

Website
Analytics
Service
Agreement

PLEASE READ THESE TERMS OF SERVICE CAREFULLY. THESE TERMS OF SERVICE CONTAIN IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS, REMEDIES AND OBLIGATIONS. THESE INCLUDE LIMITATIONS ON LIABILITY AND A DISCLAIMER OF ALL WARRANTIES.

These Terms of Service (referred to herein as these “Terms of Service” or this “Agreement”) are between O’Brien Media Limited, registered in England number 07874512 at The Innovation Centre, PO Box 4096, Swindon, Wiltshire, SN5 1DE, United Kingdom. (“O’BRIEN MEDIA”, “O’Brien Media”, “We” or “Us”) and you (collectively, “The Customer,” “You” or “Your”). By implementing or using the Service (as defined below) on Your website, service or application, or by using, or signing up for an account on our Site, You agree that You are authorized to accept this Agreement on behalf of Yourself and that You are bound by this Agreement. If You are agreeing to this Agreement for use of the Services by an organization, then You are agreeing to this Agreement on behalf of that organization (and “The Customer,” “You” and “Your” will refer to that organization).

You must have the authority to bind that organization to this Agreement; otherwise You must not sign up for the Services. By using the Service, You are representing and warranting that You are over the age of 18, or the legal age of majority in your jurisdiction of residence. O’Brien Media does not make the Service available to anyone under the age of 13.

Your use of O’Brien Media and each website (each “Site”) owned and operated by O’Brien Media are governed by these Terms of Service. The Service is comprised of certain O’Brien Media proprietary software (the “Software”) that allows You to obtain information based on website visitors to your website, service, or application, (the Software and services provided thereby and from our Sites shall be collectively known as the “Service”).

You must affirmatively agree to and indicate your acceptance of these Terms of Service and the Privacy Policy (individually or collectively the “Agreement”) in order to use the Service. IF YOU DO NOT ACCEPT THIS AGREEMENT IN ITS ENTIRETY, YOU MAY NOT ACCESS OR USE THE SITE OR THE SERVICES.

Please note that if You have executed a separate written agreement with O’Brien Media regarding your use of certain of our Services, then that agreement, and not these Terms of Service, applies to those Services.

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1. Registration Process, Free Trial and Paying Plans

If You decide to register for the Service, You must provide certain limited information about Yourself to O'Brien Media and create an account. By registering for the Service, O'Brien Media will provide You with access to the Service as a free trial user for 14 days from the date of Your registration ("Free Trial Period"). You agree to be responsible for your account password as well as the acts and/or omissions of any third party using the Service through Your account. You must notify O'Brien Media immediately of any unauthorized use of Your account or loss of account information. You agree to keep all account information complete, accurate and up to date (including without limitation any payment and contact information). We reserve the right to refuse the Service to any user and terminate Your account for any reason within O'Brien Media sole discretion. Don't worry - You can opt-out of any marketing emails from Us through your account settings or through a link in the e-mail that We send.

We reserve the right to modify, cancel and/or limit the Free Trial Period without notice at any time.

After the Free Trial Period, You will either have to upgrade to an auto-renewing, paid subscription based on Your usage (a "Paid Plan"), or your access to the Service will terminate. Please note that upon the end of Your Free Trial Period, if You do not purchase a Paid Plan, You will lose access to any data stored on the Service, and any interfaces to third party services that We provide.

By converting to a Paid Plan, You are agreeing to pay in advance the amount due for each subscription period based on your usage. Each plan comes with a numerical limit of user interactions "Events." Our current pricing and available subscription period are available at <https://obrienmedia.co.uk/analytics>. By signing up for a Plan You are responsible for all fees due for the entire subscription period – even if You cancel your subscription.

You authorize us (or a billing agent acting on our behalf) to charge You the applicable fees You using your selected payment method. We'll automatically bill You in advance from the date You convert to a Paid Plan based on your usage and on each subscription renewal until cancellation.

The fees set forth in this Agreement are the net amount that We must receive exclusive of any taxes and You shall be responsible for promptly paying (to us or the appropriate taxing authority) any and all taxes, duties and tariffs,

including, without limitation, sales, excise, value added, use, withholding, import/export and similar charges related to this Agreement.

