

Orsted Open Innovation - Terms of Use

Effective Date: October 19, 2020

PLEASE CAREFULLY READ THESE TERMS OF USE (“**TERMS**”). BY CLICKING TO INDICATE THAT YOU AGREE TO THESE TERMS AND/OR DOWNLOADING, ACCESSING OR USING THE SERVICES, YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE, DO NOT ACCESS OR USE THE SERVICES OR CLICK TO INDICATE THAT YOU AGREE TO THESE TERMS.

These Terms are a legal agreement between Orsted North America Inc. located at One International Place, Suite 2610 Boston, MA 02110 USA (“**Orsted**,” “**us**,” “**our**” and “**we**”) and you and, if applicable, the entity on whose behalf you are entering into these Terms (also referred to as “**your**”) that govern your access and use of <https://openinnovation.orsted.com/>, your creation of an Account thereon, and related services, including all Updates (defined in Section 3 below), related downloads, documentation, information and Content (defined in Section a below) provided through the application, or made available in connection with these Terms (collectively, the “**Services**”). We may use third party service providers to assist in providing certain Services with or without notice to you (each, a “**Third Party Service Provider**”). We may also change Third Party Service Providers or may provide the Services without the assistance of such third party. You consent and authorize us to delegate the authorizations you provide to us to our Third Party Service Provider(s) as we deem necessary or desirable to provide the applicable Services to you.

BY CLICKING “ACCEPT” TO THESE TERMS, OR BY DOWNLOADING, ACCESSING OR USING THE SERVICES, YOU AFFIRM THAT YOU ARE AT LEAST 18 YEARS OF AGE, OF LEGAL AGE AND HAVE THE LEGAL CAPACITY TO ENTER INTO THIS AGREEMENT, AND RESIDE IN THE UNITED STATES OR ANY OF ITS TERRITORIES OR POSSESSIONS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ENTITY, SUCH AS THE COMPANY YOU WORK FOR, YOU REPRESENT TO ORSTED THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ENTITY.

THIS AGREEMENT CONTAINS AN ARBITRATION OF DISPUTES PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS AT ORSTED’S SOLE DISCRETION TO RESOLVE DISPUTES RATHER THAN JURY TRIALS OR CLASS ACTIONS.

By using the Services, you authorize the collection of information about you, your use of the Services, the device on which the Services is installed, and the use, transmission, processing, and storing of information as described in ORSTED’s Privacy Policy located at <https://us.orsted.com/privacy-policy>.

1. License to Use of the Services. Conditioned on your compliance with these Terms and receipt of all data and information from you reasonably required for ORSTED to provide you the Services, ORSTED grants you a limited, personal, revocable, non-exclusive and nontransferable license to download, install, and use the Services solely for internal business purpose. For all other uses of the Services, the foregoing license is solely for your personal non-commercial use. Except as expressly provided in these terms, ORSTED and its licensors reserve all rights in and to the Services.

Special terms may apply to some Services or to any sweepstakes, contests, games, features, promotions, or activities that may be offered on the Sites (collectively, the “**Activities**”). Such special terms (which may include official rules and expiration dates) may be posted in connection with the applicable Service, or Activity. By entering or participating in an Activity you will become subject to those terms or rules. We urge you to read the applicable terms or rules, which are linked from the particular Activity, and to review our Privacy Policy which, in addition to these Terms, governs any information you submit in connection with such Activity. Any such special terms or rules are in addition to these Terms and, in the event of a conflict, any such terms or rules shall prevail over these Terms.

2. Account Registration. In order to use the Services you may need to login to the Services with a

user account that you register for through the Services (“**Account**”). You agree to provide current, complete, and accurate Account information when you register for an Account. You agree to keep your login information confidential and not authorize any third party to use it or your Account. You agree that we may attribute all use of your Account to you, and that you are responsible for all activities that occur under your Account. You agree to notify us immediately at NEIHA@Orsted.com if you suspect any unauthorized use of your Account, the Services, or any other breach of security. Depending on your Account type or other criteria, your Account may not have full access to all features or functionality available through the Services. You agree not to attempt to access any (if any) restricted features or functionality. We have the right to disable any user name, password, or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms.

