

**TERMS & CONDITIONS FOR CONSUMER INSIGHTS SERVICES****1. Definitions**

- 1.1. The terms defined in the Framework Agreement (FA) between the Parties shall apply.
- 1.2. **CI Tool** – the self-service web interface developed and provided by ZMS which aims at supporting the Brand in understanding consumer behavior in regard to the Brand's products on Zalando Shops.
- 1.3. **Data** – the data and insights provided in the course of the services.
- 1.4. **Database Directive** – European Union Directive 96/9/EC of 11 March 1996 on the legal protection of databases, as amended at any time, also referring to any applicable implementations of this directive into the domestic law of EU/EEA member states.
- 1.5. **SaaS** – Software as a Service, i.e. an online web service accessible through the World Wide Web.
- 1.6. **Zalando Shops** – the web and mobile application shops operated by Zalando SE, referring to all or certain markets and channels.

**2. Insertion Order**

- 2.1. The IO shall define (i) the Brand's brand names (retail brands), (ii) the regional markets, and (iii) the sales channels (e.g. web, mobile, app) to be covered by the services.
- 2.2. The IO may define other descriptions and/or limitations of the scope of the services.
- 2.3. In case the Brand is an advertising agency, it's client brand shall be identified in the IO.

**3. No Representations on Data accuracy**

- 3.1. ZMS provides the Data as is. While ZMS uses commercially reasonable efforts to ensure the data is accurate, the Brand is solely responsible for any business decision it makes based on the data. The Brand shall consider the possibility of defective Data, and it shall always use its own skills and experience in interpreting the Data and drawing any conclusions out of it.
- 3.2. ZMS does not make any representation in regard to commercial applicability, business expectations, additional revenue opportunities or any other advantage that the Brand may expect to gain from using or interpreting the Data.

**4. Confidentiality**

- 4.1. The Data is confidential business information of ZMS, Zalando SE and/or other companies of the Zalando group.
- 4.2. The Brand must not publish or share the Data with any third party. Internally, the Data shall only be accessible to directors, officers and employees who need to know the Data to perform tasks that are commonly performed with the Data. The Brand shall use its best efforts and common technical and organizational measures to protect the Data from unauthorized access.
- 4.3. Affiliated companies of the Brand and advisors under professional secrecy are not deemed to be third parties under subsection 2. However, the Brand shall ensure that the same safeguards provided for itself in Subsection 2 are met by such affiliated companies and advisors.
- 4.4. In case the Brand is an advertising agency that is party to the contract, it may share the Data solely with the client brand identified in the IO, and it shall ensure that the safeguards provided in Subsection 2 are met by the client brand.

**5. Data Ownership and License**

- 5.1. The Data is proprietary information of ZMS or its affiliates. The Parties agree that the Data is protected under sui generis database rights according to the Database Directive. The Parties further agree that for any part of the Data not covered by the Database Directive, and for any use of the Data outside the territory of the EU/EEA, ZMS shall have the same rights and remedies in the relation between the Parties as if the Data and its use was covered by the Database Directive.
- 5.2. ZMS grants the Brand a non-exclusive right to use the Data, limited by the provisions of this T&C. The use is limited to the Term of the IO, further limited to the territory of the country where the Brand is located and the EU/EEA member states, and further limited to the intended and foreseeable use of the Data for analyzing aggregated statistical end customer behavior in electronic commerce.
- 5.3. There shall be no royalties for the use of the Data in addition to the agreed service fees.

**6. CI Tool, Service Level for SaaS**

- 6.1. The CI Tool is provided as SaaS.

- 6.2.** ZMS will use commercially reasonable efforts to make its SaaS services usable with common browsers on common operating systems. However, ZMS will not ensure compatibility with mobile devices, and it will optimize for the use with the Google Chrome browser on Windows and MacOS. The use of any other browser or operating system is at the Brand's own risk.
- 6.3.** ZMS will use the best of its abilities to provide the SaaS continuously during its regular office hours. However, any time of unavailability (downtime) shall have no effect on the fees if
  - 6.3.1.** the downtime occurs on weekends, bank holidays (Berlin), on Christmas Eve or New Year's Eve;
  - 6.3.2.** the downtime occurs before 09:00 hrs or after 17:00 hrs (Berlin time)
  - 6.3.3.** the downtime has been pre-announced (e.g. for maintenance) with one day notice and such pre-announced downtime does not exceed sixteen (16) hours per month on a twelve (12) months average;
  - 6.3.4.** the downtime has not been pre-announced and such unforeseen downtime does not exceed eight (8) hours per month on a twelve (12) months average;
  - 6.3.5.** the downtime occurred due to unforeseen unavailability of infrastructure that is used by ZMS but not under its direct control, including, without limitation, data centers and internet carriers, and such infrastructure downtime does not exceed sixteen (16) hours per month on a twelve (12) months average;
- 6.4.** The delivery point is the connection of the data center used by ZMS to the public internet.

## **7. Dashboards**

- 7.1.** Dashboards are digital spreadsheet files containing the Data.
- 7.2.** Such files shall be delivered to the Brand by e-mail in a commonly used file format, e.g. XLS or XLSX (Microsoft Excel). The Brand is responsible for having appropriate computer systems and software to view the Dashboard files.
- 7.3.** The Brand shall indicate a designated email recipient address for the Dashboard deliveries. ZMS will send delivery emails in a way it can reasonably expect the email to be delivered to the recipient address; ZMS shall not be responsible for any non-delivery of emails beyond this obligation. However, to a commercially reasonable extent, ZMS will re-send any emails that have been properly sent, but not received by Brand.

## **8. Term**

- 8.1.** Unless provided otherwise in the IO, the initial term shall be twelve (12) months; if the start date of the services is not at the beginning of a calendar month, this shall mean the remainder of the calendar month of the start date and the following twelve (12) months.
- 8.2.** The term shall repeatedly extend for another twelve (12) months, unless either party terminates the IO with one month notice before the end of a term.
- 8.3.** The right to terminate the IO for good cause is remains unaffected by the provisions of this Section.