ONCE YOU HAVE PURCHASED A PAID PLAN, WE WILL AUTOMATICALLY CHARGE AT THE END OF EACH SUBSCRIPTION PERIOD FOR THE NEXT SUBSCRIPTION PERIOD, UNLESS YOU NOTIFY US IN WRITING THAT YOU WANT TO TERMINATE YOUR SUBSCRIPTION AND CEASE USING THE SERVICES AS SET FORTH IN SECTION 9 (Termination).

You will not be charged any overage fees if You exceed the maximum Events allowed by your Paid Plan in any one given month. However, for the next You will be automatically upgraded to a subscription with a higher usage limit than your current Plan. If You are on a monthly billing cycle, You will be charged for your upgraded Paid Plan starting with the next applicable month after the upgrade. If You are not billed monthly, at the next applicable month after the upgrade, You will be charged for the increased price of the upgraded Paid Plan, pro-rated to reflect the remaining duration of your subscription period. In either case, You will be at this upgraded Plan for the remainder of your subscription period, and any auto-renewals thereof (except as otherwise provided in this Agreement for downgrades).

If You upgrade your Paid Plan level, You will immediately be charged for the increased price of the upgraded Paid Plan, pro-rated to reflect the remaining duration of your subscription period, and You will be charged the full amount of the then-current rate for the new Paid Plan (and any auto-renewals thereof), as provided on our Site.

If You desire to downgrade your Plan level prior to the end of your subscription period, please provide written notice by email to compliance@obrienmedia.co.uk not less than 30 days prior to the date of your next billing cycle or subscription period, whichever is sooner.

If You are on a monthly billing cycle, You will be charged for your downgraded Paid Plan starting with the next applicable month after the downgrade. If You are not billed monthly, at the next applicable month after the downgrade, You will be charged for the decreased price of the downgraded Paid Plan, pro-rated to reflect the remaining duration of your subscription period. In either case, You will be at this downgraded Plan for the remainder of your subscription period, and any auto-renewals thereof (except as otherwise provided in this Agreement for downgrades).

Please note that You will not receive any refunds for payments made on your current billing cycle. Downgrading your Plan may cause the loss of account

content, features, or capacity. O'Brien Media disclaims liability for any such loss.

Any discounts applied to a previous subscription may not apply to a renewed subscription, including to any automatic renewals.

We may revise Service rates at any time, or impose additional fees or charges. If You are on a Paid Plan, We will do this by providing You with at least 30 days' notice prior to the next charge (as such notice is set forth in Section 10 "Modifications to the Agreement"). Provided that if You upgrade or downgrade Your plan (or an upgrade occurs automatically as set forth in this section), You will be charged at the then-current rate.

Your Paid Plan will remain in effect until it's cancelled or terminated under these Terms and Conditions. If You don't pay for your Paid Plan on time, We reserve the right to suspend or terminate your account.

Unpaid fees are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection. Unless otherwise stated, all fees are stated in, and shall be paid in, pounds Sterling.

Any fees quoted by O'Brien Media will be exclusive of VAT in accordance with UK law where applicable. Where applicable, you will be provided with a VAT invoice, sent to you via email. We will clearly communicate if VAT is applicable to your payment at the time of selecting a payment plan.

2. Limited License

2.1 By O'Brien Media

Subject to the terms and conditions of these Terms of Service, during the period You have a valid subscription with O'Brien Media. O'Brien Media grants You (and You agree to comply with) a non-sublicensable, non-transferable, non-exclusive, revocable, limited license to use: the Software and certain proprietary documentation in the form generally made available by O'Brien Media to You on the Site for use with the Software (the "Documentation"), solely to connect to the O'Brien Media Service, and solely for your benefit and your internal business purposes. Your use of the Service shall be subject to the applicable Service documentation and restricted pursuant to the terms and conditions of this Agreement.