3. Updates; Availability of Features and Functions. At any time and without notice, ORSTED may modify, upgrade, deprecate, or release a new version of the Services or any portion of its features or functions. If ORSTED provides updates, supplements, or add-on components to the Services after you download or begin to use the Services (collectively, “**Updates**”), these Terms will apply to the Updates unless ORSTED provides additional terms along with the Update (“**Additional Terms**”), in which case those Additional Terms will apply to the Update. You agree that ORSTED may automatically check your version of the Services and send Updates to the Services and may release subsequent versions of the Services and require you to use the most current version. ORSTED reserves the right to discontinue your access to the Services or to any Content. If you do not wish to be subject to the Additional Terms or these Terms with respect to the Updates, you may terminate these Terms in accordance with Section 12.

4. Evaluations. ORSTED may, in its discretion, provide you with access to certain pre-release features and functions of the Services (“**Evaluation Features**”). ORSTED grants you a limited, non-exclusive, revocable right and license to access and use these Evaluation Features. The Evaluation Features are made available to you (i) on an AS-IS, AS-AVAILABLE basis (including that any data or content may be lost or unrecoverable); (ii) in a non-production capacity for your internal testing; and (iii) without any support. All restrictions, limitations, and disclaimers in these Terms with respect to the Services apply to your use of any Evaluation Features.

5. Third Party Websites; Additional Products and Services. Within the Services you may encounter links or references to third party web sites (“**Linked Sites**”). ORSTED does not endorse or sponsor any Linked Sites or the information, products, or services contained on any Linked Sites. Linked Sites are governed by their own terms of use and privacy policies. You may need to use or obtain additional products or services in order to use the Services, such as a mobile device, internet access, and a data connection. You must obtain or use these products or services separately and pay all charges associated therewith (including for internet access or other data transmission).

6. Data Exchange and Third Party Assets. The Services may permit you to initiate the communication, transfer, import, and exchange of certain information, data, and materials (including Your Content) between the Services and third-party assets, devices or systems (“**Assets**”). ORSTED does not exercise control over the form or quality or any data or information (including Your Content) generated, stored, use, or transmitted to or from the Assets, including through APIs. You represent and warrant that you will comply with all terms, conditions, limitations and restrictions of such Assets and your use of such Assets in connection with the Services does not violate any such terms, conditions, limitations or restrictions.

7. License Restrictions. The license granted in Section 1 is conditioned on your compliance with the following:

- a. You must not attempt to work around, disable, bypass, modify, or defeat any technical

limitations in the Services or to use the Services in an attempt to, or in conjunction with any device, program or service designed to circumvent any security features or any technical measures employed to control access to, or the rights in, a content, file or other work;

- b. You must not distribute or make available the Services over a network where it could be used by multiple devices at the same time;
- c. You must not reverse engineer, decompile, decipher, disassemble or otherwise attempt to access source code of the Services, except and only to the extent that applicable law expressly permits, despite this limitation;
- d. You must not download or copy the Services (including any Content), except as expressly permitted in Section 1;
- e. You must not rent, lease, lend, sell, sublicense, assign, distribute, publish, perform, display, broadcast, transfer, exploit, or otherwise make available the Services or any features or functionality of the Services to any third party for any reason, including by making the Services available on a network where it is capable of being accessed by more than one device at any time;
- f. You must not modify or make any derivative works of the Services, in whole or in part;
- g. You must not remove any proprietary notices or labels on the Services or any copy thereof;
- h. You must not interfere, with the proper functioning of the Services or use it, as a platform for external applications; to develop applications, services, websites; or any other functionalities that leverage the Services or any portion thereof;
- i. You must not make any use of the Services to transmit, or procure the sending of, any advertising or promotional material, including any "junk mail," "chain letter," "spam," or any other similar solicitation;
- j. You must not impersonate or attempt to impersonate ORSTED, an ORSTED employee, another user, or any other person or entity (including, without limitation, by using email addresses or user names associated with any of the foregoing);
- k. You must not make any use of the Services in any manner not permitted by these Terms or the documentation; and
- l. You must use the Services in compliance with all applicable laws.

8. Content.

- a. **Content Generally.** The Services and all content, information, graphics, text, images, and other materials accessible or shared with you through the Services (collectively, "**Content**"), including any Content uploaded or posted by you or third parties, is solely for your use in connection with the Services. ORSTED may link to or provide access to Content provided by third parties ("**Third Party Content**"). Any opinions and other statements expressed by those third party authors of the Third Party Content are the opinions of those authors, not opinions of ORSTED. The Services and Content are for informational purposes only. The Content is not intended to be a substitute for professional advice. Never disregard professional advice or delay in seeking it because of something you have read on the Services. Content appearing on the Services is the sole responsibility of the party responsible for such Content and its accuracy and completeness are not endorsed or guaranteed by ORSTED. Third Party Content may be subject to additional or different license terms and restrictions.

