

Fanno Open Platform Services Agreement

Last modified: 4 November, 2021

This Fanno Open Platform Services Agreement (hereinafter referred to as "**Agreement**") is made between you (hereinafter referred to as "**Merchant**" or "**you**") and Perceiver Pte. Ltd, which is registered in Singapore with its registered office at 8 Robinson Road, #03-00, Aso Building Singapore (048544) (hereinafter referred to as "Fanno" or "**us**") and sets out the applicable terms and conditions relating to your use of the Fanno Open Platform (the "**Platform**").

Fanno may update or modify this Agreement at any time by posting a revised version. By continuing to access the Platform, you confirm that you accept such updated terms and agree to be bound by them.

Please read this Agreement and fully understand its content before using the Platform. By using the Platform, you shall represent and warrant that:

- (A) you have read, understood and agree to be bound by the terms of this Agreement;
- (B) you have the legal capacity to enter into a binding contract with Fanno and are not a minor;
- (C) you have the legal authority to bind the business entity on whose behalf you have entered into this Agreement with Fanno ("**Your Organisation**"), if you are entering into this Agreement on behalf of Your Organisation;
- (D) you have obtained all necessary licence and permits and will comply with any and all applicable laws and regulations in the performance of your obligations hereunder; and
- (E) you act as a Merchant on Fanno and have (or Your Organisation has) accepted and are legally bound by the 'Merchant Terms of Service for Fanno'.

1 Definitions

- 1.1 **API:** the application programming interface, software development kits, specifications, sample code, data, metadata, technology, software and other associated information and materials as well as any updates thereto made available by Fanno to you through the Platform.
- 1.2 **API Data:** all data published or made available through the API.
- 1.3 **API Key:** the security key Fanno makes available to you or Your Organisation to access the API.
- 1.4 **Application:** any applications developed by or on behalf of you or Your Organisation.
- 1.5 **Authorised Users:** any users authorised by Fanno to access the API on behalf of you or Your Organisation.
- 1.6 **Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
- 1.7 **Third Party Developers:** developers of a site or software operated by a third party.
- 1.8 **Your Account:** your account which is used to access the Platform.
- 1.9 **Your Account Data:** the data and information associated with your Account.

LICENCE FROM Fanno TO YOU

2 Licence

2.1 **Fanno** grants Your Organisation a non-exclusive, non-transferable, non-sublicensable, limited, revocable licence during the term of this Agreement:

- (a) for Authorised Users to access the API solely for the purposes of developing, testing, maintaining and operating enterprise resource planning Applications for internal use in order to manage your activity as a merchant on Fanno; and
- (b) to display the API Data received from the API within the Application.

2.2 Your sole means of accessing the API shall be via the API Key.

2.3 In relation to the scope of use set out in Clause 2.1 you may not:

- (a) make API calls in excess of any limits that we may impose from time to time;
- (b) remove any proprietary notices from the API or API Data;
- (c) use the Application, API or API Data in any manner or for any purpose that infringes, misappropriates, or otherwise infringes any Intellectual Property Right or other right of any person, or that violates any applicable law;
- (d) design or permit the Applications to disable, override, or otherwise interfere with any Fanno-implemented communications to end users, consent screens, user settings, alerts, warning, or the like;
- (e) attempt to cloak or conceal your identity or the identity of the Applications when requesting authorisation to use the API or making an API call;
- (f) except to the extent expressly permitted under this Clause 2, you shall not (and shall ensure each Authorised User does not) pass or allow access to the Application, API or API Data to any third party (other than in accordance with this Agreement);
- (g) use the Application, Platform, the API and/or the API Data in connection with or for any illegal, unauthorised or otherwise improper purposes, or in any manner which would violate any right of any person, including intellectual property rights, or breach any laws or regulations, or in any manner that is misleading, defamatory, infringing, libellous, disparaging, obscene or otherwise objectionable to Fanno;
- (h) use or combine the Application, Platform, the API and/or the API Data with software offered under an open source licence in such a way that would cause Fanno to be subject to any obligations under any such open source licence;
- (i) collect or attempt to collect any personal data from Fanno users for any unauthorised or unlawful purpose or build, help build, or supplement any profiles, databases, or similar records on any individual, device, content, or browser or associate the behaviour of any individual, device, content, or browser with any profile, databases, or similar record;
- (j) use the Application, Platform, the API and/or the API Data for fraudulent or otherwise unlawful or unauthorised purposes, including but not limited to the development or promotion of spyware, adware or other malicious codes or programs or to defame or harass any person;

