



## Software Support Terms

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### 1. Support Services

The Support Services are only available to Stori Licensees who have paid the Support Fee. The Support Fee is waived for the first licensed year. During the Support Term, OraPub, Inc. (OraPub) shall provide the following services in relation to the Software by telephone, web or email:

a) Error Correction. Where the Software does not operate in accordance with the specifications published in the Documentation, OraPub shall work to diagnose and rectify all reproducible errors that materially affect the operation of the Software as follows:

- i. The Licensee shall notify OraPub of any such errors in writing, with a written description of each claimed error and the conditions under which it occurred, and the associated trace file(s) produced by the Software;
- ii. OraPub shall work to correct all such errors that it can verify based on the Licensee information, and shall continue working either until it corrects the error, develops a workaround for that error, or determines in good faith that the error cannot be corrected as part of the then current releases of the Software (in which event OraPub shall attempt to correct or eliminate the error in the next release of the Software);
- iii. If OraPub discovers that the Software error is due to a documented or undocumented internal Oracle error or other error unrelated to the Software, OraPub has no further responsibility to correct the Software error.

b) Response Time. Between the hours of 8.00am and 5.00pm Monday through Friday United States Pacific time (excluding United States public holidays). OraPub shall use its reasonable endeavors to respond to the Licensee within 48 hours of a notice under clause 1(a)(i).

c) Maintenance Updates. The Licensee will receive all standard Maintenance Updates released by OraPub for the Software during the Support Term. The cost of these Maintenance Updates is included in the Support Fee.

d) Exclusions. The Support Services shall not include the diagnosis and

rectification of any fault resulting from:

- i. the use or operation of the Software not in accordance with the Documentation;
- ii. the merger of the Software (in whole or in part) with any other software except as permitted by the License Agreement;
- iii. the failure by the Licensee to implement recommendations in respect of or solutions to faults previously advised by OraPub;
- iv. any repair, adjustment, alteration or modification of the Software by any person other than OraPub without OraPub's prior consent;
- v. the Licensee using a release of the Software which is not the latest release of the Software or is not the release which was issued prior to the latest release of the Software.
- vi. the use of the Software for a purpose for which it was not designed;
- vii. rectification of lost or corrupted data;
- viii. loss or damage caused directly or indirectly by operator error or omission;
- ix. loss, damage or faults caused directly or indirectly by any alteration, upgrade or new release of any software operating in conjunction or closely with the Software;
- x. Oracle errors that are not reported directly back to OraPub through the feedback of SQL (structured query language);
- xi. Oracle internals errors;
- xii. Oracle faults and bugs;
- xiii. Operating system errors;
- xiv. a fault in the equipment or in any other software operating in conjunction with or closely with the Software; or
- xv. causes other than ordinary use

e) OraPub may, at its discretion, upon request by the Licensee provide support services in the circumstances set out in clause 1 (d) above. If OraPub elects to do so, it shall be entitled to levy Additional Charges for those support services.

f) In addition to clause 1(e) above, OraPub shall be entitled to levy reasonable Additional Charges if support services are provided in circumstances where any reasonably skilled and competent data processing operator would have judged the Licensee's request to have been outside the terms of the Support Services.

g) Additional Charges shall be agreed in writing by the Licensee and paid within 45 days of the date of the relevant Invoice.

## **2. Support Fee**

2.1. OraPub shall provide the Support Services during the Support Term.

2.2. The Support Contract will automatically renew on expiry of each Support



Term. At that time, OraPub will issue an invoice for the Support Fee relating to the subsequent Support Term. That invoice is payable within 30 days. On payment, OraPub shall provide the Support Services to the Licensee during each year of the Support Term.

2.3. OraPub may change the Support Fee at the end of the Support Term provided that any change shall not cause the annual price of the Support Fee to exceed 25% of the then current Stori published license fee for the Software.

### **3. Term**

The Support Services shall continue as long as the Licensee has a fully paid Support Contract or until termination in accordance with the provisions of clause 4 below.

