BRANDWATCH FOR AGENCIES – TERMS AND CONDITIONS

Brandwatch LLC acting as agent for Runtime Collective Limited t/as Brandwatch ("**Brandwatch**") and the agency counterparty ("**Agency**") named in the Order Form(s) have entered into an agreement for Brandwatch to provide the Services (defined below). Agency and Brandwatch shall enter into one or more Order Forms for the Agency Umbrella Account and all Client Accounts and agree that each Order Form and these terms and conditions constitute an exclusive and binding agreement ("**Agreement**") between them. Each Order Form shall incorporate by reference these terms and conditions and in respect of each Order Form, the Order Form prevails over the terms and conditions.

1. <u>Definitions</u>. Unless otherwise defined in an Order Form, the following terms have the meanings indicated as follows:

1.1. "**Agency Client**" is a client of the Agency which has a contractual relationship with the Agency pursuant to which it may receive the Services.

1.2. "**Agency Umbrella Account**" means the umbrella account in the Brandwatch Application, paid for by Agency on a monthly Mention Based Subscription basis which is required to enable Agency to create Client Accounts for each Agency Client and provide the Services to each Agency Client.

1.3. "**Brandwatch Application**" is the Brandwatch Analytics social media monitoring tool that summarizes, analyzes and provides links to the Mentions relevant to all Queries that the Agency has set up for the Agency Client(s).

1.4. "**Client Account**" means an account in the Brandwatch Application per brand owned by the Agency Client which is linked to the Agency Umbrella Account and which is accessed and used by Agency to inform and/or deliver Services for the Agency Client.

1.3. "**Found Date**" is the date when a webpage qualifies as a Mention, as determined by Brandwatch through its technology.

1.4. "**Intellectual Property Rights**" means all trade secrets, patents and patent applications, trademarks and service marks (whether registered or unregistered and including any goodwill acquired in such trademarks and service marks), trade names, business names, internet domain names, e-mail address names, copyrights (including rights in computer software), moral rights, database rights, design rights, rights in know-how, rights in confidential information, rights in inventions (whether patentable or not) and all other intellectual property and proprietary rights (whether registered or unregistered, and any application for the foregoing), and all other equivalent or similar rights which may subsist anywhere in the world.

1.5. "**Mentions**" are all the webpages or sections of webpages that meet the requirements set out in a Query. Each Mention is associated with a single Found Date and a single Published Date. Mentions that Brandwatch finds from before the Query Start Date are "**Historic Mentions**". All other Mentions are Mentions that Brandwatch finds from the Query Start Date.

1.6. "**Mention-based Subscription**" is a Service that provides the Agency an unlimited number of Queries and where the total number of Retained Mentions in each and every calendar month is limited to the number stated in the Order Form.

1.7 "**Order Form**" means a Brandwatch order form used to purchase: (i) the Agency Umbrella Account; and (ii) all Client Accounts.

1.8. "**Published Date**" is the date when a webpage was first published, as determined by Brandwatch through its technology.

1.9. "**Query**" is a search string that is used to define what words and phrases must be present on a webpage for the Brandwatch's technology to be able to include that webpage in the Brandwatch Application.

1.10. "**Query-based Subscription**" is a Service that provides the Agency either batches of Queries or individual Queries as set out in the Order Form and where Retained Mentions are subject to Fair Usage Limits (defined in Section 6.3.2).

1.11. "**Query Start Date**" is the date and time when a Query was created in the Brandwatch Application.

1.12. "**Retained Mentions**" are Mentions (including applicable Historic Mentions) made available to the Agency in the Brandwatch Application.

1.13. "**Services**" is access to the Brandwatch Application on a Subscription basis, and related services provided by Brandwatch to the Agency for the benefit of the Agency Client(s) in accordance with the terms of this Agreement and any applicable Order Form.

1.14. "**Supported Key Users**" are Agency personnel who are permitted direct email or phone support from the Brandwatch account management or client services teams.

1.15. "**Vizia Application**" means one licence only of the Brandwatch proprietary tool to display and visualise data from the Brandwatch Application which: (a) is provided to the Agency as part of the Agency Umbrella Account; and (b) may only be used by the Agency at the Agency's location identified in the Order Form for the limited purpose of demonstrating the Services to potential Agency Clients and for Agency's internal business use only. For the avoidance of doubt, Agency shall not give Agency Client any direct access to the Vizia Application.

