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theretailreport.com

The Retail Report Service – General Terms and Conditions

The Retail Report (TRR) the supplier of the service

The Customer; the Individual, Partnership, Firm or Company (the user of the service)

1 Subscription to The Retail Report Service (TRR)

1.1 This Agreement governs the Customer's use of the TRR service and Content.

1.2 The Customer is deemed to have accepted this Agreement by executing a Purchase Order and/or written confirmation of Order for the TRR service.

1.3 The Customer has agreed to subscribe to the TRR and Content for the duration of the Term specified herein and TRR agrees to provide the Customer with access to the TRR and Content on the following terms and conditions.

2 The Retail Report's responsibilities

2.1 The Retail Report will: (a) set up all alerts, data matching, Categories and pre-built reports within the Set Up Period, at the pre-agreed price (initial setup); (b) make the TRR and Content available to the Customer pursuant to this Agreement and any applicable Change Orders; (c) provide new versions and upgrades for the TRR to the Customer at no additional charge, as and when such new versions and upgrades become available; (d) maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the TRR and Content; (e) be responsible for the performance of The Retail Report's personnel (including The Retail Report's employees and contractors) and their compliance with The Retail Report's obligations under this Agreement, except as otherwise specified herein; (f) not materially decrease the functionality of the TRR during a subscription term; (g) use commercially reasonable efforts to ensure the TRR and Content are accessible in accordance with applicable service levels.

2.2 If The Retail Report is required by a licensor or third-party to remove Content due to legal reason such as copyright infringement etc, The TRR will notify the Customer, and in such event the Customer must promptly remove such Content from the TRR website (if originally uploaded or supplied by the Customer). If the Customer does not take required action in accordance with the above, The Retail Report may disable the applicable Content and or Service until the potential violation is resolved.

3 Use of the TRR and Content

3.1 Unless otherwise provided in a Change Order: (a) the Content is provided solely for the Customer's own business purposes (b) subscriptions for additional Modules, Users and Categories may be added during the Term at the same pricing as the underlying subscription pricing, prorated for the portion of the Term remaining at the time the subscriptions are added; and (c) any added subscriptions will terminate on the same date as the underlying subscriptions.

3.2 The Customer's access to the TRR and Content are subject to the following usage limits: (a) the TRR or Content must not be accessed by more than the pre-agreed number of Users; (b) a User's password must not be shared with any other individual or entity; and (c) a User's identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the TRR or Content. (d) The Retail Report will, from time to time, monitor the Users' access of the Customer's TRR to ensure compliance with this clause 3.2. 3.3 The Customer must not: (a) make the TRR or Content available to, or use the TRR or Content for the benefit of, anyone other than the Customer or

Users; (b) sell, resell, license, sublicense, distribute, rent or lease the TRR or Content, or include the TRR or Content in a service bureau or outsourcing offering, including to any Affiliate of the Customer; (c) interfere with or disrupt the integrity or performance of the TRR or third-party data contained therein; (d) attempt to gain unauthorised access to the TRR or Content or its related systems or networks; (e) permit direct or indirect access to or use of the TRR or Content in a way that circumvents a contractual usage limit; (f) copy the TRR or any part, feature, function or user interface thereof; (g) copy Content except as permitted herein; (h) frame or mirror any part of the TRR or Content, other than framing on the Customer's own intranets or otherwise for the Customer's own internal business purposes or as permitted in this Agreement; (i) access the TRR or Content in order to build a competitive product or service; (j) access the TRR for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes; (k) access the TRR if you are a direct competitor of The Retail Report; or (l) reverse engineer the TRR (to the extent such restriction is permitted by law).

3.4 The Customer is responsible for: (a) each Users' compliance with this Agreement; (b) the accuracy, quality and legality of any data supplied by the Customer; (c) using commercially reasonable efforts to prevent unauthorised access to or use of TRR and Content, and notify The Retail Report promptly of any such unauthorised access or use; and (d) the use of the TRR and Content in accordance with applicable laws and government regulations.

