Terms and Conditions

PLEASE READ THESE LICENCE TERMS CAREFULLY  This agreement is a legal agreement between you (Customer or you) and Operastory.co.uk

1. INTERPRETATION
1.1 The definitions and rules of interpretation in this clause apply in this agreement.

Authorised Users: those individuals authorised to use the Services and the Documentation.

Customer Data: the data inputted by the Customer, Authorised Users, or the Supplier on the Customer’s behalf for the purpose of using the Services or facilitating the Customer’s use of the Services.

Documentation: the documentation made available to the Customer on the Website which sets out a description of the Services and the user instructions for the Services.

Effective Date: the date of this agreement.

Initial Subscription Term: if you have chosen a monthly billing cycle, 1 month. If you have chosen an annual billing cycle, 1 year.

Renewal Period: the period described in clause 11.1.

Services: the subscription services provided by the Supplier to the Customer under this agreement via the Website as more particularly described in the Documentation.

Software: the online software application provided by the Supplier on the Website as part of the Services.

Subscription Fees: the subscription fees payable by the Customer to the Supplier for the User Subscriptions, as set out in our pricing and subscription information pages.

Subscription Term: the Initial Subscription Term together with any subsequent Renewal Periods.

User Subscriptions: the user subscriptions purchased by the Customer pursuant to clause 7.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Website: our website at www.operastory.co.uk

1.2 Clause and paragraph headings shall not affect the interpretation of this agreement.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).
1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
1.6 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.

This clause sets out the meaning of certain words and terms used in the rest of the agreement.

**2 USER SUBSCRIPTIONS**

2.1 Subject to the Customer purchasing the User Subscriptions and complying with the terms of this agreement the Supplier hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Services and the Documentation during the Subscription Term. Authorised Users may use the Services to generate reports for your clients and customers but you may not allow your clients and customers to directly access the Services unless they have a valid User Subscription.

If you pay us the appropriate subscription fees we'll let you access the service.

2.2 In relation to the Authorised Users, the Customer undertakes that:
   a) the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;
   b) it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation; and
   c) each Authorised User shall keep a secure password for their use of the Services and Documentation, that such password shall be changed no less frequently than monthly and that each Authorised User shall keep their password confidential.

Only authorised users (the specific people you have paid for) can use the service and you won’t let anyone else access your account.

2.3 The Customer shall not:

   a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
      i) and except to the extent expressly permitted under this agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Documentation (as applicable) in any form or media or by any means; or
ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
c) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users; or
d) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2.

You won’t try to access the source code or recreate our service.

2.4 The Customer shall use best endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.

If you think anyone else has accessed your account you will tell us straight away.

3 USER SUBSCRIPTIONS

The Customer may, during any Subscription Term, upgrade to the next level of User Subscriptions or add further services by notifying the Supplier and paying the additional Subscription Fees.

You can upgrade your subscription at anytime by asking us (and paying the additional fee).

4 SERVICES

4.1 The Supplier shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this agreement.

4.2 The Supplier shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:
a) planned maintenance carried out during the maintenance window of 10.00 pm to 2.00 am UK time; and
b) unscheduled maintenance provided that the Supplier has used reasonable endeavours to give the Customer notice in advance.

We do our best to make sure you can access the service but there will be some occasions when it will be down (bug fixes, patches, updates etc.)

5 CUSTOMER DATA
5.1 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

5.2 The Supplier is not under any obligation to store any Customer Data. In some cases Customer Data is stored in the ‘history’ (accessible in the Files Management area of the website) but such data is automatically deleted within 60 days from receipt. The Customer can delete any Customer Data immediately by deleting it from the ‘history’ in the admin panel. The Supplier shall not be responsible for any loss, destruction or alteration of Customer Data.

5.3 If the Supplier processes any personal data on the Customer’s behalf when performing its obligations under this agreement, the parties record their intention that the Customer shall be the data controller and the Supplier shall be a data processor and in any such case:
   a) the Customer acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Customer and the Authorised Users are located in order to carry out the Services and the Supplier’s other obligations under this agreement;
   b) the Customer shall ensure that the Customer is entitled to transfer the relevant personal data to the Supplier so that the Supplier may lawfully use, process and transfer the personal data in accordance with this agreement on the Customer’s behalf;
   c) the Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
   d) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

Any information you put into our site belongs to you and not us. The data will travel through our servers to be processed and this means it could be processed by a server outside the European Economic Area. You are responsible for any Data Protection rules that apply to any content you upload.

