

## MASTER SUBSCRIPTION TERMS

THESE MASTER SUBSCRIPTION TERMS GOVERN CLIENT'S PURCHASE AND USE OF NINADATA SERVICES. BY EXECUTING A SERVICE ORDER THAT INCORPORATES THESE MASTER SUBSCRIPTION TERMS BY REFERENCE (COLLECTIVELY, SUCH SERVICE ORDER AND THESE MASTER SUBSCRIPTION TERMS SHALL BE REFERRED TO HEREIN AS THE "**AGREEMENT**"), THE CLIENT ACCEPTS AND AGREES TO COMPLY WITH THESE MASTER SUBSCRIPTION TERMS.

IF THE CLIENT DOES NOT AGREE WITH THE TERMS AND CONDITIONS OF THE AGREEMENT, THE CLIENT MUST NOT EXECUTE THE SERVICE ORDER AND NEITHER CLIENT NOR ITS PERSONNEL MAY ACCESS OR USE THE SERVICES.

CAPITALIZED TERMS NOT DEFINED IN THE BODY OF THE AGREEMENT WILL HAVE THE MEANINGS SET FORTH IN SECTION 21 (DEFINITIONS) OF THESE MASTER SUBSCRIPTION TERMS.

### 1. **Subscriptions to NinaData Services.**

NinaData, Ltd. ("**NinaData**") offers its clients rights to purchase Subscriptions to access and use the Service(s) specified on the applicable Service Order(s), and NinaData is willing to grant the Subscription rights set forth herein, subject to and conditioned upon Client's compliance with the terms and conditions of this Agreement.

### 2. **Scope of Agreement.**

- 2.1. Terms and Conditions. This Agreement sets forth the terms and conditions under which Client may access and use the Service(s) specified on the applicable Service Order(s), for the applicable Fees and Term specified in such Service Order(s).
- 2.2. Order of Precedence. In the event of any conflict or inconsistency between the terms and conditions of these Master Subscription Terms and the terms and conditions of:
  - 2.2.1. the applicable Service Order, the terms and conditions of the applicable Service Order shall govern, and the conflicting or inconsistent provision(s) in these Master Subscription Terms will have no force or effect with respect to such Service Order; and
  - 2.2.2. the attached Exhibits, the terms and conditions of the attached Exhibits shall govern, and the conflicting or inconsistent provision(s) in these Master Subscription Terms will have no force or effect.
- 2.3. Permitted Affiliates. Unless expressly set out in the applicable Service Order, and notwithstanding anything else in this Agreement to the contrary, no Affiliates of Client shall be entitled to enjoy the benefit of this Agreement, other than to the extent that such Affiliate is a Permitted Affiliate. Client shall remain responsible for and liable for the acts and omissions of any Permitted Affiliates in respect of this Agreement. Where a Permitted Affiliate ceased to be an Affiliate of the Client, any rights of such Permitted Affiliate to enjoy the benefit of this Agreement shall also cease.

### 3. **Services.**

3.1. License Grant. Subject to Client's compliance with the terms and conditions of the Agreement, including payment of all applicable Fees, NinaData grants Client the applicable licenses set forth in Exhibit A hereto to access and use the Services and other NinaData Materials specified in the applicable Service Order.

#### 3.2. Account Access, Credentials and Users.

3.2.1. NinaData will provide Client with an Account and Credentials for the applicable Service(s). Client agrees not to share its Credentials with anyone other than its Authorized Users, let anyone other than its Authorized Users access its Account, or do anything else that might jeopardize the security or confidentiality of its Account or Credentials.

3.2.2. Client agrees to notify NinaData promptly if:

- (a) its Credentials are lost, stolen or disclosed to any unauthorized Third Party,
- (b) there is any unauthorized access to or use of its Account; or
- (c) it learns of any other breach of security in relation to any NinaData Materials. Client is solely responsible and liable for all activities that occur through the use of its Account, and all acts and omissions of users of its Account.

#### 3.3. Proprietary Rights.

3.3.1. Other than the limited rights granted expressly herein, NinaData and its Third Party licensors, as applicable, retain all right, title and interest in and to the Service(s) and all other NinaData Materials, including all Intellectual Property Rights embodied in or otherwise applicable to such NinaData Materials, whether such rights are registered or unregistered, present or future, and wherever in the world those rights may exist ("**NinaData Rights**"). Client shall not commit any act or omission, or permit or induce its Affiliates or any Third Party to commit any act or omission, inconsistent with the NinaData Rights.