3.5 If the Customer wishes to make bespoke modifications to the TRR or Content to receive content not currently being sourced or provided, such modifications are to be made by mutual agreement and on terms and pricing to be agreed between the Customer and The Retail Report.

3.6 If The Retail Report makes bespoke modifications for the Customer under clause 3.5, The Retail Report is free to provide such modifications for other Customer's, on terms to be decided by The Retail Report in its sole discretion.

3.7 The Retail Report strives to ensure the most up to date information is provided to the Customer through the provision of the TRR and associated Content. However, The Retail Report has no liability to the Customer in respect of any information that may be relevant to the TRR or Content which is freely available in the public domain, or provided by third party service providers.

3.8 The Customer acknowledges and agrees that the subscription to the TRR or Content is not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by The Retail Report or its officers or employees, regarding future functionality or features of the TRR or Content.

4 Fees and payment terms

4.1 The Customer must pay all Fees contemplated by applicable Purchase Orders or any Change Orders on an annual basis, payable in advance.

4.2 The Retail Report will issue the Customer with an invoice for the upcoming 12 month period and payment is due 30 days after receipt of an invoice.

4.3 During the Term, the Customer may increase or decrease the number of Modules or Categories subscribed to, but only if the Fees do not fall below the Original Fees.

4.4 For the avoidance of doubt: (a) Fees are based on the TRR modules selected and not actual usage by the Customer or any Users; and (b) payment obligations are non-cancellable and Fees paid are non-refundable.

4.5 The Customer must pay all amounts invoiced.

4.6 The Customer authorises The Retail Report to obtain from, and give to credit reporting agencies and other credit providers certain information about the Customer so that The Retail Report may manage the Customer account. The Retail Report reserves the right to refuse the Customer's application for services, monitor ongoing usage of, or restrict access to the TRR or Content on the basis of The Retail Report's assessment of credit information relating to the Customer.

4.7 The Customer authorises The Retail Report to exchange information about the Customer and the Customer account with The Retail Report to The Retail Report's suppliers, agents and contractors or any third parties, and use that information for account management and business planning.

4.8 No refunds will be given for unused portions of payments in advance unless the account has been terminated due to The Retail Report's breach of this Agreement.

4.9 The Customer is responsible for providing complete and accurate contact information to The Retail Report and notifying The Retail Report of any changes to such information.

4.10 If any invoiced amount is not received by The Retail Report by the due date, then without limiting The Retail Report's rights or remedies, The Retail Report may: (a) immediately suspend the Customer's and User's access to the TRR and Content until all amounts outstanding are paid in full; and/or (b) condition future subscription renewals and Change Orders on payment terms shorter than those specified in clause 4.2.

5 VAT

5.1 All amounts payable under this Agreement are expressed exclusive of VAT

6 Intellectual Property and licence terms

6.1 Subject to the limited rights expressly granted hereunder, The Retail Report and The Retail Report's licensors (as applicable) reserve all rights, title and interest in and to the TRR and Content, including all of the related Intellectual Property rights. Nothing in this Agreement is intended to convey any ownership of the TRR or any Intellectual Property used in the TRR or provision of Content to the Customer or its Users, aside from client owned data which has been supplied or uploaded to the TRR service by the Customer.

6.2 The Retail Report grants the Customer with a worldwide, limited-term license to use the TRR and Content on the terms of this Agreement.

6.3 Any Data or content supplied or uploaded by the Customer to The Retail Report service, shall remain the property of the Customer, and can, and will only be used to construct reports for the exclusive use of the Customer. Such reports can be viewed or downloaded exclusively within the Customer's account on The Retail Report service. However, the Customer can if requested by TRR allow TRR to use anonymised data for the construction of other generalised reports within TRR service, such data will then become the sole property of TRR.

6.4 All Data supplied by the Customer to TRR service shall be stored securely on TRR servers hosted within purpose built data centres, using leading brand hardware and software utilities. Such data to be backed up to an alternate secure data centre at a remote location

6.4 The Customer grants The Retail Report and any Affiliates with a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the TRR any suggestion, enhancement request, recommendation, correction or other feedback provided by the Customer or Users relating to the operation of the TRR.

