Terms of Service (English courtesy translation)

Version 1.0, courtesy translation of the French version 1.0. Each version of the Terms of Service is dated and archived. A free evaluation remains governed by the version accepted when it was opened; an Order Form, by the version in force when it was signed, unless amended as provided in article 10. Only the French version is binding: in case of divergence, the French version prevails (article 15.6 of the Terms of Service).

Publisher: WhoHeld, société par actions simplifiée unipersonnelle with a share capital of 1 000,00 euros, registered office 49 cours Mirabeau, 13100 Aix-en-Provence, France, Trade and Companies Register (RCS) Aix-en-Provence 130 164 783, VAT FR 06 130 164 783 (the "**Publisher**").

Contract between professionals. The Services are intended exclusively for professionals acting in the course of their business. The Order Form records the declarations used to check whether article L.221-3 of the French Consumer Code (code de la consommation) applies; where it does, the Publisher provides the information and the withdrawal form required by that code.

Article 1. Purpose and documents

1.1 Purpose. The Publisher provides, as software as a service, the **WhoHeld** analytics platform (the "**Platform**") and the associated services (the "**Services**"), which report indicators on the commercial presence of products on online marketplaces. **The Order Form alone defines what is due**: features, Markets, Scope, Users, committed collection frequency (service level, article 6.2). A feature that does not appear in it is not due, even if the Platform offers it.

1.2 Documents. The contract (the "**Contract**") comprises, in decreasing order of precedence: the Order Form signed by both Parties, the Personal Data Annex (the "**Data Annex**"), these Terms of Service and their price schedule. The Client's purchasing conditions are not enforceable against the Publisher, unless accepted by the Publisher in writing.

1.3 Single basis. The Terms of Service and the price schedule, provided before any order, constitute the **single basis for commercial negotiation** (paragraph III of article L.441-1 of the French Commercial Code (code de commerce)); the Order Form constitutes the special conditions of sale.

1.4 Formation, in two stages.

a) Free evaluation. Opening a free access entails acceptance of **only articles 1.5, 2, 3.2, 3.3, 3.4, 3.4a, 3.6, 8.4, 15 and 16**, as well as **Part III of the Data Annex and its Annex 1** (sub-processors), together with the provisions of that annex to which Part III refers, which form, for the Users' data, the contract provided for in article 28 of Regulation (EU) 2016/679; during the evaluation, article B.3 of the

Data Annex is replaced by the "At expiry" paragraph of article 1.5. Together, these provisions form the conditions of the evaluation, article 2 being included only to give meaning to the terms they use, without extending the commitment beyond what those articles provide. Acceptance is given by ticking the box provided when the access is opened. **It binds only the company in whose name the access is opened, and for the evaluation only**: no use of the Platform, by any user whatsoever, constitutes acceptance of a paid commitment. **No other provision of these Terms applies during the evaluation**: nothing is due, no invoice is issued, no renewal occurs. Articles 15 and 16 apply as **general provisions necessary to frame the evaluation**: force majeure, subcontracting and hosting, assignment, commercial references, compliance and evidence, forms of notification, language, governing law and jurisdiction. **They create no commercial, financial or duration commitment, nor any paid subscription.** By way of exception, the references in article 15.5 to article 11.3 and in article 3.6 to article 7.3 do not apply during the evaluation: use manifestly contrary to article 3.6 or a breach of security allows the Publisher to interrupt the evaluation, and it may be terminated under the conditions of article 1.5.

b) Paid Services. The Contract is formed upon signature of the **Order Form by both Parties**, which entails acceptance of these Terms and of the Data Annex in their entirety. It alone defines what is due and starts invoicing. An electronic signature constitutes evidence.

1.5 Free evaluation. The Publisher may open for the Client, on a restricted scope indicated in writing when it is opened, a free evaluation (the "**free evaluation**" or "**trial**") during which it invites, alone and at its discretion, Users whose email address belongs to the domain of the Client's company or of a company of its group. **Each invited User has a personal access of fourteen (14) days** from his or her first login, which ends at midnight, Paris time, at the end of the fourteenth day. The accesses of several Users each run separately and may follow one another. The Publisher may, at its sole discretion, extend an access or open others, without ever being bound to do so. **Opening an access for one User gives the Client no right to the opening of other accesses**, nor to the extension of an access, nor to their maintenance beyond the expiry date of each: the Publisher alone decides on each invitation and each extension. Where the scope includes Ask WhoHeld, it is opened only from the date it is made available (article 2 of the price schedule), and its use is limited, for each User, to **one hundred (100) questions for the entire duration of his or her access**, all Markets combined; unused questions are not carried over from one User to another. These conditions also cover the analyses and extracts provided before the access is opened. **The evaluation is a non-production version provided for testing and evaluation purposes for a limited period of time: the obligations on switching between data processing services do not apply to it (article 31(2) of Regulation (EU) 2023/2854), and article 12 applies only to the paid Contract.**

Nothing is due, nothing is triggered. No payment, no tacit renewal, no direct debit, no exclusivity. **The evaluation never becomes a Contract**: subscribing requires a signed Order Form. The Client may end it at any time, by simple email; the Publisher may end it under the conditions of the "Early termination" paragraph below.

A service provided for testing purposes. The Services are provided without any commitment as to availability, timing, support or freshness, and without any obligation of result. **The Publisher nevertheless uses reasonable means to ensure that the Platform operates normally during the evaluation and to inform the Client of any known anomaly affecting the reading of the Results.** Some indicators are estimates, the scope is reduced and the history may be incomplete. The

Results are a decision-making aid: the Client remains the sole decision-maker for its commercial and pricing actions.

Early termination. The Publisher may end the evaluation, or the access of a User, at any time, in writing, with **three (3) business days'** notice. It may end it **without notice**, informing the Client in writing, if the Client or a User carries on a business that competes with the Publisher's, in the event of a breach of articles 3.2 to 3.4 or 3.6, for a technical or security reason, or in the cases of article 15.5. No compensation is due for an early termination.

