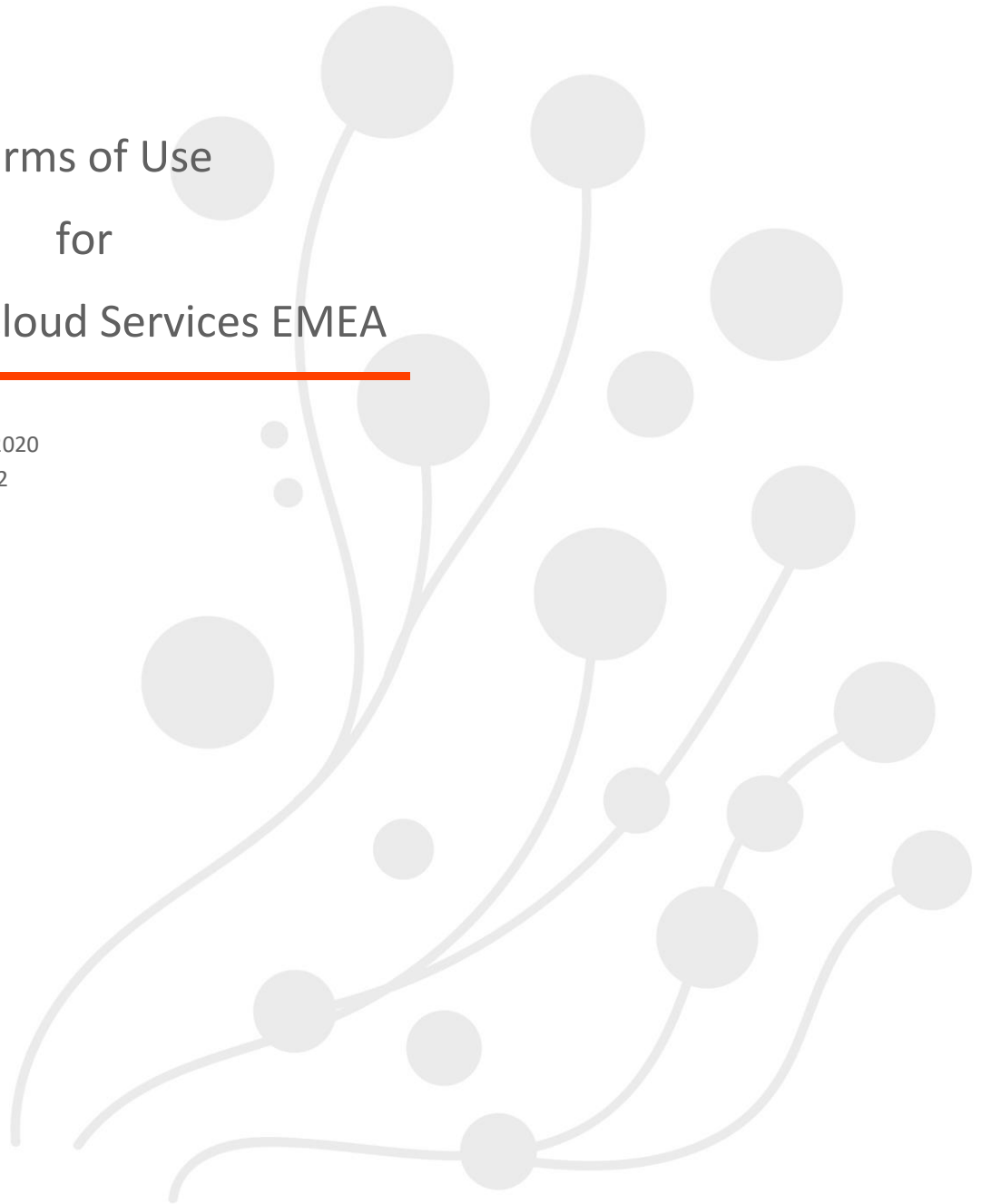


Document: Terms of Use for Quadient Cloud Services EMEA
Valid from: 31.03.2020
Classification: Customer Confidential



Terms of Use for Quadient Cloud Services EMEA

Valid from: 31.03.2020
Version No.: 14.2.0.2





These Terms of Use for Quadient Cloud Services (the “Terms”, “Cloud EULA” or the “Agreement”) are made between QUADIENT CXM AG, Oberer Gansbach 1, CH-9050 Appenzell, Switzerland, Licensor of the QUADIENT software products and Cloud Services (“QUADIENT” or “Licensor”) and You (the “End User” or “Licensee”).

These Terms cover the use of the Quadient Cloud Services from the web-portal at quadientcloud.eu that is hosted on Microsoft Azure’s primary data centers in Europe.

Please note, that on premise QUADIENT Software that are not part of the Quadient Cloud Services are covered by a separate QUADIENT EULA for on premise Software. Please contact a QUADIENT representative in case of doubt.