2. Acceptance of Terms and Conditions. NO TERM OR CONDITION IMPLIED BY LAW, TRADE CUSTOM, PRACTICE OR COURSE OF DEALING OR STATED IN ANY SOLICITATION, ORDER, OR OTHER DOCUMENT OF THE AGENCY OR OTHERWISE NOT PROVIDED BY BRANDWATCH SHALL BECOME PART OF AN AGREEMENT OR BECOME BINDING ON BRANDWATCH UNLESS EXPRESSLY AGREED TO BY BRANDWATCH IN WRITING. THE AGENCY'S USE OF AND ACCESS TO THE SERVICE IS PERMITTED SOLELY ON THE CONDITION THAT THE AGENCY ACCEPTS AND AGREES TO AN AGREEMENT AND ENSURES THAT ALL AGENCY CLIENTS (TO THE EXTENT APPLICABLE) COMPLY WITH THE TERMS AND CONDITIONS OF THE AGREEMENT(S).

3. Brandwatch's Services. In consideration of the Agency's acceptance of this Agreement and the Agency's payment of the Fees as described in Section 7.3, Brandwatch shall provide the Service described in the applicable Order Form. Brandwatch shall assign a unique ID (which may include user names, passwords, etc., "**Unique ID**") to the Agency to be used in conjunction with the Service. The Agency shall use only the Unique ID, which it must keep safe and confidential. The Agency is responsible for any and all use of the Service using the Unique ID, including payment of all Fees related to such use, and shall promptly notify Brandwatch if the security of a Unique ID has been compromised.

4. License.

4.1. Ultimate Service Provider. The Services are provided by Runtime Collective Limited, a company registered in the United Kingdom with company number 03898053. Company warrants that it is an authorized agent of Runtime Collective Limited, and has the necessary authority to enter into a contractual relationship on behalf of Runtime Collective Limited.

4.2. Scope of License.

4.2.1. General. In consideration of the Agency's acceptance of the Agreement and the Agency's payment of the Fees described in Section 7.3, Brandwatch grants the Agency a personal, nonexclusive, revocable, and nontransferable license during the term of the Agreement to use the Vizia Application and to allow the Agency (and, subject to clause 4.2.3 below, Agency Clients) to access and use the Service. The license is subject to compliance by the Agency (and Agency Clients) with the terms and conditions of the Agreement. Agency is solely responsible for procuring the compliance by all Agency Clients with the terms and conditions of the Agreement. Subject to Section 4.2, the Agency (and Agency Clients) shall use the Service, and may use all data which the Agency (or Agency Clients, as applicable) receives through proper use of the Service, only as expressly permitted and solely for the Agency's own legitimate and lawful business purposes (and the Agency Clients' own legitimate and lawful business purposes).

4.2.2. Agency Clients Use. Subject to clause 4.2.3 below,the Agency may allow Agency Clients to use the Brandwatch Application for Agency Clients own business purposes provided that the Agency: (a) require any and all Agency Clients to comply with the terms of the Agreement in relation to their use of the Service as if the Agency Clients were itself a party to the Agreement; and (b) indemnify Brandwatch Indemnitees with respect to the Agency Clients' activities pursuant to Sections 18.1(b) through (d). Any use of the Service made by Agency Clients will constitute part of the Agency's use under the Agreement, and any breach by any Agency Clients will be deemed to be a breach of the Agreement by the Agency. Brandwatch reserves the right to require that the Agency: (i) obtain from each Agency Clients a written agreement of compliance pursuant to clause (a) of this Section and (ii) provide such written agreement to Brandwatch upon reasonable request.

4.2.3 Unless otherwise agreed in writing by Brandwatch, the Agency may only grant the Agency Client access to the corresponding Client Account at a "**View**", "**Analyst**", or "**Analyst+**" permission level. Agency Clients may not be granted access to the Agency Umbrella Account.

4.3. Restrictions. The Agency shall not, and shall not allow any third party to, in whole or in part: (a) alter, adapt, merge, modify, port, translate, decompile, disassemble, create derivative works from or reverse engineer the Service and/or the Brandwatch Application, or otherwise attempt to derive the source code or engage in any other activities to obtain underlying information that is not visible to a user in connection with normal use of the Service and/or the Brandwatch Application, or make any permanent copy of the Service or data and/or the Brandwatch Application in any form, or extract or re-utilize any such data; (b) transfer, sublicense, rent, lease, distribute, sell, or grant any rights to the Service and/or the Brandwatch Application to anyone, except as expressly permitted; (c) publicize or distribute any registration code algorithms, information or registration codes used by the Service and/or the Brandwatch Application or knowingly take any action that would cause any element of the Service and/or the Brandwatch Application to be placed in the public domain; (d) gain or attempt to gain unauthorized access to the Service and/or the Brandwatch Application; (e) remove any proprietary notices or marks from the Service and/or the Brandwatch Application; (f) use the Service and/or the Brandwatch Application for the business needs of another person or entity, except as expressly permitted; or (g) engage in any other activity reasonably determined by Brandwatch to be in conflict with the intent of this Agreement; or (h) download Twitter material via the application programming interface (API). Agency may only export Tweet or User IDs via the API and only export Twitter data as a PDF, or spreadsheet by using 'save as' or similar functionality.

