

AGREEMENT FOR THE USE OF THE BRANDWATCH™ SERVICE

1 INTRODUCTION

1.1 This Agreement is between:

The user (“you” which expression shall include your subsidiaries, holding companies and subsidiaries of your holding companies, as those terms are defined in the Companies Act 2006)

and

Brandwatch, a trading name of Runtime Collective Limited (registered number 3898053, VAT number 754 7507 10), whose registered office is at Sovereign House, Church Street, 1st Floor, Brighton, BN1 1UJ, United Kingdom (“we”, “us” or “Brandwatch”).

1.2 This Agreement allows you to use the Brandwatch service (as defined below, “Service”) on the terms of this Agreement. This Agreement consists of this document and a signed Order Form (sometimes also known as a Quote).

1.3 Use of the Service is available only under the terms of this Agreement. Please read the Agreement carefully prior to using the Service. By using any part of the Service, you indicate your acceptance of the terms of this Agreement.

1.4 Unless otherwise defined in the Order Form, the following terms have the following meanings in this Agreement:

“Brandwatch Application” is the Brandwatch social media monitoring tool that summarises, analyses and provides links to the Mentions and Historic Mentions relevant to all Queries that you have set up.

“Fair Usage Limits:” is the limit placed on Query-based Subscriptions as described in clause 2.8.

“Found Date” is the date when the Brandwatch technology determines a webpage qualifies as a Mention.

“Historic Mentions” are all the webpages that meet the requirements set out in the Query and that Brandwatch finds from before the Query Start Date.

“Intellectual Property Rights:” copyright, database rights, trade and service marks or names, design rights, patents, rights in inventions and all similar rights, whether registered or not, and including the rights to apply for registration.

“Mentions” are all the webpages or sections of webpages that meet the requirements set out in the Query and that Brandwatch finds from the Query Start Date; each mention is associated with a single Found Date and a single Published Date.

“Mention-based Subscription” is a Service where you subscribe to the Brandwatch Application on the basis that you can subscribe to an unlimited number of Queries and where the total number of Retained Mentions in each and every calendar month is limited to the number of Mentions stated in the Order Form.

“Published Date” is the date when the Brandwatch technology determines a webpage was first published.

“Query” is a search string that you, or an agent acting for you, use to define what words and phrases must be present on a webpage for Brandwatch’s technology to be able to include that webpage in the Brandwatch Application.

“Query-based Subscription” is a Service where you subscribe to the Brandwatch Application and pay for either batches of Queries or individual Queries as set out in the Order Form and where all Mentions are Retained Mentions subject to Fair Usage Limits.

“Query Start Date” is the date and time when a Query was created in the Brandwatch Application.

“Retained Mentions” are Mentions and Historic Mentions that Brandwatch make available to you in the Brandwatch Application.

“Service” is access to the Brandwatch Application and related services provided by Brandwatch to you in accordance with the terms of this agreement and any applicable Order Form.

2 SERVICE

2.1 In consideration of the payments that you are required to make to us, we agree to provide you with the Services listed in the Order Form.

2.2 This Agreement allows use of the Service from the date we have received a signed Order Form from you until the agreement is terminated in accordance with clause 3 (Term and Termination).

2.3 Title to and ownership of all components comprising the Service (including software, data, algorithms and any other content) shall at all times remain with Brandwatch and/or its licensors.

2.4 You may use all data which you receive through proper use of the Service for your own business purposes, and for no other purpose. For the avoidance of doubt, your own business purposes shall include the business purposes of your clients to the extent that they are authorised to use the Service under this agreement.

2.5 Subject to clause 2.4, you are prohibited from making any permanent copy of any web-based software or data in any form, or reverse engineering or decompiling any such software, or making derivative works incorporating any of the elements of it, or modifying or adapting it in any way, or extracting or re-utilising any such data, save as is required to be permitted by law.

Query-based Subscriptions

2.6 Subject to clause 2.9 and except as otherwise stated on the Order Form, Historic Mentions will be available back to June 2010. These Mentions are limited to 100,000 Historic Mentions per Query per month.

2.7 Subject to clause 2.9 below, Brandwatch will provide Queries for Query-based Subscriptions up to the Query limit set out in the Order Form.

2.8 Subject to clause 2.9 below, Brandwatch will provide you with unlimited Retained Mentions for Query-based Subscriptions.

2.9 Where a Query in a Query-based subscription is deemed by Brandwatch to be attempting to track all or a significant part of all of social media, is being used to track

multiple large brands or is a Query that in any other way is so large that it degrades the performance of the Service for you or for other customers of Brandwatch, then Brandwatch reserves the right to provide only a sample of Mentions for this Query. Examples of Queries for which Brandwatch may exercise this right include, but are not limited to, tracking all social media websites for common words like “the” or “lol” or trying to track all European airline companies in a single Query. Where Brandwatch has applied this Fair Usage Policy it will make best efforts to contact you first to inform you and discuss ways in which Brandwatch can track all Mentions.