If You are the Licensee, You represent and warrant that Licensee and all End Users shall accept and comply with the Terms of Use for the Quadient Cloud Services.

If You are an End User who has not entered into the Customer Contract You accept and agree to be bound by these Terms, by accessing, installing, copying, downloading, or using the Software or Services.

If You are accepting these Terms on behalf of another person or an organization or a company or other legal entity, You represent and warrant that You have full authority to bind that person, organization, company, or other legal entity to these terms, and that You will make these Terms available to the Licensee and the respective authorized End Users.

You also acknowledge that the Services are or may be subject to export control laws and regulations, and You represent that You are not a citizen of an embargoed country or prohibited end End User under applicable export and anti-terrorism laws, regulations and lists.

If You do not agree to these Terms of Use,

(1) **do not download**, install, copy, access, or use the Services or any Software; and

(2) **promptly uninstall and delete all copies** of the components for the Software or Service, as the case may be, from your systems.



1 Subscription Service

1.1 Intellectual Property Rights

The Services, their structure, organization and code are valuable trade secrets of QUADIENT, and are protected by intellectual property and copyright law and international treaty provisions. Furthermore, the Third-Party Software and Third-Party Services used, are protected by intellectual property and copyright law and international treaty provisions, and may be subject to additional terms and conditions.

All intellectual property rights to the Services, and Third-Party Software and Third-Party Services used (e.g. Adobe PDF Library, Microsoft Azure and Mailjet products and services), including the rights pertaining to know-how and the relevant Documentation, remain in the ownership of the respective owner(s) who retain title and full ownership rights thereto.

Please note, that some Services also make use of Open Source Software, and may be subject to additional license terms that are hereby fully incorporated in this Agreement by reference. You can download a document listing all of the open source software and related license terms from the following website: <http://www.quadient.com/resources/open-source-licenses>.

Except as the license use rights expressly stated in this Agreement, this Agreement does not grant You any intellectual property rights in the Services or in any parts thereof.

1.2 Subscription

The Services are owned or licensed by QUADIENT, and are copyright-protected. You acquire a user subscription and do not own the Services in any way.

QUADIENT grants You a non-exclusive and non-transferable subscription to use the Service, to the extent You lawfully acquire it according to a valid Customer Contract; provided that You have paid the agreed Fee and adhere to the terms of this Agreement.

You may access and use the Service up to the level of use specified in Your Customer Contract, and for the sole purpose of supporting such agreed use. These Terms of Use, together with any applicable specific Service terms, apply to each and every access to and use of the Service.

In case of a Trial Version or Test Version (“non-GA-Version”) of the Service, You may use the specified Service only, and restricted to the timeframe You were explicitly authorized to evaluate, use or test such Service.

You shall ensure that anyone who uses the Service does so only for Your authorized use and complies with the terms of this Agreement.

1.3 Restrictions

You may not:

- use, copy, modify, or distribute the Service except as provided in this Agreement;
- reverse assemble, reverse compile, or otherwise translate the Service;



- modify or create any derivative works of any Service or Documentation;
- decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code for any part of the Service; or
- redistribute, encumber, sell, rent, lease, sublicense the Service.
- encumber, abuse or use the Service inappropriately or for any purpose not agreed; and
- engage, directly or indirectly, any other third-party business organization for the purpose of inspecting, installing, using or changing the Service or software in a manner that endangers Quadient's trade secrets or is substantially and directly competitive with QUADIENT.

Neither QUADIENT, its Affiliates, resellers or distributors are obligated to provide, nor are You acquiring any right of any kind with respect to the source code for the Services or any part thereof. You acknowledge QUADIENT's ownership and intellectual property rights in the source code and Services and will not take any action to jeopardize, limit or interfere in any manner with QUADIENT's ownership of or rights with respect to the Services.

Furthermore, You agree not to limit or interfere in any manner with the ownership and intellectual property rights related to integrated Third-Party Software or Third-Party Services. Licensee also covenants not to use the Adobe viewing function (meaning a function allowing the copying of a PDF document into memory for display) contained in the Adobe PDF library technology in order to violate or bypass PDF file security measures which prevent copying or editing PDF documents.

All rights not expressly granted to Licensee are reserved by QUADIENT and its licensors.

2 Subscription Options

QUADIENT Cloud Services follow one or a combination of the following subscriptions, as defined in the applicable License Schedule or Customer Contract, depending upon which QUADIENT Services You have acquired a subscription for:

- Per Named User (according to section 2.2); or
- Per Volume Pack (according to section 2.3); or
- Per individual arrangement in your Customer Contract.

2.1 User Management

According to the subscription You have signed up to, QUADIENT will provide You with the adequate access log-ins to the Quadient Cloud Services.

If You create a user account via the web-portal at quadientcloud.eu, or synchronize your users with other user management tools, You are responsible for the authorized users Yourself. Once You have created a company account, You may invite the authorized users for Your entity. Please make sure You explain to Your authorized users that all users invited to the portal have the same rights and may change or delete the information. If an accidental deletion happens on Your side, QUADIENT cannot guarantee a back-up.

