



LINKFLUENCE
TERMS OF SERVICE
February 10, 2020

BEFORE USING LINKFLUENCE'S SERVICES (AS DEFINED BELOW), PLEASE READ THESE TERMS OF SERVICE (THE "AGREEMENT"). THIS AGREEMENT IS INCORPORATED BY REFERENCE INTO THE ORDER FORM EXECUTED BY THE COMPANY IDENTIFIED AS THE "CUSTOMER" IN THE ORDER FORM ("CUSTOMER") AND LINKFLUENCE ("LINKFLUENCE"). PURSUANT TO THIS AGREEMENT, CUSTOMER SHALL RECEIVE THE RIGHT TO ACCESS AND USE THE LINKFLUENCE'S PLATFORM; AND/OR RECEIVE OTHER SERVICES FROM LINKFLUENCE SERVICES SHALL BE STATED IN MORE DETAIL IN THE ORDER FORM OR STATEMENT OF WORK ("SOW") ISSUED HEREUNDER. THIS AGREEMENT, THE ORDER FORM AND THE SOW, IF ANY, TOGETHER FORM A BINDING AND EXECUTED WRITTEN AGREEMENT BETWEEN CUSTOMER AND LINKFLUENCE, EFFECTIVE AS OF THE EARLIEST OF: THE DATE OF MUTUAL EXECUTION OF THE ORDER FORM; OR THE DATE IN WHICH THE CUSTOMER USES THE SERVICES (THE "EFFECTIVE DATE").

1. DEFINITIONS

"Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. **"API"** means the application programming interfaces developed and enabled by Linkfluence that permits Customer to access the Data. **"Calculated Data"** means the result of calculations carried out by the Linkfluence Platform on Raw Data. **"Collection Service"** means the feature of the Linkfluence Platform that allows for the collection of social media information. **"Customer Data"** means the content uploaded by Customer or available in the Linkfluence Platform, including any data, personal identifiable information ("PII") belonging to third parties. **"Documentation"** means Linkfluence's knowledge base, fair usage policy, Privacy Policy, and any other documents, policies or materials related to the use of the Services, as updated from time to time. **"Final Data"** means the data in all formats (Excel, CSV, Word and API) accessible to Customer via the Linkfluence Platform. **"Linkfluence Search"**, **"Linkfluence Tribes"** and **"Radarly"** collectively referred to as the **"Linkfluence Platform"**. **"Media Engagement"** means any public content posted by a third-party and displayed on social media or any other source. **"Raw Data"** means the content and data collected directly by the Linkfluence Platform from third-party sources, such as but not limited to social media outlets. (Calculated Data, Customer Data, Final Data and Raw Data collectively referred to as the **"Data"**). **"Queries"** means the number of requests placed by Customer via the Linkfluence Platform in the form of keywords designed to help organize the gathering and analysis of Media Engagement collected from social media. **"Services"** means access to the online, Web-based application provided by Linkfluence on a Subscription basis, including but not limited to the Linkfluence Platform; and the Professional Services that are ordered by Customer. **"User"** means an individual who is authorized by Customer to use the Services on behalf of the Customer, including but not limited to employees, consultants, contractors, and agents of Customer.

2. LINKFLUENCE SERVICES

2.1 Provision of Services. Linkfluence shall make the Linkfluence Platform available to Customer and its Users on a subscription basis pursuant to this Agreement and the

applicable Order Forms during the Service Term (the **"Subscription"**). Customer may also purchase professional services from Linkfluence (the **"Professional Services"**).

2.2 Subscriptions. Unless otherwise specified in the applicable Order Form or Statement of Work, (i) Services are purchased as Subscriptions; (ii) additional Subscriptions may be added during the Subscription Term and shall be prorated for the remainder of the Term in effect at the time the additional Services are added; and (iii) the added Subscriptions shall terminate on the date stated in the Order Form or Statement of Work.

2.3 Professional Services. Professional Services may be purchased by Customer at Linkfluence's then current rates and shall be detailed in the corresponding Statement of Work .

2.4 Grant of License to API. Customer may purchase limited licenses to the API. In those particular cases, and subject to the terms herein, Linkfluence grants Customer a non-exclusive, non-transferable, non-assignable, worldwide limited license to access and use the API solely for Customer's own business purposes and only during the Term set forth in each fully executed Order Form.