5. Use of the Service.

5.1. Computer System. The Agency shall at all times provide and maintain in good working order its own Internet access and all necessary network and telecommunications equipment, hardware, software, devices and other materials and equipment necessary to access and use the Service.

5.2. Non-Infringement. The Agency shall not (and shall procure that the Agency Client shall not) access or use the Service and/or the Brandwatch Application in any way (a) that infringes, misappropriates or violates any Intellectual Property Rights or publicity, privacy or other right of any third party; (b) that violates any applicable local, state or federal laws, statutes, ordinances, rules or regulations or any judicial or administrative orders; or (c) that Brandwatch reasonably determines is unacceptable, immoral or offensive, such as spamming, hacking, etc.

5.3. Non-Interference with Operations. The Agency shall not engage (and shall procure that the Agency Client shall not engage) in any activity that: (a) interferes or attempts to interfere with the proper functioning of the Service and/or the Brandwatch Application or disrupts, diminishes the quality of, interferes with the performance of or impairs the functionality of the Service and/or the Brandwatch Application; (b) circumvents, disables, or otherwise interferes with security-related features of the Service and/or the Brandwatch Application or features that enforce limitations on use of the Service and/or the Brandwatch Application; or (c) imposes or may impose, in Brandwatch's reasonable discretion, an unreasonable or disproportionately large load on the Service and/or the Brandwatch Application or Branwatch's infrastructure.

5.4. Use of Brandwatch's Application Programming Interface. If the Agency uses Brandwatch's application programming interface ("**API**") to access, test, review or use in any way Brandwatch's data, the Agency shall conform to Brandwatch's API usage policies available on request.

6. Service Accounts; Subscriptions; Upgrades.

6.1. The Agency must always have an Agency Umbrella Account to order Client Accounts.

6.1.1. Agency may use the Agency Umbrella Account and the Vizia Application solely for the purposes of: (a) pitching Agency's services to potential Agency Client(s); (b) training Agency's staff; (c) monitoring and analysis of Agency's own brand. Agency must set up a Client Account for each Agency Client before being able to provide the Services to such Agency Client. For the Agency Umbrella Account and Client Accounts, Brandwatch provides Historic Mentions dating back to June 2010.

6.1.2. Client Account Registration. Agency must notify the Brandwatch account manager of any Client Account the Agency intends to add to the Agency Umbrella Account in advance of activation. Brandwatch will submit to Agency an Order Form that reflects the fees and schedules associated with each Client Account. One Client Account is required for each distinct Agency Client brand, or sub-brand or separate business unit within the Agency Client, unless otherwise agreed in the Order Form by Brandwatch.

6.2. Mention-based Subscriptions. Brandwatch will provide Retained Mentions up to the limit stated in the Order Form. Brandwatch has no obligation to provide Retained Mentions above the monthly fixed limit that is stated in the applicable Order Form.

6.3. Query-based Subscriptions.

6.3.1. Subject to Section 6.3.2 and except as otherwise stated in an Order Form, Brandwatch will provide (a) Queries up to the Query limit specified in the applicable Order Form and (b) unlimited Retained Mentions, with a limit of up to 100,000 Historic Mentions per Query per month.

6.3.2. Brandwatch reserves the right to provide only a sample of Retained Mentions for a Query ("**Fair Usage Limit**") where a Query (a) is reasonably determined by Brandwatch to be attempting to track all or a significant part of all of social media or (b) is being used to track multiple large brands or is in any other way so broad that, in the reasonable determination of Brandwatch, the Query degrades the performance of the Service for the Agency or for other clients of Brandwatch. Examples of Queries for which Brandwatch may apply a Fair Usage Limit include, but are not limited to, a Query that tracks all social media websites for common words like "**the**" or "**lol,**" or a Query that tracks all European airline companies in a single Query. Where Brandwatch has applied a Fair Usage Limit, it will make commercially reasonable efforts to inform the Agency and discuss ways in which Brandwatch can track all Mentions the Agency is seeking.