2.2 Intellectual Property Rights

As between You and O'Brien Media, O'Brien Media owns all rights and interest to any and all patents, copyrights, moral rights, trade secrets, trademarks, service marks, publicity rights, and other proprietary rights (whether or not perfected or perfectible and whether or not now known or hereafter discovered) ("Intellectual Property Rights") in and to the Sites and Service. Nothing in this Agreement grants You any rights whatsoever in or relating to the source code of the Software. All ownership rights, title, and Intellectual Property Rights in and to the Site and Services shall remain in O'Brien Media and/or its licensors. The O'Brien Media brand and the Services are protected by UK and International copyright and other intellectual property laws. Other than as expressly granted herein, O'Brien Media does not grant You any other rights to the Sites or Service. You agree that O'Brien Media has the right to change, modify, add to or discontinue or retire any aspect or feature of the Site or Service at any time. O'Brien Media has no obligation to give You notice of any changes. From time to time, O'Brien Media may, but is under no obligation to, release upgrades, fixes or new versions of the Service, although these upgrades may not be consistent across all platforms and devices. All such upgrades, fixes or new versions shall be considered part of the Site and Service subject to the terms of this Agreement, unless We provide different terms at the time of release. Some Services may include Software which may update automatically.

2.3 By You

By allowing the Service to be placed on Your website(s), You hereby grant Us a nonexclusive, irrevocable during the term of this Agreement, royalty-free license to perform, or have performed, the Service activities on Your website, application or service. By using the Service and allowing the Service to be placed on Your website(s), You hereby grant O'Brien Media the right to include Your name or logo on O'Brien Media Site or other marketing and promotional efforts.

3. Restrictions

You agree not to, or to allow others to: (i) adapt, alter, modify, decompile, translate, make derivative works, disassemble, or reverse engineer the Site or Service, including without limitation, the source code and any other underlying ideas or algorithms of the Software (except to the extent applicable laws specifically prohibit such restriction or where in accordance with the API terms of service); (ii) copy the Software; (iii) transfer, sublicense, loan, sell, lease, use for timesharing or service bureau purposes, or otherwise commercially use or exploit the Service; (iv) use the Site or Service in violation

of any applicable regulation or law; (v) use or attempt to use the Service for competitive analysis or benchmarking of the Service, or to develop a competitive service or directly compete with the Service; (vi) to store or transfer any tortious, illegal or infringing materials, (vii) use or attempt to use the Service, or provide us with any data, in violation of any third-party rights of any kind, including without limitation any privacy, intellectual property, confidentiality or contractual rights, (viii) to transfer any viruses, worms, trojans or other items of a similarly destructive nature.

The Customer shall use no less than industry standard security measures with respect to its access and use of the Services and Software. The Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Service, including, without limitation, hardware, server, software, operating system, networking, communication services, web and hosted services and platforms, and any platforms, networks, services and/or websites where it distributes and runs its services and applications, and to whom it provides data, including but not limited to, Facebook, Android, Blackberry and iOS/App Store (collectively, "Third Party Platforms"). The Customer shall be responsible for compliance its own and all terms of service and privacy policies with respect to the Third Party Platforms. Without limiting the foregoing, The Customer agrees to comply with third party terms of service and privacy policies for all third party analytics providers and other services that O'Brien Media provides with data at your request. O'Brien Media is not responsible for any act or omissions of any Third Party Platform.

The Customer shall also be responsible for maintaining the security of the Third Party Platforms, its account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of the account or the Third Party Platforms with or without The Customer's knowledge or consent.

You agree to:

- Use the Service for lawful purposes only and in compliance with any policies posted to the Site or conveyed by electronic notice;
- Not use the Service in a way that prevents or inhibits another user from enjoying the Service;
Not obtain the communications protocol for accessing the Service;
- Not remove, obscure or alter any notices or indications of any Intellectual Property Rights, any trade names, trademarks, service marks, logos, trade dress, and any other distinctive or proprietary

symbols, labels, designs or designations ("Branding"), or any electronic notices;

- Not interfere with, or attempt to interfere with, compromise the system integrity or security, or decipher any transmissions to or from the Service servers;
- Not to take any action that imposes an unreasonable or disproportionately large load on our infrastructure; and
- Not to challenge or assist others to challenge Our rights in the Branding, or our Intellectual Property Rights or registration or applications thereof.
- You agree to promptly notify O'Brien Media of any violation of this Section, or otherwise of this Agreement.

