



## **Terms of Service – Brands**

*Please read these terms carefully before creating an account*

### **§ 1 Introduction**

1.1 The following terms and conditions (“T&Cs”) apply between Starflow AB (“Starflow”) and any advertiser, which satisfies the criteria in § 2 below (“Advertiser”).

1.2 The T&Cs and any applicable orders placed by the Advertiser shall be collectively known as the “Agreement”. Terms and conditions of the Advertiser do not become part of the Agreement, unless Starflow has accepted them in writing.

1.3 Starflow shall operate a dedicated online platform (the “Advertising Platform”) through which promotional material provided by the Advertiser (the “Advertisements”) can be displayed on photo sharing platforms or website(s) owned, maintained or controlled by third parties (hereafter referred to as “Influencer Site(s)” and the “Influencer(s)” respectively). The Advertiser shall pay Starflow a consideration according to § 3 based on the success of the Advertisements with followers of the Influencer Sites (“Influencers’ Users”).

1.4 By operating the Advertising Platform, and rendering the services according to the Agreement, Starflow acts only as an intermediary between the Advertiser and the Influencer. The Advertiser itself is solely responsible for submitting Advertisements through the Advertising Platform to the Influencer. The Influencers are free to decide whether or not, and to which extent, they display the Advertisements. Starflow has no influence in this regard and thus provides no guarantee that Advertisements will be displayed in a quantity satisfactory for the Advertiser.

### **§ 2 Registration**

2.1 An undertaking offering commercial goods or services can become an Advertiser by signing a contract with Starflow. Starflow may also offer the possibility to register online as an Advertiser. In case such a possibility is implemented by Starflow, and used by an undertaking interested to become an Advertiser, §§ 2.2 subsequently apply.

2.2 Registering an account with Starflow on Starflow’s website(s) requires a “Post Order” to be filled in and submitted, which is done when pressing “POST CAMPAIGN”. At its sole discretion Starflow decide whether or not to enter The Agreement with the Advertiser and give provide access to the Advertising Platform.

2.3 By filling in the Post Order the potential advertiser submits a binding offer to enter into a contract with Starflow according to the T&Cs (the “Advertiser Offer”). All fields of the Post Order, which are marked as being “required”, have to be filled in. Any statements submitted through the Post Order must be complete and correct.

2.4 The Agreement between the Advertiser and Starflow is concluded when Starflow accepts the Advertiser Offer, either by declaring acceptance explicitly, or by otherwise commencing action to fulfil the Agreement.

2.5 Starflow will promptly confirm receipt of the Advertiser Offer by sending an e-mail to the e-mail address submitted in the Post Order. This confirmation is not a binding acceptance of the Advertiser Offer. The confirmation of receipt can however be sent together with such acceptance.

2.6 A potential advertiser becomes an Advertiser as defined in these T&Cs once Starflow has accepted the Advertiser Offer. Starflow can decide in its sole discretion whether or not to accept the Advertiser Offer.

2.7 By submitting the Advertiser Offer, the potential advertiser warrants to be properly registered, and that the goods and services that it offers are legal in the countries they are offered. The Advertiser also represents to render its services in full compliance with all applicable laws, including any laws regarding the transmission of technical data and personal data, consumer protection, advertising, trademark, unfair competition, youth protection and gambling. The Advertiser will not interfere or attempt to interfere with the proper working of the Advertising Platform or prevent others from using the Advertising Platform.

2.8 Starflow reserves the right, but shall have no obligation, to review the Advertisements through the Advertising Platform, as well as the goods and services promoted by the Advertisements, in order to determine whether a violation of the Agreement has occurred or to comply with any applicable law, regulation, administrative or governmental request. Starflow shall also have the right to inspect the Advertiser's use of personal data.

### **§ 3 Consideration**

3.1 The Advertiser shall pay Starflow a consideration based on the activities performed with regard to the Advertisements delivered by the Influencers through the Advertising Platform.

3.3 The consideration is paid by the credit card registered for the Post Order. When submitting the Post Order the full amount of the Influencers price is reserved from the Credit card. After the Influencer has posted the Advertisement the reserved amount is charged from the credit card. If the Post Order is declined the reserved amount on the credit card will be dropped within 10 business days.

3.2 The consideration payable to Starflow is based on the price of the Influencer Advertisement delivered by the influencer through the Advertising Platform.

3.3 With prior written agreement from Starflow, the consideration alternatively is due and payable within ten (10) working days after the invoicing date, unless the Advertiser already has credit on its account, in which case the consideration will be deducted. In the event that the Advertiser's account is in credit, no interest shall be due.