7 Term and termination

7.1 This Agreement commences on the date the service is first accessed by the Customer, and will continue for a minimum period of 12 months. At the end of the initial 12 month period, the agreement shall continue on a 12 months rolling basis unless cancelled in writing by the customer giving at least 90 days' notice. The Customer will not be charged during the Set Up Period while The Retail Report performs its obligations under clause 2.1(a). Following the Set Up Period, the Term will commence and the Customer will be charged in accordance with the Order. This Agreement continues until all subscriptions thereunder have expired or have been terminated validly.

7.2 Either party may terminate the Agreement for any reason at any time during the Set Up Period. However, in the event of Customer cancellation, any amounts payable for the initial setup shall still be payable in full

7.3 Either party may terminate this Agreement for cause: (a) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period; or (b) if the other party suffers an Insolvency Event.

7.4 If this Agreement is terminated by the Customer in accordance with clause 7.3 The Retail Report will refund any prepaid fees covering the remainder of the term of all Change Orders after the effective date of termination. If this Agreement is terminated by The Retail Report in accordance with clause 7.3, the Customer must pay any unpaid fees covering the remainder of the Term of all Purchase Orders and Change Orders. In no event will termination relieve the Customer of its obligation to pay any fees payable to The Retail Report for the period prior to the effective date of termination.

7.6 The expiry or termination of this Agreement will not affect or limit any accrued rights of the parties.

7.7 On termination of this Agreement for any reason, the Customer must promptly return to The Retail Report all Confidential Information it has received in the course of its engagement under this Agreement.

7.8 On termination of this Agreement for any reason, TRR must promptly return to Customer all Confidential Information it has received in the course of its engagement under this Agreement.

8 Warranties

8.1 Each Party warrants that: (a) it has full corporate power to execute, deliver and perform all obligations under this Agreement; (b) this Agreement constitutes a legal, valid and binding obligation that is enforceable in accordance with its terms and conditions by appropriate legal remedy; (c) this Agreement does not conflict with or result in the breach of any law or default under any other agreement to which each party is bound; and there are no Claims pending or threatened against either Party or by the Parties of which they are aware, and which may have a material effect on the subject matter of this Agreement.

8.2 The Customer warrants that: at the time of entering into this Agreement it is not relying on any representation made by The Retail Report which has not been stated expressly in this Agreement, or relying on any descriptions or specifications contained in any other document, including any catalogues or publicity material which The Retail Report has created, produced or published.

8.3 Except as expressly provided herein, neither party makes any warranty of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties including any implied warranty of merchantability, fitness for a particular purpose or non-infringement to the maximum extent permitted by applicable law. Content and Beta TRR are provided "as is", exclusive of any warranty whatsoever.

8.4 For the avoidance of doubt, The Retail Report makes no warranty of any kind, whether express or implied, with regard to any third party products, third party content or any software, equipment or hardware obtained from third parties. The Retail Report sources its content from a variety of third party sources and such content is provided on a 'as is' basis.

9 Indemnities

9.1 The Customer must at all times indemnify and hold harmless The Retail Report and its officers, employees and agents ("those indemnified") from and against any Claim against those indemnified (whether the Claim is by the Customer or a third party) where the Claim arises out of: (a) a breach by the Customer of its obligations under this Agreement; (b) any wilful, unlawful or negligent act or omission of the Customer; (c) the Customer's use or misuse of the TRR and Content, including in relation to any business decisions that are made in reliance of the TRR and Content; and (d) the Customer's alteration or variation of the TRR and Content that was not performed by The Retail Report.

10 Limitation of liability

10.1 To the full extent permitted by law, The Retail Report's cumulative liability to the Customer in respect of all Claims made by the Customer in connection with this Agreement, whether arising out of breach of contract, negligence or any other tort, misrepresentation, under statute or otherwise, will not exceed in the aggregate of the Original Fees.

10.2 Without limiting clause 10.1, but to the full extent permitted by law, The Retail Report excludes all liability to the Customer in respect of all Claims made by the Customer under or in connection with this Agreement for any: anticipated or actual profit, anticipated or actual revenue, loss of data, loss arising from interruption to business, failure to realise anticipated savings, loss of goodwill, loss of contracts or interest, consequential, indirect, special, punitive or incidental damages, whether foreseeable or not, arising out of breach of contract, indemnity, negligence or any other tort, misrepresentation, under statute or otherwise.