Please make sure You back-up and archive Your Customer Data and content in your own systems regularly.



Upon the establishment of a subscription, one or more End User names and passwords may be generated in connection with such subscription (“Credentials”). The Credentials are used to authenticate the End User and thereby allow access to the Services, including any of your data stored as part of the Services. You are solely responsible for maintaining the confidentiality of the Credentials and may not transfer or share the Credentials with any third parties. You acknowledge and agree that QUADIENT and its licensors and suppliers may rely on the Credentials as the sole test to control whether End Users accessing and using the Services on your behalf are authorized to do so. You are fully liable for any act or omission of any End Users that access or use the Services with the Credentials or otherwise through your account. You will: (a) notify QUADIENT immediately of any unauthorized use of any Credentials or account or any other known or suspected breach of security; (b) not impersonate another End User or provide false identity information to gain access to or use the Service; and (c) be solely responsible for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership and right to use all data submitted by you in the course of receiving the Services.

2.2 Named Users

Licensee shall be authorized to have specifically named individuals access and use the Service as set forth in the applicable License Schedule or Customer Contract.

A **“Named User”** in this respect shall mean a specific individual authorized to use the Service through the assignment of a single user ID, regardless of whether or not the individual is using the Service at any given time. A non-human operated device shall also be counted as a Named User in addition to all individuals authorized to use the Service, if such device can access the Service.

Licensee shall have the right to change the single user IDs for the Named User subscriptions, provided that no individual Named User subscription shall be changed more than once per calendar month and that access to the Software is restricted to those individuals that are named by the Licensee and for whom subscriptions have been validly acquired.

2.3 Volume Packs

If you intend to subscribe to Quadient Cloud Services, please contact a sales representative near you. Licensee shall order the Service from QUADIENT, a Quadient Affiliate or authorized reseller, and will then be provided with an invoice for the Services subscribed to (e.g. the annual subscription fee, messenger access fee and the desired number of QUADIENT volume packs for emails or SMS transactions (Volume Packs).

The price list that is available in Your company account indicates which Volume Packs are necessary to perform certain tasks, like sending a certain number of emails or SMS transactions.

Volume Packs for SMS transactions are time limited to twelve (12) months after purchase and will expire and reset to zero on the anniversary date accordingly. Volume Packs for emails do not expire annually, and any remaining Cloud credits purchased under a previous GA Release may still be used for emails accordingly.



3 Service Conditions, Payment and Compliance

3.1 General Service Conditions

a) Host Provider

Licensee acknowledges that the Quadient Cloud Services are hosted on the Microsoft Azure Platform and are subject to the terms and conditions of Microsoft for the Third-Party Services, found at: <https://azure.microsoft.com/en-us/support/legal/>

For iOS / Mac (by Apple) End Users, the Services are hosted on dedicated servers from Green Mini host B.V. company, located in Amsterdam and registered with the Chamber of Commerce with file number 61482005.

b) Service Restrictions

While the web-portal is accessible globally, this does not mean that all Services or Service features are available in Your country, or that user-generated content available via the Services is legally permitted in Your country. Services are not available in all languages.

We may block access to or suspend certain Services (or certain Service features or content) in certain countries, e.g. in embargoed countries or where we suspect misuse. It is Your responsibility to make sure Your use of the Services is legally permitted where You use them. You shall not send to addresses obtained from purchased or rented digital message lists, unless you have confirmed the data was obtained lawfully and with the appropriate consent of the data subjects.

We may create reasonable technical limits on Your content, such as limits on file size of emails (7 MB), processing capacity, and other technical limits.

QUADIENT reserves the right to momentarily interrupt the Service for testing, maintenance, traffic performance enhancement or other purposes. QUADIENT's goal is to schedule planned maintenance of its technical platform during non-peak usage hours, but cannot guarantee that this is always the case.

QUADIENT warrants an average uptime of 99.5%, excluding intentional interruptions and maintenance. This uptime availability is measured in 5 minutes' intervals and reported by our monitoring system.

c) Maintenance

In general, during maintenance periods, access and use of the Service may be temporarily suspended or degraded.

Complex maintenance operations will be carried out preferably on low level activity periods (night hours or weekends), and information on the planned date and the predicted duration of the operation will be emailed to Licensee at least seven (7) days before commencement of the operation, wherever reasonably possible.

d) Data

As between the Parties, the Customer Data used, issued, processed, hosted, safeguarded or stored by us and/or the third-party provider (e.g. Mailjet) on Your behalf and at Your request, are and shall remain Your sole property. QUADIENT or the third-party provider is nonetheless authorized to access the Customer Data in order to: allow use of the Service; internally monitor and enhance the Service; analyze Licensee's use of the Service, in terms of volume and history; analyze and communicate statistics to its various customers about overall use of the Service, provided the information disclosed (i) is aggregated with QUADIENT's other customers' data and (ii) is made anonymous so that no customer may be directly or indirectly identified.