- b. **Your Content.** You are solely responsible for all Content that is uploaded, imported, template, posted, emailed, transmitted, shared, or otherwise disseminated using, or in connection with, the Services and your Account (“**Your Content**”). ORSTED does not claim ownership of Your Content. ORSTED is under no obligation to enable the transmission of Your Content through the Services and may, in its discretion, edit, block, refuse to post, or remove Your Content at any time. You acknowledge that ORSTED has no responsibility for the deletion or failure to store any of Your Content.

Your Content used in connection with the Services will be considered non-confidential and non-proprietary. You grant to ORSTED, its affiliates, and their service providers, licensors, suppliers and distributors, a worldwide, royalty-free, transferrable, sublicensable, non-exclusive, perpetual, irrevocable license under all of your intellectual property rights to make, use, copy, modify, adapt, create derivative works of, publicly perform or display, import, broadcast, transmit, distribute, license, publish, and translate Your Content (and derivative works thereof) in connection with the operation of the Services, ORSTED’s business and to improve ORSTED’s products and services.

You represent and warrant that you have and will maintain all rights necessary to grant the rights in this Section and that Your Content does not infringe the rights of ORSTED or any third party or violate any agreement with or policy of ORSTED or any applicable law. If ORSTED suspects violations of the foregoing, ORSTED may institute legal action and cooperate with law enforcement authorities in bringing legal proceedings against violators.

- c. **Standards for Your Content.** These content standards apply to any and all of Your Content and your use of the Services, and Your Contributions must comply with the standards set forth below. Your Content must in its entirety comply with all applicable federal, state, local, and international laws and regulations. Without limiting the foregoing, Your Content must not:

- Contain any material that is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory, or otherwise objectionable.
- Base your reviews or ratings on anything other than (i) your actual first-hand experience with service providers you are reviewing, or (ii) an individual and that individual’s actual first-hand experience with a health care or wellness provider, provided, however, that you have the legal authority to disclose such information and experience of that individual.
- Post reviews or ratings of service providers that are dishonest or incomplete.
- Promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age.
- Infringe any patent, trademark, trade secret, copyright, or other intellectual property or other rights of any other person.
- Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms or our Privacy Policy located at <https://us.orsted.com/privacy-policy>
- Be likely to deceive any person.
- Promote any illegal activity, or advocate, promote, or assist any unlawful act.
- Cause annoyance, inconvenience, or needless anxiety or be likely to upset, embarrass, alarm, or annoy any other person.
- Impersonate any person, or misrepresent your identity or affiliation with any person or organization.

- Involve commercial activities or sales, such as contests, sweepstakes, and other sales promotions, barter, or advertising.
- Give the impression that they emanate from or are endorsed by us or any other person or entity, if this is not the case.

9. Reservation of Rights. You acknowledge and agree that the Services is provided under license, and not sold, to you. You do not acquire any ownership interest or other rights to the Services other than the right to use the Services in accordance with the license in Section 1. As between you and ORSTED, ORSTED reserves and retains its entire right, title and interest in and to the Services, including all copyrights, trademarks and other intellectual property and proprietary rights therein or relating thereto.

10. Open Source Software. Notwithstanding anything to the contrary in these Terms, any open source software included as part of the Services (or any package, API, or other libraries provided in connection with the Services) does not constitute a portion of the Services as defined in these Terms and is not licensed under these Terms, but instead is subject to the terms of the applicable open source license. Unless otherwise required pursuant to the terms of an open source license, ORSTED grants you no right to receive source code to the open source software. If you are entitled to receive the source code for open source software from ORSTED for the Services, you may obtain the source code at no charge by written request to ORSTED at the address indicated above. You must abide by and agree to the terms of the applicable open source software license, or you may not use it.

11. Availability and Support. ORSTED has no obligation to and may not provide support in relation to the Services or your Account. ORSTED does not guarantee availability of the Services or your Account and your access is permitted only if and when they are available. Your use of the Services and access to your Account may occasionally be restricted for service, upgrades, maintenance, or other reasons. To the maximum extent authorized under applicable law, ORSTED reserves the right to suspend your Account, your use of the Services, and discontinue your access to Your Content provided or made available to you through the Services at any time without notice.

12. Termination. You may terminate your Account or your use of the Services at any time. ORSTED reserves the right to terminate your Account and these Terms and to suspend or terminate the Services or your access thereto at any time with or without prior notice. Sections 6-19 and 22-23 of these Terms will survive termination.