2.5 Linkfluence Responsibilities. Linkfluence shall: (i) provide to Customer basic support for the Services at no additional charge, and/or upgraded support if purchased, provided that the terms of such upgraded support are described in the Order Form; (ii) make the Services available in accordance with Linkfluence's policies; and (iii) provide the Services in accordance with applicable laws and government regulations.

2.6 Customer Responsibilities. Customer shall (i) be responsible for Users' compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of Customer Data and of the means by which it acquired Customer Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Linkfluence promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with Linkfluence's instructions and applicable laws and government regulations. Customer shall not (a) make the Services available to any third party other than Users, (b) sell,

resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, as such term is defined in Section 8.3, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

2.7 Other Networks; Approval and Usage. The Services may include the ability to access Raw Data through third party networks, including but not limited to social media websites and sources (“**Third-Party Sources**”). Customer acknowledges that **Linkfluence does not own the Raw Data**, and that such Third-Party Sources may be independently subject to applicable privacy laws regarding their own use of such Raw Data. Customer also acknowledges that the use of Third-Party Sources may require approval of the owners or operators of such Third-Party Sources and will be subject to their own acceptable usage policies. Linkfluence will not be liable for any failure of such Third-Party Sources to obtain consent from its members to use their data; nor for Customers violation of the Third-Party Source’s usage policies. Customer understands that Linkfluence does not own or control the Third-Party Sources, and agrees that Linkfluence shall not be responsible or liable for: (i) compliance with any privacy laws by such Third-Party Sources; (ii) performance or non-performance of the Third-Party Sources; (iii) any imbalance, defect or malfunction in the software and/or services of these Third-Party Sources; (iv) malicious third-party intrusions in the Customer’s systems; (v) disruptions or other technical issues that may limit access to these Third-Party Sources; or (vi) performance or non-performance of any interconnection points between Linkfluence and such Third-Party Sources.

3. FEES

3.1 Fees. Customer shall pay Linkfluence all the fees specified in the Order Forms and/or SOW (the “**Fees**”). Except as otherwise provided in the Order Form and/or SOW, all Fees are quoted in United States currency; Fees are based on Subscriptions purchased and not on actual usage; payment obligations are non-cancellable; and Fees are non-refundable. Fees for the Services will be invoiced in advance in accordance with the terms of the Order Form and/or SOW.

3.2 Payment Terms. Unless otherwise stated in the Order Form and/or SOW, payment is due within thirty (30) days of the invoice date. Any payment not received from Customer by the due date shall accrue (except with respect to charges then under reasonable and good faith dispute), at the lower of 1.5%

or the maximum rate permitted by law of the outstanding balance per month from the date such payment is due until the date paid. If any Customer account is 30 days or more overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any other rights and remedies (including the termination rights set forth in this Agreement), Linkfluence reserves the right to suspend the Services without liability to Linkfluence, until such account is paid in full.

3.3 Taxes. Fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Customer shall be responsible for payment of all such taxes, levies, or duties, excluding only taxes based solely on Linkfluence’s income. If Linkfluence has the legal obligation to pay or collect taxes for which Customer is responsible, the appropriate amount shall be invoiced to and paid by Customer unless Customer provides Linkfluence with a valid tax exemption certificate authorized by the appropriate taxing authority.

4. TERM AND TERMINATION

4.1 Term of the Agreement. This Agreement commences on the Effective Date, as such term is defined in the first paragraph of this Agreement and continues until all the Services expire, or this Agreement is terminated in accordance herewith.

4.2 Term of the Subscription. The Subscription is offered for the initial term of service specified in the Order Form (the “**Initial Term**”). The Initial Term shall begin on the Start Date stated in the Order Form. Following the Initial Subscription Term, Services shall renew in accordance with the terms of the Order Form (each, a “**Renewal Term**”). If, during the Initial Term or any Renewal Term, Customer adds any additional Subscriptions to its use of the Service, the amount of Customer’s Fees shall increase the sum set forth in the Order Form and, the Subscription Term for any such additional Services shall be stated in the Order Form issued at the time.

4.3 Termination of the Agreement. This Agreement and the Services may be terminated by either party for cause: (a) upon thirty (30) days written notice of a material breach to the other party if such breach remains uncured at the expiration of such period; or (b) immediately if either party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

4.4 Early Termination. If Customer wishes to terminate the Subscription under this Agreement prior to the expiration of the current Term and such termination is not due to

Linkfluence's breach, all Fees that would otherwise be due through the end of the Term in effect at the time shall become immediately due and payable within thirty (30) days of the effective date of termination and no refunds for pre-paid Services will be provided. The parties agree that these early termination charges are a reasonable estimate of anticipated actual damages and not a penalty.