Liability. The Publisher is bound to keep an access open only until its expiry date or until the early termination provided for above. For all causes and all damages combined, its liability in respect of the evaluation is limited to **one thousand (1,000) euros**. This limit does not apply in the event of fraud (dol), gross negligence (faute lourde) or personal injury. For a breach of article 8.4 or compensation due under article 82 of Regulation (EU) 2016/679, it is raised to **two thousand (2,000) euros**.

Use and confidentiality. Articles 3.2 (restrictions), 3.3 (disclosure of Results), 3.4 (artificial intelligence), 3.6 (use in compliance with competition law) and 8.4 (confidentiality, reciprocal) apply in full and **survive the end of the evaluation**, as do articles 15 and 16 for the purposes of those surviving provisions.

Personal data. The only personal data processed on behalf of the Client are those of its users: in particular surname, first name, professional email address, company, role and rights (exact inventory in table B.1 of the Data Annex). The Publisher processes them on the Client's instructions, solely for the purposes of opening and securing accesses and providing the evaluation Services, including service messages and requested alerts; it transmits them only to the sub-processors listed in Annex 1 of the Data Annex, and deletes them under the conditions below. In addition, on the basis of its legitimate interest and as controller, it processes the data necessary to support the evaluation, under the conditions of its Privacy Policy. **The Publisher requests no access to the Client's merchant account and processes no buyer or order data.** The Personal Data Annex, available at https://whoheld.com/trust/data-processing, details these commitments and is signed upon simple request.

At expiry. Each User's access closes on its own expiry date, and his or her User account is deleted within **thirty (30) days** after that date, unless a subscription is taken out within that period. The evaluation ends **fourteen (14) days** after the last access closes, an invitation that has not been followed by a first login within fourteen (14) days no longer delaying its end; until then, the Publisher may keep refreshing the data of the scope. When the evaluation ends, the data are no longer refreshed, and the remaining alert settings and User accounts are deleted within **thirty (30) days**, unless a subscription is taken out within that period; the scope settings established by the Publisher (references, categories and shelves tracked) are kept in non-nominative form. The Client keeps, for its internal use and without redistributing them, only the summary deliverables provided to it during the evaluation (monthly review, files); it keeps no Market Data and no other Result, except the occasional extracts it included in its internal documents during the evaluation, including Ask WhoHeld answers it copied, provided it no longer updates them from the Platform, does not communicate them outside the conditions of article 3.3 and builds no database from them.

Governing law and jurisdiction of the free evaluation

The evaluation is governed by French law. In the event of a dispute, the Parties shall seek an amicable solution within thirty (30) days of its written notification; failing that, and

subject to mandatory rules of jurisdiction, **the Commercial Court of Aix-en-Provence (tribunal de commerce d'Aix-en-Provence), or the court succeeding it, has jurisdiction** (article 16).

This provision is reproduced here conspicuously, in accordance with article 48 of the French Code of Civil Procedure (code de procédure civile).

Article 2. Definitions

Term	Definition
Client	Legal entity identified in the Order Form or, during the free evaluation, the company in whose name the access is opened (article 1.4 a); subscribing for its own needs; together with the Publisher, the "**Parties**".
User	Natural person, employee or agent of the Client or of a company which controls it, which it controls or which is under the same control as it within the meaning of article L.233-3 of the French Commercial Code (the Client's "**group**"), that company being established in the European Economic Area or in the United Kingdom, or designated in the Order Form under the conditions of article 3.1, or a service provider acting solely for the Client's needs under the conditions of article 3.3, authorised by the Client by means of personal credentials attached to a professional email address of one of those companies or, for a service provider, of its employer. Each User has access to all the Markets subscribed by the Client.
Market	A country's marketplace, the unit of invoicing. The list of available Markets is **kept up to date by the Publisher** in the price schedule (article 1); only the Markets that appear there, and that are listed in the Order Form, may be subscribed.
Scope	Catalogue references and market segments tracked, defined in the Order Form. The number of catalogue references is not limited; neither this number, nor that of the brands they cover, nor that of the market segments has any effect on the Fees.
Features	The features listed in article 2 of the price schedule, in particular Hyper Care, the hero pack, the monthly business review (MBR), the annual negotiation pack and Ask WhoHeld. A "case" is the action record opened by the Platform on a reference.
Client Data	Data transmitted or entered by the Client: its catalogue (product base), its declarations in the Platform (seller roles, watch lists, declared operations, status and actions of cases), its settings, its User accounts and the data on its business that it enters into the Platform.
Market Data	Data on the competitive environment **as collected**, from public sources and licensed providers: time-stamped observations of price, offer, Buy Box holder, rank or availability, at the level of the observation, **including where they relate to the references of the Client's catalogue**.
Results	What the Platform **produces** from the Market Data and reports to the Client: indicators, scores, shares, aggregated series, rankings, alerts, Ask WhoHeld answers, summary deliverables. A Result may contain a seller name, a price and a date: what distinguishes it from Market Data is not its content, but the fact that it has been produced and selected by the Platform. **Results are consulted in the Platform; only the summary deliverables are provided to the Client as documents.**
Summary deliverables	Summary documents that the Platform provides to the Client: monthly review (MBR), negotiation pack, event report.
Fees	

Term	Definition
	Sums due in respect of the Services, excluding set-up fees. For annual payment, the *Monthly Fee* is one twelfth of the annual fee.
Aggregated Statistics	Statistics derived from the use of the Services and from the Market Data, produced by means of a mechanism designed for anonymisation (thresholds and limits of article 8.3), **intended to be subjected to a documented re-identification test before any publication**, and **designed so as not to allow the identification** of a person, the Client, a User or a reference.

