

Terms of Use for Software Integration

Optivo GmbH, Wallstraße 16, 10179 Berlin, offers the software as a "broadmail" service solution. broadmail enables the Client to send advertisements, newsletters and other information in electronic form (e-mail, E-Postbrief (E-letter), fax, SMS etc.) to their contacts (contractors, prospective customers etc.) and to evaluate the delivery thereof on the basis of statistics. In addition to broadmail, optivo also offers so-called software integrations. Software integrations allow other software products (e.g. shop software and CRM systems, hereinafter referred to as "Third Party Software") to be linked using broadmail. The Client uses broadmail and would like to make use of these additional software integrations.

1. Subject of Contract

- 1.1.** The subject of these Terms of Use is the temporary provision of software integrations from optivo to the Client upon payment of the agreed fee.
- 1.2.** The provision and use of the software integrations shall be based on the contract prepared by optivo and these Terms of Use. The General Terms and Conditions of optivo broadmail shall also apply to the use of broadmail via the software integrations. These Terms of Use apply as additional provisions.

2. Services, provision of the software integration, technical requirements

- 2.1.** Software integrations can link broadmail with other software (e.g. software or CRM systems). The scope of the features provided within the software integrations (e.g. management of recipient data, export data from third-party software) differs depending on the linked third party software. The nature and scope of the respective software integration services are defined in the order prepared by optivo or attached to the order in a service level description. The service level description for the software integrations selected by the Client shall become an integral part of the Contract.
- 2.2.** The software integrations are provided to the Client through an individual download link specified by optivo. The Client shall perform the installation on its server environment and this service is not included in the Contract, unless it is stipulated in the documentation under "Installation and Configuration" or in the order, that optivo is required to provide individual setup services for the software integrations or broadmail connection. The Client shall be provided with instructions for installation in the documentation, e.g. under "Installation and Configuration".
- 2.3.** The installation and use of the software integrations is only possible if certain technical requirements are met, such as server system requirements or requirements for specific versions of third-party software to be linked to the software integration using broadmail. The technical requirements are defined in the software integration documentation, e.g. under "Technical Requirements", "System" or "Supported Versions".

3. Rights of use

- 3.1.** The software integrations are copyrighted. optivo reserves all rights, provided that the Client has not been granted any explicit rights to the software integrations in this Contract.
- 3.2.** optivo transfers to the Client the non-exclusive, non-transferable right to use the software integrations and associated user documentation for its own commercial activities for the duration of the contractual term.
- 3.3.** The right of use entitles the Client to use the software integrations for linking third-party software used by the Client via broadband. The Client has the right to copy the software integrations if such reproduction is necessary for the contractually intended use of the software integrations, including debugging. The Client is entitled to copy and re-install the software integrations when installing third-party software in a new server environment or if re-installation is required due to changes to the third-party software, whereby the software must be reliably deleted if the previously used system changes and any exchanged data media are to be passed on for professional destruction. In particular, no confidential information, such as SSH keys and access details, should fall into unauthorised hands as a result of exchanged or discarded data media. Furthermore, the Client is not entitled to copy the software and/or the accompanying documentation.
- 3.4.** The Client must ensure that it does not permit any third-parties to copy the software and / or the accompanying documentation.
- 3.5.** The Client is entitled to prepare a machine-readable copy of the software and documentation as a backup.
- 3.6.** The Client is not entitled to rent, loan or temporarily transfer the software to third parties.
- 3.7.** The Client is not permitted to reverse-engineer the various production stages of the software or make changes to the software. This particularly applies to the reverse translation of the provided program code into other code forms (decompilation). If the Client requires interface information to achieve interoperability with other software, the Client is entitled to act in accordance with the preceding clause with regard to the use of the software for its own purposes if optivo is not prepared and in a position to provide the Client with the required information, despite receiving a written request from the Client. If the Client acts in accordance with the preceding clause, the Client or exclusively the staff of the Client may use the information obtained in this way for internal purposes. Any other use, including disclosure to third parties, is prohibited.
- 3.8.** If optivo provides new versions, updates, upgrades and other new software integration deliveries during the contractual term, the rights described in the preceding clauses shall apply accordingly.
- 3.9.** Upon request, and if they have a legitimate interest, the Client shall allow optivo or a third party appointed by optivo to determine whether the use of the licensed software remains within the scope of the rights granted. The Client shall support optivo during the execution of such an assessment.

4. Obligation to co-operate

- 4.1. The Client shall encourage the use of the software integrations by taking active and appropriate action. In particular, the Client shall provide optivo with all information, data and documents required for their use in a timely manner. The cooperative activities required for the respective software integrations and information about the data and documents, to be provided by the Client, are included in the documentation.
- 4.2. In case certain services cannot be provided within an agreed period due to the lack of cooperation by the Client, the service period shall be extended accordingly.
- 4.3. The Client shall take necessary measures to prevent the use of the software integrations by unauthorised individuals. This includes the secure use of passwords. The Client shall ensure that the software integrations are not used for illegal purposes.
- 4.4. The Client is responsible for creating regular backups of its data.
- 4.5. The Client agrees to comply with the relevant information security measures. These, in particular, include the recommendations of the German Federal Office for Security in the document *Informationstechnik zum IT-Grundschutz* (Information technology for IT Baseline Protection).
- 4.6. optivo shall test the interaction of the software integrations with third-party software. optivo has no influence on the interaction of the software integrations with other applications used by the Client for the third-party software. The Client agrees to ensure that its specific third-party software system is compatible with the software integration. This can be ensured, for instance, by checking on a test system.

5. Duration and termination

- 5.1. The Contract shall enter into effect upon receipt of the declaration of acceptance and shall be concluded for a fixed period until the end of the 12th calendar month following delivery of the download. The Contract shall then be extended for an indefinite period and may be terminated by either party with notice of three months to the end of the month.
- 5.2. Notwithstanding Clause 5.1 above, the Contract shall end automatically upon termination of the contract concluded between the parties concerning the use of broadband.
- 5.3. The right to terminate for good cause remains unaffected by the clauses above.
- 5.4. Notice of termination must be sent in writing by letter. Sending the notice by fax preserves the written form.

6. Remuneration

The remuneration to be paid by the Client is based on the order. The provisions of the General Terms and Conditions for optivo broadband apply with regard to payments and remuneration terms (currently Clause 12).

7. Warranty and liability

- 7.1.** The provisions of the General Terms and Conditions for optivo broadband apply (currently Clause 13). The following provisions also apply to the software integrations:
- 7.2.** optivo is not liable if the Client fails to fulfil its obligations to cooperate or if the software integrations are changed by the Client or a third party without authorisation and this has a substantial impact on the respective fault and the expense required to repair the fault, or if the change to the software is the cause of the fault.
- 7.3.** optivo guarantees the functionality of the software integrations with the versions of the third-party software specified in the documentation. optivo shall not be liable for any faults or damage arising from the fact that the software does not work with other available software programs of the Client.
- 7.4.** If data is destroyed and/or lost, optivo's liability is limited to the cost of recovery which would have been required if appropriate backup copies had been created by the Client for the recovery of the data.

8. Effects of termination

Upon termination of this Contract, the Client undertakes to stop using the software integrations, must remove all installed copies of the software integrations from its systems and to destroy any backup copies it has created.

9. Final provisions

The provisions of optivo's General Terms and Conditions for broadband apply (currently Clause 20).