3.3.2. All materials embodied in, or comprising, the NinaData Materials, including application programming and visual interfaces, graphics, images, code, applications, and text, as well as the design, structure, selection, coordination, expression, "look and feel," arrangement of such NinaData Materials, as well as the associated NinaData Marks, are owned by NinaData or its Third Party licensors. Title to NinaData Materials shall not pass from NinaData to Client, and, as between Client and NinaData, NinaData Materials shall at all times remain the sole and exclusive property of NinaData.

3.3.3. Other than as set forth expressly herein, there are no other rights or licenses granted in connection with the NinaData Materials. All NinaData Rights are expressly reserved by NinaData and its Third Party licensors, as applicable.

#### 3.4. Restrictions. Client will not, and will not permit or induce its Affiliates or any Third Party to:

- 3.4.1. access or use any NinaData Materials in a manner not expressly authorized under this Agreement;

- 3.4.2. attempt to breach, disable or circumvent any security mechanisms used by or on NinaData Materials or otherwise attempt to gain unauthorized access to any portion or feature of any NinaData Materials by any means, including hacking or password “mining;”
- 3.4.3. decompile, reverse engineer, disassemble or otherwise attempt to reconstruct or discover the source code, underlying ideas or algorithms of any NinaData Materials;
- 3.4.4. copy, alter, translate, adapt in any way, or otherwise make Modifications to, NinaData Materials;
- 3.4.5. offer, rent, lend, lease, network, loan, pledge, encumber, sublicense, sell, distribute, disclose, assign or otherwise transfer rights in or to any NinaData Materials;
- 3.4.6. use any device, software or routine to interrupt or interfere, or attempt to interrupt or interfere with, the proper operation and working of any NinaData Materials, or with any Third Party’s use of any NinaData Materials;
- 3.4.7. use or attempt to use any NinaData Materials in a way that is intended to avoid incurring Fees or exceed usage limits;
- 3.4.8. track or seek to trace, derive any information or Personal Data about, or build a profile of any Personally-Identifying Information on any Third Party who uses or interacts with any NinaData Materials;
- 3.4.9. use any NinaData Materials for any illegal purpose, for soliciting the performance of any illegal activity, or as otherwise prohibited by this Agreement or applicable Laws;
- 3.4.10. send, upload or transmit Malicious Content to, through, or in connection with any NinaData Materials; or
- 3.4.11. fail to notify NinaData promptly if Client becomes aware that any NinaData Materials are being used by Client, its Affiliates or any Third Party for any unauthorized purpose, or in violation of applicable Laws.

**4. Client Responsibilities, Client Data, and Feedback.**

- 4.1. Client Responsibilities. As between Client and NinaData, Client is responsible for:
  - 4.1.1. obtaining, provisioning, configuring, securing, maintaining and paying for all computer

hardware, software, and communications equipment reasonably required to access and use NinaData Materials governed by this Agreement;

4.1.2. ensuring that its Personnel abide by all Laws applicable to Client's and its Authorized Users' access to and use of such NinaData Materials; and

4.1.3. Client Data.

#### 4.2. Client Data.

4.2.1. As between Client and NinaData, Client retains all right, title and interest in, and is responsible for the accuracy, quality, and compliance with applicable Laws of, all Client Data.

4.2.2. Client hereby:

- (a) agrees that NinaData may use Client Data in connection with the Services, including to provide such Services, as applicable, and any associated Reports to Client and its Authorized Users; and
- (b) grants NinaData and its Third Party service providers the limited right, during the applicable Term, to use, reproduce, store, transmit, modify, adapt, reformat, display and create derivative works of Client Data; and
- (c) agrees that all Intellectual Property Rights relating to Buying Intent Data generated from the Client Data shall vest in and be the sole and exclusive property of NinaData.
- (d) Feedback. Client hereby grants NinaData a non-exclusive, royalty-free, worldwide, transferable, sub-licensable (through multiple tiers), irrevocable, perpetual license to Feedback received pursuant to this Agreement, including the right to use such Feedback in connection with, or incorporate it into, NinaData Materials.

### 5. **Term, Termination, and Suspension.**

#### 5.1. Term.

5.1.1. This Agreement shall commence on the first day of the Trial Period or Initial Period, as applicable, and shall continue for any Trial Period, and thereafter for the Initial Period and for successive renewal periods of one (1) year, or any other period of time if specified expressly in the Service Order (each a "**Renewal Period**"), unless terminated in accordance with this Agreement.