Article 3. Right of use

3.1 Extent. Subject to payment of the Fees, the Publisher grants the Client, for the duration of the Contract, a **personal, non-exclusive, non-transferable and non-sublicensable** right to use the Platform and the Results, for its internal needs and within the limits of the Order Form, without any assignment of intellectual property and subject to article 12.3. The Client may extend it to the companies it controls, which control it or which are under common control (article L.233-3 of the French Commercial Code), for which it is answerable. **Only a group company established in the European Union or in the United Kingdom may sign the Order Form as the Client.** The group companies designated in the Order Form, including those established outside the European Union and the United Kingdom, benefit from the right of use under the responsibility of the Client, which is answerable for their acts as for its own; they acquire no right of their own under the Contract and have **no direct claim against the Publisher**, any claim concerning them being brought by the Client, under the conditions and within the limits of the Contract. **The designation of a company established outside the European Economic Area and the United Kingdom requires the Publisher's prior written consent**, access to the Results from that country being governed by the safeguards of article C.2 of the Data Annex. The browser extension, subject to these Terms of Service and described in the Privacy Policy, is installed under the Client's responsibility.

3.2 Restrictions. The Client and its Users shall not:

a) reproduce, adapt or decompile the Platform, except as permitted by article L.122-6-1 of the French Intellectual Property Code (code de la propriété intellectuelle); b) assign, rent, resell, make available to a third party or commercially exploit the Services, the Platform, the Market Data, the Results or the summary deliverables, without prejudice to article 3.3; c) **expose programmatic access to the Market Data or to the Results to a third party** (relay interface, feed, replication, sub-account, intermediation), or make a systematic copy of them outside the Platform, without prejudice to articles 3.3 and 3.4a; d) extract or reuse the content of the Publisher's databases, substantially or by repeated extractions (articles L.342-1 and L.342-2 of the same code); e) circumvent protection measures or volume limits, or access by unauthorised automated means; f) use the Market Data, the Results or the summary deliverables to design, feed or improve a competing commercial offering, **during the Contract and after its end**, excluding prior activities and internal tools; g) publish, without the Publisher's prior written consent, benchmarks or comparative performance measurements of the Platform, or give access to the Platform, the Results or the summary deliverables to a competitor of the Publisher or to a service provider acting on its behalf.

The observations collected by the Publisher on the references of the Client's catalogue **remain Market Data**: they do not become Client Data because they relate to its products.

3.3 Disclosure and internal use of the Results. Internal use includes consulting the Results in the Platform and using the summary deliverables in the Client's tools (email, presentations, reporting tools), for its own needs. Occasionally reusing a Result in an internal document is not programmatic access within the meaning of article 3.2.

The Client may disclose the Results, even regularly, to the companies of its group, to its advisers, to its e-commerce agencies and service providers and to its contacts within the marketplaces, on two conditions: they are **processed** and not raw or capable of reconstruction, and the recipient is bound by confidentiality equivalent to article 8.4. **It may not, however, open access to the Platform to a third party**, including its own customers; such an extension requires a separate contract. **Only its employees and the service providers acting solely for its needs may be designated as Users, to the exclusion of agencies serving other clients**, to which processed Results may, however, be disclosed under the conditions above.

Examples, given by way of illustration and not limitation (the criterion remains the one stated above):

Item	Client's internal use	Disclosure to an authorised third party	Internal artificial intelligence tool (article 3.4)
Indicator aggregated by reference, holding share, score, ranking	Yes	Yes	Yes
Summary deliverable (monthly review, annual negotiation pack)	Yes	Yes	Yes
Line-by-line, time-stamped price or holding series, per seller	Yes, in the Platform	No (capable of reconstruction)	No (equivalent to Market Data)

The first column is not a tolerance: it is the right of use itself, for the duration of the Contract; in addition, article 12.3 allows the Client to keep, after the end of the Contract, the summary deliverables provided to it and the occasional extracts already included in internal documents. What this article governs is the **release** of the Results (to a third party or to an artificial intelligence tool), never their internal exploitation.

In case of doubt about a deliverable, the Client may ask the Publisher for a written qualification, which is provided free of charge.

3.4 Artificial intelligence. The Client may submit the Results to the artificial intelligence tools it uses for its internal needs, subject to a twofold condition: that the data are not used to **train, fine-tune or evaluate a public or pooled model**, and that they are not redistributed to third parties outside article 3.3. The Client shall not, however, provide the **Market Data** to any third-party artificial intelligence system whatsoever. **It ensures that its Users submit to these tools only Results whose use is authorised by this article**, to the exclusion of any copy or dataset allowing a substantial reconstruction of the Market Data; the table of examples in article 3.3 serves as a reference. Reciprocally, **the Publisher shall not train a model on the Client Data of one Client for the benefit of another**; only the Aggregated Statistics are used to improve the Services.

3.4a Connector for artificial intelligence assistants. When the Publisher makes it available, and only for the Markets subscribed in Lead+, the Client may authorise an artificial intelligence assistant that it has subscribed for its internal needs to read its Results through the Platform's connector, under the identity and within the rights of the User who authorises it. The connector is **included in Lead+, with no separate fee**. It returns only Results, read-only, through closed tools: never Market Data, a time series or a free query. It is the only programmatic access permitted within the meaning of article 3.2(c), and article 3.4 applies to it: the Client connects to it only an assistant whose terms exclude training, fine-tuning or evaluating models on its data. **The Client is answerable for the assistant it authorises, for its provider and for the use it makes of the Results so received**, including the seller names they contain (article A.5 of the Data Annex). Systematic extraction through the connector remains prohibited (article 3.2(d)) and volume limits apply. The Publisher may suspend the connector, for a User or for the Client, in the event of a threat to security or of use contrary to this article, without affecting access to the Platform. An authorisation may be withdrawn at any time, from the Platform where it allows it, failing that by written request to the Publisher. **The Publisher is not answerable for the answers that the Client's assistant writes from the Results, nor for their errors, nor for decisions taken on their basis**: only the Results displayed in the Platform are authoritative. The Publisher can neither retrieve nor have deleted the Results already read by the assistant; their retention and deletion are the Client's responsibility, including when a seller exercises their rights (article A.4 of the Data Annex).

3.5 Certification and non-exclusivity. Upon reasoned written request, no more than once a year, the Client provides the information reasonably necessary to verify compliance with articles 3.2 and 3.3, on which compliance with the Publisher's licences depends. This information is provided subject to confidentiality and **without access to the Client's systems**. The Publisher freely serves any other client, including a competitor of the Client, without exclusivity of sector, category or territory; article 8.4 and the segregation of data apply without reservation.