5. PROPRIETARY RIGHTS

5.1 Grant of License. Subject to the terms herein, Linkfluence grants Customer a non-exclusive, non-transferable, non-assignable, worldwide limited license to access and use the Services solely for Customer's own business purposes and only during the Term set forth in each fully executed Order Form.

5.2 Reservation of Rights. Subject to the limited rights expressly granted hereunder, Linkfluence reserves all rights, title and interest in and to the Services and the Linkfluence Platform, including all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein. For clarification purposes, **Linkfluence does not own or license the Raw Data.**

5.3 Restrictions. Customer shall not, and shall not allow third parties to: (i) license, sublicense, lease, rent, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Services in any way provided however that the Customer may permit use of Services, strictly in accordance with this Agreement, by third parties working on behalf of the Customer; (ii) access (or attempt to access) any of the Services by any means (including automated means) other than through the User ID that is provided by Linkfluence; (iii) reverse engineer, adapt, translate, decompile, or otherwise derive the source code for the Services; or access the Services in order to copy or imitate any ideas or features; or build a product or service similar to the Services; or use similar features, software, functions or graphics as those of the Services, whether or not intended to compete with the Services; (iv) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit Malicious Code (as such term is defined in Section 8.4) or material in violation of third-party privacy and property rights, or (v) access the Services for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purpose.

5.4 Data. Customer retains all rights, title and interest in and to the Customer Data. Customer is solely responsible for the communication initiatives and the Customer Data

uploaded and published via the Linkfluence Platform and is responsible for ensuring that such content does not violate any applicable privacy laws or third-party rights. Linkfluence has no general obligation to monitor or control the Customer Data or any requests for Data made by Customer via the Collection Service, as well as any content or data submitted, published or stored by Customer via the Services. Linkfluence does not control or monitor the Raw Data and as such, does not guarantee the accuracy, integrity or quality of the Raw Data. Linkfluence shall not be liable in any way for the any content, including, but not limited to, any errors or omissions in the Raw Data, or for any loss or damage of any kind incurred as a result of the collection, use of or reliance upon any data or content collected, published, posted, emailed, transmitted, or otherwise made available via the Service. Customer hereby grants Linkfluence a limited license, during the Term, to use the Customer Data solely in connection with the provision of the Subscription and the Professional Services.

5.5 Excluded Customer Data. Customer acknowledges that the Services are not intended to be a repository of personal identifiable information ("PII") or personal data that may be considered sensitive or privileged, such as financial information, non-public personally identifiable information that could be legally considered private or sensitive, including without limitation, personal social profiles, social security numbers, driver's license numbers, birth dates, personal bank account numbers, and credit card numbers (the "**Excluded Customer Data**"). Notwithstanding the above, in the event that Customer or any of its Users uploads Excluded Customer Data to the Services in violation of this Agreement, Customer agrees to remove such information immediately, or at its reasonable discretion and upon prior written notice, Linkfluence may purge such Data from its systems.

5.6 User Passwords. Customer shall ensure that its Users protect their unique user identification name and not make them available to persons or entities not authorized to use the Services. Linkfluence will only store User's passwords in encrypted form. Linkfluence personnel will not be able to read User's passwords.

5.7 Destruction of Customer Data. Upon written request by Customer made within 30 days after the effective date of termination, Linkfluence will provide Customer with temporary access to the Services so that Customer can retrieve its Customer Data. Customer shall be solely responsible for organizing any Data from the Linkfluence Platform using the data export functionalities available therein. After such 30-day period, Linkfluence shall have no obligation to maintain or provide any Customer Data and shall reasonably thereafter,

unless legally prohibited, delete all Customer Data in Linkfluence's systems or otherwise in its possession or control.

7. CONFIDENTIALITY

7.1 Definition of Confidential Information. As used herein, "**Confidential Information**" means all confidential information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including but not limited to Customer Data, any Privacy Impact Assessments, the terms and conditions of this Agreement and any Order Form and SOW, as well as business and marketing plans, pricing, technology and technical information, product plans and designs, and business processes disclosed by either party. However, Confidential Information (other than Customer Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

7.2 Protection of Confidential Information. Except as otherwise permitted in writing by the Disclosing Party: (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care); (ii) the Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement; and (iii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement to any third-party other than its Affiliates and their legal counsel and accountants without the other party's prior written consent.