13. DISCLAIMER OF WARRANTIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ORSTED DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SERVICES AND CONTENT, INCLUDING ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES AND CONDITIONS. IN PARTICULAR, ORSTED HEREBY DISCLAIMS ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT AND DOES NOT MAKE ANY WARRANTY OR CLAIM THAT THE SERVICES OR CONTENT WILL BE AVAILABLE OR PROVIDED ON AN UNINTERRUPTED, TIMELY, OR SECURE BASIS; WILL BE ACCURATE, COMPLETE, RELIABLE, OR FUNCTION PROPERLY; MEET YOUR REQUIREMENTS; BE ERROR FREE.

14. DISCLAIMER OF CERTAIN DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL ORSTED BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES, INCLUDING ANY DAMAGES TO OR FOR LOSS OF DATA OR PRIVACY, REVENUE, PROFITS, OR PERSONAL OR REAL PROPERTY (INCLUDING BUILDINGS, WIRING, FIXTURES, DEVICES, HARDWARE COMPUTERS, PERIPHERALS, AND ANIMALS) OR FOR INJURY OR DEATH, ARISING FROM OR RELATING TO THESE TERMS, YOUR ACCOUNT, OR THE APP.

15. LIMITATION OF LIABILITY AND EXCLUSIVE REMEDIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND TO THE EXTENT THEY ARE NOT EXCLUDED OR DISCLAIMED UNDER SECTION 14, ORSTED'S MAXIMUM, AGGREGATE LIABILITY TO YOU, AND YOUR EXCLUSIVE REMEDY UNDER THESE TERMS FOR ANY AND ALL DAMAGES, INJURIES, AND LOSSES ARISING FROM ANY AND ALL CLAIMS AND CAUSES OF ACTION ARISING OUT OF, BASED ON, RESULTING FROM OR IN ANY WAY RELATED TO THESE TERMS, YOUR ACCOUNT, OR THE SERVICES WILL NOT EXCEED \$5.

16. IMPORTANT CONSUMER NOTICE. SOME JURISDICTIONS DO NOT ALLOW CERTAIN DAMAGE LIMITATIONS SUCH AS THE LIMITATION OF LOSS OR LIABILITY FROM INTENTIONAL ACTS (INCLUDING FRAUD, FRAUDULENT MISREPRESENTATION, AND FAILURE TO DISCLOSE DEFECTS), PRODUCT LIABILITY, OR FOR DEATH OR PERSONAL INJURY. NOTHING IN SECTIONS 13, 14, OR 15 WILL BE INTERPRETED AS EXCLUDING LIABILITY WHICH CANNOT BE EXCLUDED UNDER APPLICABLE LAW. IF YOU LIVE IN OR ARE OTHERWISE SUBJECT TO THE LAWS IN ONE OF THOSE JURISDICTIONS, ANY DAMAGES LIMITATIONS WILL BE DEEMED LIMITED TO THE EXTENT (IF AT ALL) PERMISSIBLE UNDER THAT LAW AND, IF ANY LIMITATION IS NOT PERMITTED, THE EXCLUSIONS IN SECTION 13, 14, OR 15 MAY NOT APPLY TO YOU.

17. Independent Remedies. The disclaimer and limitation of warranties and the exclusion of damages under Sections 13, 14 and 15 are independent of your exclusive remedies in these Terms and the disclaimer and limitations of warranties and exclusion of damages survive even if the exclusive remedies fails of their essential purpose or otherwise are deemed unenforceable. Each of the limitations in Sections 13, 14 and 15 apply without regard to whether loss, liability, or damage arise from (a) breach of contract, (b) breach of warranty, (c) fault or tort, including negligence and misrepresentation, (d) strict liability, or (e) any other cause of action, to the extent the exclusions and limitations are not prohibited by applicable law.

18. Indemnity. You agree to defend, indemnify, and hold ORSTED, its directors, officers, employees, agents, partners, suppliers, and licensors harmless and will keep them indemnified from any claim or demand, including reasonable attorneys' fees, relating to, arising from, or allegedly arising from (a) Your Content, your use of the Services, your use of Assets in connection with the Services, and activities occurring under your Account; (b) any violation of these Terms; or (c) your violation of any other party's rights or applicable law. ORSTED reserves the right to assume, at its sole expense, the exclusive defense and control of any matter subject to indemnification by you, in which event you will fully cooperate with ORSTED in asserting any available defenses.