3.6 To the extent that the consideration is deducted from the Advertiser's account, Starflow will generally make a deduction within 24 hours after the valid activity has been recorded within the Advertising Platform.

3.7 The Advertiser can only offset counterclaims against claims of Starflow if the Advertiser's counterclaims are undisputed or established by a court judgment. The Advertiser can only exercise a right of retention if its counterclaim is based on the same contractual relationship.

## **§ 4 Content of Advertisements**

4.1 The Advertiser represents and warrants not to submit any Advertisement to Starflow or the Advertising Platform that is unlawful, defamatory, libellous, harassing, abusive, fraudulent or obscene, or contains links to content of such nature (“Advertisement of an Illegal Nature”). Advertisements which are unlawful include, without limitation, those which breach any laws regarding the transmission of technical data and personal data, consumer protection, advertising, trademark, unfair competition, youth protection, and gambling.

4.2 In case the Advertisements are unlawful, or defamatory, libellous, harassing, abusive, fraudulent or obscene in certain countries or regions of the world only (“Restricted Countries”), the Advertiser shall block Restricted Countries for such Advertisements. As far as the Advertising Platform offers an option to block the Restricted Countries and/or not to select the Restricted Countries, the Advertiser shall use this feature, or otherwise instruct Starflow in writing not to display the Advertisements in Restricted Countries.

4.3 The Advertiser shall not submit any Advertisements which contain or link to spam, bulk mail or offers with hidden costs, or which are contrary to Starflow’s Pledge to Users and Influencers in any other way. Starflow may from time to time, at its reasonable discretion, amend and modify its Guarantee towards Users and Influencers. The Advertiser is advised to regularly check the Guarantee towards Users and Influencers.

4.4 Advertisements of an Illegal Nature, Advertisements not blocked or selected for Restricted Countries and Advertisements contrary to Starflow’s Pledge to Users and Influencers are collectively referred to as “Undesired Advertisements”.

4.5 Starflow has the right, but is under no obligation to manually verify Advertisements submitted by the Advertiser before they are activated (i.e. made available through the Advertising Platform).

4.6 Starflow may, at its sole discretion, deactivate or remove any Advertisement which, in Starflow’s reasonable opinion, is an Undesired Advertisement. Starflow undertakes to inform the Advertiser without undue delay in case an Advertisement has been removed. The Advertiser can replace the Undesired Advertisement with another Advertisement, which complies with the Advertiser’s obligations under this § 4.

4.7 If the Advertiser considers that Starflow has deemed an Advertisement to be an Undesired Advertisement under § 4.6 for no good reason and removed it, the Advertiser shall request Starflow, in writing, to review its decision. If, upon further review, Starflow agrees with the Advertiser, it shall promptly re-activate the Advertisement. If however Starflow still disagrees with the Advertiser, Starflow may, at its reasonable discretion: elect to discontinue to deliver the Advertisement through the Advertising Platform; elect to continue the Advertisement through the Advertising Platform, but inform its Influencers in an appropriate way that it holds the Advertisement to be an Undesired Advertisement, and suggest the Influencers put it on a blacklist.

4.8 The Advertiser does not have any other claims against Starflow.

## **§ 5 Legal Relationship with Influencers**

5.1 The Agreement is between Starflow and the Advertiser only.

5.2 In the Influencer Terms and Conditions, Starflow obliges the Influencers to accept certain terms aimed at protecting the Advertisers. Starflow encourages the Advertiser to read the Starflow Terms of Service. Starflow can neither warrant nor represent that the Influencers will adhere to their obligations. In the event that a Influencer does not fulfil its obligations under the Influencer Terms and Conditions, or obligations individually agreed upon between the Influencer and Starflow, the Advertiser shall not have any claim against Starflow, unless Starflow is responsible for such breach or non-performance, but shall assert any claims against such Influencer.

5.3 The Advertiser is not allowed to establish a business relationship with Starflow Influencers, nor is the advertiser allowed to circumvent Starflow by providing Advertisements to Influencers directly. Any breach is subject to a penalty of 10,000 USD per Influencer.

5.4 To the extent that any obligation of the Advertiser under this Agreement protects the interests of the Influencers, this Agreement is for the benefit of the Influencers.

## **§ 6 Advertiser's Content**

6.1 The Advertiser shall inform Starflow, giving reasonable notice, in the event it intends to materially alter the content or appearance of the Advertisements directly to Starflow. Starflow does not guarantee that any alterations can be made after the Post Ordering has been made and that a refund will be issued.

6.2 The Post Order must not contain any illegal or offending content, especially not content as defined by Undesired Advertisements (cf. § 4.4).