3.6 Use in compliance with competition law. The Services are an instrument for observing public facts. The Client shall not use them to: impose or enforce a fixed or minimum resale price, or an unlawful minimum advertised price; threaten, penalise, reduce discounts, restrict the supply of a reseller or terminate a commercial relationship **because of its resale price**; coordinate a pricing policy with a competitor; unlawfully restrict passive or cross-border sales; or pass non-public commercial intentions of a competitor through the Services. **In the event of use manifestly contrary to this article, the Publisher may suspend access under the conditions of article 7.3.** The Client remains responsible for the lawfulness of its downstream decisions and uses, without prejudice to the Publisher's own obligations relating to the design and provision of the Services.

Article 4. Scope

The Order Form sets the Scope, that is to say the brands and categories whose catalogue references are tracked, **with no limit on the number of references**, and, in Lead and Lead+, the market segments tracked, which are the shelves of its categories, chosen by the Publisher with the Client, **with no limit on their number and no additional Fee** (the number of Users also being unlimited, article 1 of the price schedule), as well as the committed collection frequency (the minimum number of observations guaranteed per month for the tracking level subscribed, article 6.2); the Publisher monitors its actual use. **This committed frequency is a service level due to the Client: it determines neither the**

sources, nor the method, nor the actual schedule of the collection pooled between Clients, which remain determined by the Publisher alone (Data Annex, article A.1).

Article 5. Provision of the Services

5.1 Best-efforts obligation. The Publisher is bound by a **best-efforts obligation (obligation de moyens)** and guarantees no commercial result, subject to article 6. It informs the Client, through the Platform's changelog or by email, of changes that significantly alter the reading of the Results and of known methodological limits. **The Results, including any prioritisation, any flag, any suggested action and any estimate or prediction they contain, constitute a decision-making aid: the Client remains the sole decision-maker for its commercial and pricing actions, and solely responsible for the decisions it takes, including on the basis of the Results.** Estimates and predictions are probabilistic indicators, flagged as such in accordance with article 5.2, with no guarantee of accuracy or completeness; a realisation rate observed over a past period is no indication of future periods and creates no service level within the meaning of article 6. **The Results are neither advice nor a management, investment or pricing recommendation. The Publisher's only quantified commitments are those of article 6, of which article 6.4 is the exclusive remedy**, under the conditions it provides. **The Services trigger no automated action on the Client's sales channels: no change of price, offer or content is executed by the Platform, whatever the estimate or prediction displayed. Ask WhoHeld's answers are generated automatically by an artificial intelligence system from the Results; they may be inaccurate or incomplete and do not constitute certified Results: only the indicators displayed in the Platform are authoritative.** An update to a case proposed by Ask WhoHeld applies only after explicit confirmation by the User.

5.2 Origin of the data and limits. The Market Data come from publicly accessible sources and licensed providers; the Publisher warrants that it holds the rights necessary to provide the Services, on the terms of article 13.4, and alone bears the relationship with those providers, with which the Client has no relationship. The Client is informed that:

- the Results are based on observations at a **given frequency**, not on continuous capture; the Platform indicates the freshness and coverage of the data;
- certain indicators, flagged as such, derive from **estimation methods** based on indirect indicators and not on published sales;
- amounts in several currencies are **neither converted nor consolidated**;
- the Results **are no substitute** for the Client's own data or for the information of the marketplaces;
- the Results **depend on the marketplaces**: a change in the display of their pages or in the conditions of access to their data may make a measurement unavailable, incomplete or less frequent, **without any breach by the Publisher**, which informs the Client under the conditions of article 5.1.

5.3 Dependence on a provider. If a provider terminates the Publisher's licence, substantially modifies its terms or durably interrupts its service, making an indicator of the Order Form impossible, the Publisher informs the Client **within fifteen (15) business days of becoming aware of the event** and seeks a substitute source. The Client may then terminate without compensation, with pro rata refund, and retrieve its Client Data under the conditions of article 12. **This option is the only consequence of**

such an event, to the exclusion of any compensation. The commercial termination of a data supply contract **is not a case of force majeure** (article 15.1).

Article 6. Service levels and credits

6.1 Availability. The Publisher commits to **99% per calendar month**, measured on accesses to the interface by the monitoring tool that the Publisher sets up no later than the effective date of the first Order Form, whose records for the month are provided on request. Excluded are scheduled maintenance, announced in the Platform, and emergency security maintenance, within the respective limit of four (4) and two (2) cumulative hours per month; beyond that, the unavailability is counted. Also excluded is any cause external to the Publisher, in particular the act of the Client, of its network, of a third party acting for it, of upstream networks, **an outage of one of the Publisher's hosting or data providers**, or force majeure.

6.2 Freshness. Over a calendar month, **at least 95%** of the catalogue references of the Scope reach the **minimum number of observations** stipulated in the Order Form for their tracking level; the hero pack references are assessed separately, under the conditions of article 3 of the price schedule. A reference is deemed compliant as soon as that number is reached, whatever the distribution of the observations over the month; the Publisher provides the measurement on request, no more than once a month. Market watch (market segments of the Scope) follows its own, significantly less frequent, cadence: **no daily or intraday freshness commitment applies to it**. Excluded from the commitment and from its denominator, and flagged as such, are references whose collection is prevented by a cause external to the Publisher, in particular the modification or disappearance of a listing, a block by the marketplace, the unavailability of a provider or an erroneous reference.

6.3 Support. contact@whoheld.com, Monday to Friday from 9 a.m. to 6 p.m. (Paris time), excluding French public holidays and closures announced as soon as possible, and five (5) business days in advance when they are planned. The severity levels, their definition and the response times are set by the **support grid in article 9 of the price schedule**. **Only the response times in that grid constitute a commitment**; restoration times are targets, and the Publisher gives notice as soon as it anticipates being unable to meet one. **Exceeding a support time gives rise to no compensation, credit or damages**, except in the event of fraud or gross negligence (article 13.3). Shorter response times, a priority channel and extended hours fall under the so-called Enterprise offering and are stipulated in the Order Form.

