



Terms and Conditions for the use of the Zoovu Platform by Authorised Syndicators

PREAMBLE

Zoovu provides the leading Software-as-a-Service platform to create, maintain and optimize interactive Digital Assistants. Digital Assistant refers to a web-based interaction dialogue, which is created for a specific product or service domain (e.g. Notebooks, TVs, Dresses, Shoes, Hotels or Software) and which can be integrated into website, online- or mobile shop.

Customer entered into a Subscription agreement with Zoovu, allowing it to syndicate the Digital Assistants in its authorised syndicator' ("Authorised Syndicator") web-shops and to provide the Authorised Syndicator access to the Zoovu platform. Authorised Syndicator means a third-party retailer with which Customer has an ongoing relationship and which is authorised by the Customer to use the syndication services in accordance with the terms of these T&Cs.

These Terms and Conditions apply for the use of the Zoovu Platform by Authorised Syndicators ("T&C"), by using or accessing the Zoovu platform Authorised Syndicators agree to these T&Cs.

1. OBJECT OF THE TERMS AND CONDITIONS

These T&Cs govern the use case of the digital assistants, as named and defined by Customer, where Authorised Syndicators can integrate the Digital Assistants templates in its online web-shops.

2. LIMITATIONS OF USE

2.1. The deployment of Digital Assistants or product filters in the Authorised Syndicator's web-shop is limited to Customer's products and, unless otherwise indicated, solely to the product categories as instructed by Customer. At their sole discretion, the Parties may expand to more categories in the future. In such case, an addendum to these T&Cs shall be made to record new categories.

2.2. Authorised Syndicators shall not

- (i) sell, resell, rent or lease the Zoovu platform,
- (ii) use the Zoovu platform to store or transmit infringing, libelous, or otherwise unlawful or tortious material including, without limitation, the development, design, manufacture or production of nuclear, missiles, or chemical or biological weapons, or to store or transmit material in violation of third-party privacy rights,
- (iii) use the Zoovu platform to store or transmit malicious code (malicious code means any harmful or malicious code, files, scripts, agents or programs such as viruses, trojan horses or similar programs or measures),
- (iv) change or cause its personnel to change any part of the content included in any Digital Assistants, including but not limited to any text or images thereof. Zoovu will not be liable for any such change caused by Authorised Syndicators that infringes or threatens to infringe applicable law or any third party's right,
- (v) violate Zoovu's [Acceptable Use Policy](#),
- (vi) interfere with or disrupt the integrity or performance of the Zoovu platform or third-party data contained therein,
- (vii) attempt to gain unauthorized access to the Zoovu platform or its related systems or networks,
- (viii) publish any Digital Assistants outside the syndicated copies of Customer, or

(ix) use the Zoovu platform for any purposes prohibited by applicable law.

3. SERVICE AVAILABILITY

Digital Assistants are available 24 hours a day, each day of the year. Zoovu shall provide at least 99,9 % uptime service availability level in accordance with the Service Level Agreement concluded between Customer and Zoovu.

4. AUTHORISED SYNDICATORS' DATA

4.1. Authorised Syndicators are responsible to provide data and information necessary to make use of the Zoovu platform. Authorised Syndicators need to provide the highly-structured offer data including but not limited to the following:

- Product Name
- Product url
- Product Image
- Price
- Sku

One separate file is to be provided for each product category in every requested language.

4.2. Zoovu will provide a web-based data interface for Authorised Syndicators to upload the required offer data for the Digital Assistants and filters. The offer data of an Authorised Syndicator will be merged with the product data provided by Customer automatically.

4.3. Authorised Syndicators are responsible for the accuracy, quality and legality of and of the means by which they acquired the data, the accessibility during the entire term of these T&Cs as well as for ensuring their provision in compliance with any applicable data protection provision as to the transfer of the data to Zoovu.

4.4. Zoovu shall maintain appropriate administrative, physical, and technical measures for protection of the safety, confidentiality and integrity of Authorised Syndicators' data.