You agree to comply with the laws and regulations applicable to the processing of personal data in the country where they are collected. To this end, You shall be responsible for carrying out all mandatory reporting and/or consent requirements.

You agree, unless a separate agreement has been signed by the Parties, the Service shall not be used to process sensitive or special categories of personal data, especially personal data of a medical nature or pertaining to health conditions. You also agree that You will not include credit card information, bank account numbers, social security numbers or national insurance numbers in plain text.

You are hereby also informed that the Customer Data, including personal data, that You transfer to Us when using the Service may, depending on the geographical location of End Users, cross borders as they are routed to the servers that host the Service and store the Data. You undertake to inform the relevant personal data owners and data subjects, and to obtain any required prior consent.

e) Content

You shall be solely liable (i) for any Customer Data, information or content, in particular the content of emails, notices, communications, surveys and newsletters sent by You through the Service, including if such content is provided by a third party or by QUADIENT as part of a template, such as an SMTP relay or via the routing of an entire infrastructure (hereinafter collectively referred to as “Content”), and (ii) for the Content’s compliance with the applicable laws and regulations.

You acknowledge and warrant that the Content, whether in whole or in part, shall in no event: (a) infringe, misappropriate or violate any right, especially any intellectual property right, of any third party whatsoever; (b) contain any virus or program designed to cause damage, intercept or misappropriate any system, data or personal data in a fraudulent manner; (c) contain any unlawful, bullying, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature or any material that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable law or regulation ; (d) contain any content which may subject to any rules and regulations promulgated under the U.S. Export Administration Act of 1979 (as amended from time to time) or the U.S. Arms Export Administration Act of 1976 (as amended from time to time); (e) be false, misleading or inaccurate or (f) use the Services in violation of any law, including without limitation, the U.S. CAN-SPAM Act or any other similar law or regulation enacted in any applicable jurisdiction.

You undertake not to use the Service in a manner that may lead to any civil or criminal action whatsoever, and shall indemnify and hold us harmless from any action on such grounds.

You acknowledge that we have the right, but not the obligation, to monitor the Service and any data submitted to the Service. To comply with legal obligations in this respect, we may take any actions (including suspending or deleting accounts, removing content or denying routing of certain data and e-mails) we reasonably believe are necessary to prevent unlawful activity in connection with the Service.

You expressly acknowledge and agree that neither QUADIENT nor any third-party provider (e.g. Mailjet) shall be liable for any loss or destruction of the Content, including the Customer Data, and that You shall be responsible for ensuring that You have proper backups thereof.

f) Anti-Spam

You undertake to comply (i) with all applicable laws (federal, country or otherwise) that govern marketing communications or email, including without limitation, the US CAN-SPAM Act of 2003 and all other applicable unsolicited communication and anti-spam laws and regulations. You acknowledge that You have been informed that in the event of breach of the provisions of the anti-spam stipulations therein, in particular if e-mails are sent to recipients who did not specifically ask to receive such e-mails or if we receive an unusual number of complaints, we shall be entitled to suspend Your account(s), in which case You shall not be entitled to claim any



refund or compensation. Some internet service providers (“ISP”) may suspend the routing of e-mails from certain addresses if they detect or suspect any dishonest or illegal behavior (“blacklisting”). If Your account is blacklisted by an ISP, We shall use commercially reasonable efforts to attempt to reestablish communication with such ISP as soon as possible. You agree to pay for services we may be required to perform for this purpose, if so agreed upon prior in writing.

3.2 Specific Service Conditions

In addition to the General Service Conditions stated above, specific Services are governed by the following Specific Service Conditions:

- Messenger Service (see Specific Service Conditions for Inspire Messenger)
- Customer Journey Map (see Specific Service Conditions for Customer Journey Map, CJM)
- Digital Services (see Specific Service Conditions for Digital Services)
- Omnichannel coordination (see Specific Service Conditions for Omnichannel coordination)

3.3 Payment Terms

You can pay the applicable Service fee via invoice from QUADIENT or its local Affiliates, or Quadient authorized resellers.

Licensee agrees to provide QUADIENT, its Affiliates or authorized resellers with accurate billing and contact information, including Licensee’s legal company name, street address, email address, and name and telephone number of an authorized billing contact and Administrator. If the contact information Licensee has provided is false or fraudulent, QUADIENT reserves the right to terminate Licensee’s access to the Service in addition to any other legal remedies.

3.4 Export Rules

Licensee agrees that the Service or any part thereof will not be accessed from, transferred, or exported into any country or used in any manner prohibited by the United States Export Administration Act or any other applicable export laws, restrictions or regulations (collectively the “Export Laws”). In addition, if the Service or any part thereof is identified as an export controlled item under the Export Laws, Licensee represents and warrants, not to be a citizen, or otherwise located within, an embargoed nation (please always check the actual US Export Administration Regulation Website) and not otherwise to be prohibited under the Export Laws from accessing the Service or receiving the Software. All rights to use the Software or Service are granted on condition that such rights are forfeited if Licensee fails to comply with the terms of this Agreement.