6.3 The Advertiser shall hold Starflow harmless of any third party claims alleging the Advertiser's content.

6.5 Starflow neither endorses nor approves of actions performed or content made available by the Advertiser.

## **§ 7 Technical and Commercial Limitations; Changes; Availability**

7.1 Unless otherwise provided for in these T&Cs, Starflow provides the Advertising Platform through which it renders its services on an "AS IS" and "AS AVAILABLE" basis.

7.2 Starflow offers the Advertiser use of its Advertising Platform over the Internet subject to technical and commercial limitations as defined below.

7.3 Starflow may modify the Advertising Platform without prior notice. Therefore, the Advertiser is granted a right of use only for the then current version. The Advertiser may reduce or cease its use of the Advertising Platform in the event that it is modified.

7.4 In the event that the modification severely affects the Advertiser's interests, the Advertiser shall inform Starflow in writing that it objects to the modification. In case Starflow does not comply with the Advertiser's request to restore the functionality of the

Advertising Platform in a way that is materially equivalent to the former functionality, the Advertiser shall have the right to terminate the Agreement for cause according to § 9. The Advertiser shall not have any other claims.

7.5 Generally, only the suppression of materially important features without the introduction of materially equivalent features, not the introduction of new features or functionalities shall be considered to materially affect the interests of the Advertiser in the sense of § 7.4.

7.6 Starflow reserves its right to cease operation of the Advertising Platform at any time, without giving reasons or prior notice. Any balance owed to the Advertiser will be paid out. Any other claims are excluded, unless otherwise provided for in the Agreement.

7.7 Starflow undertakes to assure an availability of the Advertising Platform of 90% (ninety percent) as a yearly average. Periods during which the Advertising Platform is not available because of technical or other problems outside Starflow's control (such as force majeure or third party fault) and periods during which routine maintenance works are carried out, are excluded from this. Starflow may restrict access to the Advertising Platform if required for network security, maintenance of network integrity and the prevention of severe malfunction of the network, the software or stored data. The Advertiser's rights in case of intent or gross negligence remain unaffected. § 8 Campaign Cancellation

8.1 There is no option to cancel a campaign or Influencer Post within the Advertising Platform if the option for the Advertiser to do so has been prior agreed.

## **§ 9 Termination**

9.1 The Agreement is entered into for an unlimited period of time, unless otherwise provided for in the Advertising Offer or these T&Cs. In case the Advertiser has credited its account, or the parties have agreed that the Advertiser spends a given amount of money for Advertisements on the Advertising Platform ("Guarantee Sum"), the Agreement shall remain in force until the Guarantee Sum has been spent or there are no more credits on the account.

9.2 Each party has the right to terminate the contract at any time with immediate effect, if no limitation of the usage period has been agreed upon. The parties remain free to terminate the contract for cause at any time.

9.3 In case Starflow is responsible for a termination of the contract for cause, the Advertiser will be refunded for any payments it may have already made and which are still credited on the account. The Advertiser does not have any other claims, unless otherwise provided in these T&Cs.

9.4 Starflow may terminate the contract especially for, but not limited to, the following reasons:

An Advertisement of the Advertiser violates criminal law The Advertiser has provided incorrect information upon registration In case Starflow rightfully terminates for cause, Starflow is entitled to keep 75 % (seventy-five percent) of all funds still credited to the Advertiser's account. The Advertiser remains free to prove that no or only substantially lower damages were suffered.

9.5 If there is no option to terminate the contract within the Advertising Platform, the termination has to be declared in written form. A termination for cause can only be declared in writing. E-mail is sufficient for this purpose.

## **§10 Claims Based on Defects**

10.1 Starflow grants the Advertiser access to the Advertising Platform in the then current version only (see § 7). The Advertiser cannot claim that a given state or functional range is maintained or achieved. The Advertiser acknowledges that the Advertising Platform, as any other software, can never be completely free of bugs. Therefore, the Advertising Platform can only be considered to be defective if its usability is affected severely and for a significant period of time.

10.2 The Advertiser shall document any faults in the Advertising Platform, and report them in writing (along with a log of the error messages displayed, if applicable). Before reporting a potential bug, the Advertiser will consult the instruction and other troubleshooting tools provided by Starflow (especially frequently asked question lists). The Advertiser will use its best efforts to support Starflow in any attempts to debug.

10.3 The Advertiser will notify Starflow of any faults, without undue delay upon discovery, in writing (fax, letter or e-mail). To comply with this, it is sufficient that the report is sent in time, otherwise all claims based on such defects shall forfeit.