4.5. Zoovu shall not (a) modify Authorised Syndicators' data, (b) disclose Authorised Syndicators' data except as compelled by law or as expressly permitted in writing by an Authorised Syndicator, or (c) access Authorised Syndicators' data except to provide an Authorised Syndicator with the Zoovu platform and to prevent or address service or technical problems.

5. PERSONAL DATA PROTECTION

5.1. Each Party shall in the necessary scope process data provided by the other Party about its employees, authorized persons, subcontractors or other representatives, as well as other persons, for the performance of these T&Cs, also for a legitimate interest in bringing or defending claims or other claims, and for fulfilment of its obligations under applicable law according to the objectives and the corresponding legal bases.

5.2. Each Party shall protect the personal data referred to in section 5.1 provided by the other Party throughout the term of these T&Cs, as well as after its termination, as it is necessary to bring or defend against claims or other complaints or to fulfill the obligations under the applicable legislation.

5.3. Each Party may provide personal data referred to in section 5.1 provided by the other Party to the following recipients: providers of hardware and software used for the processing of personal data and related services, service providers maintaining and servicing information and communication technologies used by the Party, other service providers (processors), other recipients to whom the personal data must be provided in accordance with the legal requirements applicable to the Party.

- 5.4. Zoovu will only process the data provided by the Authorized Syndicator in accordance with the [data processing agreement](#).
- 5.5. Each Party undertakes to duly inform all natural persons whose personal data are transferred to the other Party of the transfer of their personal data. The information provided shall include: the identity and contact details of the other Party as controller, the purposes of the processing of personal data, the categories of personal data, the legal basis for processing, the retention period, the recipients as specified in sections 5.1-5.4 of these T&Cs and the General Data Protection Regulation (ES) 2016/679, the Data Protection Act 2018 (as amended) and the UK General Data Protection Regulation (together “UKGDPR”).

6. PROPRIETARY RIGHTS

- 6.1. Customer reserves all rights, title and interest in and to the Digital Assistants listed under section 2.1 of these T&Cs, including all related intellectual property rights. To the extent that the proprietary rights for the Digital Assistants do not automatically vest in Customer, an Authorised Syndicator hereby assigns to Customer all right, title and interest in and to the proprietary rights for the Digital Assistants. An Authorised Syndicator will execute any documents in connection with such assignment that Customer may reasonably request.
- 6.2. Ownership of the Zoovu platform and all associated intellectual property therein, including but not limited to the ownership of the services and Enriched Content, shall exclusively vest in Zoovu. “Enriched Content” means any new or additional data and/or content that is created as a result of the provision of the services in connection with the data and/or content provided to Zoovu by Customer and Authorised Syndicators, including but not limited to the newly created concepts and the automatically created concepts by the Zoovu ontology. Any other use or usage of the Zoovu platform, especially its distribution, transfer to third parties or duplication is prohibited.
- 6.3. Neither Customer nor Zoovu acquire any right, title or interest under these T&Cs in or to Authorised Syndicators’ data, including any intellectual property rights therein.

7. LIMITATION OF LIABILITY

- 7.1. Zoovu’s liability is limited to damages resulting from intentional acts or gross negligence. In any case, there will be no liability for indirect, consequential damages or loss of profit. To the extent permitted by applicable law, Zoovu’s aggregate liability will not exceed the subscription fee paid by Customer to Zoovu for the Authorised Syndicator’s use of Zoovu platform during the 12 months prior to the event giving rise to the liability.
- 7.2. An Authorised Syndicator may file a complaint with the competent court regarding all compensation claims not accepted in writing by Customer within three months after obtaining first notice of the damage. Otherwise, the claim shall be prescribed and the Authorised Syndicator shall be barred from asserting these claims in any legal proceeding.

8. TRACKING

Authorised Syndicators agree to server-side tracking to track user actions within the Digital Assistants. No personal data of Digital Assistants users are tracked.

9. SUPPORT

Zoovu will take over 1st-Level-Support and will provide the Authorised Syndicators with a How-To manual on how to use the Digital Assistants templates. 2nd-Level-Support will be covered by Zoovu Help and will be provided in English.

10. CUSTOMIZATION AND ADDITIONAL SERVICES

- 10.1 In case support by Zoovu Support Services is needed (e.g. adaption of the frontend design or the Q&A flow), Authorised Syndicators may order Professional Services according to Zoovu [Master Services Agreement](#).