3.5 Appropriate Use

Licensee shall not use any Service to knowingly: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send, use or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortuous material, including material harmful to children or in violation of third-party rights; (iii) send, use or store material containing software viruses, worms, Trojan horses or other harmful computer code, files,



scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Services or the data contained therein; (v) commit any act that is detrimental to the good name and standing of QUADIENT; or (vi) attempt to gain unauthorized access to a Service or its related systems or networks.

Licensee shall indemnify and hold QUADIENT, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors and employees harmless from and against any and all third-party claims, costs, damages, losses, liabilities and expenses (including attorneys' reasonable fees and costs) to the extent arising out of or in connection with a claim resulting from breach of the appropriate use described herein or a claim alleging that the Customer Data infringes a copyright, U.S or European Member patent, or a trademark of, or has caused harm to the rights of a third party provided in any such case that QUADIENT (a) promptly gives notice of the claim to Licensee; (b) gives Licensee sole control of the defense and settlement of the claim (provided that Licensee may not settle such claim unless such settlement unconditionally releases QUADIENT of all liability and does not adversely affect QUADIENT's business or Service).

You are responsible for all activity that occurs via Your Service account. Please notify Customer Support immediately if You become aware of any unauthorized use of Your Service account. You may not (a) share Your account information (except with an authorized account administrator) or (b) use another person's account. Your account administrator may use Your account information to manage Your use and access to the Services.

4 Warranty, IP Indemnification and Liability

4.1 Limited Warranty

a) Provided that Licensee has paid the applicable Fee, QUADIENT warrants during the subscription period or Initial term, that (i) the Service will perform substantially in accordance with the relevant Documentation as found at quadientcloud.eu, under normal use and circumstances (and that there will be no material diminishment of the Service as it exists on the Effective Date of the Customer Contract for such Services); and (ii) it will use industry best practices to ensure that the Services provided to Licensee do not contain any disabling devices, viruses, Trojan horses, trap doors, back doors, Easter eggs, time bombs, cancelbots, or other computer programming routines designed to damage, detrimentally interfere with, surreptitiously intercept or expropriate any other software or data.

QUADIENT's sole obligations under the warranty set forth in this Section 4.1 shall be for QUADIENT to correct or by-pass the non-conformity or, if QUADIENT is unable to correct or by-pass the non-conformity within ninety (90) days after Licensee's written notice, for Licensee to terminate the applicable subscription and receive a refund of prepaid unused fees.

b) QUADIENT and its suppliers provide no remedies or warranties, whether expressed or implied, for any non-GA Release, such as Test or Trial Versions or First Mover Advantage Program of a Service. Any non-GA Release of the Service is provided "as is" with express disclaimer of any warranty.

Further, QUADIENT provides no remedies or warranties, whether expressed or implied, for any content packages like form letters. QUADIENT provides those content packages "as is" and You use those content packages at your own risk.

c) No oral or written information or advice given by QUADIENT, its suppliers and resellers or employees shall create a warranty for QUADIENT or in any way increase the scope of any warranty provided herein.



d) QUADIENT reserves the right to make changes, modifications and enhancements to the Services from time to time. In the event the change or modification is to documented functionality, and is material to the function or operation of the Services (a “Material Change”), QUADIENT shall use reasonable commercial efforts to provide Licensee with prior prompt written notice of any Material Change prior to implementation of such Material Change (unless such is required to rectify an urgent system issue) which shall be communicated directly to Licensee by email or otherwise through QUADIENT normal communication channels such as via QUADIENT’s release information portal. If You do not agree with any changes made to the Service by QUADIENT, you may terminate the Service.

e) Except as set forth in this section 4 of this Agreement QUADIENT disclaims all other warranties and representations, whether expressed, implied or otherwise, including the warranties of merchantability or fitness for a particular purpose. Also, there is no warranty of non-infringement of third-party intellectual property rights and title for the Third-Party Software or Third-Party Services and Open Source components of the Services.

f) Where some jurisdictions do not allow the exclusion of certain implied warranties, the exclusion of QUADIENT’s warranty in this limited warranty section shall apply to the fullest extent permitted by applicable law.

g) QUADIENT's Services may be subject to limitations, delays, and other problems external to QUADIENT and inherent in the use of the internet and electronic communications. Notwithstanding the foregoing, QUADIENT shall use reasonable and industry best practices standard technical means to reduce and limit the impacts of such problems, but QUADIENT disclaims any and all responsibility for delays, delivery failures, or other damage resulting from such problems.

