

D360 2019 - Report Terms and Conditions

DISTRIBUTION 360 (D360) REPORT AND SERVICE DESCRIPTION:

D360 Europe Report

Soft copy report of the following content and an accompanying data pack containing the underlying data of the report:

- Qualitative analysis and quantitative data defining and measuring the opportunity to gather assets via Europe's third party distribution channels.
- Introduction, executive summary, data and insight defining and measuring the opportunity, the current dynamics in European distribution, in-depth profiles of distribution options in ten key European Markets; including the following:
 - Austria (snapshot)
 - Belgium / Luxembourg (snapshot)
 - France
 - Germany
 - Italy
 - Netherlands
 - Spain
 - Sweden
 - Switzerland
 - UK

D360 Asia Report

Soft copy report of the following content and an accompanying data pack containing the underlying data of the report

- Qualitative analysis and quantitative data defining and measuring the opportunity to gather assets via Asia's third party distribution channels.
- Introduction, executive summary, data and insight defining and measuring the opportunity, the current dynamics in Asian distribution, in-depth profiles of distribution options in key Asian Markets; including the following:
 - Australia
 - China

- Hong Kong, Singapore and Taiwan
- Japan
- Indonesia, Malaysia and Thailand
- India
- South Korea

1. **Contract.** These terms and conditions (**Terms**) and the terms of the D360 registration form which you submit (**Registration Form**) apply to the order by you, and the supply by us to you, of the report (including the data pack) described above which you have ordered on the Registration Form (**Report**)(**Contract**). They apply to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
2. **You.** The legal entity described in the Registration Form.
3. **We.** The Broadridge Group entity described in the Registration Form.
4. **Entire agreement.** The Contract contains all the terms in relation to the subject matters under the Contract and supersedes all provisions, contracts, arrangements, representations (other than fraudulent misrepresentations) or understandings between you and us whether written, arising from custom or oral.
5. **Placing an order and its acceptance**
6. **Placing your order.** You may only submit an order via the online submission of the Registration Form. Each order is an offer by you to purchase the Report subject to the terms of the Contract.
7. **Acknowledgement email.** Our system will generate an automated acknowledgement when our system receives your order. Such acknowledgement does not constitute our acceptance of your order.
8. **Accepting your order.** Our acceptance of your order takes place when we send an email to you accepting your order (**Order Confirmation**), at which point the Contract between you and us shall come into existence. Such email will set out the details (**Download Details**) which enable you to download the Report. You shall keep the Download Details confidential; and you may only disclose them to your employees.
9. **If we cannot accept your order.** If we are unable to supply you with the Report for any reason, we shall inform you of this by email and we shall not process your order.
10. **Permitted Use of the Services**
11. Licence. We grant you a non-exclusive and non-transferable licence to:
 - 11.1 download and use all or any part of the Report for your own internal business use; and
 - 11.2 incorporate all or any part of the Report into your
 - 11.2.1 internal reports; and/or
 - 11.2.2 reports to your customers,
 - 11.2.3 provided that:
 - 11.2.4 the Report (or any part of it) incorporated in such reports is attributed in writing to us;
 - 11.2.5 the Report is incorporated to support content that is your intellectual property; and