6.4. Upgrades. Upgrades to the Agency's Umbrella Account and/or Client accounts are available at additional cost. The Agency has the option to upgrade these accounts under the Service by selecting the appropriate upgrade option(s) in the Brandwatch Application or by

informing the Agency's account manager. The Agency shall pay the corresponding price for an upgraded account.

6.5. Account Management/Client Services. Agency must nominate 'Supported Key Users' for their Brandwatch account. Only Agency personnel who have attended core Brandwatch training can qualify as a Supported Key User. No other Agency personnel are permitted to contact the Brandwatch account management or support services teams. The number of permitted Supported Key Users is defined by the type of Brandwatch account, as described in this clause 6. Agency will be allowed up to three (3) Supported Key Users per Core Account subscription, and one (1) Supported Key User per additional Client Account subscription. Additional Supported Key Users may be added for an additional recurring fee, and existing Supported Key Users can be replaced, with a maximum of one Supported Key User replacement per month. If additional or replacement Supported Key Users have not undergone core Brandwatch training, this will also be chargeable to qualify.

6.5.1. Notwithstanding the foregoing, there is no limit on the number of staff within the Agency at the Location stated on the applicable Order Form which are permitted to access the Brandwatch Application or the Vizia Application under the license, nor any restriction on any such staff of the Agency at the Location stated on the applicable Order Form from submitting tickets for technical issues via the online support portal. Any non-Supported Key User submitting a ticket that is not deemed 'technical', or contacting the Brandwatch account management or client services directly, will be referred to a Supported Key User for help. For the avoidance of doubt, staff members: (a) from other agencies within the same group of companies as the Agency; or (b) from the same Agency but in different locations to the Location stated on the applicable Order Form may not use the Service, Brandwatch Application and/or Vizia Application.

7. Obligations of the Agency.

7.1. General. The Agency shall comply with all obligations under the Agreement and shall be responsible for any and all use of the Service under the Agreement.

7.2. Security. While Brandwatch shall use commercially reasonable efforts to prevent the transmission to the Agency of bugs or viruses via the Service, the Agency is responsible for taking (and shall procure that if applicable the Agency Client take) all appropriate measures to prevent harmful agents or components from entering its systems, and to ensure the security of the Agency's access to and connection with the Service and the privacy and security of the Agency's and Agency Client's data. To the extent that Brandwatch may be required, as part of the Service, to process any personal data on the Agency's behalf, the Agency is responsible for obtaining all necessary data protection registrations and consents to enable such processing. Brandwatch shall maintain appropriate technical and organizational measures to act in accordance with the Agency's instructions in relation to such processing and to prevent unauthorized processing of such data.

7.3. Payment. The Agency shall pay the fees specified in the Order Form ("**Fees**") by the dates and methods specified in the Order Form. Fees payable upon invoice shall be paid within 30 calendar days after the date of the invoices. No deductions or offsets will be made to invoices. Additionally, the Agency shall pay any tax or other amounts that the Agency is

required to pay under applicable law (such as, but not limited to, foreign, national, state or local sales, use, withholding or other taxes, customs duties or similar tariffs and fees) (individually and together, a "**Tax**"). If at any time any taxing authority assesses a Tax on an invoice, the Agency shall pay or reimburse Brandwatch for the Tax. Brandwatch reserves the right to charge interest on a daily basis at a rate of 1.0% per month on past due accounts. Any claim or dispute relating to an invoice must be made in writing within 30 calendar days of the date of the invoice. The Agency shall pay all costs incurred by Brandwatch in collecting any amounts due under this Agreement, including, without limitation, reasonable attorneys' fees and costs.

8. Right to Increase Fees. On the expiration of one calendar year from the Effective Date of the set up of the Agency Umbrella Account (defined in Section 9.1)and for every calendar year thereafter, Brandwatch reserves the right to increase Fees by the greater of 3.5% or the Index Increase. The "**Index Increase**" is the percentage difference between (a) the Index for the month preceding the month in which the increase in Fees occurs and (b) the Index for the month thirteen months prior to the month in which the increase in Fees occurs. "**Index**" means the Consumer Price Index, as published by the Bureau of Labor Statistics, U.S. Department of Labor, For All Urban Consumers, U.S. City Average, All Items, (1982-84=100) ("**CPIU**"). In the event the Bureau of Labor Statistics stops publishing the CPIU or substantially changes its content and format, Brandwatch will substitute another comparable index published at least annually.