6.4 Compensation. Where a threshold of articles 6.1 or 6.2 is not met over a month, **the Client may request in writing an extension of its subscription**, granted free of charge:

Finding for the month	Extension
Availability between 98.0% and 99.0%	2 days
Availability below 98.0%	5 days
Freshness below 95%	2 days

Extensions are cumulative within the limit of **five (5) days per month** and postpone the end of the current period accordingly.

If the Contract ends before the extension can be exercised, or if the Client so requests, it is converted into a credit of equivalent value, set off against the next invoice or refunded within thirty (30) days.

The compensation constitutes the Client's **flat-rate and exclusive indemnity** in respect of articles 6.1 and 6.2, **except in the event of fraud or gross negligence of the Publisher**. If availability is below 95% for three (3) consecutive months, the Client may terminate without compensation, with effect at the end of the month following notification, with pro rata refund.

Article 7. Access and security

7.1 Client. Access is by **personal** credentials, which the Client protects and for whose use it is answerable. It activates two-factor authentication when offered, revokes the accesses of departing persons without delay, reports any unauthorised use within forty-eight (48) hours and refrains from any unauthorised penetration testing. It designates at least one administrator User, who invites and removes Users from the Platform where the Platform allows it, failing which by written request to the Publisher; these actions are logged and the Publisher is informed of them. The Client keeps the list of its Users up to date and is answerable for the presence among them of any person who has left its group or no longer needs to access the Services.

7.2 Publisher. The Publisher implements appropriate technical and organisational measures, including encryption of data flows, segregation of data between clients and logging of administrative operations, detailed in the **Security annex** of the Data Annex, which forms part of the Contract. It may modify them only in an equivalent or higher direction; any change lowering the level of protection is notified thirty (30) days in advance and, if substantial, gives rise to a right of termination without compensation within thirty (30) days, with pro rata refund. Except for personal data breaches, which are governed by the Data Annex, it informs the Client, in the Platform or by email, **no later than ten (10) business days after its qualification** of any **significant and lasting** incident affecting the integrity, accuracy or availability of the Results concerning the Client, and indicates the corrective measures.

7.3 Suspension. The Publisher may suspend access in the event of a proven threat to security, of use manifestly contrary to articles 3.2 or 3.6, or of non-payment; except in a security emergency, it is preceded by a formal notice that has remained without effect for fifteen (15) days. Suspension does not constitute termination, does not suspend payment and ends as soon as its cause ceases.

Article 8. Data, rights and confidentiality

8.1 Client Data. The Client Data are the **exclusive property of the Client**, which grants the Publisher, for the duration of the Contract only, a non-exclusive licence to host, reproduce, process and display these data, **strictly limited to the performance of the Services**, including support, backup and security. **This licence automatically ends at the end of the Contract**; the Publisher refrains from any subsequent use, subject to article 12, to legal retention obligations, to the processing for which the Data Annex makes it the controller and to backups purged according to their cycle. The Client warrants that it holds the necessary rights to these data.

8.2 Publisher's rights. The Publisher holds, or is licensed, the copyright in the Platform, its interfaces and its code, the database producer's right in the databases it builds (articles L.341-1 et seq. of the French

Intellectual Property Code) and trade secret protection over its analysis methods (articles L.151-1 et seq. of the French Commercial Code). The Results are produced by the Publisher, the Client acquiring a right to use them within the limits of articles 3 and 12.3. This article confers **no exclusive right over raw data freely accessible to the public**, which everyone remains free to collect by their own means.

8.3 Aggregated Statistics. The Publisher may produce and exploit Aggregated Statistics to improve the Services and publish market analyses, no publication being based on fewer than **five (5) clients or five (5) distinct brands**, nor on a level of granularity at which one of them would represent **eighty-five percent (85%)** or more of the total observed, this second threshold preventing a formally sufficient count from nonetheless allowing the identity of a dominant player to be reconstructed. It publishes no data allowing the Client, its brands or its products to be identified. **Furthermore, the Aggregated Statistics may neither incorporate nor reveal, directly or indirectly, future commercial intentions or non-public commercially sensitive information of one Client for the benefit of another Client or of a competitor; any cross-client statistic is subject to sufficient aggregation and age in view of the concentration of the market and the sensitivity of the information concerned.**

8.4 Confidentiality. Confidential information is the information that a Party discloses to the other under the Contract or the evaluation and that it designates as such, or whose confidential nature is obvious: in particular, for the Publisher, its methods, its negotiated commercial terms, the Results, the summary deliverables and its non-public documentation, without prejudice to article 3.3; for the Client, the Client Data and its commercial intentions. Each Party refrains from disclosing the other's confidential information, protects it at least as it protects its own and uses it only for the performance of the Contract, during the Contract and for **five (5) years** after its end, without limit of time for trade secrets. Excluded is information that is public without breach, already known, lawfully received from a third party not bound by secrecy, or independently developed; in the event of an order from an authority, the Party required to disclose informs the other without delay, to the extent permitted by law.

8.5 Developments and feedback. Unless otherwise stipulated in the Order Form, developments carried out at the Client's request remain the property of the Publisher, which may integrate them into its standard offering, the Client benefiting from them at no extra cost; the Publisher freely exploits the Client's suggestions that contain no Client Data and no confidential information.

Article 9. Financial terms

9.1 Fees and taxes. The Services are invoiced per **Market** and per month according to the price schedule and the Order Form, **in euros and excluding taxes**; set-up fees are invoiced once if the Order Form so provides. VAT follows the rules applicable to the Client's place of establishment: if the Client is registered for VAT in another Member State of the European Union, it is invoiced exclusive of tax and **self-accounts for the tax (reverse charge)**, provided it communicates a valid identification number; outside the European Union, it is invoiced outside the scope of French VAT. Any withholding tax is borne by the Client and increases the payment accordingly.

