GPT for Work

Terms of Service

These Terms of Service ("Terms") are a legal agreement between Talarian S.à.r.l., having an office and place of business at 30, boulevard Grand-Duchesse Charlotte, L-1330 Luxembourg, Luxembourg (herein "Talarian" or "us"), and the person or entity agreeing to the terms herein ("Customer", "You" or "you"). By installing GPT for Work via the Google Workspace marketplace (with respect to GPT for Sheets™ and GPT for Docs™) or via the Microsoft AppSource marketplace (with respect to GPT in Excel™ and GPT in Microsoft Word™), by mutually executing one or more order forms with us which reference these Terms or by accessing or using any part of GPT for Work (the "Service") in any manner, You agree that You have read, understand, and agree to be bound by all of the terms and conditions contained herein, including GenAI Tools Terms (as defined below), to the exclusion of all other terms. PLEASE READ THESE TERMS CAREFULLY BEFORE USING THE SERVICE. If You do not agree to these Terms, You must not use or access the Service. You must be 18 years or older and able to form a binding contract with Talarian to use the Service. If You are entering into these Terms on behalf of a company, You represent that You have the authority to bind that company to these Terms. If You have purchased a license to use the Service through a Talarian authorized reseller, You also agree to comply with the terms of any agreement between You and such reseller. In the event of an inconsistency between these Terms and any such reseller agreements, these Terms shall prevail. If you register for the Service free tier, these Terms will also govern your use and access of the Service under that free tier.

Description of Service

The Service is either:

(i) a Google Sheets™ or a Google Docs™ add-on for Google Workspace which interoperates with the API of the relevant GenAI Tool and which displays the output relating to any such interoperation in a Google spreadsheet or a Google document ("GPT for Sheets™" and "GPT for Docs™"); or

(ii) a Microsoft Excel™ or a Microsoft Word™ add-in which interoperates with the API of the relevant GenAI Tool and which displays the output relating to any such interoperation in a Microsoft Excel spreadsheet or a Microsoft Word document ("GPT in Excel™" and "GPT in Microsoft Word™").

OpenAI
OpenAI (hereinafter, “OpenAI”) is a solution provided by OpenAI, L.L.C. and notably subject to Terms of Use (available at https://openai.com/terms/), Service Terms (available at https://openai.com/api/policies/service-terms/), Sharing & Publication Policy (available at https://openai.com/api/policies/sharing-publication/), Usage Policies (available at https://beta.openai.com/docs/usage-policies) and Privacy Policy (available at https://openai.com/policies/privacy-policy). You specifically acknowledge and agree to the processing of Your personal data by OpenAI, as described in the OpenAI Data Processing Agreement entered into between OpenAI and Talarian and available on Talarian’s security portal (available at: https://security.talarian.io/). All the aforementioned OpenAI’s terms applicable to OpenAI are referred below as “OpenAI Terms”.

For the avoidance of doubt, the Service does not interoperate with chat.openai.com but only with the OpenAI API.

Azure OpenAI Service

Azure OpenAI Service (hereinafter, “Azure OpenAI Service”) is a solution provided by Microsoft Corporation, and notably subject to:
- The Privacy Policy (available at https://privacy.microsoft.com/privacystatement) and

You specifically acknowledge and agree to the processing of Your personal data by Microsoft, as described in the Microsoft Data Processing Agreement entered into between Microsoft and Talarian and available at: https://www.microsoft.com/licensing/docs/view/Microsoft-Products-and-Services-Data-Protection-Addendum-DPA).

All the aforementioned Microsoft’s terms applicable to Azure OpenAI Service are referred below as “Azure OpenAI Service Terms”.
Anthropic


All the aforementioned Anthropic’s terms applicable to Anthropic are referred below as “Anthropic Terms”.

GenAI Tools

OpenAI, Azure OpenAI Service, and Anthropic are hereinafter referred to as the “GenAI Tools”. For the avoidance of doubt, each GenAI Tool is deemed to be a Third Party Offering, as such term is defined below.