9. Term and Termination.

9.1. Term.

(a) Term of the Agency Umbrella Account: The Order Form incorporating these terms and conditions for the Agency Umbrella Account will be effective as of the date Brandwatch receives a signed Order Form from the Agency for the Agency Umbrella Account ("**Effective Date**") and will continue for an initial term specified in the Order Form (or if no term is specified for 12 months) for the Agency Umbrella Account. Unless otherwise stated in the Order Form for the Agency Umbrella Account, the Order Form for the Agency Umbrella Account shall automatically renew for successive terms of the same length as the initial term, unless terminated earlier or a party gives written notice of its election not to renew such Agency Umbrella Account Order Form at least 30 days prior to the end of the then-current term. Notice of non-renewal or termination must be sent via email to cancellations@brandwatch.com. If either party provides notice in accordance with this clause 9.1(a) that it does not wish to renew the Order Form for the Agency Umbrella Account, all existing Order Forms for Client Accounts shall continue in full force and effect for the then current term of such Client Account but shall not automatically renew. Agency acknowledges and agrees that new Order Forms for Client Accounts will only be issued by Brandwatch if there is a valid and binding Order Form for the Agency Umbrella Account.
(b) Term of the Client Accounts: Client Accounts are set up using an Order Form and must be set up with a term of three months or more. Unless otherwise stated in the Order Form for each Client Account, each Client Account shall automatically renew for successive terms of the same length as the initial term of such Client Account, unless terminated earlier or a party gives written notice of its election not to renew a Client Account at least 30 days prior to

the end of the then-current term. Termination of one Client Account does not affect the validity of the other Client Accounts.

9.2. Termination.

9.2.1. Termination by Either Party. Either party may terminate any or all Agreements immediately upon written notice in the event: (a) that the other party makes an assignment for the benefit of creditors; (b) a trustee, receiver, or similar person is appointed for the other party or for a substantial part of the property of the other party, with or without that party's consent; (c) any bankruptcy, insolvency, reorganization, or liquidation proceedings is instituted against the other party, which proceedings are not dismissed within 60 days of filing; (d) that the other party fails generally to pay its debts or contractual monetary obligations as they become due; or (e) that the other party ceases, or threatens to cease, to do business. In addition, if a party is a partnership and any event described in Sections 9.2.1(a) through (c) occurs as against any partner of that partnership, the other party may immediately terminate this Agreement upon written notice.

9.2.2. Termination by Brandwatch.

9.2.2.1. Brandwatch may terminate an Agreement immediately, or suspend the Service in relation to the Agency Umbrella Account and/or one or more Client Accounts, upon written notice to the Agency if the Agency or an Agency Client (a) violates the scope or any restriction on the license granted under the Agreement; (b) breaches the confidentiality obligations under the Agreement; or (c) in the reasonable determination of Brandwatch, threatens the integrity or security of the Service. Termination of an Order Form relating to certain Client Accounts does not affect other other Order Forms. If the Agreement for the Agency Umbrella Account is terminated, new Client Account Order Forms may not come into force and be binding on the parties.

9.2.2.2. If the Agency otherwise breaches the Agreement, Brandwatch may terminate the Agreement by giving written notice of the breach and termination to the Agency, which termination shall be effective 10 days after the date of the notice or at a later time as may be specified in the notice (the time period from the date of the notice of breach to the date of termination, the "**Cure Period**") unless the Agency cures the breach prior to the expiration of the Cure Period. Brandwatch may suspend the Service during the Cure Period.

9.2.3. Effects of Termination. Upon termination of the Agreement, all rights and obligations of the parties shall terminate. All licenses granted under the Agreement automatically will terminate, and Brandwatch may immediately disable and discontinue the Agency's and all Agency Client's access to and use of the Service relating to the Agreement without additional notice to the Agency. The Agency shall (and shall procure that the Agency Client) return to Brandwatch or destroy all materials the Agency acquired pertaining to the Service and any of Brandwatch's Confidential Information. All of the Agencys payment obligations will become immediately due and payable and the Agency shall remain liable to Brandwatch for all charges under the Agreement and all the costs Brandwatch incurs to collect these charges, including collection agency fees, reasonable attorneys' fees and arbitration or court costs. In the event of a suspension or early termination, the Agency will not be eligible for any refunds of amounts paid or any waiver of amounts payable. Any termination shall not release a party

from liability for a breach by that party of its obligations under the Agreement prior to or in connection with such termination.