- 11.2.6 in the event that you intend to use more than 30% of a single Report, you shall obtain prior written permission from us before doing so.
12. The term during which you may access the Report is as set out in the Registration Form.
13. You shall:
- 13.1 not use, copy, reproduce, distribute, display, publish or broadcast the Report or any part of it to any third party other than to the extent expressly permitted in the Contract;
 - 13.2 not to remove, suppress or modify, in any way, any proprietary marking, including any trademark or copyright notice or accreditations, in the Report or any copies or reproduction of it. You shall incorporate any such proprietary markings in any permitted copy or reproduction of Report or any part of it; and
 - 13.3 comply with all applicable laws in its use of the Report.
14. Fees and Payment
15. We shall invoice you for the fees for the Report (Fees) as set out in the Registration Form. The Fees are due and payable within 30 days of receipt of the invoice. If you fail to pay the Fees or any part of them within such 30-day period, we may charge you interest on such overdue sum on a day to day basis from the due date until paid in full in cleared funds at the at the rate of 1.5 percent per month.
16. The Fees are exclusive of value added taxes, goods and services taxes, sales taxes, consumption taxes, and similar taxes in any jurisdiction and taxes imposed in substitution for the foregoing (together “VAT”). Any VAT on the Fees shall additionally be paid by you to us on the due date of payment for the Fees.
17. **Intellectual Property Rights.** You agree that all Intellectual Property Rights in the Report belong to and remain vested in us or our licensor(s). You shall not acquire any rights in the Report or any part of it except to the extent expressly licensed under the Contract. You shall notify us in writing immediately if you become aware of any unauthorized access to, use, distribution or copying of the Report and/or any part of it. **“Intellectual Property Rights”** means any current and future intellectual property rights, including: copyrights, design rights, trade marks, trade names, domain names, rights in logos and get-up, inventions, confidential information, trade secrets and know-how including commercial know-how, patents, utility models, semi-conductor topographies, all rights of whatsoever nature in computer software and data, rights in databases, privacy rights; all intangible rights and privileges of a nature similar, analogous or allied to any of the above; in every case in any part of the world and whether or not registered, including in relation to the above: all granted registrations and all applications for registration; all renewals, reversions or extensions; and all forms of protection of a similar nature which may subsist anywhere in the world.
18. **Warranties**
19. We warrant to you:
- 19.1 we have the right to grant the licence for the use of the Report in accordance with the Contract; and

- 19.2 the Report shall comply, in all material respects, with its description as set out above.
- 20. We do not warrant that
 - 20.1 your access to the website of the Report shall be free from interruption; or
 - 20.2 such website shall operate on your computer system.
- 21. You acknowledge and agree that the Report is compiled by us from third party sources and our own survey of the relevant segment of the market to which the Report relates.
- 22. The commentaries and quotes within the Report are personal opinions of the respective authors. You shall not rely on any of such commentaries or quotes or any other information in the Report to make any decision (business, legal or otherwise). You need to seek professional advice before doing so.
- 23. To the fullest extent permitted by law, except as expressly provided in the Contract, we expressly disclaim all conditions and warranties, express or implied, statutory or otherwise, including any implied warranties of satisfactory quality, merchantability or fitness for a particular purpose with respect to the Report and/or any part of it.

Data Protection

- 24. We and you shall comply with Data Protection Laws. **“Data Protection Laws”** means the United Kingdom Data Protection Act 2018 and shall include, where applicable, the guidance and codes of practice issued by the Information Commissioner (or data protection authority which replaces it) and all local applicable laws and regulations where these apply to the parties in respect of its performance of the Contract relating to the processing of personal data.
- 25. **Confidentiality**
- 26. You Shall:
 - 26.1 keep confidential our (and our affiliates’) information of a confidential nature obtained from us and/or our affiliates, including the Download Details (**“Confidential Information”**);
 - 26.2 not disclose the Confidential Information in whole or in part to any third party without our prior written consent, except to:
 - 26.2.1 your employees involved in the use of the Report; and
 - 26.2.2 your bankers, professional auditors, professional advisers (including legal advisers and financial advisers), (all such entities referred to as the “Your Representatives”) on a confidential and need-to-know basis. You shall be responsible for any breach by any of the Your Representatives of your confidential obligations under the Contract; and
 - 26.3 use the Confidential Information solely in connection with the exercise of your rights under the Contract
- 27. The confidentiality obligations in **clause 11.1** shall not extend to the Confidential Information which:
 - 27.1 has ceased to be confidential without default on your part;
 - 27.2 was already in your possession prior to disclosure by us;

27.3 has been received from a third party who did not acquire it in confidence; or
27.4 is permitted by us to be disclosed without an obligation of confidentiality.