OpenAI Terms, Azure OpenAI Service Terms, and Anthropic Terms are hereinafter referred to as the “GenAI Tools Terms”, and may be subject to change at the relevant GenAI Tools provider’s sole discretion.

The Service is provided subject to these Terms and solely for Your internal business purposes. You may connect to the Service using any Internet browser supported by the Service.

Under the GPT for Sheets™ and GPT for Docs™ modalities, the Service requires a Google account that will be used to access Google Sheets™ and/or Google Docs™ on which the Service is installed. Under the GPT in Excel™ and GPT in Microsoft Word™ modalities, the Service requires a Microsoft account that will be used to access Excel™ and/or Microsoft Word™ on which the Service is installed. You understand and acknowledge that You are solely responsible for obtaining the Internet access and all equipment necessary to use the Service, for appropriately installing the Service and for creating and managing the content created via the Service. All fees associated with the foregoing shall be paid by You.

Customer is responsible for securing its Google account (with respect to GPT for Sheets™ and GPT for Docs™) or its Microsoft account (with respect to GPT in Excel™ and/or GPT in Microsoft Word™) against unauthorized access. Customer agrees not to do anything else that might jeopardize the security of its Google account or Microsoft account, as applicable. Customer agrees to notify Talarian if there is any unauthorized use of its or any User’s Google account (with respect to GPT for Sheets™ and GPT for Docs™) or its or any User’s Microsoft account (with respect to GPT in Excel™ and GPT in Microsoft Word™), or if Customer learns of any other breach of security in relation to the Service. Customer is solely responsible for any and all activities that occur through the use of Customer’s or its Users’ Google accounts (with respect to GPT for Sheets™ and GPT for Docs™) or Customer’s or its Users’ Microsoft accounts (with respect to GPT in Excel™ and GPT in Microsoft Word™).

Modifications
To these Terms: Talarian reserves the right to update and change the Terms upon notice from time to time. You will be provided notice of any such modification by electronic mail or by the publishing of such on the Google Workspace marketplace (with respect to GPT for Sheets™ and GPT for Docs™) or on the Microsoft AppSource marketplace (with respect to GPT in Excel™ and GPT in Microsoft Word™). You may terminate your use of the Service if the Terms are modified in a manner that substantially affects your rights in connection with your use of the Service. Your continued use of the Service after any such changes shall constitute your consent to such changes. You can review the most current version of the Terms at any time at: https://static.talarian.io/gpt-for-sheets/GPT_for_Sheets_and_Docs_TOS.pdf.

To the Service: Talarian may make changes to the Service from time to time. Any updates, upgrades, additions or new features to the Service, including the release of new tools and resources, shall be subject to these Terms and may require you to agree to additional terms and conditions.

Purchase Orders: In the event that You issue a purchase order or other instrument used to pay Service fees to Talarian, any terms and conditions set forth in the purchase order which are in addition to those set forth in these Terms or establish conflicting terms and conditions to those set forth in these Terms are expressly rejected by Talarian and superseded by these Terms.

Use of the Service

Access to Service: Access to the Service is only available to the Customer and, if included in the relevant license tier, the end users (“Users”) to whom Customer grants access, and limited to the components that are included in the license tier Customer has purchased. Upon installation of the Service, Customer will be able to access the Service (i) through the Google Sheets™ interface and the Google Docs™ interface (with respect to GPT for Sheets™ and GPT for Docs™) or (ii) through the Microsoft Excel™ interface and the Microsoft Word™ interface (with respect to GPT in Excel™ and GPT in Microsoft Word™).

License to Customer: Subject to Customer’s compliance with these Terms, the GenAI Tools Terms, the Google Acceptable Use Policy, available at https://cloud.google.com/terms/aup (with respect to GPT for Sheets™ and GPT for Docs™), any other Google specific contract or policy applicable to Customer use of Google solutions (with respect to GPT for Sheets™ and GPT for Docs™), the then-current Microsoft’s acceptable use policy (with respect to GPT in Excel™ and GPT in Microsoft Word™), any other Microsoft specific contract or policy applicable to Customer use of Microsoft solutions (with respect to GPT in Excel™ and GPT in Microsoft Word™), and the terms and conditions of any Third Party Offering, including, without limitation, Customer’s payment of all applicable fees, Talarian hereby grants Customer a limited, revocable, non-transferable non-exclusive, non-sublicensable license to access and use the Service solely for Customer’s own internal business use.