5.1.2. Either Party shall be entitled to terminate this Agreement:

- (a) during the Trial Period, if applicable, provided it gives Email Notice of such termination on or before the fourteenth (14<sup>th</sup>) day prior to and inclusive of the last date of the Trial Period, in which case this Agreement will terminate at the end of the Trial Period; or
- (b) during the Initial Period or a Renewal Period, provided it gives Email Notice of such termination on or before the thirtieth (30<sup>th</sup>) day prior to and inclusive of the last date of the Initial Period or applicable Renewal Period, in which case this Agreement will terminate at the end of the Initial Period or applicable Renewal Period.

## 5.2. Termination.

5.2.1. Either Party may, but is under no obligation to, terminate this Agreement immediately by giving Email Notice to the other Party in the event that:

- (a) the other Party materially breaches this Agreement and does not remedy such breach within thirty (30) calendar days following the breaching Party's receipt of an Email Notice requiring remedy of such breach; or
- (b) an order is made or resolution passed for the other Party to be wound up (other than for the purposes of a solvent restructuring) or is otherwise insolvent entity or unable to pay its debts, or makes an assignment for the benefit of creditors or an arrangement pursuant to any insolvency law, or if the other Party discontinues or dissolves its business or if a receiver, examiner or administrator is appointed in respect of the other Party.

## 5.3. Effects of Termination.

5.3.1. Upon the termination of this Agreement for any reason:

- (a) Client shall cease access to and use of NinaData Materials immediately;
- (b) NinaData's obligations to provide access to and use of NinaData Materials shall cease immediately; and
- (c) Client shall pay to NinaData the full amount of any outstanding Fees due and payable hereunder within fifteen (15) days following such termination.

5.3.2. For avoidance of doubt, no refunds will be due to Client in the event of a termination of this Agreement unless expressly stated otherwise in this Agreement.

5.3.3. Notwithstanding the foregoing, the following terms shall survive the termination of this Agreement, together with any other terms which by their nature are reasonably intended to survive such termination: Sections 2.2 (Order of Precedence), 3.2 (Account Access, Credentials and Users) (last sentence only), 3.3.2 – 3.3.3 (Proprietary Rights), 3.4 (Restrictions), 4 (Client Responsibilities; Client Data; and Feedback), 5.3 (Effects of Termination), 6 (Fees, solely until all Fees due and payable are paid), 7.1 (Representations and Warranties), 7.2 (Disclaimers of Warranties), 8 (Indemnification), 9 (Limitation of Liability), 10 (Confidentiality; Publicity), 12 (Export), 13 (Governing Law & Jurisdiction), 14 (Notices), 15 (Force Majeure), 16 (Assignment), 17 (Amendments), 18 (Waiver; Severability), 19 (Independent Contractors), 20 (No Third Party Beneficiaries), 21 (Entire Agreement) and 22 (Definitions).

## 5.4. Suspension.

5.4.1. NinaData Materials may be unavailable at certain times, including during Force Majeure Events. NinaData will use commercially reasonable efforts to provide information regarding any such interruptions and the restoration of use of, and access to, NinaData Materials following any such interruption, as per the service levels set forth in Exhibit B hereto.

5.4.2. NinaData reserves the right to suspend or terminate Client's access to NinaData Materials if NinaData reasonably determines that:

- (a) there is a threat or attack on such NinaData Materials (including a denial of service attack) or other event that may create a risk to NinaData Materials, NinaData, Client, or any Third Party;
- (b) Client's or its Personnel's use of NinaData Materials disrupts or poses a security risk to NinaData Materials or any Third Party, may harm NinaData's systems, or may subject NinaData or any Third Party to liability;
- (c) Client or any of its Authorized Users are using NinaData Materials for fraudulent or illegal activities;
- (d) Client or any of its Authorized Users are using NinaData Materials in breach of this Agreement, including any breach of Section 3.4 (Restrictions); or
- (e) Client is in default of its Fee payment obligations

hereunder, (collectively, "**Service Suspensions**").

5.4.3. NinaData will make commercially reasonable efforts, circumstances permitting, to provide Email Notice to Client of any Service Suspension, and to provide updates regarding resumption of Client's access to NinaData Materials following any Service Suspension. Notwithstanding the foregoing, NinaData may immediately effectuate a Service Suspension in accordance with this Section 5.4; and, for avoidance of doubt, any such Service Suspension shall not relieve Client of its obligation to pay all Fees that would otherwise be applicable to such period of Service Suspension.