9.2 Invoicing and payment. Monthly invoicing in advance; for annual payment in advance, the invoice is issued on the effective date of each period. Invoices are transmitted electronically on the dates and in the forms provided for by the regulations, the Client communicating the details of its receiving platform and its SIREN number or, if it is established outside France, its equivalent identifier. They are payable

thirty (30) days from the invoice date, within the limit of paragraph I of article L.441-10 of the French Commercial Code; **no discount is granted for early payment**; the reduction attached to an annual commitment, which is not a settlement discount, appears in the price schedule. Any dispute is sent in writing and substantiated within thirty (30) days, without authorising the withholding of undisputed sums.

9.3 Late payment. Any late payment automatically entails, without formal notice, **penalties** at the most recent refinancing rate of the European Central Bank plus **ten (10) percentage points** and a **flat-rate indemnity of forty (40) euros per unpaid invoice** for recovery costs (paragraph II of article L.441-10 and article D.441-5 of the French Commercial Code), without prejudice to additional compensation on supporting evidence. After a formal notice that has remained without effect for fifteen (15) days, the Publisher may suspend the Services (article 7.3).

9.4 Change of circumstances. If the cost of acquiring the Market Data increases by more than **thirty percent (30%)** during a contractual period as a result of a provider's decision, the Parties renegotiate in good faith within thirty (30) days; failing agreement within sixty (60) days, each may terminate without compensation, with pro rata refund. The Parties exclude article 1195 of the French Civil Code (code civil) in favour of this mechanism.

Article 10. Changes to the service, prices and Terms of Service

The Publisher gives the Client the benefit of changes to the Platform at no extra cost and may modify the features to improve them or adapt them to a technical, regulatory or data source constraint. Changes affecting the Contract follow the table below.

Change	Notice	Client's right
Removal of a substantial feature of the Order Form	60 days, or without delay upon knowledge if a provider or a marketplace imposes it with shorter notice	Termination without compensation in writing within 30 days, pro rata refund, retrieval of the Client Data under article 12
Revision of the price list, once per twelve (12) month period	60 days before entry into force; effective at the next renewal	Termination in writing within 30 days of notification, without the notice period of article 11.2 being enforceable
Modification of the Terms of Service	60 days before entry into force; for an annual commitment, effective at the next renewal. Upon notification if a law, an authority or a provider imposes it	If it adversely and substantially affects its rights: termination without compensation in writing within 30 days

---

Article 11. Term, termination and survival

11.1 Term. The Contract takes effect on the effective date stipulated in the Order Form (failing which, on the date of its signature) and is tacitly renewed **monthly**, unless a different term is stipulated in the Order Form.

The Client may opt for an **annual commitment with annual payment in advance**, which entitles it to the reduction set out in the price schedule; the Contract is then tacitly renewed for periods of twelve (12) months.

11.2 Expiry. In the absence of an annual commitment, each Party may end the Contract in writing: the Client **at any time, with effect at the end of the current month**, without notice; the Publisher **subject to sixty (60) days' notice**, with effect at the end of the month in which that notice expires. No compensation is due.

In the case of an annual commitment, and subject to article 12.1, termination takes effect at the end of the current period, in writing **at least one (1) month** in advance; failing that, the Contract continues under article 11.1 and the Order Form.

All of the above is without prejudice to article L.442-1 II of the French Commercial Code.

11.3 Breach and insolvency proceedings. In the event of serious breach, the other Party may terminate automatically fifteen (15) days after a formal notice sent by registered letter has remained without effect; where the Publisher is at fault, it refunds pro rata, within thirty (30) days, the period paid for and not performed. In the event of safeguard, receivership or compulsory liquidation proceedings (sauvegarde, redressement or liquidation judiciaire), the fate of the Contract is governed by articles L.622-13, L.631-14 and L.641-11-1 of the French Commercial Code: **no termination may result solely from the opening of the proceedings**, the Publisher retaining the option to suspend for non-payment of post-opening claims.

11.4 Effects and survival. At the end of the Contract, the right of use ceases and accesses are closed, subject to article 12; sums that have fallen due remain payable. Articles **1.5, 2, 3.2, 3.3, 3.4, 3.5, 3.6, 6.4, 8, 9, 11.4, 12, 13, 14, 15 and 16** survive for their own duration, article 8.3 insofar as it authorises the continued exploitation of Aggregated Statistics compiled before the end.

Article 12. Reversibility and continuity

12.1 Exportable data. The Client may retrieve, free of charge, its **Client Data** in a structured, commonly used and machine-readable format (CSV, with a description of the fields, published in advance in the export formats register, https://whoheld.com/trust/export-formats): at any time from the interface for its catalogue, in a format it can import again, and upon written request for its other Client Data, which the Publisher provides within fifteen (15) business days. The categories of data, and whether they are exportable within the meaning of article 2, point 38, of Regulation (EU) 2023/2854 (the "**Data Act**"), are specified exhaustively below (article 25(2), points (e) and (f), of that regulation):

Category	Exportable	Basis
Declared catalogue and decisions on the catalogue, brands, categories and shelves chosen, pack sizes entered	Yes: catalogue from the interface, the rest on request	Input data entered by the Client
Seller roles, Hyper Care lists, hero pack, declared operations, status, actions and history of follow-up files (without amounts or market measurements), feedback sent to the	Yes, on request	Input data entered by the Client and metadata of its use

Category	Exportable	Basis
Publisher, questions asked to Ask WhoHeld, acceptances of the terms		
Alert subscriptions and settings, list of Users and their rights	Yes, on request	Input data and metadata of the Client's use
Summary deliverables (monthly review, negotiation pack, event report)	Provided to the Client as documents during the Contract; may be kept after its end (article 12.3)	Output data already provided
Market Data	No	Database of the Publisher and of its providers, protected by the database maker's right (articles L.341-1 et seq. of the French Intellectual Property Code) and by the licences of those providers, which prohibit redistribution
Other Results (indicators, scores, series, rankings, alerts, Ask WhoHeld answers)	No; may be consulted and occasionally reproduced during the Contract (article 3.3)	Extracts of the Publisher's database: their systematic export, for one Client over the term of the Contract, would be an extraction of a substantial part of the database (article L.342-1 of the same code) or a repeated and systematic extraction of parts that clearly exceeds the normal conditions of use of the database (article L.342-2), and calculation methods protected as trade secrets (articles L.151-1 et seq. of the French Commercial Code)
Data specific to the internal functioning of the Platform (technical logs, collection queues, calculation parameters)	No	The Publisher's trade secrets and the security of the service; this exclusion neither prevents nor delays switching