10.4 Starflow is not liable for defects caused by external influences, faulty handling, force majeure or changes or manipulations which are not carried out by Starflow. 10.5 The Advertiser is liable for any costs incurred by Starflow based on incorrect reports by the Advertiser, especially in the event that there is no defect, or the defect has been caused by the Advertiser itself. 10.6 Starflow does not assume any warranties, unless they are given in writing, or explicitly provided for in the Agreement.

## **§11 Indemnification**

11.1 Each party agrees to indemnify and hold the other party harmless from and against any losses, costs, liabilities and expenses, including reasonable attorneys' fees, arising out of any third party claims resulting from the breach of the warranties made by such party in the Agreement.

11.2 The indemnifying party has the right, at the indemnifying party's expense, to assume the exclusive defense and control of any matter for which the indemnifying party is required to indemnify the indemnified party. The indemnified party agrees to cooperate with the indemnifying party's defense of such claims.

## **§12 Limitation of Liability**

12.1 Starflow is not responsible for damages, unless they are caused intentionally or by gross negligence.

12.2 Liability for breach of a cardinal obligation or an essential obligation is limited to the damage which could have been foreseen.

12.3 The damage which can be foreseen is limited to USD 3,500 per Advertiser (or the Guarantee Sum, whichever is higher).

12.4 The aforementioned limitation of liability also applies to the personal liability of staff, employees, assistants, vicarious agents, contributors, representatives, organs, shareholders of Starflow and their members.

12.5 The aforementioned limitations of liability determined in § 12.1 to 12.4 do not apply to the liability for personal injury of life, body, and health. The limitation of liability pursuant to § 12.1 and 12.4 does not apply in case the damage is the result of a breach of a cardinal obligation, an essential obligation or a guarantee.

### **§13 Data Protection**

13.1 The Advertiser represents and warrants to store all data transmitted by Starflow through the Advertising

Platform (including user data and usage data) in conformity with all legal requirements.

13.2 The Advertiser represents and warrants to collect and process all data related to Influencers' Users (including user data and usage data) in conformity with all legal requirements.

13.3 The Advertiser represents and warrants not to transmit any personal data (i.e. data allowing identification of an individual) related to the Influencers' Users to any third party or any country outside the European Union, unless data protection laws allow for such transmission.

13.4 The Advertiser acknowledges that Starflow may store user data and usage data, which they collect automatically or through forms filled in by the Influencers' Users. 13.5 The Advertiser acknowledges that Starflow may use such data to optimize its offers and services, and for statistical purposes, market research, and the promotion of its services.

13.6 The Advertiser acknowledges that Starflow may use e-mail addresses and other contact data submitted by the Influencers' Users for marketing and promotion, as far as allowed by applicable law.

### **§14 Protection of Login Data**

14.1 The Advertiser shall keep all access data (login, passwords etc.) for the Advertising Platform ("Access Data") strictly confidential. The Advertiser shall promptly inform Starflow in the event that it learns or suspects that an unauthorized third person is in possession of the Access Data.

14.2 In case Starflow has reason to believe that an unauthorized third party is in possession of Access Data, Starflow may, without assuming any responsibility to do so, and always acting in its sole discretion, change the Access Data without prior notice or block the respective account. Starflow will promptly inform the Advertiser and will, upon request, communicate the new Access Data to the Advertiser without undue delay. The Advertiser cannot claim to have its initial Access Data restored.

14.3 In case a third party uses, through the Advertiser's fault, the Advertiser's Access Data, the Advertiser is liable for all such actions, and for damages. In such event, all

access through the Advertiser's Access Data shall be considered as an access by the Advertiser.

## **§15 Access to these T&Cs Changes and Further Notices; Communication**

15.1 Each use of the Advertising Platform is subject to these T&Cs. The T&Cs can be printed or saved on storage media.

15.2 Starflow may make changes to these T&Cs (including amendments) at any given time in the future, if this should prove necessary (in particular to reflect changes in the Advertising Platform, new developments with regard to fraud, or changes in the legal framework applicable to it, such as new legislation or case-law) and provided the Advertiser is not disadvantaged contrary to good faith.

15.3 The Advertiser will be notified of changes to the T&Cs in appropriate written form. Starflow will notify the Advertiser on the Advertising Platform, or via e-mail.

15.4 The Advertiser may dispute changes to the T&Cs within a time period of two weeks following receipt of the notification of the changes and the possibility of taking notice thereof. It is recommended that the Advertiser submit its opposition in writing (for example via e-mail).

15.5 The changes to the T&Cs become binding in the event that the Advertiser does not dispute the changes within the above-mentioned time period or continues to use the Advertising Platform after having received the notification of the changes to the T&Cs without having disputed the changes.