## 6. **Fees and Payment Terms.**

### 6.1. Fees.

6.1.1. Unless otherwise specified in the applicable Service Order, all Fees are:

- (a) payable in United States dollars, and
- (b) exclusive of all Taxes now or hereafter levied against the provision of access to or use of NinaData Materials.

6.1.2. Taxes will be invoiced and collected by NinaData if and to the extent required by any applicable taxing jurisdiction and Client will bear ultimate financial responsibility for the payment of any such Taxes.

6.1.3. NinaData will invoice Client as specified in a Service Order and Client shall pay all

invoices within fifteen (15) days of receipt. Without limiting any other remedies, payments that are received after the invoice due date will accrue late charges at a rate of one percent (1.0%) per month, until such amount is paid; and, under such circumstances, Client will also be liable for all collection agency fees and reasonable attorneys' fees payable by NinaData or its Affiliates in connection with enforcing Client's payment obligations, initiating any legal proceedings, and/or enforcing any orders, awards, or judgments for the recovery of monies owed to NinaData.

6.1.4. Except as otherwise mutually agreed upon by the Parties in writing or as stated expressly herein:

- (a) each Party is responsible for its own expenses under this Agreement, and
- (b) all Fees payable under this Agreement are non-refundable.

6.2. Changes to Fees. NinaData may change its Fees and payment terms at its discretion; provided however, that such changes will not take effect for Client until the start of the next Renewal Period. NinaData will provide prior Email Notice to Client of any changes to applicable Fees.

## **7. Representations and Warranties; and Disclaimers of Warranties.**

### **7.1. Representations and Warranties.**

7.1.1. Each Party represents and warrants to the other Party that it has:

- (a) the full power and authority to enter into, and carry out its obligations under, this Agreement;
- (b) complied, and will in the future comply, with all applicable Laws in connection with the execution, delivery and performance of this Agreement, including applicable Laws relating to data protection and privacy; and
- (c) all rights, permissions and consents reasonably required to grant the other Party the rights specified herein.

7.1.2. Client represents and warrants to NinaData that:

- (a) it will not engage in any illegal or fraudulent business practices in connection with its access to and use of NinaData Materials;
- (b) this Agreement does not conflict with or violate any other agreement that Client may have with any Third Party;
- (c) it will make commercially reasonable efforts to ensure that Client Data provided hereunder will be kept true, accurate and complete, in all material respects;
- (d) it is not in breach of, and will not breach, Section 3.4 (Restrictions); and
- (e) it will use commercially reasonable efforts to prevent any Malicious Content from being introduced into NinaData Materials.

## 7.2. DISCLAIMERS OF WARRANTIES.

### 7.2.1. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT:

- (a) NINADATA MATERIALS ARE PROVIDED TO CLIENT ON AN “AS IS,” “WHERE IS,” AND “AS AVAILABLE” BASIS, WITH ANY AND ALL FAULTS, AND WITHOUT ANY WARRANTY OF ANY KIND; AND
- (b) NINADATA, ON BEHALF OF ITSELF AND ITS SUPPLIERS AND LICENSORS, EXPRESSLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

7.2.2. NINADATA DOES NOT WARRANT THAT NINADATA MATERIALS WILL MEET CLIENT’S REQUIREMENTS, OR THAT THE OPERATION OF NINADATA MATERIALS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN NINADATA MATERIALS WILL BE CORRECTED.

### 7.2.3. CLIENT EXPRESSLY ACKNOWLEDGES AND AGREES THAT:

- (a) THE USE OF NINADATA MATERIALS AND ALL RESULTS OF SUCH USE IS SOLELY AT CLIENT’S OWN RISK; AND
- (b) QUALITATIVE DESIGNATIONS THAT MAY BE PRESENT IN NINADATA MATERIALS REFLECT NINADATA’S OPINIONS WITH RESPECT TO FACTORS THAT NINADATA BELIEVES MAY BE USEFUL TO ITS CLIENTS, AND, WHILE GROUNDED IN NINADATA’S PROPRIETARY TECHNOLOGY AND ANALYTICS, THESE DESIGNATIONS ARE MERELY NINADATA’S OPINIONS (I.E., THEY ARE NEITHER FACTS NOR GUARANTEES).