- (k) introduce viruses, malware, malicious code or other content of a harmful or destructive nature through the Application or your access or use of the Platform, the API and/or the API Data, including, but not limited to, failure to ensure adequate protection is installed on your devices and servers in accordance with industry practices;
- (l) use any robot, spider, site search or retrieval application, or other device to collect information about users of the Fanno for any unauthorised purposes;
- (m) act in any way which could reasonably be expected to adversely impact the stability of Fanno's servers or the behaviour of other applications using the Platform;
- (n) interfere with or attempt to interfere with the proper working of the Platform or our websites or apps, disrupt our websites, apps or any networks connected to the Platform or to us, or bypass, circumvent or attempt to bypass or circumvent any measures we may use to prevent or restrict access to the Platform or our websites or apps;
- (o) remove, obscure, or alter any legal, copyright, trademark or other proprietary notices in relation to Fanno, the Platform, the API and/or the API Data, our websites or our apps, and abide by Fanno's requirements in relation to the use of any proprietary materials, or falsify or delete any author attributions, legal notices, or other labels of origins or source of material;
- (p) use the Application, Platform, the API and/or the API Data to compete with or replicate any services provided by Fanno; or
- (q) use the Application, Platform, the API and/or the API Data in any manner that is not expressly authorised under these Terms.

2.4 Except as expressly stated in this Clause 2, you have no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the API or the Platform, in whole or in part (except to the extent that applicable law overrides this provision or any part hereof).

2.5 Without prejudice to your other rights and remedies under this Agreement, should you use the API or API Data other than as specified in this Clause 2 without the prior written consent of us, we may, in our sole discretion, terminate this Agreement, or suspend your access to and use of the API and the API Data, on written notice with immediate effect.

THIRD PARTY DEVELOPERS

3 Authorisation of Third Party Developers

3.1 You acknowledge and agree that:

- (a) subject to the terms of this Agreement, you may authorise Third Party Developers to use the Platform provided that you ensure that they agree to comply with the terms of this Agreement;
- (b) Third Party Developers may need to access Your Account and access, view, copy, download and otherwise use Your Account Data including, without limitation, the following:
 - (i) material information in the Account;
 - (ii) traditional usage information on your use of the Platform; and
 - (iii) any other data that is accessible under each Account (including without limitation to personal data);