10. Survival. Articles 12 (Confidentiality), 13 (Proprietary Rights), 15 (Representations and Warranties), 16 (Disclaimer), 17 (Limitation of Liability), and 18 (Indemnification); and Sections 20.1 (Governing Law) and 20.2 (Notices) shall survive the termination of this Agreement.

11. Force Majeure. Brandwatch shall not be liable for any failure to perform or delay in the performance of its obligations under the Agreement due to any cause or event not reasonably within its control, including but not limited to acts of God, natural disasters, war, incidents of terrorism, labor disputes, failure of equipment, carriers, utilities or third parties, compliance with governmental authority, strikes or civil unrest.

12. Confidentiality.

12.1. Confidential Information. The terms of the Agreement, the existence of any business negotiations, discussions, or consultations in progress between the parties, any information that is marked as "**confidential**" or reasonably should be understood to be confidential or proprietary to the disclosing party, and any information and data that either party has received or will receive from the other party about matters relating to each party's respective business including, without limitation, (a) any technical and non-technical information, including Intellectual Property Rights, techniques, drawings, know-how, processes, apparatus, equipment, algorithms, software programs, software source documents, and formulae related to the current, future, and proposed products and services; (b) information concerning research, experimental work, specifications, engineering, financial information, customer/client lists, sales, merchandising, and marketing plans and data; and (c) information regarding customers or prospects of a party and/or a party's business plans or goals, strategy or targets, are proprietary and confidential information of the disclosing party ("**Confidential Information**").

Confidential Information does not include any information that (a) was already lawfully in the receiving party's possession before receipt from the disclosing party; (b) is or becomes publicly available through no fault of the receiving party; (c) is rightfully received by the receiving party from a third party who possessed same information lawfully and without a duty of confidentiality; (d) is disclosed by, or with the permission of, the disclosing party to a third party without a duty of confidentiality on the third party; or (e) is independently developed by the receiving party without a breach of the Agreement.

12.2. Duty of Confidentiality. Subject to the Brandwatch's right to disclose that the Agency is a client of Brandwatch pursuant to Article 14, during the term of the Agreement and at all times thereafter, neither party will (a) disclose Confidential Information of the other party except to employees, agents, and advisors who (i) have a need to know in order to fulfill their responsibilities in connection with the Agreement and (ii) are subject to obligations of confidentiality no less restrictive than those in the Agreement or (b) use Confidential Information of the other party except to fulfill obligations under the Agreement. Each party will take reasonable measures to protect the confidentiality of Confidential Information disclosed to it by the other party, including, at a minimum, those measures that it takes to

protect its own Confidential Information of a similar nature but in no event less than a reasonable measure of care. If a party becomes legally compelled to disclose any Confidential Information, it shall promptly notify and assist the other party to seek a protective order or other appropriate remedy before making disclosure. Whether or not a protective order or other remedy is obtained, the party compelled to disclose may furnish only those portions of Confidential Information which it is legally required to disclose as advised by legal counsel and shall exercise reasonable efforts to obtain reliable assurances that Confidential Information will be treated confidentially.

12.3. Return of Confidential Information. Upon request, and no later than termination of the Agreement, each party will deliver to the other, or certify destruction of, any and all documents and materials constituting Confidential Information of the other party.

13. Proprietary Rights.

13.1. Brandwatch. The Service, all Intellectual Property Rights contained in or used by the Service, Brandwatch's Confidential Information, and all other materials provided by Brandwatch or accessible to the Agency and Agency Clients are and will remain the exclusive property of Runtime Collective Limited and its affiliates or any of their licensors, as applicable. The Agency only has a limited license as described in Article 4. The Agency shall not challenge or contest the rights to or ownership of the Service by Runtime Collective Limited and its affiliates, or otherwise attempt to assert any proprietary rights in the Service.

13.2. The Agency. The Agency shall retain all Intellectual Property Rights in information that it submits to the Service.

14. Publicity. Subject to its confidentiality obligations under Section 12.2, Brandwatch may at its sole discretion issue a public statement or communication or otherwise disclose that the Agency is a client of Brandwatch. Unless the Agency has notified Brandwatch in writing that it does not wish to do so, the Agency grants Brandwatch a license to use the Agency's name, logo and trademarks for public relations activities, including without limitation, on Brandwatch's client list and website.