Customer is at all times fully responsible and liable for all acts and omissions by Users to whom Customer has granted access to the Service and/or, if applicable, Third Party Offerings via its account and Customer agrees to indemnify Talarian for all claims and losses related to any such
acts and/or omissions. Further to this, you agree to accept responsibility for any and all activities or actions that occur under your account. If Service fees apply, Talarian reserves the right to terminate unpaid accounts.

Restrictions on Use

Restrictions on Use of the Service: In addition to all other terms and conditions contained herein (including OpenAI’s Usage Policies, Azure OpenAI Service Acceptable Use Policy and Code of Conduct and Anthropic’s Acceptable Use Policy), you shall not and shall not permit others to:

1. copy, modify, adapt, translate or otherwise create derivative works of the Service or any Third Party Offering;
2. reverse engineer, decompile, translate, disassemble or otherwise attempt to discover the source code of the Service or any Third Party Offering;
3. rent, lease, sell, resell, assign, sublicense, transfer, distribute any or all of the Service or any Third Party Offering or otherwise transfer rights in or to the Service or any Third Party Offering;
4. access or use the Service or any Third Party Offering:
   a. For activities where the use or failure of the Service or any Third Party Offering would reasonably be expected to lead to death, personal injury, or environmental damage (such as the creation or operation of nuclear facilities, air traffic control, life support systems, or weaponry);
   b. In violation of the then-current Google’s acceptable use policy stated at http://cloud.google.com/terms/aup (with respect to GPT for Sheets™ and GPT for Docs™);
   a. In violation of the then-current Microsoft’s acceptable use policy available at https://www.microsoft.com/licensing/terms/product/ForOnlineServices/all (with respect to GPT in Excel™ and GPT in Microsoft Word™);
   c. In violation of the then-current GenAI Tools Terms;
   d. In violation of any then-current terms applicable to any other applicable Third Party Offerings;
   e. In a manner intended to avoid incurring fees (including creating multiple accounts to simulate or act as a single customer account) or to circumvent the specific usage limits or quotas of the Service or any Third Party Offering;
   f. For materials or activities that are subject to the International Traffic in Arms Regulations (ITAR) maintained by the Department of State of the US or to process or store any data that is subject to the ITAR;
   g. To transmit, store, or process health information subject to United States HIPAA regulations;
5. remove any proprietary notices or labels from the Service or any Third Party Offering;
6. use, post, transmit or introduce any device, software or routine which interferes or attempts to interfere with the operation of the Service or any Third Party Offering;
7. use the Service or any Third Party Offering for spamming or any other illegal or unauthorized purpose or engage in illegal or deceptive trade practices;
8. otherwise use of the Service or any Third Party Offering in violation of any applicable laws (including but not limited to copyright laws and Export control laws).
This list of prohibitions provides examples and is not complete or exclusive.

Talarian may report to law enforcement authorities any actions that may be illegal, and any reports it receives of such conduct. When legally required or at Talarian’s discretion, Talarian will cooperate with law enforcement agencies in any investigation of alleged illegal activity associated with the Service or on the Internet.

Unauthorized use of any trademarked, copyrighted or patented materials contained in the Service may violate certain laws and regulations. You agree to indemnify and hold Talarian and its officers, directors, employees, affiliates, agents, licensors, and business partners harmless from and against any and all costs, damages, liabilities, and expenses (including attorneys’ fees and costs of defense) Talarian or any other indemnified party suffers in relation to, arising from, or for the purpose of avoiding, any claim or demand from a third party that your use of this Service or Third Party Offering or the use of Service or Third Party Offering by any person using your account (including without limitation, Your Content as defined below) violates any applicable law or regulation, or the copyrights, trademark rights or other rights of any third party.