7.2.4. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY NINADATA OR ITS AUTHORIZED REPRESENTATIVES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTIES PROVIDED HEREIN.

7.2.5. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION AND/OR LIMITATION OF IMPLIED WARRANTIES OR CONDITIONS, OR ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO CLIENT. IN SUCH AN EVENT, NINADATA’S WARRANTIES AND CONDITIONS WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAWS IN SUCH JURISDICTION.

## 8. **Indemnification.**

- 8.1. By Client. Client shall defend NinaData, its Affiliates and their directors, officers and employees (collectively, the “**NinaData Indemnitees**”) against any Third Party claims, actions, demands, proceedings and suits against any NinaData Indemnitee (“**NinaData Indemnitee Claims**”), and indemnify the NinaData Indemnitees for all related liabilities, damages, settlements, penalties, fines, costs or expenses (including reasonable attorneys’ fees and other litigation expenses) incurred by such NinaData Indemnitees arising out of any NinaData Indemnitee Claims, to the



extent such NinaData Indemnitee Claims allege: (i) that Client Data or its use by NinaData in the provision of Services and other NinaData Materials hereunder infringes or misappropriates any Third Party's Intellectual Property Rights; (ii) Client's violation of applicable Laws in connection with this Agreement; (iii) Client's or Client's Personnel's gross negligence, willful misconduct, fraud or misrepresentation; or (iv) Client's breach of any representation or warranty made herein; provided that NinaData:

- 8.1.1. promptly notifies Client in writing of the NinaData Indemnitee Claim;
- 8.1.2. grants Client sole control of the defense and settlement of the NinaData Indemnitee Claim; and
- 8.1.3. provides Client, at Client's reasonable expense, with all assistance, information and authority reasonably required for the defense and settlement of the NinaData Indemnitee Claim.

Client will not enter into a settlement of any NinaData Indemnitee Claim that would result in liability to NinaData without NinaData's prior written consent, which NinaData shall not delay or withhold unreasonably.

- 8.2. By NinaData. NinaData shall defend Client and its directors, officers and employees (collectively, the "**Client Indemnitees**") against any Third Party claims, actions, demands, proceedings and suits against any Client Indemnitee ("**Client Indemnitee Claims**") and indemnify Client Indemnitees for all related liabilities, damages, settlements, penalties, fines, costs or expenses (including reasonable attorneys' fees and other litigation expenses) incurred by such Client Indemnitees arising out of any Client Indemnitee Claims, to the extent such Client Indemnitee Claims allege that NinaData Materials infringe or misappropriate any patent issued prior to the Effective Date, copyright, or trade secret; provided that Client:

- 8.2.1. promptly notifies NinaData in writing of the Client Indemnitee Claim;
- 8.2.2. grants NinaData sole control of the defense and settlement of the Client Indemnitee Claim; and
- 8.2.3. provides NinaData, at NinaData's reasonable expense, with all assistance, information and authority reasonably required for the defense and settlement of the Client Indemnitee Claim.

NinaData will not enter into a settlement of any Client Indemnitee Claim that would result in liability to Client without Client's prior written consent, which Client shall not delay or withhold unreasonably.

- 8.3. Exceptions. NinaData's obligations in Section 8.2 do not apply to any Client Indemnitee Claim arising from use of NinaData Materials by Client:

- 8.3.1. beyond the scope of licenses granted in this Agreement;
- 8.3.2. in breach of Section 3.4 (Restrictions);
- 8.3.3. with Modifications made by or for Client (without NinaData's prior express written consent);
- 8.3.4. after release of a superseding, non-infringing version by NinaData or any other mitigation remedies provided by NinaData pursuant to Section 8.4 below; or

8.3.5. with any technology, software or hardware not supplied by NinaData, if such alleged infringement would be avoided by use of NinaData Materials without such technology, software or hardware.

8.4. Mitigation.

8.4.1. If a Client Indemnitee Claim occurs that is subject to Section 8.2 and not subject to the exceptions in Section 8.3, or if NinaData determines that a Client Indemnitee Claim is likely to occur, NinaData may, in its sole discretion:

- (a) procure for Client the right or license to continue to use NinaData Materials, free of the Client Indemnitee Claim; or
- (b) replace or modify the affected NinaData Materials to make them non-infringing, provided that the replacement NinaData Materials substantially conform to NinaData's then-current specification for such NinaData Materials.