Switching of provider. A Client that intends to switch provider or to take its data back onto its own systems notifies the Publisher in writing, with notice of its choice of **no more than two (2) months**. When that notice expires, a **transitional period of thirty (30) days** begins, during which **the Contract continues to apply**: the Publisher maintains the Services and access, the Fees remaining payable pro rata for that period; it provides the Client, and third parties the Client authorises, with reasonable assistance, informs it of known risks to the continuity of the service and maintains a high level of security. The Client may extend this period **once**, for the duration it considers appropriate, in writing before it ends. The Contract ends when switching is completed, as notified by the Client, and at the latest at the end of the transitional period. The Contract ends on that date **even during an annual commitment**. The financial consequences of such early termination are those of an early termination, distinct from the switching charges of article 29 of the Data Act: the period elapsed up to the end of the Contract is recalculated at the monthly price **without the annual commitment discount** (article 4.2 of the price schedule), pro rata to the day for the last month begun, and the Publisher refunds within thirty (30) days the difference between the sum paid and that amount where it is positive; where it is zero or negative, nothing is refunded and **no additional payment may be claimed**, the loss of that discount being the only penalty for early termination; no other sum is due, and any part of the transitional period exceeding the paid period is payable pro rata. Reasonable assistance covers delivery of the Client

Data archive, answers to the questions of the Client and of the third parties it designates on its content and formats, and continued access during the transitional period; further assistance may be ordered on the basis of a quotation. **A Client that only requests the erasure of its data**, without switching provider, is subject to no transitional period: the Contract ends at the end of the notice it has given, of no more than two (2) months (article 25(2)(c) of the Data Act), including during an annual commitment and with the same financial consequences, and article 12.2 applies at the end of the retrieval period or, at its written request, earlier. **From 12 January 2027, no switching charges are invoiced to the Client** (article 29 of the Data Act); until that date, any charges do not exceed the costs directly incurred by the Publisher.

Retrieval period. Whatever the reason for the end of the Contract, the Client may still retrieve its Client Data, under the conditions of the first paragraph, during a **retrieval period of sixty (60) days** following the end of the Contract. **Neither retrieval nor switching is conditional on the payment of any sum**, sums due remaining payable under article 9.

12.2 Deletion. At the end of the retrieval period, the Publisher deletes the Client Data from its production environments within thirty (30) days, then from its backups within ninety (90) days, keeping only what a legal obligation requires; it provides on request a **written certificate of deletion**.

12.3 Deliverables provided. By way of derogation from articles 3.1 and 11.4, the Client may, after the end of the Contract, keep and consult **for its internal purposes** the **summary deliverables** provided to it during the Contract (monthly reviews, negotiation packs, event reports), without redistributing them. The same applies to the **occasional extracts** of Results it included during the Contract in its internal documents (messages, presentations, notes, article 3.3), including Ask WhoHeld answers it copied: it does not have to remove them after the end of the Contract, provided it no longer updates them from the Platform, does not communicate them outside the conditions of article 3.3 and builds no database from them. This option is granted **as is**, without guarantee of accuracy or obligation to retain or provide a copy, and **never covers the Market Data**, nor the other Results, except the occasional extracts referred to above. **It ceases only for those deliverables whose deletion is required by a supervisory authority or by a data subject's right to object** (article A.4 of the Data Annex).

12.4 Cessation of the Publisher's business. In the event of cessation of business, dissolution or compulsory liquidation, the Publisher or its representative notifies the Client without delay and, **as far as possible**, maintains read access to the Platform and the retrieval of the Client Data (article 12.1) for a reasonable period; it is the Client's responsibility to keep a copy.

Article 13. Liability and warranties

13.1 Excluded damages. Subject to articles 13.3 and 13.4, and in consideration of the price of the Services, the Publisher does not compensate, **whatever their qualification, direct or indirect**: loss of turnover, margin, profit, customers or contract, damage to image, loss of opportunity, the cost of a substitute service beyond the price of the Services, or judgments against the Client in favour of third parties.

13.2 Cap. Each Party's liability, for all causes and all damages combined, is limited to the **amount, excluding taxes, of the Fees paid or payable by the Client for the twelve (12) months preceding the event giving rise to liability**, and may not be lower than twelve (12) months of Fees

calculated on the Order Form in force at that date; this cap is assessed per contractual year and does not apply to the Client's payment obligation. A higher cap may be agreed in the Order Form.

13.3 Exclusions from the cap. Articles 13.1 and 13.2 do not apply, **without limit of amount**, in the event of fraud or gross negligence, of death or personal injury, or of infringement of the other Party's intellectual property rights. Nor do they apply, without limit of amount, to **the Client's breaches of points (b) to (d) of article 3.2**, which infringe the rights of the Publisher and of its providers in the Platform and the Market Data, or to **its indemnity under article 13.4**. In the event of a breach of article 8.4, of any other breach by the Client of articles 3.2 to 3.4, or of a breach giving rise to compensation under article 82 of Regulation (EU) 2016/679, liability is limited to **twice the cap of article 13.2**. **These limits govern only claims between the Parties (article 82(5) of that regulation) and in no way affect a data subject's right to obtain full compensation from either Party.** A different regime may be agreed in the Order Form.