4. Confidential Information.

“Confidential Information” means: (a) the Service (Including the Software and Documentation); and (b) any O’Brien Media business or technical information that is disclosed to You in connection with this Agreement, including, but not limited to, any information relating to O’Brien Media plans, designs, costs, prices, finances, marketing plans, business opportunities, personnel or research and development. You will maintain all Confidential Information in strict confidence and will not disclose Confidential Information to any third party. You will not use Confidential Information, except as necessary for your performance of this Agreement.

The parties agree that any material breach of this Section (Confidentiality) will cause irreparable injury and that injunctive relief in a court of competent jurisdiction will be appropriate to prevent an initial or continuing breach of this Section in addition to any other relief to which O’Brien Media may be entitled.

5. Customer User Data

Our Services enable You to collect data (“Customer User Data”) about how your customers and other users (your “Users”) use and interact with your website, services and applications on which You have integrated our Service (including without limitation User name, postal address, e-mail address, IP address and phone number). We enable You to specify the Customer User Data that You collect, and, at your direction, to pass that data into the O’Brien Media Service, and to a variety of third-party analytics tools and services. O’Brien Media may also store Customer User Data in connection with the Service. O’Brien Media does not inspect the Customer User Data that it collects, and collects such information automatically under your direction when providing our Service.

As between The Customer and O’Brien Media, The Customer shall retain all right, title and interest in and to the Customer User Data. The Customer acknowledges that O’Brien Media exercises no control whatsoever over the content of the information (including Customer User Data) passing through O’Brien Media systems and networks in connection with providing the Service. The Customer will be responsible for the accuracy, quality and legality of Customer User Data and the means by which The Customer acquired the Customer User Data.

We may collect, store, and use your Customer User Data on our servers to provide You with the Services. Our Services may transfer data to servers that store User data in the U.S. and outside the U.S. We only share User information with others under special circumstances as follows:

- With third parties who work on our behalf to provide You the Services (including, without limitation, maintenance, administration, support, payment, hosting and database management services). These third parties may have access to your Customer User Data only to perform these tasks on our behalf in accordance with this Agreement and are obligated not to disclose or use it for any other purpose;
- To comply with laws or to respond to lawful requests and legal process;
- To protect the safety, rights and property of O'Brien Media, our agents, customers, and others (including emergency situations), and to enforce our agreements, policies, and terms of use; and
- For the purposes of a business deal (or negotiation of a business deal) involving sale or transfer of all or a part of our business or assets (business deals may include, for example, any merger, consolidation, acquisition, reorganization or sale of assets or in the event of bankruptcy).

We may provide You with access to your Customer User Data and ability to delete any of your User data. We also take commercially reasonable steps to safeguard Customer User Data. Provided, however that no security system is impenetrable. It may be possible for third parties to intercept or access Customer User Data, and We cannot guarantee the security of such information and is not responsible for unauthorized access to your account or Customer User Data.

You agree to comply with all applicable privacy and data protection regulations. You agree to provide appropriate notices to your Users about, and if required by applicable laws, obtain appropriate consent from Users for, your information collection and use practices relating to your use of our Services, and your use of any analytics providers or other third parties to whom You instruct us to send You're Customer User Data. You will not collect or provide us with any Customer User Data, nor request us to forward any Customer User Data to any third party, or request (through the O'Brien Media Service or directly) such third party to perform any processing, in violation of any law, regulation, or third party right, including without limitation intellectual property, privacy or contractual right. We will not be responsible for any act omission of any third party to whom You request us to forward your

Customer User Data, and You will indemnify and hold us harmless arising out of or related to their use of the Customer User Data.

You shall not provide O'Brien Media with any data that is considered "sensitive personal data" under the EU Data Protection Directive 95/46/EC, or that is otherwise subject to heightened restrictions relating to the transmission or processing of data for the jurisdictions in which You and O'Brien Media operate. It is your responsibility at all times to ensure that the means of passing data to O'Brien Media, as well as the data itself, along with your directives that We pass this data on to third party tools, at all times comply with the laws, regulations and agreements to which You, the data, or O'Brien Media are subject.