- (c) you hereby authorise Fanno to grant to Third Party Developers the right to access your Account and/or access, view, copy, download and otherwise use your Account Data as set out under Clause 3.1(b);
 - (d) the authorisation granted to Fanno and Third Party Developers under Clause 3.1(c) shall remain valid unless and until it has been revoked by you (or such users authorised by you) by changing the relevant user setting on the Platform; and
 - (e) if the authorisation granted to Third Party Developers is revoked in accordance with Clause 3.1(d), such Third Party Developers will cease to have the right to obtain access to view, copy, download and otherwise use the data and information associated with your Account. However, such Third Party Developers may continue to have access to data and information which they have downloaded prior to the revocation of authorisation by you. In such circumstance, you may request such Third Party Developers to delete any data and information associated with your Account in their possession or control. Fanno, in its sole and absolute discretion, or if required by law, may also require such Third Party Developers to delete such data and information. However, you shall not hold Fanno responsible for procuring the deletion of such data and information by the Third Party Developers.
- 3.2 You have the sole and absolute discretion to decide which Third Party Developers shall have the right to access your Account and/or access, view, copy, download and otherwise use your Account Data. By granting any Third Party Developers such right, you agree:
- (a) you have read, understood and consented to the privacy policy of the Third Party Developer or such equivalent terms governing the collection, use and disclosure of your data (including personal data) ("**Third Party PP**") by such Third Party Developer;
 - (b) you have verified and are satisfied that the Third Party Developer has implemented sufficient security measures (including technical and administrative measures) to protect your data;
 - (c) you have fully understood all the features and services of the site(s) or software operated by the Third Party Developer;
 - (d) Fanno is not responsible for examining or evaluating the adequacy of any Third Party PP or security measures implemented by such Third Party Developer for the protection of your data; and
 - (e) you shall defend, indemnify and hold harmless Fanno from and against any claims, proceedings, loss, damage, costs and expenses (including legal costs on a full indemnity basis) incurred, suffered or sustained by Fanno, its directors, officers, employees, agents and contractors directly or indirectly arising from or relating to such Third Party Developer's access and use of Your Account Data.
- 3.3 You further acknowledge and agree that any Third Party Developer you engage is an independent contractor of yours and provides services to you pursuant to an agreement between you and the Third Party Developer. Fanno (and/or any of its affiliates) is not a party to such agreement, is not responsible for the provision of any services from any Third Party Developer to you, and is not liable for the acts, omissions, errors, representations, warranties, negligence or breaches of any Third Party Developer.
- 3.4 If you appoint any Third Party Developer, you shall remain primarily liable to us for any breach of the terms of this Agreement by the Third Party Developer.

GENERAL TERMS

4 Warranties

- 4.1 We warrant that we have and will maintain all licences, consents and permissions necessary for the performance of our obligations under this Agreement.
- 4.2 We do not warrant or represent that:
- (a) your use of the Platform, the API and/or the API Data will be uninterrupted or error-free;
 - (b) the Platform, the API and/or the API Data will meet your requirements; or
 - (c) that the API and/or the API Data will be free of viruses.

5 Audit

- 5.1 Fanno or its representatives may physically or remotely monitor and audit your use of the API and the API Data to ensure you are complying with the terms of this Agreement.
- 5.2 You shall keep complete and accurate records to demonstrate your compliance with the terms of this Agreement.

6 Confidentiality

- 6.1 Each party shall, during the term of this Agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this Agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisers or as may be required by any law or any legal or regulatory authority) any information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its affiliates, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this licence, or subsequently comes lawfully into the possession of such party from a third party.
- 6.2 For the avoidance of doubt the API, the API Data and the API Key shall be considered the confidential information of Fanno for the purposes of this Agreement.

7 Liability and Indemnity

- 7.1 You acknowledge and agree:
- (a) that you assume sole responsibility for results obtained from your use of the Platform, the API and the API Data, and for conclusions drawn from such use. We shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided by you in connection with the API, or any actions taken at your direction;
 - (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and
 - (c) the Platform, API and the API Data are provided to you on an "as is" basis.
- 7.2 Except as expressly stated in Clause 7.3:
- (a) we shall not in any circumstances have any liability for any losses or damages which may be suffered by you (or any person claiming under or through you), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

- (i) special damage even if you were aware of the circumstances in which such special damage could arise;
 - (ii) loss of profits;
 - (iii) loss of anticipated savings;
 - (iv) loss of business opportunity;
 - (v) loss of goodwill;
 - (vi) loss or corruption of data; and
- (b) our total liability, whether in contract, tort (including negligence) or otherwise and whether in connection with this licence or any collateral contract, shall in no circumstances exceed a sum equal to £100.
- 7.3 The exclusions in Clause 7.1 and Clause 7.2 shall apply to the fullest extent permissible at law, but we do not exclude liability for:
- (a) death or personal injury caused by our negligence;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any other liability which may not be excluded by law.
- 7.4 You shall indemnify and hold Fanno and its directors, officers, employees, agents and contractors harmless from and against any and all claims, proceedings, loss, damage, costs and expenses (including legal costs on a full indemnity basis) incurred, suffered or sustained by Fanno, its directors, officers, employees, agents and contractors directly or indirectly arising from or relating to your use or Third Party Developers' use of the Platform, or your breach of this Agreement.