28. **Limitation of Liability**

29. Subject to **clauses 12.2 to 12.4** and save for your liability to pay the Fees, your/our total liability (including any liability for the acts and omissions of your/our employees, agents or sub-contractors) in tort (including negligence), indemnity, equity, contract or otherwise, arising out of, in connection with or under the Contract in any 12 months shall not exceed the total Fees paid by you under the Contract during that 12-month period.
30. Subject to **clause 12.4**, you/we shall not be liable (including any liability for the acts and omissions of your/our employees, agents or sub-contractors) in tort (including negligence), indemnity, equity, contract or otherwise, under or in connection with the Contract for: (a) loss or corruption of data; (b) loss of production; (c) loss of profit; (d) loss of operation time; (e) loss of goodwill; (f) loss of business; (g) loss of business opportunities; (h) loss of revenues; (i) loss of anticipated savings; and/or (j) any special, indirect or consequential loss, damage, cost or expense of any kind whatever and however caused, arising out of, or in connection with or under the Contract.
31. The limitation and exclusion under **clauses 12.1 and 12.2** shall not apply to any breach by you of the scope of use of the Report (particularly the licences granted) under **clause 7.2**.
32. Nothing in the Contract is intended and nor shall it be construed as an attempt by you/we to exclude or limit its liability for any liability to the extent that such liability cannot be excluded or limited under any applicable law, including, liability for death or personal injury caused by its negligence, or any actor omission for which that party is vicariously liable, and fraudulent misrepresentation
33. You/we acknowledge and agree that the limitations and exclusions of liability set out in this **clause 12** are reasonable in the light of all the circumstances existing as at the date of the Confirmation Order and have been agreed taking into account the commercial value of the Contract to you/us and your/our commercial standing.
34. **Communications.** Any legal notice required or permitted under the Contract shall be made in writing to you/we and in English. It shall be addressed to your/our general manager or director (or an equivalent or higher position) at the address set out at the Registration Form or to your registered office address. It may be sent by email (with the read receipt turned on) or by a reputable courier service, and shall be deemed to have been received at the time of the acknowledgement of read-receipt:
- 34.1 by email – at the time of read receipt;
 - 34.2 by courier – 5 days after the date of mailing.
35. **General**
36. You/we shall not be liable for any delays or failure to meet your/our obligations under the Contract due to any cause outside your/our reasonable control, which you/we shall notify us/you as soon as possible.
37. You/we shall not make any public announcement or press release (other than as required by law) concerning the Contract or Report without our/your prior written

consent. If such consent is granted, the content of such announcement or press release shall be subject to our/your prior written consent.

38. You/we may not assign your/our rights under the Contract to any third party except that we may do so to any of our affiliate pursuant to any internal restructuring.
39. In the event any one or more of the provisions contained in the Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Contract, but the Contract shall be construed as if such invalid, illegal or unenforceable provision had never been included in the Contract and the Contract shall be carried out as nearly as possible according to its original terms and intent.
40. No delay or failure by you/we to exercise any of your/our powers, rights or remedies under the Contract shall operate as a waiver of them, nor any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective shall be in writing.
41. Nothing in the Contract shall constitute, or be deemed to constitute, a partnership between you and us nor, except as expressly provided, shall it constitute, or be deemed to constitute, you/we being your/our agent for any purpose.
42. No variation of the Contract shall be effective unless made in writing and signed by you and us.
43. The parties do not intend that any of the terms of the Contract shall be enforceable by virtue of the (English) Contract (Rights of Third Parties) Act 1999 by any person not a party to the Contract.
44. The Contract 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.
45. You and we irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).
46. In the Contract, the words and phrases “includes”, “including” or “in particular” (as well as any similar words or expressions) shall be without limitation to the generality of any preceding words and any preceding words shall not be construed as being limited to a particular class where a wider interpretation of those words and phrases is possible and shall be deemed to be immediately followed by the words “without limitation”. In the Contract, unless otherwise provided, a reference to **writing** or **written** includes email.

Broadridge, a global Fintech leader with over \$4 billion in revenues, helps clients get ahead of today's challenges to capitalise on what's next with communications, technology, data and analytics solutions that help transform their businesses.