We may also collect registration and other information about You as our customer through our Site. Our collection and use of information collected about You on our website is governed by our Privacy Policy, available at <https://obrienmedia.co.uk/privacy-policy>. Our Privacy Policy does not cover Customer User Data. It is your obligation to provide your own privacy policy or notice to your Users as set forth in this Agreement.

In the performance of the Service, O'Brien Media is expressly authorized to collect general user data and report on the aggregate response rate and other aggregate measures of the Service's use and performance, provided that all User data is anonymized and no personally identifying information of the

The Customer or its Users is revealed. In addition, O'Brien Media may monitor the use and performance of the Service for compliance with, and to enforce, the terms and conditions of this Agreement.

6. Warranty Disclaimer

TO THE FULLEST EXTENT ALLOWED BY LAW, THE SERVICE AND SITE ARE PROVIDED BY O'BRIEN MEDIA AND ITS LICENSORS "AS IS" AND "AS AVAILABLE" AND O'BRIEN MEDIA MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NONINFRINGEMENT. TO THE FULLEST EXTENT ALLOWED BY LAW, YOU ASSUME ALL RISK FOR YOUR USE OF THE SERVICE AND SITE, INCLUDING WITHOUT LIMITATION ANY HARM CAUSED BY VIRUSES, WORKS, OR OTHER DAMAGING MATERIALS. IN NO EVENT DOES O'BRIEN MEDIA GUARANTEE ANY RESULTS, INCREASED TRAFFIC OR USER ENGAGEMENT FOR YOU. O'BRIEN MEDIA DOES NOT WARRANT THAT THE SERVICE OR SITE, OR ANY PORTION THEREOF, ARE ACCURATE, ERROR OR

BUG FREE, THAT YOUR USE OF THE SERVICE OR SITE WILL BE UNINTERRUPTED, OR THAT THE SERVICE'S OR SITE'S OPERATION WILL NOT NEGATIVELY AFFECT OTHER SOFTWARE OR HARDWARE. THIS SECTION APPLIES TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW. THE SERVICE IS OFFERED BY O'BRIEN MEDIA FROM ITS FACILITIES AND OPERATIONS IN THE UNITED KINGDOM AND UNITED STATES OF AMERICA. O'BRIEN MEDIA MAKES NO REPRESENTATIONS THAT THE SERVICE IS APPROPRIATE OR AVAILABLE FOR USE IN OTHER COUNTRIES. THOSE WHO ACCESS OR USE THE SERVICE FROM JURISDICTIONS OUTSIDE THE UNITED KINGDOM OR UNITED STATES ARE RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE LAWS. O'BRIEN MEDIA SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT TO THE EXTENT PERMISSIBLE UNDER THE UK "SALE OF GOODS ACT", 1979 (AS AMENDED).

7. Limitation of Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL O'BRIEN MEDIA AND/OR ITS LICENSORS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES BE LIABLE (i) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES RELATED TO OR ARISING FROM YOUR USE, MISUSE, OR INABILITY TO USE THE SERVICE OR SITE, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOST DATA, LOST PROFITS, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, PERSONAL INJURY OR PROPERTY DAMAGE OF ANY NATURE RESULTING FROM YOUR USE OF THE SERVICE OR SITE, ADVERTISEMENTS, UNAUTHORIZED ACCESS TO OUR SERVERS, SERVER UNAVAILABILITY, AND ANY PERSONAL INFORMATION STORED THEREIN, HOWEVER CAUSED UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED, TO CONTRACT OR TORT AND WHETHER OR NOT O'BRIEN MEDIA WAS OR SHOULD HAVE BEEN AWARE OR ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE ; OR (ii) FOR ANY CLAIM ATTRIBUTABLE TO ERRORS, OMISSIONS, OR OTHER INACCURACIES IN THE SERVICE OR DESTRUCTIVE PROPERTIES OF THE SERVICE. IN NO EVENT SHALL O'BRIEN MEDIA AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE TOTAL SUM OF MONIES PAID FROM YOU TO US AS CONSIDERATION FOR USE OF THE SERVICE DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