6 SUPPLIER’S OBLIGATIONS

6.1 The Supplier undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

6.2 The Supplier:

   a) does not warrant that the Customer’s use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer’s requirements; and
   b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities. We do our best to make sure our service does what it should, but we do not guarantee it.
7 CHARGES AND PAYMENT

7.1 The Customer shall pay the Subscription Fees to the Supplier for the User Subscriptions in accordance with this clause 7.

7.2 The Customer shall pay the Subscription Fees to the Supplier for the User Subscriptions either:
   a) Annually in advance; or
   b) Monthly in advance, payable on the same day of each month of the Initial Subscription Term (i.e. if the Initial Subscription Term started on 5th January the Subscription fees would be due on the 5th of each month thereafter). Where the payment date cannot be the same day of a month it shall be the nearest day before (i.e. if the payment date is 31st of March then the next payment would be due on 30th April).

7.3 The Customer shall pay the Subscription Fees by debit or credit card through the Website. The Supplier uses the third party payment processor PayPal to process card payments. The Supplier does not store or process any card details on its own servers. PayPal will store the card details used to pay the Subscription Fees and will use those same card details to automatically take payment for any Subscription Fees in respect of each Renewal Period.

7.4 All amounts and fees stated or referred to in this agreement:
   a) shall be payable in GBP;
   b) are, subject to clause 10.4(b), non-cancellable and non-refundable;
   c) are exclusive of any applicable taxes (such as value added tax), which shall be added to the Supplier's invoice(s) at the appropriate rate.

7.5 The Supplier shall be entitled to increase the Subscription Fees at the start of each Renewal Period upon 30 days' prior notice to the Customer.

You need to pay the subscription fees in advance through our website.

8 PROPRIETARY RIGHTS

8.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this agreement does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licenses in respect of the Services or the Documentation.

8.2 The Supplier confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

We own all intellectual property rights in our software/service.

8.3 The Supplier does not own or claim any right in any Customer Data.
9 INDENMITY
You own all rights in any data you upload, we do not claim any right over it, we just use it to process the readability score.
9.1 The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer’s use of the Services and/or Documentation, provided that:
   a) the Customer is given prompt notice of any such claim;
   b) the Supplier provides reasonable co-operation to the Customer in the defense and settlement of such claim, at the Customer's expense.
If you do anything through our website which ends up with a legal claim being made against us you will be responsible for any costs we incur as a result.

10 LIMITATION OF LIABILITY

10.1 This clause 10 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:
   a) arising under or in connection with this agreement;
   b) in respect of any use made by the Customer of the Services and Documentation or any part of them; and
   c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.

10.2 Except as expressly and specifically provided in this agreement:
   a) the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction;
   b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and
   c) the Services and the Documentation are provided to the Customer on an "as is" basis.

10.3 Nothing in this agreement excludes the liability of the Supplier:
   a) for death or personal injury caused by the Supplier's negligence; or
   b) for fraud or fraudulent misrepresentation.

10.4 Subject to clause 10.2 and clause 10.3:
   a) the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and
b) the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the total Subscription Fees paid for the User Subscriptions during the 12 months immediately preceding the date on which the claim arose.
We will never be liable to you for anything more than your most recent subscription fee.

11 TERM AND TERMINATION

11.1 This agreement shall, unless otherwise terminated as provided in this clause 11, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive periods equal in length to the Initial Subscription Term (each a **Renewal Period**), unless:
a) either party notifies the other party of termination, in writing, at least 7 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
b) you cancel your subscription through the ‘Billing’ section of our website; or
c) otherwise terminated in accordance with the provisions of this agreement;
and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Subscription Term**.
This agreement lasts for the period you select (monthly or annually). It will renew automatically at the end of each period until you cancel it. You can cancel in the ‘Billing’ section of our site or by emailing us.

11.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
a) the other party fails to pay any amount due under this agreement on the due date for payment;
b) the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

11.3 On termination of this agreement for any reason:
a) all licences granted under this agreement shall immediately terminate;
b) the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession; and
c) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

12 FORCE MAJEURE
The Supplier shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

We are not responsible for anything outside our control (power cuts, natural disasters etc.)

13 VARIATION

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

14 ENTIRE AGREEMENT

This agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

15 ASSIGNMENT

15.1 The Supplier may but the Customer may not at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

You can’t transfer your account to someone else without our agreement.

16 NO PARTNERSHIP OR AGENCY

Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

17 THIRD PARTY RIGHTS

This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

18 GOVERNING LAW
This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).