**Suspension or Termination**

Talarian reserves the right to suspend or terminate your access to the Service with or without cause and with or without notice, for any reason or no reason, or for any action that Talarian determines is inappropriate or disruptive to the Service or to any other user of this Service. Without prejudice to the above, Talarian reserves the right to suspend or terminate Customer’s access to the Service immediately, with or without notice, in particular if Talarian reasonably determines that:

(a) there is a threat or attack on the Service (including a denial of service attack) or other event that may create a risk to the Service, any Third Party Offering, Talarian, Customer, or any user of the Service;
(b) Customer’s or its Users’ use of the Service or Customer Content disrupts or poses a security risk to the Service or any Third Party Offering or any user of the Service, may harm Talarian’s systems, or may subject Talarian or any third party to liability;
(c) Customer or any User is using the Service or Third Party Offering for fraudulent or illegal activities;
(d) Customer or any User is causing performance disruptions in the Services or in Google Workspace, including without limitation Google Sheets™ and Google Docs™ (with respect to GPT for Sheets™ and GPT for Docs™) or in Microsoft 365™, including without limitation Microsoft Excel™ and Microsoft Word™ (with respect to GPT in Excel™ and GPT in Microsoft Word™), or in a GenAI Tool by using the Service in a way that is not recommended in guidelines published in the Service’s documentation (available at https://gptforwork.com/) or by ignoring recommendations provided by Talarian’s technical support;
(e) subject to applicable law, Customer has ceased to continue Customer’s business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its
assets, or becomes the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding;

(f) Customer or any User is using the Service or other Talarian property in breach of these Terms or is using any Third Party Offering in violation of the concerned Third Party Offering’s relevant terms and conditions (including, for the avoidance of doubt, the GenAI Tools Terms); or

(h) Customer (or reseller, if applicable) is in default of its payment obligations hereunder (collectively, "Service Suspensions").

Talarian will make commercially reasonable efforts, circumstances permitting, to provide written notice of any Service Suspension to Customer, and to provide updates regarding resumption of Customer’s access to the Service following any Service Suspension.

Third Party Offerings and Third Party Terms

For purposes of these Terms, “Third Party Offerings” shall mean (i) certain software or services delivered or performed by third parties that are required for the operation of the Service or certain features of the Service, and certain other applications and associated offline products provided by third parties, in each case that interoperate with the Service or (ii) certain software or services delivered or performed by third parties and that are made available to Customer and its Users as part of the Service. Google Workspace, including Google Sheets™ and Google Docs™ (if the Service is used via the GPT for Sheets™ and GPT for Docs™ modalities), Microsoft 365™, including Microsoft Excel™ and Microsoft Word™ (if the Service is used via the GPT in Excel™ and GPT in Microsoft Word™ modalities) and GenAI Tools are examples of Third Party Offerings for the purpose of these Terms.

Certain Third Party Offerings are made available to Customer and its Users as part of the Service itself. Other Third Party Offerings are not made available as part of the Service, instead, the Service may use or contain features designed to interoperate with these Third Party Offerings. To use the latter Third Party Offerings, Customer shall obtain access to such Third Party Offerings from applicable providers. Any acquisition or use by Customer of any such Third Party Offerings, if applicable, and any exchange of data between Customer and any provider of a Third Party Offering, is solely between Customer and the applicable provider of the Third Party Offering.

Talarian shall not be liable for Customer’s or Customer’s User use of, and does not warrant or support any Third Party Offering. Customer grants Talarian permission (a) to allow the provider of any Third Party Offering to access and use all Customer Content and (b) to access and use Customer data and documents to which the Third Party Offering gives access to Talarian, in each case solely as required for the interoperation of the Service or the relevant Third Party Offering. If the provider of any Third Party Offering ceases to make the Third Party Offering available for interoperation with the corresponding Service features on reasonable terms and conditions, Talarian may cease providing such features or the Service altogether, without entitling Customer to any refund or credit.