19. Notices. ORSTED may give you all required notices (including legal process) by any lawful method, including by posting notices on the Services or by sending it to any email address that you provide to ORSTED. You agree to send ORSTED notices by email to NEIHA@Orsted.com or by mailing them to the following address:

Orsted North America Inc.
One International Place, Suite 2610
Boston, MA 02110 USA

20. DMCA Copyright Notice and Takedown Procedures.

ORSTED respects the intellectual property rights of others. If you believe that any Content or other material available on the Services infringes your copyright or the copyright of any third party, please send written notice in accordance with the provisions of the Digital Millennium Copyright Act ("DMCA") to our Designated Copyright Agent, who can be reached as follows:

Please direct all copyright inquiries to NEIHA@Orsted.com.

To be effective, notice must include the following in compliance with Section 512(c) of the DMCA:

- a. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- b. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- c. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and specific information sufficient to permit us to locate the material;
- d. Information sufficient to permit us to contact you, such as an address, telephone number, and, if available, an email address;
- e. A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- f. A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

This process only relates to reporting a claim of copyright infringement. Messages related to other matters will not receive a response through this process. Please note that under Section 512(f) of the DMCA, any person who knowingly materially misrepresents that material is infringing may be subject to liability. If you are unsure whether material on the Services is infringing, you should contact an attorney prior to sending notice. After receiving notice, ORSTED may remove or disable access to infringing material.

21. Modifications to these Terms. The Effective Date of these Terms is set forth at the top of this webpage. If ORSTED needs to make a material change to these Terms, we will provide advance notice to you by email or by posting a message on the Services. At our sole discretion, we may require you to submit any disputes arising from these Terms or use of the Services, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, to final and binding arbitration under the Rules of Arbitration of the American Arbitration Association applying Illinois law. Your continued use of the Services after the effective date indicates your acceptance of the updated Terms, even if you have not reviewed them. If you do not agree to the proposed changes, you may (as your sole remedy) delete your Account and discontinue your use of the Services.

22. Governing Law; Jurisdictional Issues. These Terms are governed by the laws of the State of Massachusetts, without reference to its conflict of laws provisions, and any dispute arising out of or relating to these Terms or your use of the Services will be subject to the exclusive jurisdiction of the federal and state courts in and for Boston, MA, other than for actions to enforce any order or judgment entered by such courts. YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SITE OR SERVICES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

The Services are controlled and operated from the United States and is not intended to subject ORSTED to any jurisdiction or laws other than the jurisdictions and laws of the United States. The Services may not be appropriate or available for use in some non-U.S. jurisdictions.

23. Notice Required by California Law. If you are a California resident, you may have the Agreements mailed to you electronically by sending a letter to Orsted North America Inc., One International Place, Suite 2610 Boston, MA 02110 USA, Attn: Legal, with your email address and a request for the Agreements. Pursuant to California Civil Code Section 1789.3, California residents are entitled to the following specific consumer rights notice:

The name, address and telephone number of the provider of the Services is Orsted North America Inc., One

International Place, Suite 2610 Boston, MA 02110 USA. Complaints regarding the service or requests to receive further information regarding use of this service may be sent to the above address or to NEIHA@Orsted.com.

The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Boulevard, Suite S-202, Sacramento, CA 95834 or by telephone at (916) 574-7950 or (800) 952-5210.

24. General. If any provision of these Terms is determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions of these Terms will remain in full force and effect. You and ORSTED intend that the provisions of these Terms be enforced to the fullest extent permitted by applicable law. Accordingly, you and ORSTED agree that if any provision is deemed unenforceable, where possible, it will be modified to the extent necessary to make it enforceable, which may include its deletion. Section titles are only for convenience and have no legal or contractual significance. Any list of examples following "including" or "e.g.," is illustrative and not exhaustive, unless qualified by terms like "only" or "solely." ORSTED may assign these Terms, in whole or in part, at any time, with or without notice to you. You may not assign, transfer, or sublicense your rights, if any, in your Account, to the Services, or under these Terms. If, at any time, ORSTED fails to respond to a breach of these Terms by you or others, that failure will not waive ORSTED's right to act with respect to subsequent or similar breaches. A waiver will only be binding on ORSTED if it is in writing and signed by ORSTED. These Terms (including Additional Terms and any incorporated terms or policies) constitute the entire agreement between you and ORSTED with respect to your Account and the Services. Both you and ORSTED warrant to each other that, in entering these Terms, neither ORSTED nor you have relied on or will have any right or remedy based upon any statement, representation, warranty, or assurance other than those expressly stated in these Terms. The preceding sentence will not limit or exclude any liability that cannot be limited or excluded under applicable law. No one other than you and ORSTED, or ORSTED's successors and permitted assigns, will have any right to enforce any of these Terms.