15. Representations and Warranties.

15.1. Mutual Representations and Warranties. Each party represents and warrants that:

15.1.1. it has the legal capacity and authority to enter into the Agreement, to perform the obligations and to consummate the transactions contemplated under the Agreement;

15.1.2. the Agreement is valid and binding upon and enforceable against it;

15.1.3. its execution and performance of the Agreement will not result in the violation of any provision of any other agreement or applicable law or any judgment or decree binding upon it; and

15.1.4. it is not the subject of any pending or, to the best of its knowledge, threatened claim, action, judgment, order, or investigation that could adversely affect its ability to perform its obligations under the Agreement or the business reputation of the other party.

15.2. Brandwatch's Representations and Warranties. Brandwatch represents and warrants that it is an authorized licensee of the Brandwatch Application and has the authority to

provide the Service and the associated limited sublicense to the Agency in accordance with the Agreement.

16. DISCLAIMER. BRANDWATCH PROVIDES THE SERVICE "**AS IS**" AND WITHOUT WARRANTY OF ANY KIND. EXCEPT FOR THE WARRANTIES SET FORTH IN ARTICLE 15, BRANDWATCH DISCLAIMS ALL OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, AND NON-INFRINGEMENT. BRANDWATCH DOES NOT WARRANT AGAINST HUMAN AND MACHINE ERRORS, OMISSIONS, DELAYS, INTERRUPTIONS OR LOSSES, INCLUDING LOSS OF DATA, OR ANY HARM THAT MAY BE CAUSED BY THE TRANSMISSION OF A COMPUTER VIRUS, WORM, OR OTHER CODE THAT MANIFEST CONTAMINATING OR DESTRUCTIVE PROPERTIES. BRANDWATCH MAKES NO WARRANTY THAT THE SERVICE WILL MEET THE AGENCY'S OR THE AGENCY CLIENT'S REQUIREMENTS OR THAT THE OPERATION, ACCESS, USE OR FUNCTIONS OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. BRANDWATCH DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICE OR ANY INFORMATION, TEXT, GRAPHICS, LINKS OR OTHER ITEMS CONTAINED WITHIN THE SERVICE WITH RESPECT TO THEIR PERFORMANCE, ACCURACY, RELIABILITY, COMPLETENESS, SECURITY CAPABILITY OR OTHERWISE. THE ENTIRE RISK ARISING OUT OF THE USE OF THE SERVICE REMAINS WITH THE AGENCY.

17. LIMITATION OF LIABILITY. IN NO EVENT WILL BRANDWATCH OR ANY OF ITS AFFILIATES BE LIABLE (A) TO THE AGENCY OR ANY THIRD PARTY AND/OR AGENCY CLIENT WITH RESPECT TO CLAIMS ARISING IN CONNECTION WITH ANY USE OF THE SERVICE OR ANY DATA, INCLUDING, BUT NOT LIMITED TO, ERRORS OR OMISSIONS CONTAINED THEREIN, DECISIONS MADE BASED ON USE OF THE SERVICE OR ANY DATA, LIBEL, INFRINGEMENTS OF INTELLECTUAL PROPERTY, PUBLICITY OR PRIVACY RIGHTS, LOSS OF PRIVACY, MORAL RIGHTS, DISCLOSURE OF CONFIDENTIAL INFORMATION, BREACH OF SECURITY, WORKFLOW DISTURBANCES, OR ACCESS OR INTERNET CONNECTIVITY PROBLEMS; (B) FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, DIRECT, INDIRECT OR OTHER DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF INCOME, PROFITS OR GOODWILL, BUSINESS INTERRUPTION, CORRUPTION OR LOSS OF DATA, AND THE LIKE), HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, ARISING FROM THE AGREEMENT OR OUT OF THE USE OR INABILITY TO USE THE SERVICE OR RESULTING FROM USE OF OR RELIANCE ON ANY DATA (EVEN IF BRANDWATCH OR ANY OF ITS AFFILIATES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE); OR (C) TO ANY PARTY FOR ANY AGGREGATE AMOUNT GREATER THAN THE AMOUNT THE AGENCY PAID UNDER THE AGREEMENT DURING THE TWELVE MONTHS PRECEDING THE DATE ON WHICH THE UNDERLYING CLAIM ACCRUED.

18. Indemnification.

18.1. <u>The Agency's Indemnification</u>. The Agency shall indemnify and hold harmless Brandwatch, its officers, directors, employees, representatives, agents, contractors, affiliates and licensors (collectively, "**Company Indemnitees**") from any and all claims, actions, losses, damages, demands, liabilities, costs and expenses, including reasonable attorneys' fees and expenses ("**Claims**"), whether a suit or other proceeding is initiated or not, which may arise from: (a) the Agreement; (b) the use, operation or misuse by the Agency (or an Agency Client) of the Service or any component thereof; (c) any error, omission, or negligent or intentional act by the Agency (or an Agency Client) relating to the Agreement; or (d) any breach or alleged breach of the Agreement by the Agency (or an Agency Client).