Customer shall comply with the relevant terms and conditions and/or policies of all applicable third-party services providers (including, but not limited to, the Google Cloud Platform Acceptable Use Policy (available at https://cloud.google.com/terms/aup) (with respect to GPT
for Sheets™ and GPT for Docs™), then-current Microsoft’s acceptable use policy available at https://www.microsoft.com/licensing/terms/product/ForOnlineServices/all (with respect to GPT in Excel™ and GPT in Microsoft Word™) and the relevant terms and conditions of any Third Party Offering). Customer will indemnify, defend, and hold Talarian harmless from and against any damages, expenses and cost arising from or relating to Customer’s or Customer’s User failure to comply with such applicable third-party terms.

Fees, Term, Termination and Refund

1. **Fees.** Customer agrees to pay the Service fees applicable to Customers and its Users for the use of the Service. Such fees will be paid to Talarian at the time and in the form established in the pricing option selected by you in the pricing page, before installing the Service or as detailed in the relevant order form, if applicable. All fees and charges are payable in advance and non-refundable (except as otherwise established in the pricing option selected by you on the pricing page or as detailed in the relevant order form), including in the case of unused credits or after termination or cancellation, unless otherwise disclosed at the time of purchase.

2. **Term.** The term shall commence on the Effective Date as defined below and will remain in effect until the expiration of your purchase or the termination of the Terms, whichever occurs first (the “**Term**”). “Effective Date” is the date You enter into these Terms by installing the Service, or by mutually executing one or more order forms with us which reference these Terms, or by otherwise accessing or using any part of the Service in any manner.

3. **Termination.** You may terminate the Terms for convenience at any time during the Term; however, in case of termination for convenience before the end of the Term, all fees associated with your then-current purchase remain due and payable and no refunds of prepaid fees will be paid to you.

4. **Refund.** Given the nature of the Service, Talarian does not offer a refund or credit on a purchase unless required under applicable consumer law. Talarian will generally not provide refunds in the following situations:
   a. You have changed your mind about the Service
   b. You don’t need to use the Service anymore
   c. You purchased the Service by mistake
   d. You do not have sufficient expertise to use the Service
   e. You ask for goodwill
   f. You forgot to cancel auto-renewal of the Service, if applicable, depending on the pricing option
   g. The Service does not meet your expectations

This list is not exhaustive and shall not be construed so as to limit our right to decline refund requests in other situations. Talarian reserves the right to assess refund requests on a per-request basis.
If Talarian decides to issue a refund or credit, this will generally be done using the same manner you used to make the purchase. All refund requests should be made in writing by contacting support.

5. In case of non-payment for any reason (including, if applicable, Talarian's inability to charge your credit card or other payment method for any reason) or any violation of these Terms or the terms of any Third Party Offering, Talarian shall be entitled – without liability – to immediately suspend Customer’s and Users’ access to the Service. If you purchase your license to use the Service from Talarian, you hereby expressly agree that Talarian is permitted to bill you for the applicable fees, on the one hand, and any applicable taxes, levies, duties, deductions, withholdings and any other charges you may incur in connection with your use of the Service, on the other hand (collectively, the “Charges”); or charge such fees and Charges to your credit card or other payment method designated on your initial registration with Talarian (if applicable). If Customer is required to deduct or withhold any Charges from such payments, then the amount payable to Talarian shall be increased as necessary so that after making all required deductions or withholdings (including deductions applicable to additional amounts payable under this paragraph), Talarian will receive an amount equal to the amount it would have received had no such deductions been made. Customer shall indemnify and hold harmless Talarian from and against all claims, actions, costs, losses, damages and liabilities arising in connection with the breach by Customer of this paragraph. If you cancel your account at any time, you will not receive any refund.

If You purchase the Service through a reseller, You owe payment to the reseller as agreed between You and the reseller. You acknowledge that Talarian may suspend or terminate your rights to use the Services if Talarian does not receive the corresponding payment from the reseller, or if You are in breach of these Terms.

6. Customer agrees that Customer’s paid use of the Service is neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public or private comments made by Talarian or Talarian reseller regarding future functionality or features.