4.2 Sole and exclusive Remedy

To the extent permitted under mandatory applicable law, Licensee’s exclusive remedy for any breach of this Limited Warranty is as set forth below. Except for any refund according to clause 4.1 a) or 4.3 elected by QUADIENT, Licensee shall not be entitled to any damages including but not limited to consequential damages if the Service does not meet this Limited Warranty, and to the maximum extent allowed by applicable law, even if any remedy fails in its essential purpose.

QUADIENT shall have no responsibility if failure of the Service has resulted from failure in the networking service, misconfiguration, accident, abuse, misapplication, abnormal use, a virus or if the failure arises out of use of the Service with other than a recommended hardware or software configuration. Any such misuse of the Service will void the warranty.

Please note that this remedy is the sole and exclusive remedy available to Licensee for breach of express or implied warranties with respect to the Service and related Documentation.

4.3 Intellectual Property Indemnification

QUADIENT will defend, at its own expense, and hold Licensee harmless against any legal action brought against Licensee based on a claim that the Service infringes an Intellectual Property Right of a third party, and QUADIENT will pay any final judgment against Licensee in any such action attributable to any such claim or incurred by Licensee through settlement of such claim.

ANY AND ALL CLAIMS WITH RESPECT TO ANY OF THE OPEN SOURCE SOFTWARE AND/OR THIRD-PARTY SOFTWARE COMPONENTS SHALL BE SUBJECT TO THEIR RESPECTIVE LICENSE AGREEMENTS, AND QUADIENT DISCLAIMS ANY AND ALL LIABILITY WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT WITH RESPECT TO THOSE



COMPONENTS OR SOFTWARE, INCLUDING BUT NOT LIMITED TO, ANY CLAIMS OF INTELLECTUAL PROPERTY RIGHT INFRINGEMENT.

Should the Service or any part thereof become, or in QUADIENT's opinion be likely to become, the subject of any such infringement claim, Licensee shall permit QUADIENT, at QUADIENT's option and expense, to (i) procure for Licensee the right to continue using the Service, or (ii) replace or modify the Service so that it becomes non-infringing and maintains the same functionality or (iii) terminate the right to use the Service, upon which termination Licensee agrees to promptly destroy all copies of the Service and certify the same to QUADIENT, whereupon QUADIENT will refund Licensee's Fees for the Service pro-rata up to 100% the total amount of the Licensee's paid Fees for the Services in the prior twelve (12) months.

However, all such defense and payments of final judgment are subject to the conditions that Licensee must: (i) notify QUADIENT promptly in writing of such claim, (ii) permit QUADIENT to have sole control of the defense, compromise or settlement of such claim, including any appeals, and (iii) reasonably cooperate with QUADIENT in the defense or settlement of such claim. QUADIENT will pay those costs, damages or reasonable attorney's fees incurred by Licensee in connection with such action or claim but shall only pay Licensee's legal fees which were incurred by Licensee after Licensee gave QUADIENT notice of the claim and before QUADIENT assumed control of the defense.

QUADIENT shall have no obligation or liability for any claim pursuant to this Section to the extent arising from: (i) the combinations, operation, or use of the Service supplied under this Agreement with any product, device, or software not supplied by QUADIENT to the extent the combination creates the infringement; (ii) the unauthorized alteration or modification by Licensee of the Service, or (iii) QUADIENT's compliance with Licensee's designs, specifications, requests, or instructions pursuant to an engagement with QUADIENT relating to the Service to the extent the claim of infringement is based on the foregoing.

THE FOREGOING IS QUADIENT'S SOLE OBLIGATION AND LICENSEE'S EXCLUSIVE REMEDY WITH RESPECT TO INTELLECTUAL PROPERTY INDEMNIFICATION.

4.4 Limitation of Liability

IN ANY CASE, THE PARTIES AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, QUADIENT'S ENTIRE LIABILITY AND INDEMNITY UNDER ANY PROVISION OF THIS AGREEMENT FOR ANY CLAIM OR LEGAL ACTION IRRESPECTIVE OF ITS NATURE, SHALL NOT EXCEED IN AGGREGATE THE SUM OF THE FEES PAID TO LICENSOR FOR THE RESPECTIVE SERVICE GIVING RISE TO SUCH CLAIMS OR DAMAGES IN THE LAST TWELVE (12) MONTHS, NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, WITH THE EXCEPTION OF DEATH OR PERSONAL INJURY CAUSED BY THE NEGLIGENCE OF QUADIENT AND TO THE EXTENT APPLICABLE LAW PROHIBITS THE LIMITATION OF DAMAGES IN SUCH CASES.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL QUADIENT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY ARISING OUT OF OR THE INABILITY TO USE THE SERVICE EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.



5 Data Protection and Security

QUADIENT does not own any Customer Data. Licensee, not QUADIENT, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use all Customer Data, and QUADIENT shall not be responsible or liable for the deletion, correction, destruction, damage, or loss of Customer Data. QUADIENT's use of Customer Data shall be limited to the purpose of providing the Service to the Licensee and for QUADIENT to meet its contractual obligations hereunder. After termination of this Agreement, Licensee shall ensure extraction or backup of all Customer Data. QUADIENT shall have no obligation to retain Customer Data, and may fully delete Customer Data after ninety (90) days after termination of this Agreement.