8.4.2. If these remedies are not reasonably available in NinaData's opinion, NinaData may elect to terminate this Agreement, or the applicable portion thereof, in which case Client shall be entitled to a *pro rata* refund of applicable Fees already prepaid to NinaData for the then-current Initial Period or Renewal Period, as applicable.

8.5. Exclusive Remedy. Sections 8.2 through 8.4 state the sole and exclusive obligations and liability of NinaData for any Third Party Intellectual Property Rights infringement and are in lieu of any warranties of non-infringement.

**9. Limitation of Liability.**

9.1. EXCLUSIONS OF LIABILITY. EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS, OR BREACHES OF SECTIONS 3 OR 10, IN NO EVENT WILL EITHER PARTY BE LIABLE HEREUNDER, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR RELIANCE DAMAGES, INCLUDING ANY LOST DATA, LOSS OF USE AND LOST PROFITS, ARISING FROM OR RELATING TO THIS AGREEMENT OR NINADATA MATERIALS, REGARDLESS OF THE LEGAL THEORY UPON WHICH ANY CLAIM FOR SUCH DAMAGES IS BASED AND EVEN IF SUCH PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF, OR COULD REASONABLY HAVE PREVENTED, SUCH DAMAGES. FURTHERMORE, NEITHER PARTY SHALL BE RESPONSIBLE FOR ANY DAMAGES ASSOCIATED WITH THE FRAUD, WILLFUL MISCONDUCT OR OTHER INTENTIONAL ILLEGAL ACTIVITY OF THE OTHER PARTY.

9.2. LIMITATION OF DAMAGES. EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS, OR BREACHES OF SECTIONS 3 OR 10, EACH PARTY'S TOTAL CUMULATIVE LIABILITY (WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE) ARISING FROM OR RELATED TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF FEES PAID OR PAYABLE BY CLIENT TO NINADATA IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. CLIENT AGREES NOT TO ASSERT ANY CLAIMS AGAINST NINADATA'S SUPPLIERS AND LICENSORS UNDER, OR AS A RESULT OF, THIS AGREEMENT.

9.3. JURISDICTIONAL ISSUES. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION

OR LIMITATION OF INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR OTHER DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY. IN SUCH AN EVENT, LIABILITY FOR SUCH DAMAGES UNDER THIS AGREEMENT WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAWS IN SUCH JURISDICTION.

9.4. ALLOCATION OF RISK. THE SECTIONS OF THIS AGREEMENT THAT ADDRESS INDEMNIFICATION, LIMITATIONS AND EXCLUSIONS OF LIABILITY, AND THE DISCLAIMER OF WARRANTIES, ALLOCATE THE RISK BETWEEN THE PARTIES. THIS ALLOCATION OF RISK IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES.

## **10. Confidentiality and Publicity.**

10.1. Confidential Information. Confidential Information may include services, pricing information, computer programs, source code, names and expertise of employees and consultants, know-how, and other technical, business, financial and product or service development information, but does not include any information that the Receiving Party can demonstrate by its written records:

- 10.1.1. was rightfully known to it without obligation of confidentiality prior to its disclosure hereunder by the Disclosing Party;
- 10.1.2. is or becomes publicly known through no wrongful act of the Receiving Party;
- 10.1.3. has been rightfully received without obligation of confidentiality from a Third Party authorized to make such a disclosure; or
- 10.1.4. is independently developed by the Receiving Party without reference to confidential information disclosed hereunder. NinaData's Confidential Information includes NinaData Materials, and any other aspect of the business or operations of NinaData, including any information or materials relating to the operations, clients, Personnel, distributors, or marketing plans of NinaData.

## 10.2. Obligation of Confidentiality.

10.2.1. Neither Party will use any Confidential Information of the other Party except as expressly permitted by this Agreement or as expressly authorized in writing by the Disclosing Party.

10.2.2. The Receiving Party shall use the same degree of care to protect the Disclosing Party's Confidential Information as it uses to protect its own Confidential Information of like nature, but in no circumstances less than a reasonable standard of care.

10.2.3. The Receiving Party may not disclose the Disclosing Party's Confidential Information to any person or entity other than to those of its Personnel who:

- (a) are subject to a written agreement with the Receiving Party that includes use and confidentiality restrictions that are at least as protective as those set forth in this Agreement, and
- (b) need access to such Confidential Information solely for the purpose of fulfilling the Receiving Party's obligations or exercising the Receiving Party's rights hereunder.