Mention-based Subscriptions

2.10 Brandwatch will provide Mentions for Mentions based Subscriptions up to the Query limit stated in the applicable Order Form and is under no obligation to provide Mentions for Mention-Based Subscriptions above the monthly fixed limit of Mentions that is stated in the Order Form.

Upgrades

2.11 If you elect to have the option to upgrade your account within the Service and you exercise this option then you agree to pay the price of the upgraded account available at <https://www.brandwatch.com/find-out-more/pricing/> or from your Brandwatch account manager.

3 TERM AND TERMINATION

3.1 This Agreement allows use of the Service from the date we have received a signed Order Form from you for the duration specified in the Term of Contract section of that Order Form. Unless otherwise stated on the applicable Order Form, this Agreement shall automatically renew on the same terms, unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. Notice of non-renewal must be sent via email to cancellations@brandwatch.com.

3.2 This Agreement shall terminate immediately if either party become insolvent or if bankruptcy, winding up, receivership, administration or similar proceedings are commenced or issued against either party or, if that party is a partnership, against all or any of that party’s partners or the partnership as a whole.

3.3 In addition, we may terminate this Agreement immediately in the event of:

(a) any unlicensed use (including Intellectual Property Right infringing activity) of the Service including any of our data or software, or modification thereof, made or permitted by you; or

(b) any other breach by you of any of the terms and conditions of this Agreement, following written notice from us of such breach, if the breach is not cured within ten (10) days of receiving such notice.

3.4 Upon termination for any reason, you shall immediately cease using the Service and destroy all supporting documentation.

3.5 If You continue to use the Service without being authorised to by this Agreement, Brandwatch will, without prejudice to any other rights Brandwatch may have as a result of such usage, be entitled to charge for such usage at the rates charged under this Agreement.

4 SECURITY AND DATA PROTECTION

4.1 The Services must be used in conjunction with a unique ID (which may include user names, passwords etc) supplied by Brandwatch to you, which you must keep safe and confidential. You are responsible for all use of the Service made using such ID.

4.2 While we will use reasonable endeavours to ensure that no bug or virus is transmitted to you through the Service, you are responsible for taking all appropriate measures to prevent harmful agents or components from entering your systems, and for backing up all your data.

4.3 To the extent that we may be required, as part of the Service, to process any personal data on your behalf, you are responsible for obtaining all necessary data protection registrations and consents to enable such processing and we agree to effect and maintain appropriate technical and organisational measures to prevent unauthorised processing of such data, and to act in accordance with your instructions in relation to the processing of such data.

5 YOUR OBLIGATIONS

5.1 You are responsible for providing and maintaining all of the network and communications facilities (and for being authorised to use them) necessary for use of the Services.

5.2 You agree not to use the Service for any purpose for which you are not authorised, or for any illegal, immoral or offensive purpose, or for any purpose which infringes a third party's rights, and not to use the Service to communicate any material which is obscene, defamatory, offensive, abusive, illegal, in breach of a third party's rights or otherwise unacceptable to us, or for spamming, hacking or any other such activities.

5.3 You agree that if you use the Brandwatch API to access, test, review or use in any way Brandwatch data then you agree to conform to the usage policies of the Brandwatch API, which are available on request.

5.4 We reserve the right to suspend the Service without notice to you if we discover any such activity listed in 5.2 or any breach of 5.3, and you agree to indemnify us against all losses, damages, costs and expenses which we suffer as a result of your breach of this clause 5.

5.5 You may allow your clients to use the Service for their own business purposes provided that you:

(a) require any such client to comply with the terms of this Agreement in relation to their use of the Service as if they were a party to this Agreement; and

(b) indemnify us against any loss, damage, claim, liability and reasonable costs and expenses that we may suffer as a result of any act or omission by such a client which, were it an act or omission by you, would constitute a breach of this Agreement. Any usage of the Service made by your clients pursuant to this provision will constitute part of your usage under this Agreement.

5.6 If You purchase a Brandwatch Enterprise level account, You must nominate three 'Supported Admin Users' for your Brandwatch account. 'Supported Admin Users' will be privileged personnel who are permitted to contact the account management or support services team directly. No other personnel will be permitted to contact the account

management or support services teams. Only personnel who have attended core Brandwatch training can qualify as a Supported Admin User. Additional Supported Admin Users may be added for an additional recurring fee, and existing Supported Admin Users can be replaced, with a maximum of one Supported Admin User replacement per month. If additional or replacement Supported Admin Users have not undergone core Brandwatch training, this will also be chargeable to qualify. If You are subscribing to a Pro account, You will be supported through the Brandwatch support portal where tickets can be raised. Tickets will be answered in accordance with the Brandwatch support SLA, which can be found [here](#).