15.6 If the Advertiser disputes the changes in time, each party may terminate the Agreement with one month's prior notice unless termination is possible at any time according to § 9. Until termination, the T&Cs in their former version will govern the Advertiser's relationship with Starflow. The Advertiser does not have any other claims against Starflow.

15.7 Unless otherwise provided in the Agreement, Starflow will usually communicate with the Advertiser via e-mail. The Advertiser shall make sure that it receives all e-mails sent by Starflow to the address submitted in the Post Order (see § 2.3), or at a later date. The Advertiser will in particular configure the spam filter accordingly and regularly check all incoming e-mail under this address. Starflow may choose any other appropriate means of communication.

## **§16 Ownership of Rights**

16.1 The Advertiser acknowledges that by registering, it grants Starflow the right to name the Advertiser as a reference for Starflow's services. This includes the right to use the Advertiser's logo on Starflow's websites and presentations. The Advertiser may revoke this right at any time, in writing, for any future use.

16.2 The Advertiser agrees that it will use any data (including any usage data and compilations thereof), information or software, provided by Starflow to the Advertiser, only for the purpose of providing and optimizing Advertisements for Starflow on the Advertising Platform according to the Agreement.

16.3 Starflow will retain all rights, title, and interests in and to the Advertising Platform (except for any licensed content and third-party Advertisements included therein), including all data (such as any usage data and compilations thereof), information and software related thereto. The Advertiser acknowledges that the software, information, content and data relating to the Advertising Platform (such as any usage data or compilations thereof) are protected for Starflow under copyright and similar rights and may contain trade secrets or other intellectual or industrial property owned or licensed by Starflow.

16.4 The Advertiser agrees not to modify, alter, create or copy derivative works of the provided data, information, content or software of the Advertising Platform. Starflow does not grant to the Advertiser any license, express or implied, to the intellectual or industrial property of Starflow or its licensors, except for a limited right of use according to the terms and for the duration of the Agreement.

## **§17 Non-disclosure**

17.1 The parties shall keep confidential all information defined in § 17.2 which is received from the other party or otherwise received under the Agreement.

17.2 Information to be kept confidential shall include the Advertisements prior to publication, any data (including any usage data and compilations thereof), information or software relating to the Advertising Platform; and/or any other information designated in writing, or identified orally at the time of disclosure, by the disclosing party, as “confidential” (“Confidential Information”).

17.3 Both during and after the term of the Agreement, neither party will use for any purpose or disclose to any third party, any Confidential Information. Any exception to this must be obtained in advance.

17.4 The foregoing restriction does not apply to information that has been developed independently by the receiving party without access to the other party’s Confidential Information or has been rightfully received from a third party authorized to make such disclosure or has been approved for release in writing by the disclosing party or has become publicly known through no breach of this § 17 by the receiving party or is required to be disclosed by a competent legal or governmental authority, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to disclosure and assists in obtaining an order to protect the information from public disclosure.

## **§18 Miscellaneous**

18.1 Starflow’s failure to act with respect to a breach by the Advertiser does not waive Starflow’s right to act with respect to that breach or subsequent or similar breaches. No consent or waiver by Starflow under the Agreement shall be deemed effective unless delivered in writing and signed by a duly appointed representative of Starflow.

18.2 All or any of Starflow’s rights and obligations under the Agreement may be assigned to a subsequent owner or operator of the Advertising Platform in a merger, acquisition or sale of all or substantially all of Starflow’s assets.

18.3 The Advertiser must not assign or transfer the Agreement or any or all of its rights thereunder without the prior written consent of Starflow.

18.4 Section headings used in the T&Cs are for convenience only and shall not affect the interpretation of the T&Cs.

18.5 If any provision of the T&Cs shall be held by a court of competent jurisdiction to be unlawful, void, or for any reason unenforceable, then in such jurisdiction that provision shall be deemed severable from the T&Cs and shall not affect the validity and enforceability of the remaining provisions.

18.6 Any changes, amendments or the abrogation of the Agreement (partly or entirely) require written form (letter, fax or e-mail); the requirement of written form can only be waived in written form. 18.7 The courts of Stockholm, Sweden, shall have exclusive jurisdiction.

18.8 The laws of the Kingdom of Sweden apply for all contracts concluded by Starflow on the basis of the T&Cs and any claims arising therefrom, and for all claims related to the use of the Advertising Platform. The application of the United Nations Convention on Contracts for the International Sale of Goods and Swedish International Private Law are excluded.

18.9 The English version of these T&Cs is decisive.

Stockholm  
January 1, 2018