**Free Tier**

If You register for a free tier offer, Talarian will make the Service available to You on a free tier basis until the earlier of (a) termination, (b) the end of the relevant free tier period for which You registered to use the applicable Service, if applicable or (c) consumption of relevant credits attached to the free tier offer, if applicable. You may not create more than one account to benefit from credits provided in the free tier of the Service. If Talarian believes Customer or Users are not using the free tier in good faith, Talarian may charge Customer standard fees or stop providing access to the Service. YOUR CONTENT ON OUR SYSTEMS OR IN OUR POSSESSION OR CONTROL AND ANY CUSTOMIZATIONS MADE TO THE SERVICE BY OR FOR YOU, DURING THE FREE TIER PERIOD MAY BE PERMANENTLY LOST OR DELETED AT THE END OF THE FREE TIER PERIOD. TALARIAN WILL HAVE NO LIABILITY FOR ANY HARM OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH A FREE TIER OFFER.

**Intellectual Property**
Customer hereby acknowledges and agrees that, subject to the limited rights granted hereunder, Talarian (or its licensors) own all legal right, title and interest in and to the Service, including, without limitation, any Intellectual Property Rights or other proprietary rights which exist in the Service (whether such rights are registered or unregistered, and wherever in the world those rights may exist) ("Our Technology"). For purposes of these Terms, "Intellectual Property Rights" means, on a worldwide basis, any and all known or hereafter known (a) rights associated with works of authorship including copyrights and moral rights, (b) trademark and trade name rights and similar rights, (c) trade secret rights, (d) patent rights and other industrial property rights, (e) intellectual and industrial property rights of every other kind and nature and however designated, whether arising by operation of law or otherwise, and (f) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter existing, made, or in force (including any rights in any of the foregoing).

Our Technology may not be copied, modified, reproduced, republished, posted, transmitted, sold, offered for sale, or redistributed in any way without our prior written permission and the prior written permission of our applicable licensors. You must abide by all copyright notices, information, or restrictions contained in or attached to any of Our Technology. Nothing in these Terms grants you any right to receive delivery of a copy of Our Technology or to obtain access to Our Technology except as generally and ordinarily permitted through the Service according to these Terms. Furthermore, nothing in these Terms will be deemed to grant, by implication, estoppel or otherwise, a license to Our Technology. Certain of the names, logos, and other materials displayed on the Service constitute trademarks, trade names, service marks or logos ("Marks") of Talarian or other entities. You are not authorized to use any such Marks. Ownership of all such Marks and the goodwill associated therewith remains with and will inure to us or those other entities. Except as otherwise provided in these Terms, any use of third-party software provided in connection with the Service will be governed by such third parties' licenses and not by these Terms.

Furthermore, any comments, ideas and/or reports about the Service that you provide to us, whether in written or electronic form ("Feedback"), shall be considered our proprietary and confidential information, and you hereby irrevocably transfer and assign to us all intellectual property rights embodied in or arising in connection with such Feedback, and any other rights or claims that you may have with respect to any such Feedback.

Ownership & Privacy

As between You and Talarian, subject to the GenAI Tools Terms and to the extent permitted by applicable law, you retain all right, title and interest in any and all data, files, attachments, text, images, personally identifiable information, and other content that You and Your Users upload or submit to the Service and in the output generated and returned by the same (collectively, "Your Content" or "Customer Content"). For the avoidance of doubt, Customer Content includes data and documents to which a Third Party Offering gives access to Talarian. You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use any and all of Your Content. You represent and warrant that you have all rights, permissions and consents necessary (a) to make Your Content
available on or through the Service, and (b) to grant Talarian the limited rights to use Your Content as set forth in these Terms.

You agree that Talarian and the subprocessors listed in our Data Processing Agreement may use Your Content to provide, secure the Service. You also agree that Talarian may also use Your Content (except any output generated by the relevant GenAI Tool) in order to improve the Service.

You acknowledge that the Service may, in some scenarios, produce the same or similar generated output for multiple users. Responses that are requested by and generated for other users are not considered Your Content.