8. Indemnification

YOU HEREBY AGREE, AT YOUR EXPENSE, TO INDEMNIFY, DEFEND AND HOLD HARMLESS O'BRIEN MEDIA ITS LICENSORS, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL DEMANDS, LIABILITIES, LOSSES, CLAIMS AND EXPENSES, INCLUDING ATTORNEY'S FEES, ARISING OUT OF OR RELATING TO (A) YOUR USE OF THE SERVICE OR SITE, OR THE SERVICES TO WHOM WE SUBMIT DATA OR INSTRUCTIONS AT YOUR REQUEST, INCLUDING WITHOUT LIMITATION THAT ANY CLAIM THAT ANY OF THE FOREGOING VIOLATES ANY THIRD PARTY RIGHT, (B) SERVICES, PRODUCTS, INFORMATION, DATA, PROCESSING INSTRUCTIONS OR CONTENT YOU SUBMITTED OR USED IN CONNECTION WITH THE SERVICE, OR (C) ANY ACTUAL OR ALLEGED NEGLIGENCE, WILFUL MISCONDUCT, FRAUD, MANIPULATION, OR BREACH OF THIS AGREEMENT, BY YOU. YOU WILL NOT ENTER INTO ANY SETTLEMENT OF, OR AGREEMENT RELATED TO, ANY MATTER COVERED BY THIS SECTION WITHOUT FIRST OBTAINING O'BRIEN MEDIA WRITTEN CONSENT. O'BRIEN MEDIA RESERVES THE RIGHT, AT ITS OWN EXPENSE AND IN ITS SOLE DISCRETION, TO PARTICIPATE IN ANY DEFENSE, AND TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF ANY MATTER OTHERWISE SUBJECT TO INDEMNIFICATION BY YOU, AND YOU SHALL FULLY COOPERATE WITH O'BRIEN MEDIA IN SUCH DEFENSE.

9. Term and Termination

These Terms of Service will remain in effect for your Free Trial Period, and, upon conversion to a Paid Plan subscription, until your paid subscription to the Services terminates, or until the Terms of Service are otherwise terminated as set forth herein. For The Customers in the Free Trial Period, We may terminate this Agreement at any time, in whole or in part, for any reason, with or without notice. During the Free Trial Period, You may terminate this Agreement at any time by (i) providing us with written notice, and (ii) discontinuing Your use of the Services and removing all O'Brien Media java scripts and other scripts from Your website, application or service, and destroying all other parts of the Service, Software and O'Brien Media Confidential Information in Your possession.

For The Customers under a Paid Plan, You may terminate this Agreement effective as of the end of the then-current subscription period by providing us with at least thirty (30) days' written notice prior to the expiration of your then-current subscription term. Once You are under a Paid Plan, We may terminate

this Agreement at any time, in whole or in part, for any reason upon providing You with fourteen (14) days' written notice. Upon any termination or expiration of this Agreement, all licenses, and any other rights and services provided by Us to You in this Agreement, shall cease immediately, and You shall immediately (i) pay all outstanding balances, and (ii) cease all use of the Services and remove all O'Brien Media java scripts and other scripts from Your website, application or service, and destroy all other parts of the Service, Software and O'Brien Media Confidential Information in Your possession. The following sections will survive any expiration or termination of this Agreement: 1 (with respect to any fees due and their collection), and 3 through 9 and 11.

We also may permanently or temporarily terminate, suspend, or otherwise refuse to permit Your use of the Service without notice or liability, if in Our sole determination, You violate these Terms of Service or O'Brien Media privacy policy, or in cases of emergency or to prevent violations of law or harm to others. Termination of these Terms of Service, any license, or Your access to the Site or Service, shall not limit Us from pursuing other remedies available to Us against You, including, but not limited to, injunctive relief.

10. Modifications to this Agreement

Our employees are not authorized to vary the terms of this Agreement. This Agreement may be modified only (a) by obtaining our written consent in an agreement signed by an officer of O'Brien Media; or (b) as set forth below in the immediately following paragraph.