7.3 Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by

law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

8. REPRESENTATIONS AND WARRANTIES

8.1 Corporate Authority. Each party represents and warrants that it has the legal power and authority to enter into these Terms, and that the Order Form is executed by an employee or agent of such party with all necessary authority to bind such party to the terms and conditions of this Agreement.

8.2 Functionality Warranty. Linkfluence warrants that the Services will operate in a manner consistent with general industry standards reasonably applicable to the provision hereof and in substantial conformity with the then current version of the applicable Documentation, including the Service Level Agreement ("**SLA**"), attached and incorporated hereto as Exhibit A.

8.3 Data Security and Warranty. Linkfluence has implemented Appropriate Security Measures (as defined below) and maintains the Services at reputable third-party Internet service providers and co-location facilities. "**Appropriate Security Measures**" means commercially reasonable efforts to ensure that the Customer Data will be maintained accurately and safeguarded as well as technical and physical controls to protect Customer Data against destruction, loss, alteration, unauthorized disclosure to third parties or unauthorized access by employees or contractors employed by Linkfluence, whether by accident or otherwise. If Customer's use of the Services involves processing personal data pursuant to Regulation 2016/679 (the "**GDPR**") and/or transferring personal data outside the European Economic Area or Switzerland to any country not deemed by the European Commission as providing an adequate level of protection for personal data, the terms of the Data Protection attached and incorporated hereto as Exhibit B, will apply.

8.4 Additional Warranties. Linkfluence represents and warrants that: (i) the Services will be provided in a professional, timely and workman like manner by persons with the proper skill, training and background, and consistent with generally accepted industry standards; (ii) the Services will comply with all written specifications; (iii) the Services will be free of material defects; (iv) the Linkfluence technology shall not deliver any viruses, Trojan horses, trap doors, back doors, Easter eggs, worms, time bombs, cancelbots or other

computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate content of any databases and/or the normal operation of any computer systems (“**Malicious Code**”); (v) at the time of delivery, all documentation required hereunder (if any) shall be complete so as to enable Customer personnel with ordinary skills and experience to utilize the Services for the purposes for which they are being acquired by Customer, (vi) it will at all times utilize reasonable and appropriate practices and technologies common and prevalent in Linkfluence’s industry to avoid causing damage to Customer’s computer systems or other technology.

8.5 Disclaimer. Except as expressly provided herein, Customer acknowledges and agrees that the Services are provided on an “As Is”, as available basis. Other than as expressly provided herein, LINKFLUENCE DISCLAIMS WARRANTIES, WHETHER EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING WITHOUT LIMITATION THE CONDITIONS AND/OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE, NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW. LINKFLUENCE DOES NOT WARRANT THAT THE SERVICES OR THE LINKFLUENCE PLATFORM WILL MEET THE CUSTOMER’S REQUIREMENTS OR THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. FURTHER, LINKFLUENCE DOES NOT WARRANT THAT ALL ERRORS IN THE SERVICES CAN BE CORRECTED.

9. LIMITATION OF LIABILITY

EXCEPT FOR DAMAGES ARISING FROM BREACHES OF CONFIDENTIALITY AND EITHER PARTY’S INDEMNIFICATION OBLIGATIONS HEREIN, IN NO EVENT SHALL EITHER PARTY’S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, (1) IN THE AGGREGATE, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER OR, (2) WITH RESPECT TO ANY SINGLE INCIDENT GIVING RISE TO LIABILITY, EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER HEREUNDER IN THE TWELVE MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

10. INDEMNIFICATION

10.1 Linkfluence Indemnification. Linkfluence shall indemnify and hold harmless the Customer against any loss, damage or cost (including reasonable attorney’s fees) incurred in connection with claims, demands, suits or proceedings (“**Claims**”) made or brought against Customer by a third party alleging that the use of the Services, as contemplated hereunder, infringes the intellectual property rights of a third party. Notwithstanding the foregoing if Linkfluence reasonably believes that the Customer’s use of any portion of the Services is likely to be enjoined by reason of a Claim of infringement, violation or misappropriation of any third party’s intellectual property rights then Linkfluence may, at its expense: (i) procure for the Customer the right to continue using the Services; (ii) replace the same with other software, services or other material of equivalent functions and efficiency that is not subject to an action of infringement; or (iii) modify the applicable software, support services or other material so that there is no longer any infringement or breach, provided that such modification does not adversely affect the capabilities of the Services as set out herein. Linkfluence shall have no liability respecting any Claim of infringement or breach as aforesaid to the extent such Claim is based upon the combination, operation or use of the Services with other equipment or software not supplied by Linkfluence or in a manner not consistent with Linkfluence’s instructions. THIS SECTION SETS FORTH LINKFLUENCE’S SOLE LIABILITY AND CUSTOMER’S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

