



## General Terms and Conditions for Merchants

### 1. General information

These Zinia General Terms and Conditions (hereinafter referred to as, the “**Terms and Conditions**”) constitute an agreement (hereinafter, the “**Agreement**”) between Open Bank, S.A., (hereinafter, “**Openbank**” or “**Zinia**” (its trade name)) and you (hereinafter also referred to as the “**Merchant**”) to govern the rights and obligations applicable when using specific assets belonging to Openbank, any subsidiary of the Santander Group (hereinafter, “**Affiliates**”), and/or third parties that have authorised Openbank to use them, which are defined, for the purposes of these Terms and Conditions, as “**Zinia Materials**”. Zinia Materials include, but are not limited to, any application programming interfaces (APIs), Zinia trade names, trademarks, logos, data, tool information, part-payment widget, modules, SDKs, databases, domain names or any other distinctive asset belonging to Openbank and/or authorised to Zinia by a third party that you (as the merchant) are provided with for use under these Terms and Conditions. By using Zinia Materials, you acknowledge that you have read, understood and accept these Terms and Conditions. Zinia reserves the right to change these Terms and Conditions at any time and it is your responsibility to keep yourself up to date as regards any changes to them.

If you have a business account with Zinia, you shall be exclusively liable for the correct use of (i) your My Zinia - Business passcodes, and of (ii) all the tools provided on My Zinia - Business.

In the event of a security breach that could affect My Zinia – Business, available on the Zinia website (hereinafter, the “**Website**”), and/or the correct offering of any service provided by Zinia, as established in the agreement between you and Zinia (hereinafter, the “**Agreement**”), you shall notify Zinia of the corresponding breach as soon as possible and, in any case, no later than two (2) business days from the moment you become aware of it.

### 2. Intellectual property rights

The trademarks and other distinctive signs of Zinia may only be used by you exclusively in connection with the activities that constitute the purpose of this document, with the prior written consent of Openbank.

Authorisation to use trademarks and other distinctive signs shall under no circumstance imply a transfer of them between you and Openbank. You acknowledge that Openbank or, where applicable, Affiliates, continue to be the exclusive owners of the trademarks and of all the corresponding industrial and intellectual property rights relating to them.

Openbank shall grant its prior express and written consent for any use through any medium in which the collaboration is advertised when its logos, trademarks, company names, images and any other distinctive sign or technical creation belonging to Openbank or, where appropriate, Affiliates, appear.

You shall not assign any licence granted to you to third parties or grant sub-licences. Furthermore, you shall not sell, transfer, dispose of or encumber in any way any Openbank or Affiliate trademark or distinctive sign.



You undertake to follow the instructions issued by Openbank while using the Zinia trademark. In this regard, you agree to compensate Openbank or, where appropriate, Affiliates, for any claim to which they are subject for infringement of intellectual or industrial property rights, provided that said infringement is due to your improper or negligent use.

Both you and Openbank guarantee that collaboration materials shall not include items belonging to third parties that may infringe pre-existing industrial or intellectual property rights.

Openbank shall not be held liable in the event that the obligations and rights arising from this Agreement in any way contravene or infringe any contract or agreement between you and third parties. In this regard, you guarantee that you have not signed and shall not sign, during the term of validity of your Agreement with Openbank, any agreement or contract that may bring about such effect.

Zinia Materials may be protected by copyright, trademarks and service marks and/or other proprietary rights under the applicable Spanish legislation, as well as other jurisdictions. You agree to fully comply with these Terms and Conditions and all applicable intellectual and industrial proprietary right laws and other legislation, as well as any additional copyright notices or restrictions contained in these Terms and Conditions. You shall not be entitled to claim ownership of or publish, copy, assign, transfer, license or otherwise dispose of the intellectual or industrial property rights to the source code or call structure of any Zinia Materials. Openbank or, where appropriate, Affiliates, own all rights, titles and interest to Zinia Materials.

### **3. Specific terms of use**

On acceptance of these Terms and Conditions, you shall be exclusively granted a limited, personal, non-transferable, temporary, revocable right and licence to use the Zinia Materials for your internal business purposes and for the functions set out in the Zinia instructions, documentation and/or Agreement. You may only use Zinia Materials in accordance with Zinia's instructions and documentation. It is your responsibility to ensure that you are aware of the applicable instructions and documentation at all times. If you are not sure whether or not you are up to date with regard to Zinia's instructions and documentation, please contact Zinia.

Under no circumstance shall you use Zinia Materials for malicious purposes, including spreading computer viruses, worms, Trojan horses or any other form of malware through Zinia Materials and/or on the website where said materials are used.