- 10.2 Zoovu can on demand also provide integrations to other analytics solutions. If an Authorised Syndicator requests conversion tracking for the Digital Assistants, the Authorised Syndicator has to provide the corresponding parameters to Zoovu. Resulting costs from the integration of other analytics solution and/or conversion tracking must be covered by the Authorised Syndicator. The standard Zoovu full-service rates apply.
- 10.3 In case an Authorised Syndicator needs a customized data interface, Zoovu Full-Service rates which are to be borne by the Authorised Syndicator apply.
- 10.4 In case an Authorised Syndicator would like to use the Zoovu platform beyond use cases described in these T&Cs, the Authorised Syndicator has to purchase a separate SaaS license package at Zoovu directly.
- 10.5 Orders made for customization services and/or use of Zoovu beyond the scope of these T&Cs are to be entered between Zoovu and the respective Authorised Syndicator upon Customer's prior written consent. Customer is not a party to such agreement and thus do not warrant or support services ordered by Authorised Syndicators at Zoovu directly.

11. TERM AND TERMINATION

- 11.1 Unless otherwise specified, the term of these T&Cs shall be subject to the term indicated in the relevant Order Form under which Customer has ordered syndication services for the Authorised Syndicator.

12. CONFIDENTIALITY

- 12.1 Definition. "Confidential Information" means information disclosed by a party ("Discloser") to the other party ("Recipient") in connection with the use or provision of the services that is either marked as confidential or would reasonably be considered as confidential under the circumstances. Authorised Syndicator Confidential Information includes Authorised Syndicators' data. Zoovu Confidential Information includes the terms of these T&Cs and any security information about the services. Despite the foregoing, Confidential Information does not include information that: (a) is or becomes public through no fault of the Recipient; (b) the Recipient already lawfully knew; (c) was rightfully given to the Recipient by an unaffiliated third party without restriction on disclosure; or (d) was independently developed by the Recipient without reference to the Discloser's Confidential Information.
- 12.2 Confidentiality. For the term of these T&Cs and two (2) years following its termination, the Recipient will: (a) protect the Discloser's Confidential Information using commercially reasonable efforts; (b) use the Discloser's Confidential Information only as permitted by these T&Cs, including to exercise the Recipient's rights and fulfill the Recipient's obligations under these T&Cs; and (c) not disclose the Discloser's Confidential Information without the Discloser's prior consent, except to affiliates, contractors, agents, and professional advisors who need to know it and have agreed in writing (or, in the case of professional advisors, are otherwise bound) to keep it confidential on terms comparable to those under this section. The Recipient may disclose the Discloser's Confidential Information when and to the extent required by law or legal process, but only after the Recipient, if permitted by law, uses reasonable efforts to notify the other party.
- 12.3 Destruction of Confidential Information. Upon the termination or expiration of these T&Cs, each party will destroy all Confidential Information of the other party in its possession or control within a reasonable amount of time in accordance with the Recipient's data destruction practices.

13. MISCELLANEOUS PROVISIONS

- 12.1 If any provision of these T&Cs is held to be invalid, illegal, or unenforceable, the remaining provisions of these T&Cs will not in any way be affected or impaired, and the invalid, illegal, or unenforceable provision will be restated to reflect the original intentions of the Parties under these T&Cs as nearly as possible in accordance with applicable laws.

- 12.2 Neither Party will be in default for failing to perform any obligation hereunder, if such failure is caused solely by supervening conditions beyond the Parties' respective control, including but not limited to acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes, Internet service provider failures or delays, or denial of service attacks.
- 12.3 These T&Cs constitute the entire agreement between the Parties and supersede all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision to these documents shall be effective unless in writing and either signed or accepted electronically by the Party against whom the modification, amendment or waiver is to be asserted.
- 12.4 The applicable jurisdiction and governing laws are the laws of the country in which the Zoovu contracting entity is domiciled, which shall exclusively apply to all legal claims arising in connection with these T&Cs. Conflict of law rules are expressly excluded.