10.2 Customer Indemnification. Customer agrees to indemnify and hold Linkfluence harmless against any loss, damage or costs (including reasonable attorney’s fees) incurred in connection with Claims made or brought against Linkfluence by a third party arising from or relating to Customer’s use of the Services and the API in violation of this Agreement.

10.3 Mutual Provisions. Each party’s indemnity obligations are subject to the following: (i) the aggrieved party shall promptly notify the indemnifier in writing of the Claim; (ii) the indemnifier shall have sole control of the defense and all related settlement negotiations with respect to the Claim (provided that the indemnifier may not settle or defend any Claim unless it unconditionally releases the aggrieved party of all liability); and (iii) the aggrieved party shall cooperate fully to the extent necessary, and execute all documents necessary for the defense of such Claim.

11. GENERAL PROVISIONS

11.1 Publicity. Customer agrees that Linkfluence may use Customer's name and logo on Linkfluence's website, and as a part of a general list of customers for use and reference in corporate, promotional and marketing literature.

11.2 Assignment. Neither party shall assign its rights or delegate its duties under the Agreement either in whole or in part without the prior written consent of the other party, except to a party that acquires all or substantially all of the assigning party's assets as part of a corporate reorganization, merger or acquisition. The Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

11.3 Notices. Notices regarding new or modified documentation, including but not limited to Linkfluence's Terms of Service, Service Level Agreement, Privacy Policy and other internal documents will become effective and will be deemed accepted by Customer, (a) immediately for those Customers who purchase the Services after the updated version is published on Linkfluence's website, or (b) for those having pre-existing accounts, the updated Terms of Service will be deemed effective with Customer's continued use of the Service. Notices regarding: (a) material changes to this Agreement; (b) pricing; (c) internal or external changes materially impacting Linkfluence's ability to do business; (d) breach; (e) termination; or (f) any other material information required to be in writing, will be in writing and deemed to have been given if delivered personally, by confirmed email or facsimile, or on the third day after mailing by first-class, registered or certified mail, postage prepaid to either Party at the addresses given above in the heading to this Agreement or to such other address as a Party may, from time to time, designate by notice to the other Party.

11.4 Amendments. No amendment, supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the Parties to be bound thereby.

11.5 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the state of New

York and subject to the exclusive jurisdiction of the City of New York.

11.6 Relationship. The Parties are independent contractors. This Agreement does not create a joint venture, partnership, employment, franchise, or agency relationship exists between Customer and Linkfluence.

11.7 Waiver and Severability. The failure of either party to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by such party in writing. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

11.8 Force Majeure. Neither party will be liable for any failure or delay in its performance under the Agreement, due to any cause beyond its reasonable control provided that the delayed party (a) gives the other party prompt notice of such cause, and (b) uses reasonable commercial efforts to correct promptly such failure or delay in performance.

11.9 Entire Agreement. This Agreement, together with any applicable Order Form(s) and SOWs (including any other documents referenced therein), comprises the entire agreement between Customer and Linkfluence regarding the subject matter contained herein and supersedes all prior or contemporaneous negotiations, discussions or agreements. In the event of any conflict between the terms of this Agreement and the terms of any Order Form or SOW, the terms of the Order Form or SOW shall prevail.

11.20 Surviving Provisions. The sections titled "Fees," "Payment Terms," "Proprietary Rights," "Confidentiality," "Representations and Warranties," "Indemnification," "Limitation of Liability," "Surviving Provisions," and "General Provisions" shall survive any termination or expiration of this Agreement.

EXHIBIT A
SERVICE LEVEL AGREEMENT (“SLA”)

Service Availability. Customer acknowledges that Linkfluence will schedule a system maintenance period from time to time. Linkfluence may occasionally have to interrupt services outside of this time period, including for purposes of upgrades and maintenance to the Linkfluence Platform and/or systems, in which case Linkfluence will provide notice to Customer of the scheduled downtime via a banner within the Linkfluence Platform (Radarly).