6 OUR OBLIGATIONS

6.1 We warrant that we have title or authority to provide the Service in accordance with this Agreement, and subject to receiving your immediate notification of any claim, your full co-operation, and sole control of the action, we will at our own cost defend, or at our option settle, any action against you based on a claim that your use of the Service in accordance with this Agreement infringes the intellectual property rights of any third party.

6.2 The Service will be provided in accordance with the description from time to time as published on our website.

7 INTELLECTUAL PROPERTY

7.1 You will own all Intellectual Property Rights in information that you submit to the Service.

7.2 We own all Intellectual Property Rights in all other data included in the Service, and in the Service itself. We grant you a licence to use the results provided to you using the Service for your own business purposes.

7.3 You agree that we can use your name, logo and trademarks for public relations activities including, without limitation, on our client list and on our website.

8 CONFIDENTIAL INFORMATION

8.1 "Confidential Information" means this Agreement and all data, trade secrets, business information and other information of any kind whatsoever that either Brandwatch discloses to you or you disclose to Brandwatch, in writing, orally, visually, digitally or in any other medium.

8.2 Each party shall hold in confidence, and not use except for the purposes of this Agreement, all Confidential Information of the other party and must protect that Confidential Information as if it was their own Confidential Information so as to prevent its unauthorised disclosure or use, both during and after the term of this Agreement.

8.3 The provisions of clause 8.2 shall not apply to Confidential Information to the extent that it (i) becomes known to the general public without breach of the non-disclosure obligations of this Agreement; (ii) is obtained from a third party without breach of a non-disclosure obligation and without restriction on disclosure; or (iii) is required to be disclosed in connection with any suit, action or other dispute related to this Agreement, to the extent of the disclosure required.

8.4 The provisions of this clause 8 will survive the termination of this agreement howsoever arising.

9 PAYMENT

9.1 You must pay us the amounts specified in the Order Form (the "Fees") by the times and methods specified in the Order Form.

9.2 On the expiration of one calendar year from the Effective Date and for every calendar year thereafter, Brandwatch reserves the right to increase the price by the greater of the CPI measure of inflation at the date of the increase or 3.5%.

9.3 If any Fees are payable upon invoice, you must pay all such invoices within 30 days. If you fail to do so we may, without prejudice to any other rights we may have, terminate or suspend your access to the Service.

9.4 Unless specifically stated otherwise, all invoices will be net of any withholding tax or other amounts that you are required to pay under applicable law (such as, but not limited to, foreign, national, state or local sales, use, value added, withholding or other taxes, customs duties or similar tariffs and fees).

9.5 Brandwatch understands and will exercise its statutory right to claim interest and compensation for debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998, as amended, if we are not paid according to agreed credit terms.

10 LIABILITY

10.1 No warranties, conditions or other terms, whether expressed or implied, including without limitation those relating to quality or fitness for a particular purpose, are given by us and all such terms are excluded, save to the extent expressed in this Agreement. The Service is made available on an "as is" basis, and we do not warrant that it will operate uninterrupted or error-free.

10.2 You are responsible for ensuring that the Service meets your requirements. You acknowledge that the internet is not a totally stable or secure environment, and that we will not be liable for any defects or delays in the Service, or anything else, which arise as a result of any problem associated with the internet.

10.3 In no event will we be liable to you or any other person whether in contract, tort (including negligence) or otherwise:

(a) for any indirect or consequential loss, or any loss of time, business, money, goodwill or data, or any failure to process data adequately or at all; or

(b) for any other loss which may arise from the use, loss of use, operation or modification of the Service or any defect therein or otherwise in an amount exceeding the amount that you have paid under this Agreement in the twelve months prior to the date on which such liability arose.

The Service is dependent on information obtained via the internet, and we cannot guarantee its accuracy, completeness or correctness. The Service, and any information that you receive through the Service, does not constitute professional advice of any sort. Any action taken by you as a result of your use of the Service is entirely your responsibility. Accordingly, we exclude all liability arising from your use of the Service.

10.5 The limitations on liability set out in this clause 10 shall not apply to any liability arising from death or personal injury caused by our negligence or for fraud.

11 GENERAL

11.1 Neither party is liable for a breach caused by force majeure or event beyond its reasonable control, such as natural disaster, war, government action, or failure of third party telecommunications or other services.

11.2 We may change the terms of this Agreement by giving you not less than 45 days' prior written notice.

11.3 If any term is found illegal or unenforceable, the rest of the Agreement continues in full force.

11.4 A delay or failure by a party to enforce a term does not prevent it from enforcing that or any other term later.

11.5 Notices must be sent to the parties' addresses as set out in this Agreement or as otherwise notified under this clause. They must be delivered by hand, sent by prepaid post (airmail if overseas) or (if e-mail addresses have been provided by the parties for this purpose) by e-mail. Deemed receipt is upon delivery by hand, 3 business days after posting and 24 hours after despatch by e-mail.

11.6 You may not assign this Agreement to another person without our written consent.

11.7 This Agreement is governed by English law, and the English Courts have exclusive jurisdiction in relation to any dispute.