8 Privacy

For information on how we collect, use, share and otherwise process information about you, please see our [Privacy Policy](#). We may use cookies or similar technologies to store certain types of information each time you use the Platform. You can find out more about how we use cookies and other similar technologies in our [Cookie Policy](#).

9 Security

- 9.1 **Fanno** will implement reasonable physical, electronic and operational safety measures for the Platform ("**Security Measures**").
- 9.2 You acknowledge and agree that:
- (a) notwithstanding the Security Measures taken by Fanno under Clause 9.1, if a Third Party Developer obtains, uses or divulges data and information from your Account beyond the scope of the authority granted by you, it may damage your rights and interests. In such event, you may pursue legal liability against such Third Party Developers. You agree to release Fanno from and hold Fanno harmless from any liabilities, losses or damages that may be incurred by you as a result;
 - (b) no technical means can be used to eliminate security risks completely. Therefore, in order to reduce the impact of computer viruses, malicious codes, bugs, etc., you shall be solely responsible for taking adequate safety measures such as installing appropriate and up-to-date anti-virus software on your hardware; and
 - (c) you shall be solely responsible for all activities on the Platform that occur in the name of or through the use of your Account regardless of whether the activities are authorised or undertaken by (i) you, (ii) such other users authorised by you, or (iii) any unauthorised

persons. Further, you acknowledge and agree that such activities will be attributable to and binding on Your Organisation.

10 Internet Fraud

- 10.1 Internet fraudsters may create visually similar pages to Fanno's websites and/or Platform by imitating the design or specifications of the Platform account registration pages in order to deceive users and steal information such as Account credentials and passwords ("**Internet Fraud**"). You acknowledge and agree that you shall be solely responsible for monitoring and detecting Internet Fraud and ensuring that your Account credentials, data, information and passwords are not provided to Internet fraudsters.
- 10.2 If a Third Party Developer infringes your legal interests, or if you are a victim of Internet Fraud, please contact Fanno immediately.
- 10.3 You acknowledge and agree that Fanno will need reasonable time to assess and verify your reports made under Clause 10.2, and you shall not hold Fanno liable for and shall release Fanno from any liabilities, losses or damages that may be incurred by you as a result of Internet Fraud, or any infringement of your legal interests by any Third Party Developer, notwithstanding that you had already reported the same to Fanno under Clause 10.2.

11 Intellectual Property

- 11.1 You acknowledge that all Intellectual Property Rights in the Platform, the API and the API Data belong and shall belong to Fanno (or its licensors) and you shall have no rights in or to the same other than the right to use it in accordance with the terms of this Agreement.
- 11.2 Fanno shall have an unlimited, irrevocable and worldwide right to use for any purpose any feedback, whether provided verbally or in written form, by you to Fanno regarding your use of and/or access to the Platform, the API and/or the API Data, without monetary or other compensation to you.

12 Governing Law and Jurisdiction

- 12.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 12.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

13 Miscellaneous

- 13.1 The parties acknowledge and agree that they are dealing with each other under this Agreement as independent contractors. Nothing contained in this Agreement shall create or be deemed to create a partnership, agency, joint venture or the relationship of employer and employee between the parties and no party shall have the express or implied authority to bind or represent the other in any way whatsoever.
- 13.2 Any person who is not a party to this Agreement (whether or not such person shall be named, referred to, or otherwise identified, or shall form part of a class of persons so named, referred to, or identified, in this Agreement) shall have no right whatsoever under the Contracts (Rights of Third Parties) Act 1999 to enforce this Agreement or any of its terms.

- 13.3 You may not assign, novate, transfer or delegate any right, duty or obligation under this Agreement to any third party without the prior written consent of Fanno.
- 13.4 Fanno may assign, novate, transfer or delegate its rights, duties or obligations under this Agreement to a third party. You shall do all things and execute all documents necessary to facilitate such assignment, novation, transfer, or delegation.
- 13.5 The whole or any part of any clause of this Agreement that is illegal or unenforceable shall be severed and such severance shall not affect the continued operation of the remaining provisions.