Notwithstanding anything contained herein to the contrary, the parties agree on the following definitions, terms and conditions:

“Downtime” means any time during the Total Scheduled Availability (as hereinafter defined) that the Linkfluence Platform is not available for access, but excluding: (a) a Scheduled Maintenance Period (as hereinafter defined) that occurs between the hours of 12:00 midnight to 7:00 a.m. Eastern Time, and of which Customer has been notified pursuant to this Agreement; (b) problems caused by Customer’s telecommunications and Internet services; (c) software or hardware not provided or controlled by Linkfluence; (d) force majeure events as provided in the Agreement; (e) negligent or wilful acts of Customer or the Users; (f) defects in software provided by Customer which Linkfluence could not have discovered through the exercise of reasonable diligence prior to the failure; (g) Customer’s failure to implement commercially reasonable changes in equipment or software reasonably recommended by Linkfluence in writing as essential to maintain service levels following a Customer-directed change in the operating environment or Customer-driven increase in demand for system resources that has not allowed Linkfluence a reasonable time to accommodate; and (h) operation under a disaster recovery plan, provided that Linkfluence has complied with its material obligations with respect thereto (collectively, **“Permitted Downtime”**).

“Emergency Maintenance” means any maintenance to the Linkfluence Platform required as a result of conditions beyond Linkfluence’s control, including, without limitation, a force majeure event or otherwise, which maintenance is required to be performed on any emergency basis to maintain Total Scheduled Availability.

“Scheduled Maintenance Period” means any time period during which Linkfluence performs scheduled maintenance on the Linkfluence Platform. Linkfluence will provide Customer with at least one (1) day’s advance notice for standard maintenance, or thirty (30) minutes advanced notice for Emergency Maintenance. Maintenance notifications will be sent to the Customer e-mail address designated by Customer.

“Total Scheduled Availability” means 7 days a week, 24 hours a day, excluding Permitted Downtime, in minutes.

“Actual Uptime” means Total Scheduled Availability minus Permitted Downtime, in minutes.

“Actual Uptime Percentage” means that percentage of Total Scheduled Availability represented in Actual Uptime.

Service Availability Credits. If, during the Term, the Actual Uptime Percentage is, during any calendar month, lower than 99.5%, then Linkfluence will give Customer a credit or refund with respect to the Fees paid by Customer for that month calculated as follows:

Application Availability = (Total Hours in Reporting Period – Unscheduled Maintenance – Scheduled Maintenance – Excluded) / (Total Hours in Reporting Period – Scheduled Maintenance – Excluded) X 100%.



All claims will be verified against Linkfluence’s system records. Should any periods of downtime submitted by Customer be disputed, Linkfluence will provide to Customer a record of service availability for the period in question. Linkfluence will only provide records of system availability in response to good faith Customer claims.

Notwithstanding the above, should Linkfluence fail to achieve at least 95% general availability over any calendar quarter, Customer shall have the option to terminate the Services for cause, in which case Linkfluence will refund to Customer any prepaid fees for the remainder of the Term after the effective date of termination.

Social Media Platform Issues

Because social media content is published to constantly evolving social media platforms, from time-to-time social media platform vendors make changes that can break interfaces or change look-and-feel in unacceptable ways. While Linkfluence cannot be held responsible for these issues, Linkfluence will nonetheless use best efforts to respond and try resolving public API issues.

Backup

The Linkfluence Platform is designed to be fault-tolerant: each service has built-in redundancy and Data storage is distributed. All Data is replicated at least once in real time.

All Data is available to Customer via the Linkfluence Platform (Radarly software) throughout the Term of the Services.

Customer Data is divided into two parts: (i) configuration data and (ii) collected and tagged Data. Configuration data will be backed up on a daily basis.

Linkfluence shall maintain and store the last seven (7) daily backups, as well as the backup from the first days of the last four (4) weeks. The full archive of collected and tagged Data will be backed up on a weekly basis. Linkfluence shall maintain and store the last four (4) weekly backups. Backups will be stored in a different location than the production environment.

Recovery on request

Customer may request Linkfluence to recover Data from an available backup. Such request relating to the recovery of Data is referred to as a "Recovery Request".