Furthermore, you acknowledge and agree that Zinia, without having to obtain any specific approval in each case, is entitled to use any data that you submit, share or in any other way make available to Zinia. Zinia's use of such data includes, but is not limited to, conducting processes to improve risk assessment and consumer experience.

Zinia has the right, at its own discretion, to restrict or limit usage of Zinia Materials at any time.

You give your consent to Zinia monitoring the use of Zinia Materials for the purpose of ensuring compliance with these Terms and Conditions and of ascertaining quality, detecting misuse and improving the products and services provided by Zinia.



Use of Zinia Materials is at your own risk. You shall be fully liable for any damage or loss of any kind arising from your use of any Zinia Materials. You shall comply at all times with all applicable legislation when using Zinia Materials and you shall not foster or encourage any illegal activity.

You acknowledge and accept that the open-source software provided by Zinia may have terms and conditions that take precedence over these Terms and Conditions.

#### **4. Amendments and changes**

Zinia has the right to make amendments both to Zinia Materials and to these Terms and Conditions at any time. This includes, but is not limited to, changes to the API and the API content. It shall be understood that you accept such changes by continuing to use the corresponding Zinia Materials after amendments or changes have been made. In the event you do not agree to the new or amended Terms and Conditions, you will be obligated to refrain from using Zinia Materials. Zinia may at any time and at its own discretion, withdraw approval or change the functionality of Zinia Materials. For the purpose of these Terms and Conditions, when any Zinia Materials are deemed to be obsolete, it shall mean that Zinia will no longer support or update either particular versions or specific functionalities. Zinia is in no way obliged to inform users about obsolete of version or functionalities.

#### **5. Liability**

Zinia, with regard to Zinia Materials and their use, shall under no circumstance whatsoever be liable for any damage and/or loss of any kind in connection with, or in any way relating to, the use of Zinia Materials.

In particular, under no circumstance whatsoever shall Zinia be liable for any direct, indirect, consequential, incidental, special, punitive or exemplary damage or harm – nor any compensation or damages relating to it – arising from, in connection with, or in any way relating to, the use of Zinia Materials, whether under contract law, tort (whether relating to negligence or strict liability) or any other legal or equitable theory, or any loss of profits or revenue, regardless of whether or not you knew or should have known of the possibility of such damage or harm. Zinia Materials are provided “as is” without any expressed or implied guarantee whatsoever. Zinia does not guarantee any specific availability, functionality, quality, security, title and/or non-infringement.

#### **6. Personal data**

All data you receive from Zinia shall be handled with due care and in accordance with applicable laws and/or with the provisions in the Agreement formalised between you and Zinia.

Unless a separate agreement exists between the parties that includes the transfer and processing of personal data, the following shall apply:



If personal data (as defined in Regulation (EU) 2016/679 (hereinafter, the “GDPR”)) are processed in the use of Zinia Materials, you shall comply with the applicable data protection legislation and ensure that you have sufficient legal grounds to process such personal data. In the event Zinia is deemed to be the controller of such personal data, you agree not to use said data until you have entered into a Data Processing Agreement with Zinia.

Transfer of personal data outside of the EU/EES is forbidden insofar as Zinia is deemed to be the controller of such data.

## **7. Term of Validity and Termination**

Zinia may terminate these Terms and Conditions at any time and it shall notify you of such termination. Upon termination of these Terms and Conditions, you shall cease using Zinia Materials. These Terms and Conditions are valid until further notice by Zinia and they shall apply to you for as long as you use Zinia Materials and/or for as long as you have any remaining obligations under these Terms and Conditions and/or the Agreement.

If your Agreement or business account with Zinia is terminated or closed, you shall, unless otherwise agreed, refrain from using Zinia Materials as of such termination or account closure.

## **8. Indemnity**

You shall indemnify and exempt Zinia and its affiliates, officers, directors and employees from all liability regarding third-party claims and/or any loss/damage of any kind arising from the use of Zinia Materials.

## **9. Severability**

The invalidity or unenforceability of any provisions of these Terms and Conditions shall not affect the validity or enforceability of any other provision herein, which shall remain in full force and effect.

## **10. Applicable legislation**

These Terms and Conditions are governed by Spanish law.

Any dispute, controversy or claim arising from or in connection with these Terms and Conditions, including any breach, termination, interpretation or invalidity thereof, shall be resolved by the courts and tribunals of Madrid (Spain).

In the event of any dispute regarding or discrepancy between the German and English versions of these Terms and Conditions, the German version shall take precedence.

**Last updated:** January 2024