You agree that O'Brien Media may modify the terms of this Agreement from time to time, and that your right to access the Services is conditioned on an ongoing basis with your compliance with the then-current version of this Agreement. We will notify You when We make material revisions or modifications to the Agreement by (x) posting a notice or new version of this Agreement on the O'Brien Media Site, or (y) providing direct notice in a communication to your customer account (if You have one), or otherwise in some manner through the Service that We deem reasonably likely to reach You (which may be by posting to this Site or on our blog). The modifications will be effective upon posting (unless otherwise indicated at the time of posting). By continuing to use the Services or Site following the posting of this Agreement, You consent to the revised or modified terms of this Agreement.

11. General

General terms:

The Service may contain or be distributed with open source software or other third party software which may be covered by a different license.

Notwithstanding anything to the contrary, the obligations of O'Brien Media set forth in this Agreement do not extend to any open source software or such other third party software which may be made available by O'Brien Media, or otherwise obtained or used by

You. You agree that all open source software or such other third party software shall be and shall remain subject to the terms and conditions under which it is provided, and You shall be responsible for compliance with such terms. To the fullest extent possible O'Brien Media disclaims all warranties and liability regarding such open source and third party software in accordance with the terms of this Agreement.

Headings. Headings are for organizational purposes only and shall in no way affect the interpretation of this Agreement.

Assignment. You may not assign, license or transfer any of your obligations under these terms to any third party. You may not delegate, assign or otherwise transfer Your rights or delegate Your obligations under this Agreement, in whole or in part, any attempted assignment by You shall be null and void.

Governing Law. These terms are governed by English law. We both agree to the exclusive jurisdiction of the courts of England and Wales.

Notwithstanding the foregoing, in the event of your or others' unauthorized access to or use of the Services or content in violation of these terms You agree that We are entitled to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

Severability. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary to give effect to the mutual intent of the parties, and so that this Agreement shall otherwise remain in full force and effect and remain enforceable between the parties.

No waiver. Failure of either party to act in the event of a breach of this Agreement by the other shall not be deemed a waiver of such breach or a waiver of future breaches.

Notices. Any notice given under this Agreement shall be in writing and in the English language and shall be emailed, if to O'Brien Media, or if to You, to the email or physical address associated with Your account. You hereby consent to receiving any notices relevant to the Services or this Agreement by email sent to the current email address of Your account and notices posted on the Site without requiring a handwritten signature for such notice to be effective.

Force Majeure. Neither party shall be liable for failing or delaying performance of its obligations (except for the payment of money) resulting from any condition beyond its reasonable control, including but not limited to, governmental action, acts of terrorism, natural disasters, earthquake, fire, flood or other acts of God, labor conditions, power failures, and Internet disturbances.

The Agreement. These terms, and any other documents or terms referred to in these terms, shall constitute the whole agreement between The Customer and O'Brien Media with respect to the subject matter of this Agreement and supersedes and replaces any prior or contemporaneous understandings and

agreements, whether written or oral, with respect to the subject matter of this Agreement.

Any claim related to these Terms of Service, the Site(s) or the Service must be brought within one year. The one-year period begins on the date when the claim first could be filed. If it is not filed, then that claim is permanently barred. This applies to You and your successors.

O'Brien Media and The Customer are not legal partners or agents but are independent contractors.

There are no third-party beneficiaries to this Agreement. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of these terms but this does not affect any right or remedy that exists or is available apart from that Act.

The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

All waivers and modifications must be in a writing signed on behalf of both parties by their duly authorized representatives, except as otherwise provided herein. No waiver of any breach shall constitute a waiver of any other breach.

The enforceability or otherwise of any clause, sub-clause or provision of these terms shall not affect in any way the enforceability of the remainder of this Agreement.

12. GDPR Updated Data Protection Terms

We are committed to the protection of all of our data and the lawful use and processing of that data.

With the arrival of the GDPR, we have updated our Data Processing Addendum (DPA) to ensure compliance with all GDPR-specific requirements and now offer our enhanced DPA to The Customer. The revised DPA supplements our Terms of Use and provides contractual safeguards for the processing of personal data sent through O'Brien Media, enabling the Customer to be compliant with the GDPR.

13. Contacting Us

If You have any questions or concerns at all about our Terms of Service, please feel free to email compliance@obrienmedia.co.uk or write to us at the following address:

O'Brien Media Limited
the Innovation Centre
PO Box 4096
Swindon
SN5 1DE