Recovery will be completed once the recovery request processing has satisfied the criteria below:

Type	Resolution	Limitations
Configuration Data	100% < 12 hrs (from Monday to Friday, excluding public holidays – 9 am – 7pm EST)	Partial recovery is possible
Collected and tagged Data	100% < 72 hrs (from Monday to Friday, excluding public holidays – 9 am – 6 pm EST)	Partial recovery is not possible. The Data collected after a backup could be lost

Support

Customer will contact the Support Team by phone or by email (help@linkfluence.com) so as to send the necessary incident reports. Customer will be assigned a preferred contact for its requests. This preferred contact will coordinate the operational communication between Linkfluence and Customer (the "Preferred Contact"). The Support provided under this Agreement does not include services provided with respect to the following matters: (i) any problems



resulting from the misuse, improper use, alteration, or damage of the Linkfluence Platform or the API by Customer; (ii) any problems caused by modifications by Customer in any version of the Linkfluence Platform or the API not made or authorized by Linkfluence; or (iii) any problems resulting from the Customer combining or merging the Linkfluence Platform or the API with any hardware or software not supplied by Linkfluence, or not identified by Linkfluence as compatible with the Linkfluence Platform, API or Systems.

For the support SLA's to apply, Customer must file a valid support request with Linkfluence at either <https://help.linkfluence.com/hc/en-us/requests/new> or by email to help@linkfluence.com. Customer must include a clearly written description of the problem, provide the email address that Customer is logged in with, and where applicable, include a URL to the affected Analytics Dashboard. Customer must also include any steps that it can reasonably identify that would allow Linkfluence to replicate the problem (a "Valid Support Request"). Following receipt of a Valid Support Request, Linkfluence will log the problem and provide Customer with a ticket ID number by email to track progress on the support request.

If any of Customer's users contacts Linkfluence for any reason in any other form other than by filing a live support request via the process set out above, Linkfluence may refer that user to the Customer's assigned Preferred Contact and the Support SLA's will not apply.

Support opening hours

Technical support is open during working hours, from Monday to Friday from 9am to 6pm EST, excluding public holidays.

Incident Report Priority

The priority of Incident Reports is defined in conjunction with the Customer during the report drawn up.

Linkfluence will provide the Customer with 24/7 incident support via automatic notifications.

The following priority levels apply:

- ✓ Priority 1 – Unavailability of production environment
- ✓ Priority 2 – Major malfunctions other than Priority 1
- ✓ Priority 3 – Minor incidents or bugs

Handling and response time

Linkfluence guarantees to respond to incident reports within two (2) hours (working hours) and offers follow-up guarantee, on a monthly basis:

Incident	Response	Resolution
Priority 1	1 working hour	< 1 business day
Priority 2	4 working hours	< 10 business days
Priority 3	8 working hours	20 + business days

**EXHIBIT B
DATA PROTECTION**

The terms “Controller”, “Data Subject”, “Processing”, “Processor” and “Personal Data” bear the respective meanings given them in Article 4 of the GDPR.

Role of the Parties

When providing the Services, Linkfluence may implement automated processing of Raw Data that may contain Personal Identifiable Information (“PII”) during the Term of the Agreement. Where applicable, the PII resulting from such processing may be made available to the Customer via the Linkfluence Platform.

The Customer acknowledges that Raw Data, including PII derived from Raw Data, does not belong to Linkfluence, Customer or Customer’s clients and has been obtained by Linkfluence from Third-Party Sources, as such term is defined in the Agreement. Therefore, Customer may not hold Linkfluence liable in any manner whatsoever for the processing of the PII mentioned above and carried out by the Third-Party Sources.

Linkfluence carries out the collection of the Raw Data from the Third-Party Sources in its capacity as Controller, and in compliance with Article 6 .1 (f) of the GDPR. Linkfluence undertakes and warrants that any PII derived from the Raw Data that is only collected by Linkfluence in the course of providing the Services, and is done in compliance with applicable legal and regulatory framework relating to PII protection, including the GDPR, among others.

Once the Raw Data is collected, Linkfluence will process any PII derived from the Raw Data via the Linkfluence Platform. At this point, Linkfluence acts as Processor of the PII derived from the Data for the purposes of providing the Services.

Once the PII derived from Raw Data is processed by Linkfluence and transferred to the Customer, in any manner and by any means whatsoever, the Customer becomes the Controller of the Data and, as Controller, is solely responsible for any use, processing, retention or transfer of said Data and PII.