You understand and agree that Talarian may, notwithstanding any provision of any separate nondisclosure agreement that may have been executed between You and Talarian, distribute and disclose Your Content (a) to your Users and (b) to Talarian’s service providers who act on Talarian’s behalf in providing the Service. Talarian’s use and processing of any personally identifiable information you provide through the Service is governed by our Privacy Policy, and our Data Processing Agreement available here https://talarian.io/data-processing-agreement, in line with provisions of applicable regulations, including but not limited to the European General Data Protection Regulation 2016 / 679 (GDPR), to the extent applicable. Your use of the Service indicates your acceptance of the terms of our Privacy Policy and our Data Processing Agreement. You can review the most recent version of our Privacy Policy at: https://talarian.io/privacy-policy.

You acknowledge that Talarian may gather statistical data, analytics, trends and other aggregated data derived from Your Content and your Users’ use of the Service (“Aggregate Data”). Talarian may use Aggregate Data solely to improve, support and operate the Service.

Export

By using the Service, You represent and warrant that (i) You are not located in a country that is subject to a U.S. government, the United Nations or the European Union embargo, that has been designated by the U.S. government as a “terrorist supporting” country, or that is subject to sanctions by the U.S. government, the United Nations or the European Union; and (ii) You are not on any U.S. government, United Nations or European Union list of prohibited or restricted parties.

Confidentiality

“Confidential Information” means all non-public information disclosed in written, oral or visual form by either party or its affiliates (the “disclosing party”) to the other or its affiliates (the “receiving party”). Confidential Information may include, but is not limited to, services, pricing information, computer programs, source code, names and expertise of employees and consultants, know-how, and other technical, business, financial and product development information. Confidential Information does not include any information that the receiving party
can demonstrate by its written records (1) was rightfully known to it without obligation of confidentiality prior to its disclosure hereunder by the disclosing party; (2) is or becomes publicly known through no wrongful act of the receiving party, its affiliates and/or their employees and contractors; (3) has been rightfully received without obligation of confidentiality from a third party authorized to make such a disclosure; or (4) is independently developed by the receiving party without reference to or use of, directly or indirectly, Confidential Information disclosed hereunder.

Neither party will use any Confidential Information of the other party except (i) as necessary to exercise its rights and fulfill its obligations under these Terms, (ii) as expressly permitted by these Terms or (iii) as expressly authorized in writing by the disclosing party. The receiving party shall use the same degree of care to protect the disclosing party’s Confidential Information as it uses to protect its own Confidential Information of like nature, but in no circumstances less than a reasonable standard of care. The receiving party may not disclose the disclosing party's Confidential Information to any person or entity other than to those of its affiliates, employees and contractors (and its affiliates' employees and contractors) who: (i) are subject to a written agreement with the receiving party that includes use and confidentiality restrictions that are at least as protective as those set forth in these Terms, and (ii) need access to such Confidential Information solely for the purpose of fulfilling the receiving party’s obligations or exercising the receiving party’s rights hereunder. Talarian may also disclose Customer’s Confidential Information to Google Inc or any of its affiliates (where applicable), to Microsoft Corporation or any of its affiliates (where applicable) and/or any Third Party Offering interoperating with the Service for the sole purpose of rendering the Service. The foregoing obligations will not restrict the receiving party from disclosing Confidential Information of the disclosing party: (1) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the receiving party required to make such a disclosure gives reasonable notice to the disclosing party prior to such disclosure; and (2) on a confidential basis to its legal and financial advisors.