10.2.4. The foregoing obligations will not restrict the Receiving Party from disclosing Confidential Information of the Disclosing Party:

- (a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the Receiving Party required to make such a disclosure gives reasonable notice to the Disclosing Party prior to such disclosure (if reasonably permissible under applicable Laws); and
- (b) on a confidential basis to its legal and financial advisors.

10.2.5. With respect to any Confidential Information disclosed after the Effective Date, the terms of this Agreement supersede any previous non-disclosure agreements or any other preliminary representations or understandings that have been entered into by the Parties. NinaData may disclose the existence and terms of this Agreement to Third Parties in connection with any merger or sale of all or substantially all of NinaData's assets.

### 10.3. Publicity.

10.3.1. Client agrees it will not, without prior written approval of NinaData in each instance:

- (a) make any use of NinaData Marks, including in advertising, publicity, promotional materials or otherwise;
- (b) make any public statements or issue press releases or similar announcements about this Agreement or NinaData Materials; or
- (c) represent, directly or indirectly, that any product or any service provided by Client has been used, approved or endorsed by NinaData.

10.3.2. NinaData acknowledges that no rights or licenses are being granted to NinaData with respect to any Client Marks, except that NinaData may:

- (a) use Client Marks in connection with the provision of Services to Client; and
- (b) include Client Marks on its client lists (in equal prominence to other clients).

## 11. **Data Protection and Security.**

11.1. Data Protection. Each Party will maintain a security program with reasonable and appropriate physical, technical and organizational measures designed to protect Client Data and NinaData Data, as applicable, against accidental or unauthorized destruction, loss, alteration, disclosure or access.

## 12. **Governing Law and Jurisdiction.**

12.1.1. Governing Law. This Agreement will be construed and interpreted in all respects in accordance with the laws of Finland, without reference to its choice of law rules.

12.1.2. Jurisdiction.

12.1.3.

12.1.3.1. Each Party agrees to resolve any disputes arising out of or relating to this Agreement through binding arbitration. Any dispute or claim subject to arbitration pursuant to this Section 13 must be submitted to binding arbitration under the Rules of Arbitration ("**Rules**") of the International

Chamber of Commerce ("**ICC**").

- 12.1.3.2. Such arbitration shall be conducted before a single arbitrator appointed in accordance with and administered by the ICC pursuant to the Rules. The arbitrator will be bound by and will strictly enforce this Agreement, including any limitations and exclusions of liability contained herein, and may not limit, expand or otherwise modify any of the provisions of the foregoing.
- 12.1.3.3. Any arbitration will be held in Helsinki, Finland, unless otherwise agreed upon by the Parties in writing.
- 12.1.3.4. Each Party will bear its own expenses in the arbitration and will share equally the costs of the arbitration; provided, however, that the arbitrator shall award the prevailing party its reasonable attorney's fees and costs, and the arbitrator shall award the applicable Party any attorney's fees and costs to which it may be entitled to under Section 8 of this Agreement in connection with an indemnification claim.

12.2. Equitable Relief. Notwithstanding anything in this Agreement to the contrary, each Party may seek injunctive or other equitable relief in any court of competent jurisdiction to protect any actual or threatened misappropriation or infringement of its Intellectual Property Rights or those of its licensors, and each Party hereby submits to the jurisdiction of such courts and waives any objection thereto on the basis of improper venue, inconvenience of the forum or any other grounds. Client agrees that any breach of the license restrictions or other infringement or misappropriation of NinaData Rights may result in immediate and irreparable damage to NinaData or its Third Party licensors for which there may be no adequate remedy at law.

### **13. Notices.**

13.1. Email Notices will be deemed to have been given upon receipt of the email (regardless of whether the email is opened).

### **14. Force Majeure.**

Neither Party will be liable for any failure or delay in performing any obligation (except the requirement to pay Fees) to the extent such failure or delay is attributable to a Force Majeure Event.

### **15. Assignment.**

15.1. Client may not assign any rights or delegate any obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of NinaData (which will not be withheld or delayed unreasonably).

15.2. NinaData may assign this Agreement to any party upon Email Notice to Client. Subject to Section 15.1, this Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties thereto.

### **16. Amendments.**

Except as otherwise specified in this Agreement, this Agreement may be amended or supplemented only by a written and executed amendment that refers explicitly to this

Agreement and that is signed on behalf of both Parties.