### **4. Termination**

4.1. The Support Services may be terminated:

- a) by the Licensee giving not less than 90 days' written notice to OraPub;
- b) forthwith by OraPub if the Licensee fails to pay any sum due hereunder within 45 days of the due date therefore;
- c) forthwith by the Licensee if OraPub materially fails to comply with its obligations to provide Support Services under these terms which (in the case of a breach capable of being remedied) shall not have been remedied within 90 days of a written request to remedy the same;
- d) forthwith by OraPub if the Licensee shall become Insolvent;
- e) by OraPub giving not less than 90 days' written notice to the Licensee.

4.2. Any termination of the Support Services pursuant to this clause 4 shall be without prejudice to any other rights or remedies to which OraPub and the Licensee may be entitled hereunder or at law.

4.3. If the Licensee terminates the Support Services pursuant to clause 4.1 (a), (b) or (d) OraPub shall not refund to the Licensee any Support Fees paid for the then current period of the Support Term.

4.4. If OraPub terminates the Support Services pursuant to clause 4.1(e) or if the Licensee terminates the Support Services pursuant to clause 4.1(c), OraPub shall promptly refund to the Licensee the unused portion of the Support Fees paid for the then current period of the Support Term.

4.5. The termination of the Support Services does not affect the Licensee



Agreement. However, if the License Agreement is terminated for any reason then the Support Services will automatically terminate and no refund of any unused portion of the Support Fees paid for the then current period of the Support Term will be paid.

## **5. Renewal and Reinstatement**

5.1. At the end of the Support Term OraPub shall invoice the Licensee for the upcoming year, or years, of an additional Support Term.

5.2. If the Support Services are terminated or expire for any reason, the Support Services may be reinstated on payment of a fee equal to the Support Fees that would have been payable had the Support Services not been terminated or expired.

## **6. Warranty**

6.1. Subject to the exceptions set out in clause 1(d) and the limitations detailed in clause 7 below, OraPub warrants that it will perform the Support Services with reasonable care and skill in accordance with generally acceptable industry practices using personal reasonably trained and experienced in the Software.

6.2. Subject to the clause 6.1, all warranties, express or implied statutory or otherwise in respect of the provision of the Support Services are hereby excluded to the fullest extent permitted by law.

## **7. Liability**

7.1. OraPub shall not be liable for any loss or damage sustained or incurred by the Licensee or any third party (including, without limitation, any loss of use of the latest New Release or loss of or spoiling of the Licensee's data) resulting from any defect or error in the latest New Release except to the extent that such loss or damage arises from any unreasonable delay by OraPub in providing the Support Services and then only to the extent not excluded by these terms.

7.2. OraPub shall not be responsible for the maintenance, accuracy or good running of any version of the Software except the latest New Release and the release prior to the latest New Release.

7.3. The aggregate cumulative liability of OraPub arising out of these terms is limited to an amount not exceeding the total Support Fee for the Support Services paid by the Licensee for the year in which the liability arises.

7.4. OraPub shall not be liable to the Licensee for loss of profits or contracts or other indirect or consequential loss whether arising from negligence, breach of



warranty, contract or otherwise.

7.5. OraPub shall not be liable to the Licensee for any loss arising out of a failure by the Licensee to keep full and up to date security copies of the Software and data it uses in accordance with best computing practice.

## **8. Force Majeure**

8.1. Neither OraPub nor the Licensee shall be liable for any breach of these terms to extent that that breach was caused by a Force Majeure event.

8.2. Each of OraPub and the Licensee agree to give notice forthwith to the other upon becoming aware of a Force Majeure event such notice to contain details of the circumstances giving rise to the Force Majeure event.

8.3. If a default due to a Force Majeure event shall continue for more than 13 weeks then the party not in default shall be entitled to terminate these terms. Neither OraPub nor the Licensee shall have any liability to the other in respect of such termination as a result of a Force Majeure event.