**Warranty Disclaimer**

THE SERVICE AND ANY THIRD PARTY OFFERING IS PROVIDED ON AN “AS IS” BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. TALARIAN MAKES NO WARRANTY THAT (I) THE SERVICE OR THIRD-PARTY OFFERING IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; (II) THE SERVICE OR THIRD-PARTY OFFERING WILL BE ERROR-FREE OR UNINTERRUPTED (INCLUDING, WITHOUT LIMITATION, INTERRUPTIONS THAT OCCUR IN THE CONTEXT OF REGULARLY SCHEDULED MAINTENANCE); (III) ANY INFORMATION OR ADVICE OBTAINED BY YOU IN CONNECTION WITH THE SERVICE OR THIRD PARTY OFFERING WILL BE ACCURATE OR COMPLETE; OR (IV) THE RESULTS OF USING THE SERVICE OR THIRD PARTY OFFERING WILL MEET YOUR REQUIREMENTS. SOME JURISDICTIONS DO NOT ALLOW EXCLUSION OF AN IMPLIED WARRANTY, SO THIS DISCLAIMER MAY NOT APPLY TO CUSTOMER.
THE SERVICE USES EMERGING TECHNOLOGY, MAY PROVIDE INACCURATE OR OFFENSIVE GENERATED OUTPUT, AND IS NOT DESIGNED FOR OR INTENDED TO MEET YOUR REGULATORY, LEGAL, OR OTHER OBLIGATIONS. THE SERVICE DOES NOT CONSTITUTE OR CONTAIN LEGAL ADVICE. TO EVALUATE THE ACCURACY, SUFFICIENCY, ENFORCEABILITY OR APPLICABILITY OF SPECIFIC CONTRACT TERMS OR OTHER LEGAL DOCUMENTATION, YOU SHOULD CONSULT WITH A LICENSED ATTORNEY. ALSO, THE SERVICE DOES NOT CONSTITUTE FINANCIAL ADVICE OR INVESTMENT ADVICE AND YOU SHOULD CONSULT DEDICATED PROFESSIONAL SHOULD YOU SEEK SUCH TYPE OF ADVICE.

Limitation of Liability

IN NO EVENT SHALL TALARIAN BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR OTHER LOSS OR DAMAGE WHATSOEVER (INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, COMPUTER FAILURE, LOSS OF BUSINESS INFORMATION), ARISING OUT OF OR CAUSED BY YOUR USE OF OR INABILITY TO USE THE SERVICE OR ANY THIRD PARTY OFFERING, EVEN IF TALARIAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH TALARIAN RELATED TO ANY OF THE SERVICE OR THIRD-PARTY OFFERING SHALL BE TERMINATION OF THE SERVICE. IN NO EVENT SHALL TALARIAN'S ENTIRE LIABILITY TO YOU IN RESPECT OF ANY SERVICE, WHETHER DIRECT OR INDIRECT, EXCEED THE FEES PAID BY YOU TOWARDS SUCH SERVICE IN THE TWELVE (12) MONTHS PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. IN CASE OF A BREACH OF YOUR PERSONAL DATA ARISING FROM A PAYMENT PROCESSOR'S DEFAULT, TALARIAN'S ENTIRE LIABILITY TO YOU FOR THIS BREACH SHALL NOT EXCEED THE FEES PAID BY TALARIAN TO SUCH PAYMENT PROVIDER TO PROCESS YOUR TRANSACTIONS IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE LIMITATIONS OR EXCLUSIONS IN THIS PARAGRAPH MAY NOT APPLY TO CUSTOMER. IN SUCH EVENT, LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW IN SUCH A JURISDICTION.

You understand and agree that Talarian set Service fees and entered into these Terms with You in reliance upon the limitations of liability set forth in these Terms, which allocate risk between the parties and form the basis of a bargain between the parties.

Other Terms

Except for payment obligations, neither party shall be liable to the other party or any third party for failure or delay in performing its obligations under these Terms when such failure or delay is due to any cause beyond the control of the party concerned, including, without limitation, acts of
God, acts of government, fire, or flood, provided that upon cessation of such events such party shall thereupon promptly perform or complete the performance of its obligations hereunder.

During the term of these Terms, if You choose to become a paying customer of the Service, Talarian may (i) orally state that You are a Talarian customer, (ii) include Your name or trademarks, trade names, service marks or logos in a list of Talarian customers (whether in Talarian’s online or offline promotional materials) and (iii) generally describe the products or services it provides to You in its promotional materials, presentations and proposals to other current and prospective customers. You may revoke Talarian’s right to use your trademarks, trade names, service marks or logos under this paragraph with written notice to Talarian and a reasonable period to stop the use.

These Terms, their interpretation, performance or any breach thereof, will be construed in accordance with, and all questions with respect thereto will be determined by, the laws of the State of Luxembourg. Both parties hereby irrevocably submit any disputes under these Terms to the jurisdiction of the courts located in the State of Luxembourg.