Customer is also the Controller of its Users and Data Subjects’ PII and shall be responsible for the collection, processing and legality of the data that it transfers to Linkfluence pursuant to the Agreement. As Controller of this Data, Customer guarantees that it has informed the Users and Data Subjects of the purposes and methods of processing of their PII by Linkfluence under the Agreement, and undertakes to comply with the Users and Data Subject’s rights under the GDPR and any other applicable law.

Customer agrees to transmit without delay to Linkfluence any request by any User or Data Subject concerning the exercise of the rights of access, rectification or erasure of their PII and provide all reasonable assistance to enable Linkfluence to respond timely to such requests.

Customer also agrees to comply with all the provisions relating to the protection of PII that are applicable to the Customer and agrees to indemnify and hold Linkfluence harmless from any claims, disputes, compensation or sanctions of any kind whatsoever (civil, administrative or criminal) that could result from the Customer violation of its obligation as Controller of the Users and Data Subject’s PII.

In addition, the parties undertake to obtain all legal and/or administrative authorizations and comply with any applicable regulations and directives required in order to process and use the Final Data. Furthermore, the parties will be responsible in particular for any formalities bearing on it before the competent local and/or international privacy authority.

Linkfluence will cooperate with Customer to respond to any requests from the Users or Data Subjects regarding the exercise of their rights of access and erasure, as provided for by GDPR and any other provisions applicable to the protection of PII.

If requested by Customer, Linkfluence can create a list of Users or Data Subjects who have exercised their right to object to the processing of their PII, that have contacted Customer or Linkfluence directly.

GDPR does not mandate Linkfluence, as Processor of the Raw Data, to comply with portability requests from the Data Subjects. For this reason, Linkfluence will not take into account portability requests related to the PII derived from Raw Data, or portability requests sent by Data Subjects to Customer.

PII Security

Linkfluence has implemented the necessary technical and organizational measures to ensure the security, integrity and confidentiality of the PII. Linkfluence will notify Customer within 24 hours of becoming aware or reasonably suspicious of any unauthorized disclosure of Customer’s Data, including PII.

Record(s) of processing activities

Linkfluence regularly updates any records of Raw Data that is processed by the Linkfluence Platform. Customer may access such records and the processing operations carried out by Linkfluence in its capacity of Processor of the PII, through the Linkfluence Platform.

Data Protection Impact Assessments

Where necessary, and in accordance with the requirements of GDPR, Linkfluence carries out Privacy Impact Assessments ("PIA") for PII obtained by Linkfluence while processing the Raw Data. Linkfluence can provide a summary of such PIAs upon prior written request from Customer solely for the purpose of confirming Linkfluence’s compliance with applicable privacy laws. PIAs constitute Confidential Information and shall be protected by Customer as such in accordance with the Agreement.

Description of the personal data processing operations

Nature	Collection, enrichment, structuring, organization and display.
Purpose	Provide social intelligence data in the context of social media monitoring for marketing and communication purposes and customer servicing and experience
Data subjects	<ul style="list-style-type: none"> • Users of the Services, • Authors of publicly available web content publications.
Categories of data	<p>For users of the Services:</p> <ul style="list-style-type: none"> • Contact details including name, email, • Login and account information, including screen name, password and unique user ID • Traffic data, including cookies (beacons, pixels, tags), IP addresses, referrer headers, data identifying the web browser and version, and device information (to the extent considered by applicable law to be personal data) • Social network information, including credentials • Photos <p>For authors of publicly available web content publications:</p> <ul style="list-style-type: none"> • screen name (which can include first and last names), • photos, • location, • gender,

	<ul style="list-style-type: none"> • age, • occupation, • website URLs, • website names.
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Contractors

Linkfluence utilizes the following contractor resources to perform its obligations under the Agreement.

<u>Authorized Contractor Resource</u>	<u>Role / Purpose</u>	<u>Location (incl. any international data export solution in place)</u>
OVH	Data Processing / Data archive	France (Roubaix, Gravelines), Canada (Beauharnois)
LeaseWeb	Data Processing / Customer projects	Netherlands (Haarlem)
AWS	Data Processing / Customer settings / Backups	Ireland (Dublin) and Japan (Tokyo)
FullStory	User session analytics	United States (Google Cloud Platform)
Alibaba Cloud	Data processing	China (Shanghai)

Linkfluence reserves the right to change these contractor resources.