## **9. Waiver**

The waiver by either OraPub or the Licensee of a breach or default of any of these terms by the other shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either OraPub or the Licensee to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other.

## **10. Notices**

Any notice, request, instruction or other document to be given hereunder shall be delivered or sent by first class post or by email or facsimile (in all cases to be confirmed by letter posted within 12 hours) to the address of the other set out or referred to in the License Agreement (or such other address as may have been notified) and any such notice or other document shall be deemed to have been served and deemed to have been received (if delivered) at the time of delivery (if sent by post) upon the expiration of 72 hours after posting and (if sent by email or facsimile) upon the expiration of 12 hours after dispatch.

## **11. Invalidity and Severability**

If any provision of these terms shall be found by any court to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of these terms and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.



## **12. Entire Agreement**

OraPub shall not be liable to the Licensee for loss arising from or in connection with any representations, agreements, statements or undertakings in relation to the Support Services made prior to the date of execution of the License Agreement.

## **13. Other Matters**

13.1. These terms shall be bind and inure for the benefit of the successors in title of OraPub and the Licensee.

13.2. The Licensee shall not be entitled to assign these terms nor any of its rights or obligations hereunder. OraPub may assign its rights and obligations under these terms at any time by notice to the Licensee.

13.3. OraPub may change these terms from time to time by giving the Licensee 14 days' notice. OraPub will give notice to the Licensee of any change in accordance with clause 10 or by providing relevant information on the OraPub website.

13.4. These Terms shall be governed by and construed in accordance with United States law in the state of Oregon and OraPub and the Licensee agree to submit to the exclusive jurisdiction of the United States courts in the state of Oregon.

## **14. Definitions**

"OraPub" means OraPub, Inc.;

"Support Contract" means the software support and maintenance contract for OraPub's Stori Software;

"Support Term" means the period of time covered by the Support Contract;

"Additional Charges" means charges in addition to the Support Fee as described in clause 1(e) and (f);

"Documentation" means the License Agreement and the Stori FAQ and tutorials located on the Stori website;

"Effective Date" means the date on which the License Agreement is accepted by the Licensee;

"Emergency" means an emergency due to an actual or potential occurrence (such as fire, flood, storm, earthquake, explosion, accident, epidemic or war like action), which endangers or threatens to endanger the safety or health of



persons, or destroys or damages or threatens to destroy or damage, property;

“Force Majeure” means any cause which is not reasonably within the control of the party affected including industrial disputes of any kind, Emergencies, governmental restraint, expropriation or prohibition, inability or delay in granting or obtaining governmental approvals, consents, permits, licenses or authorities but does not include a delay resulting from an inability to obtain financing;

“Invoice” means the document issued by OraPub detailing the items, quantity and agreed prices for the Software and Support Services;

“Insolvent” means being insolvent or having a controller appointed, or being in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration, wound up, subject to any arrangement, assignment or composition, protected from creditors under any statute, dissolved (other than to carry out a reconstruction while solvent) or being otherwise unable to pay debts when they fall due or having something with the same or a similar effect happen under the laws of any jurisdiction;

“License Agreement” means the license agreement recording the terms on which the Software is licensed to the Licensee;

"Licensee" means a person or company who is licensed to use the Software by OraPub and has accepted the License Agreement;

“License Fee” means the fee payable by the Licensee under the License Agreement;

"Maintenance Update" means any corrected version of the Software from time to time issued by OraPub but does not include new versions or upgrades of any Software for which OraPub generally charges an additional fee (for example any new modules or products OraPub releases that are commercially sold separately);

"New Release" means any improved or modified version of the Software from time to time issued by OraPub;

"Support Fee" means the charges for the Support Contract as described in clause 2;

"Support Services" means, subject to the exclusions in clause 1(d), the services described in clause 1 (a), (b) and (c); and

“Software” means OraPub software purchased by Licensee and as described in the License Agreement.