10.3 The Retail Report's liability in contract, negligence or any other tort, under statute or otherwise in respect of any loss or damages will be reduced by the extent, if any, to which the Customer or its officers, employees, agents or contractors contributed to the loss or damages.

11 Disputes - Dispute notification procedure

11.1 If a Dispute arises, a Party must not commence any court or arbitration proceedings relating to the Dispute unless it has complied with the provisions of this clause 11, except to seek urgent interlocutory relief.

11.2 A party claiming that a Dispute has arisen must notify the other in writing giving details of the Dispute (Notification).

11.3 On receipt of a Notification, the parties must use reasonable endeavours to resolve the Dispute.
Dispute resolution by mediation

11.4 If within 10 days of receipt of a Notification the parties fail to resolve the Dispute, the parties must refer the Dispute to the Project Managers. Each party must ensure that its representative uses reasonable endeavours to resolve the Dispute.

11.5 Each party must pay its own costs in relation to complying with clause 11, except that the costs and expenses of the mediation will be borne by the parties equally.

12 Notices Requirements

12.1 All notices must be made in writing via electronic mail or by post or by hand to the registered address of the relevant party

12.2 Without limiting any other means by which a party may be able to prove that a notice has been received by the other party, a notice will be considered to have been received: (a) if sent by hand, when left at the address of the recipient; (b) if sent by prepaid recorded (signed for) post, 3 days (if posted within United Kingdom) or 10 days (if posted from one country to another) after the date of posting; or (c) if sent by facsimile, on receipt by the sender of an acknowledgment or transmission report generated by the sender's machine indicating that the whole facsimile was sent to the recipient's facsimile number; but if a notice is served by hand, or is received by the recipient's facsimile, on a day that is not a Business Day, or after 5:00 pm (recipient's local time) on a Business Day, the notice will be considered to have been received by the recipient at 9.00 am (recipient's local time) on the next Business Day.

13 Confidentiality

13.1 Except as expressly permitted or required by this Agreement, each party must not disclose to any other person any of the other party's Confidential Information.

13.2 Each party may disclose the Confidential Information of the other party: (a) when required to do so by law or any regulatory authority, including any stock exchange on which it or any other member of its group is listed; and (b) to its personnel whose duties reasonably require such disclosure, on condition that the party making such disclosure: (i) ensures that each such person to whom such disclosure is made is informed of the confidentiality of the information and the obligations of confidentiality under this Agreement; and (ii) ensures that each such person to whom such disclosure is made complies with those obligations as if they were bound by them.

13.3 Each party must not disclose the terms of this Agreement to any other person, except in accordance with the provisions of clauses

13.4 Each party must establish and maintain effective security measures to prevent any unauthorised use or disclosure of, or unauthorised access, loss or damage to, the Confidential Information of the other party.

14 Relationship The relationship between the parties is one of independent contractors and neither party, nor its employees or agents are employees or agents of the other party and the parties are not partners or joint venturers.

15 Marketing and internal use

15.1 The Customer hereby grants The Retail Report the right to use the name and service marks of the Customer in its marketing materials or other oral, electronic, or written promotions, which shall include naming the Customer as a Customer of The Retail Report and a brief scope of services provided. Such permission can be withdrawn at any time giving 30 days written notice

15.2 Any proposed use of The Retail Report's logos or links on the Customer's Product is granted by TRR unequivocally provided that such use is not deemed to be detrimental to TRR brand or service.

15.3 Either party may elect to issue a press release related to this Agreement.

15.4 In the quest of continual improvement, The Retail Report may, from time to time, use de-identified, non-specific data about the usage of the TRR by the end users to improve internal processes and increase efficiency.

16 General provisions Assignment

16.1 The Retail Report reserves the right, and the Customer hereby agrees to allow The Retail Report to assign subcontractors to ensure that the terms of this Agreement are met.