For free accounts, Quadient retains the right to delete the full company account (including End User accounts and Customer Data) after ninety (90) calendar days of being unused or upon expiration of any free trial period.

Licensee acknowledges that any Customer Data, including Documents and personal data of End Users of the Services may be stored on servers set up in the EU and the United States of America in order to prevent a platform failure. These servers are operated by Microsoft under the terms and conditions of the Azure platform found at: <https://azure.microsoft.com/en-us/support/legal/>

Please note that Microsoft publicly commits to adherence to the GDPR and the EU Model Clauses for their online service.

Delivery of Your Email in the Quadient Cloud Services is undertaken as a Third-Party Service by the following service provider: Mailjet (FR).

All of Quadient's third-party providers have confirmed adherence to the EU Privacy legislation and where required for onward transfer, also the EU Model Clauses.

You can access their privacy policies at:

Microsoft: <https://privacy.microsoft.com/en-us/privacystatement>

Mailjet: <https://eu.mailjet.com/privacy-policy>

We will not access, view, or listen to any of Your Customer Data or content, except as reasonably necessary to perform the Services. Actions reasonably necessary to perform the Services may include (but are not limited to) (a) responding to support requests and ensuring encryption or other appropriate technical measures; (b) detecting, preventing, or otherwise addressing fraud, security, unlawful, or technical issues; (c) when it is required by law (such as when we receive a valid subpoena or search warrant); (d) when we, in our discretion, think it is necessary to protect the rights, property, or personal safety of us, our users, or the public and (e) for enforcing these terms and our contractual rights and obligations.

You can set the retention period of the content created in your End User account yourself, up to a period of ten (10) years upon upload or any shorter period you require.

If you require an Art. 28 Processor Agreement under the European GDPR, please download the Data Processing Addendum for EMEA Cloud Services (from www.quadient.com/eula) and send the completed form for final review and signature to QUADIENT CXM AG, Oberer Gansbach 1, CH-9050 Appenzell, Switzerland.

If the Customer and QUADIENT have signed such a separate Processor Agreement according to Art. 28 GDPR, such agreement shall prevail over this Cloud EULA in case of any doubt or discrepancies.



6 Mutual Confidentiality

Each party acknowledges and agrees that any and all proprietary information labelled as "confidential" or which a reasonable person would know constitutes proprietary information, including but not limited to, business plans, financial reports, customer lists and other Customer Data or customer information, descriptions of manufacturing processes, and product development and marketing plans emanating from the other party's business in any form shall be "Confidential Information", and each party agrees that it will not, during or after the term of this Agreement, permit the duplication, use, or disclosure of any such Confidential Information to any person (other than an employee, agent or representative of the other party who must have such information for the performance of its obligations hereunder or in the execution of the duties of his or her employment), unless such duplication, use or disclosure is specifically authorized by the other party in writing. Licensee agrees that Licensor shall expressly be entitled to disclose Confidential Information provided by Licensee to QUADIENT, QUADIENT's employees, agents or representatives as well as to its parent companies and QUADIENT Affiliates. Such aforesaid disclosure shall always be confined to the extent that it is reasonably required in order to fulfil Licensor's obligations under this Agreement.

Neither party shall be in breach of this EULA by reason only of disclosing Confidential Information or Customer Data which the party is required to disclose by laws or regulations or upon lawful request of any Authority. A party that is required to disclose Confidential Information in these circumstances shall give the other party as much prior written notice of the disclosure as possible (provided that it is not prohibited from doing so) to allow the other party an opportunity to take such steps as are available to it to control or prevent the disclosure.

Each party shall be entitled to disclose Confidential Information or Customer Data to an Authority without notifying the other party where the Authority has requested or directed that the other party is not notified or informed of the disclosure.

7 Term and Termination

- (a) This Agreement, as amended and updated from time to time, shall be effective for the term of the subscription and as set out in the Customer Contract. If you sign up via web-portal, it shall be effective upon Your acceptance of the Agreement via click.
- (b) Either party may terminate this Agreement (and any Volume Pack then in effect) with ninety (90) days prior written notice.
- (c) Either party may terminate this Agreement if the other party breaches any material term of this Agreement and fails to cure such breach within ten (10) days after delivery of notice of such breach.
- (d) In addition to any other rights granted to QUADIENT herein, QUADIENT reserves the right to suspend any End User Account immediately, and/or terminate this Agreement and Licensee's access to the Service if Licensee's account becomes delinquent and this status is uncured for a period of forty-eight (48) hours.
- (e) Upon termination of a subscription, Licensee must immediately uninstall and delete any component or access to the Service, and destroy all accompanying Documentation and all copies thereof (including copies stored in computer memory).