18.2. <u>Brandwatch's Indemnification</u>. Brandwatch shall indemnify and hold harmless the Agency, its officers, directors, employees, representatives, agents, contractors, affiliates and licensors from any Claim, whether a suit or other proceeding is initiated or not, that the Agency's use of the Service in accordance with the Agreement infringes the intellectual property rights of any third party; provided that the Agency shall promptly notify Brandwatch of any such Claim, provides all cooperation reasonably requested by Brandwatch, and gives sole control to Brandwatch to defend against such Claim. Brandwatch may settle any such Claim at its sole option.

19. <u>Independent Contractor Relationship</u>. Each party will act as an independent contractor under the Agreement. The Agreement does not create any actual or apparent agency, partnership, franchise, joint venture, or common undertaking, co-ownership, or relationship of employer and employee between the parties for any purpose whatsoever. Neither party will exercise control over the activities and operations of the other party. Each party will conduct all of its business in its own name and as it deems fit, provided it does not contravene the Agreement. Neither party will engage in any conduct inconsistent with its status as an independent contractor, have authority to bind the other with respect to any agreement or other commitment with any third party, or enter into any commitment on behalf of the other. All sales and other agreements between Agency and Agency Clients are Agency's exclusive responsibility and will have no effect on Agency's obligations under the Agreement.

20. <u>Miscellaneous</u>.

20.1. <u>Governing Law; Exclusive Forum</u>. The Agreement shall be governed by, interpreted, construed and enforced under and in accordance with, the laws of the State of New York, without regard to choice of law principles thereof. Any controversy or claim arising out of or relating to the Agreement shall be heard exclusively in the courts of the State of New York, County of New York, and the parties waive any objections to the venue of such courts.

20.2. <u>Notices</u>. Any notice, request, consent, demand, offer or other communication required or permitted to be given or made under the Agreement shall be in writing and either delivered personally or sent by e-mail, facsimile, overnight courier, regular mail or certified mail, postage prepaid and, in all cases, addressed and sent to the respective parties at an address as a party may specify in writing from time to time. The foregoing communications shall be deemed given: (a) if delivered personally or by overnight courier, upon delivery as evidenced by delivery records, (b) if by e-mail or facsimile transmission, upon successful delivery of the transmission as evidenced by transmission records, or (c) if sent by regular mail or certified mail, postage prepaid, five days after the date of mailing.

20.3. Amendment. The Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party.

20.4. Assignment. The Agency may not, without Brandwatch's prior written consent, assign its rights or delegate its duties hereunder.

20.5. Waiver. Any party may waive compliance by another party with any provision of the Agreement. The failure of a party to insist on strict adherence to any term of the Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of the Agreement. No waiver of any provision shall be construed as a waiver of any other provision. Any waiver must be explicitly set forth in writing and signed by the party waiving compliance. Any single or partial exercise of any right, remedy, power or privilege hereunder shall not preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

20.6. Entire Agreement. The Agreement contains, and is intended as, a complete statement of all the terms of the arrangements between the parties with respect to the matters provided for, supersedes any previous agreements and understandings between the parties with respect to those matters.

20.7. Binding Effect. The Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted assigns and successors, except as expressly otherwise provided in the Agreement.

20.8. Severability. The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement, which shall remain in full force and effect. If any court determines that any provision of the Agreement or any part thereof is invalid or unenforceable because of the duration, geographic scope or otherwise, the court shall limit or modify the provision to the minimum extent necessary to permit enforcement to the greatest extent permitted by law, and the provision, as modified, shall then be enforced.

20.9. Remedies. Any remedy specified in the Agreement will be in addition to and not in lieu of, and will be without prejudice to, any other rights and remedies which a party may have under the Agreement or under applicable law.

20.10. Headings. The headings in the Agreement are solely for convenience of reference and shall not affect its interpretation.

20.11. Joint Drafting. For purposes of interpreting the Agreement, both parties shall be deemed to have drafted this document jointly. The parties acknowledge that each has had an opportunity to fully consider the terms of the Agreement, that each has been advised by this writing to consult with an attorney in connection with the terms of the Agreement and that each has independently chosen either to follow or to disregard the advice of the party's own attorney.