16.2 This Agreement and any other documents referred to in this Agreement or executed in connection with this Agreement is the entire agreement of the parties about the subject matter of this Agreement and supersedes all other representations, negotiations, arrangements, understandings or agreements and all other communications. No party has entered into this Agreement relying on any representations made by or on behalf of the other, other than those expressly made in this Agreement. Time of the essence

16.3 For the avoidance of doubt, time is of the essence in relation to any payments due in connection with this Agreement. Effect of termination

16.4 If this Agreement is terminated then: (a) the parties are released from the obligation to continue to perform the Agreement except those obligations in clauses 6,8,9,10,13 and any other obligations that, by their nature, survive termination; and (b) each party retains the rights and claims it has against any other party for any past breach of the Agreement. Indemnities

16.5 The indemnities in this Agreement are: (a) continuing obligations of the parties, separate and independent from their other obligations and survive the termination of this Agreement; and (b) absolute and unconditional and unaffected by anything that might have the effect of prejudicing, releasing, discharging or affecting in any other way the liability of the party giving the indemnity.

16.6 It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this Agreement. Governing law

16.7 This Agreement is governed by the laws of the United Kingdom.

17 Service Availability

17.1 Access to TRR service is via a secure Internet based portal, or mobile application

17.2 TRR service shall be available 24 hours per day 365 days per year, except when there are service outages which are either for emergency maintenance or unexpected failures as outlined in 17.3 and 17.4

17.3 As with any service, from time to time maintenance may be required to the hardware or software which is used for the service. Any planned maintenance will be notified to the client a minimum of 7 days prior to the commencement of work, and such work to be carried out between 10:00pm and 6am (GMT). Emergency maintenance may be carried out at any time, although TRR will try wherever possible to limit such maintenance to off peak periods, and to notify the Customer as soon as it becomes apparent that such maintenance is required. TRR will also notify the Customer when the emergency maintenance has been completed, and provide a Reason For Outage (RFO). All service notifications will be made via email to the address(es) given by the Customer during the application for the service

17.4 The targeted uptime for the service is 99%. In the event that TRR fails to meet the targeted uptime for any reason, except for reasons beyond their control such as a major Internet outage affecting large scale data centres, Force Majeure etc., compensation will be payable to the Customer. Such compensation shall be paid by way of service credits. The total Service Credits per month are limited to 100% of the total monthly Recurring Charges due for the month in question

18 Service Levels & Support

18.1 TRR will provide the Customer with access to a dedicated Service Desk to report problems with the service. The Customer will be able to log support requests via Telephone during standard working hours - Mon-Fri 8:00am – 6:00pm (excluding bank holidays), Email, Web, or App 24 hours a day – Note: support requests for minor issues reported via Email, Web, or App will be dealt with during standard working hours. Support requests for major issues, i.e. total loss of service, will be worked on outside of the standard working hours (24/7)

18.2 TRR will work to pre agreed levels of support

Minor Issues, e.g. Data formatting issues, or partial or slow service etc.

Response Time	Max 1 Hour
Start Fix	Max 4 Hours
Targeted Fix Time	Max 8 Hours

Service levels for minor issues are calculated within standard working hours

Major Issues e.g. Total loss of TRR service, server down etc.

Response Time	Max 15 Minutes
Start Fix	Max 1 Hour
Targeted Fix Time	Max 4 Hours

Service level timing for major issues are round the clock 24 hours a day 365 days per year

19 Compensation (Service Credits). The amount of compensation payable to the Customer will be relative to the amount of time taken to restore service, over and above the service levels outlined in 17.4 and 18.2. The amount of service credits payable will be as follows

Service Levels	Service Credit of the total monthly Recurring Charges due for the service
Up to One day in excess of targeted service restoration time	10% of One monthly payment
More than one day in excess of targeted service restoration time.	100% of One monthly payment
Uptime (Calculated Annually)	Service Credit of the total Annual Recurring Charges due for the service
Failure to achieve 99% of uptime	Equal to 2 times the percentage amount of breach, up to a maximum of the charges due per annum. E.g. 97% Uptime = 2% Breach x 2 = 4% of annual service charge