8 Miscellaneous

- 8.1 Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.
- 8.2 In the event that any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.
- 8.3 You agree to comply with all applicable export and import laws and regulations, including the US Export Regulations.
- 8.4 You may not assign this Agreement to any third-party except upon QUADIENT's prior written consent, which shall not be withheld unreasonably. Any purported assignment in violation of this section shall be void.

9 Governing Law and Legal Venue

This Agreement is construed under the laws of Switzerland, excluding provisions on conflict of laws and also expressly excluding the U.N. Convention of Contracts for the Sale of International Goods. If any provision hereof is found to be void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect. In the event there is a dispute arising out of or in relation with this Agreement, the legal venue shall be the Commercial Courts of Zurich, Switzerland. Each party hereby waives opposition to jurisdiction in such court.

10 Definitions

The following terms used in this Agreement shall have the following meaning:

- **"Affiliate"** means an entity owned by, owning to or under common ownership with either party, whereby ownership shall be defined as holding a financial interest of at least 51% of shares or capital.
- **"Authorities"** means any official public authorities including regulatory and data protection authorities in any affected jurisdiction.
- **"Customer Contract"** means either an individually agreed and duly signed commercial agreement between You and a QUADIENT Affiliate or authorized reseller or distributor that expressly includes this Cloud EULA by reference and contains some sort of License Schedule; or the click-agreement concluded for the Quadient Cloud Services at: quadientcloud.eu
- **"Customer Data"** means any data, information or material, including personal data and Licensee content that Licensee or Licensee's End Users, employees, subscribers or partners may disclose or submit to QUADIENT or upload to the Service in the course of using the Service.
- **"Document"** means any incoming and outgoing document (e.g. letter, fax, invoice or sales order) submitted to QUADIENT via a secure Internet connection for processing, delivery to a recipient and/or electronic archiving.
- **"Documentation"** means any published documentation provided by QUADIENT in any form, related to the Service including any specification, End User manuals, systems manuals, operating manuals, programming manuals, physical planning guides and set up or installation guides, if available.



- **“End User”** means any person, program, process, product, or hardware which uses any functionality of the Software or Service; it shall also mean Licensee’s employees, representatives, consultants, contractors or agents who are authorized to use the Software or Service under a valid Subscription and have been supplied user identifications and passwords by Licensee (or by QUADIENT at Licensee’s request).
- **“EU Model Clauses”** means the standard contractual clauses annexed to the EU Commission Decision 2010/87/EU dated February 5, 2010 for the Transfer of Personal Data to Processors established in Third Countries under the EU Directive 95/46/EC.
- **“Fees”** means the Fees and charges specified in the applicable License Schedule and/or Customer Contract, payable by Licensee to QUADIENT or the respective Affiliate in respect of the License and/or the respective Cloud service subscription.
- **“GA Release”** means the generally available released version of Quadient Cloud Services (excluding earlier Versions, Custom Versions, Trial Versions, Test Versions and Code Samples).
- **“GDPR”** means Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons (data subjects) with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.
- **“Intellectual Property Rights”** means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.
- **“Licensee”** means Licensee or End User authorized to use the Service under a valid and paid License for Licensee internal business use and not for distribution or resale.
- **“License Schedule”** means the document in which the commercial details of the Software or Service Subscriptions are agreed between the Parties. The License Schedule may be a Customer Contract in itself or an integrated part thereof.
- **“Open Source License Terms”** means the license terms applicable to Open Source Software components included in the Software or used by the Services as listed at: <http://www.quadient.com/resources/open-source-licenses>
- **“Open Source Software”** means Third-Party Software available without charge for use, modification or distribution as licensed under a separate open source software license.
- **“Quadient Cloud Service(s)” or “Service(s)”** means QUADIENT's online Services as described in the relevant product or service descriptions and as found at: quadientcloud.eu
- **“Software”** means the software as set forth in the applicable License Schedule as supplied by QUADIENT or its suppliers or authorized business partners, and printed materials, and corresponding online or electronic Documentation.
- **“Subscription”** means the use rights for the Services granted to the Licensee under this Agreement.
- **“Third-Party Software” or “Third-Party Services”** means in the QUADIENT Cloud Services any third-party software or service components used in connection with the Software such as Adobe PDF Library technology, Datalogics Software, Open Source Software, Microsoft Azure and Mailjet etc. and related Documentation, including any upgrades, modified versions, updates, additions, and copies thereof.
- **“Trial Version” or “Test Version”** means a version of the Quadient Cloud Service, like for example an FMAP version (First Mover Advantage Program), or another test version as so identified, to be used only



to review and evaluate the Service for a specific time period as determined by QUADIENT without any warranty and irrespective of if such Software or Service will be continued or included in a GA-Release.

- The terms, 'personal data', 'processing', 'supervisory authority', 'data subject', 'Processor', 'Controller' and 'transfer' shall have the same meaning as in the GDPR.