer shall indemnify the Company for full replacement costs and related expenses. Delays caused by the Customer do not release them from this indemnification obligation.
- 20.9 All payments payable** by the Customer under this Contract or any Order shall become due immediately on its termination.
- 20.10 Preservation of Rights and Liabilities:** Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim

damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

## 21. Notices

- 21.1 Notice Requirements:** Any communication or notice pertaining to the Contract must be in writing and directed to the recipient company's registered office. Delivery can be made in person, through pre-paid first-class mail, or via another dependable next-day delivery service. Alternatively, email addresses provided by both parties may be used. The communication shall be considered received as follows: If delivered by hand, it is deemed received upon a signature or when left at the correct address. If sent by mail or another next-day delivery service, it is considered received at 9:00 am on the second business day after sending or at the time noted by the delivery service. In the case of email communication, it is regarded as received at 9:00 am on the next business day after transmission. It should be noted that this provision does not apply to serving legal documents in a legal action or to other methods of dispute resolution, for which different rules may apply.
- 21.2 Updating Contact Details:** The Customer must keep contact details up to date.
- 21.3 Valid Notices to the Customer:** Notices to the Customer will be valid if sent by email or post using the last known contact details.
- 21.4 Sending Notices to the Company:** Notices to the Company must be sent by post or email to [legal@opious.com](mailto:legal@opious.com).

## 22. Force Majeure

- 22.1 Force Majeure Events:** For the purposes of the Agreement, a Force Majeure Event means an event beyond the reasonable control of the Company, including but not limited to fire, flood, storm, strike, cable or fibre cuts, lightning, prolonged general power outages, failure of utility service or transport network, acts of God, changes of the regulatory environment, acts of governmental or military authorities, civil unrest, terrorism and war, breakdown of plant and machinery or default of suppliers or subcontractors.
- 22.2 Exemption from breach:** The Company will not be in breach of the Contract nor liable to the Customer for any failure or delay in performing its obligations under the Agreement or Supplying the Services if such delay or failure is as a result of, or caused by
- 22.2.1** A force Majeure Event;

**22.2.2** Another supplier delays or refuses the supply of an electronic communications service to the Company or any of the Company's suppliers and no alternative service is available at reasonable cost; or

**22.2.3** Legal or regulatory restrictions are imposed upon the Company or any of the Company's suppliers that prevent the Company or any of the Company's suppliers from supplying the Service.

**22.3 Notification.** The Party victim of a force majeure event shall as soon as reasonably possible, notify the other Party about the occurrence of such event and the estimated extent and duration of its inability to perform its obligations under the Agreement.

**22.4 Minimizing Effects.** In the event of the occurrence of a force majeure event, the Party victim of the force majeure event shall use all reasonable endeavours to minimize the effects of the force majeure event.

**22.5 If an Event of Force Majeure continues** for more than a period of 30 days, the Company shall have the discretion to perform, suspend performance of, and/or terminate the Service Contract immediately by giving written notice to the Customer.

## **23. General**

**23.1 Assignment Restriction:** The Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Company.

**23.2 Assignment and Subcontracting:** the Company may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

**23.3 Severability:** If any provision of this agreement is determined to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining provisions of this agreement shall continue to be valid and enforceable to the fullest extent permitted by law. The parties shall make reasonable efforts to replace the invalid, illegal, or unenforceable provision with a valid and enforceable provision that achieves the intended commercial result. If such replacement is not feasible, the invalid, illegal, or unenforceable provision shall be severed from this agreement, and the remainder of the agreement shall remain in full force and effect.

**23.4 Waiver of Rights:** A waiver of any right or remedy under the Contract or as provided by law shall only be effective if granted in writing and shall not be construed as a waiver of any subsequent breach or default. Furthermore, the failure or delay of a party to exercise any right or remedy as provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it impede or restrict any future exercise of that or any other right

or remedy. No individual or partial exercise of any right or remedy as provided under the Contract or by law shall deter or restrict the subsequent exercise of that or any other right or remedy.

- 23.5 No Partnership or Agency:** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 23.6 Entire Agreement:** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract. Nothing in this clause shall limit or exclude any liability for fraud.
- 23.7 Third-Party Rights:** The Contract does not create any rights under the Contracts (Rights of Third Parties) Act 1999 for enforcing any term of the Contract by third parties.
- 23.8 Written Variations:** Any modifications to the agreement must be documented in writing.
- 23.9 Governing Law:** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 23.10 Jurisdiction:** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.
- 23.11 Good standing:** Each party shall represent and warrant that it is duly organized, validly existing, and in good standing under the laws of the place of its origin and possesses all the authority and necessary licenses and/or permits as required under applicable laws to enter into and perform its obligations.
- 23.12 Governance:** Parties shall represent and warrant that it conducts its business in a fair manner, with good governance and that it shall comply with applicable rules regarding ethical & responsible standards including human rights, environmental protection, sustainable development, bribery and corruption. Customer shall a) implement appropriate and effective policies in order to ensure compliance, and b) request its subcontractors and/or End-Users to adhere to compatible high standards.

## 24. Dispute Resolution

- 24.1 Attempted Resolution by Negotiations:** Any dispute arising under this Contract will first be attempted to be resolved by good faith negotiations between the parties. The Parties agree to aim to work out a settlement within thirty (30) days following the day of written notification of the dispute. No later than 2 weeks after the written notification of the dispute the Parties' representatives shall meet in person. The Parties' representatives shall aim to find a solution for the dispute within the 30-day period.
- 24.2 Mediation:** If negotiations fail, the dispute shall be referred to mediation through a mutually agreed upon mediator.
- 24.3 Arbitration:** As a last resort, the dispute shall be referred to arbitration as per the Arbitration Act 1996. The decision of the arbitrator shall be final and binding on both parties.