13.4 Warranties. The Publisher indemnifies the Client against any third-party claim based on the infringement of an intellectual property right **by the Platform**, provided that the Client informs it without delay, leaves it the conduct of the defence and admits no liability. The Publisher may then, at its option and at its own expense, obtain the right to continue the exploitation, make the Platform non-infringing, substitute the source or terminate, refunding the unperformed period within thirty (30) days. It likewise warrants that it holds, over the **Market Data**, **the rights necessary to provide the Services and to grant the right of use under article 3, and to that extent only**: this warranty confers on the Client no right over the Market Data beyond what article 3 grants it, and does not constitute a warranty of a use that articles 3.2 and 3.3 exclude. These same remedies are then its only obligation. **Both warranties of the Publisher under this article, and their remedies, apply within the limit of the cap of article 13.2. They cover only intellectual property rights valid in the European Union or in the United Kingdom, excluding patents, and do not apply to a claim brought before a court of the United States or Canada, or based on their law.** The warranty does not apply if the claim results from non-compliant use, unauthorised modification or a combination with elements it did not provide. The Client reciprocally indemnifies the Publisher against any third-party claim resulting from the Client Data or from non-compliant use.

13.5 Insurance. The Publisher takes out, no later than the effective date of the first Order Form, a professional liability insurance policy with a company of recognised solvency and maintains it during the Contract; the amount of cover and a certificate are provided on request, no more than once a year.

Article 14. Personal data

Each Party complies with the applicable regulations, in particular Regulation (EU) 2016/679 and the amended French Law No. 78-17 of 6 January 1978 (loi Informatique et Libertés).

The Publisher requests no access to the Client's merchant account and processes no buyer or order data; collection is carried out from outside. This results in the following allocation, detailed in the **Data Annex**, which forms part of the Contract: for **market data and data on third-party sellers**, the Publisher is **controller** on its own account and alone bears responsibility for the sources, the methods and the actual frequency of observation, the retention periods and the requests of data subjects, **the Scope subscribed by the Client (article 2) relating only to what is reported to it, not to that determination (Data Annex, article A.1)**; for **User accounts**, it is **processor** (article 28 of

the GDPR) for the management of accounts, rights, authentication and support, and **separate controller** for security, logging, incident detection and the usage measurement necessary for invoicing.

Any change that would lead it to process buyer data on behalf of the Client is the subject of an amendment to the Data Annex; for its own needs, it is controller in accordance with its Privacy Policy.

Article 15. General provisions

15.1 Force majeure. Neither Party is liable for a failure due to a case of force majeure (article 1218 of the French Civil Code), and it informs the other without delay; if the impediment lasts more than sixty (60) days, each Party may terminate in writing, without compensation. The commercial termination of a data supply contract is not a case of force majeure and falls under article 5.3.

15.2 Subcontracting and hosting. The Publisher may use subcontractors, remains responsible for their performance and passes on to them the obligations of articles 7.2 and 8.4; those that process personal data are listed in the Data Annex. It informs the Client of any change of host or of location of the Client Data, **fifteen (15) days in advance if planned, without delay if imposed**, under the conditions of article C.1 of the Data Annex for a subcontractor; **if the hosting leaves the European Union**, the Client may terminate without compensation, with pro rata refund, within thirty (30) days.

15.3 Assignment and change of control. Neither Party may assign the Contract without the prior written consent of the other, except to a company of the same group or in a restructuring, if the assignee offers equivalent guarantees. In the event of assignment or change of control of the Publisher (article L.233-3 of the French Commercial Code), the Publisher informs the Client within fifteen (15) days; **if the acquirer is a competitor of the Client or a company linked to a tracked marketplace**, the Client may terminate without compensation, in writing within thirty (30) days, with pro rata refund.

15.4 Commercial references. The Publisher cites the Client's name, trademark or logo among its references **only with its prior written consent**, given in the Order Form or separately and withdrawable at any time without reason, the reference then being withdrawn within thirty (30) days; any testimonial, case study or communication including figures requires separate consent.

15.5 Compliance and evidence. Each Party declares that it does not appear on a financial sanctions list of the European Union, the United Nations, the United Kingdom or OFAC, nor is owned or controlled by a person appearing on one, and complies with the regulations on sanctions, export control and the fight against corruption that apply to it; any breach is a serious breach within the meaning of article 11.3. This article applies without prejudice to Council Regulation (EC) No 2271/96 of 22 November 1996: neither Party is bound by any undertaking that regulation would prohibit. The Client shall not give such a person access to the Services or the Results, nor use them on its behalf or for its benefit. **If the Client, or a person that owns or controls it, comes to appear on one of these lists, or in the event of a breach of the preceding sentence, the Publisher may, by way of derogation from articles 7.3 and 11.3, suspend access without delay and terminate the Contract automatically, without compensation**; it informs the Client accordingly, and any refund is made only to the extent permitted by the applicable regulations. The Platform's technical logs, connection records and electronic exchanges are authoritative between the Parties, unless proven otherwise.

15.6 Miscellaneous. The Contract creates no partnership, mandate, agency or employment relationship; failure to rely on a provision does not constitute a waiver; if a provision is void, the others

remain in force and the Parties replace it in good faith with a provision of equivalent effect. It expresses the entire agreement of the Parties on its subject matter. The Terms of Service are drafted in French, translations are for information purposes and **the French version prevails**. Formal notices and terminations for breach (articles 9.3 and 11.3) are sent by registered letter, on paper or electronic, to the addresses in the Order Form; other notifications, including termination at term (article 11.2) and requests under article 12, may be made by email to those same addresses; day-to-day exchanges are electronic.

Article 16. Governing law and jurisdiction

The Contract is governed by **French law**, excluding conflict-of-laws rules and the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention).

In the event of a dispute, the Parties shall seek an amicable solution within thirty (30) days of its written notification; **this prior step does not preclude protective or urgent measures, nor an order for payment procedure (injonction de payer)**.

Failing agreement, **the Commercial Court of Aix-en-Provence (tribunal de commerce d'Aix-en-Provence), or the court succeeding it, has sole jurisdiction**, including in the event of multiple defendants, third-party claims for indemnity or urgent proceedings, subject to mandatory rules of jurisdiction (in particular those that allocate actions based on article L.442-1 of the French Commercial Code to specialised courts) and to the ordinary rules of law if the Client is not a trader (commerçant).

This clause is reproduced very conspicuously **in the Order Form** for the paid Services, and **in the box appearing in article 1.5** for the free evaluation, in accordance with article 48 of the French Code of Civil Procedure.

End of the courtesy translation of the Terms of Service, version 1.0. The French version prevails.