**17. Waiver and Severability.**

17.1. Neither Parties' acts or omissions shall constitute a waiver of any provision herein or affect that Party's ability to enforce such right in the future, unless such waiver is in writing and signed by an authorized representative of the Party.

17.2. If any term of this Agreement is found invalid or unenforceable that term will be enforced to the maximum extent permitted by law and the remainder of this Agreement will remain in full force.

**18. Independent Contractors.**

The Parties are independent contractors, and nothing contained herein shall be construed as creating an agency, partnership, employee/employer relationship, or joint venture between the Parties.

**19. No Third Party Beneficiaries.**

This Agreement shall not be interpreted or construed to confer any rights or remedies on any Third Parties.

**20. Definitions and Interpretation.**

20.1. The following capitalized terms, when used in this Agreement, will have the corresponding meanings provided below.

21.1.1. "**Account**" means Client's account and the associated Credentials required in order for Authorized Users to access and use the Service(s) specified in the applicable Service Order(s).

21.1.2. "**Affiliate**" means any entity that directly or indirectly (through one or more intermediaries) Controls, is Controlled by, or is under common Control with NinaData or Client, as applicable.

21.1.3. "**API**" means an application programming interface provided by NinaData hereunder.

21.1.4. "**Authorized Users**" means Client's Personnel who have been issued Credentials to access and use the applicable Service(s) in accordance with this Agreement.

21.1.5. "**Buying Intent Data**" means data sets generated by utilization of the Processing Software upon Client Data, NinaData Data and Third Party Data, as applicable. Visual presentation of Buying Intent Data will be displayed in a manner determined by NinaData in its sole discretion.

21.1.6. "**Buying Intent Prediction Service**" means the buying intent prediction Service provided by NinaData as described in the applicable Service Order and service descriptions.

21.1.7. "**Client**" means the person or legal entity listed on the Service Order.

21.1.8. "**Client Data**" means any data that NinaData receives from Client, Client's systems, or any Third Party's systems under Client's control, in connection with this Agreement, including without limitation all the material available under the URLs (websites) provided by the Client.

21.1.9. "**Client Mark**" means any name, logo, trademark, service mark, or other distinctive service brand features, owned by Client.

21.1.10. "**Confidential Information**" means all information or materials provided or otherwise disclosed by or on behalf of the Disclosing Party to the Receiving Party hereunder, whether orally or in writing, that are designated as confidential or proprietary or that reasonably

should be understood to be confidential or proprietary, given the nature of the information disclosed and the circumstances of such disclosure.

21.1.11. “**Control**” means ownership or control, directly or indirectly, of more than fifty percent (50%) of the voting interests of the subject entity, or the legal power to direct or cause the direction of the general management of such entity, whether by contract or otherwise.

21.1.12. “**CPM**” means cost per thousand events.

21.1.13. “**Credentials**” means any log-in credentials (e.g., usernames and passwords) and any other security information that may be required to access and use the applicable Service(s) or other NinaData Materials in accordance with this Agreement.

21.1.14. “**Dashboard**” means the then-current NinaData user interface through which Client may access Client’s Account for Services, any associated Reports and Data.

21.1.15. “**Disclosing Party**” means the Party that provides Confidential Information to the Receiving Party (or on behalf of which Confidential Information is provided) in connection with this Agreement.

21.1.16. “**Documentation**” means any of NinaData’s proprietary documentation made available to or accessible by Client in connection with access to and use of the Service(s) specified on the applicable Service Order(s).

21.1.17. “**Email Notice**” means: (i) in the case of notice from Client to NinaData, emails to the email address of the NinaData Primary Contact specified in the applicable Service Order, as well as *legal@NinaData.com*; or (ii) in the case of notice from NinaData to Client, an email to the email address of the Client Primary Contact specified in the applicable Service Order, or the email address that NinaData has on file with respect to the applicable Service(s).

21.1.18. “**Feedback**” means any information, suggestions, ideas, enhancement requests, recommendations, comments and other feedback that Client or any of Client’s Personnel may disclose, transmit, provide or offer to NinaData with respect to NinaData Materials.

21.1.19. “**Fees**” means any amounts due and payable from Client to NinaData pursuant to the applicable Service Order(s), including Subscription fees and any other fees stated on such Service Order(s).

21.1.20. “**Force Majeure Event**” means a circumstance whereby a Party’s delay in performing its obligations hereunder is due to causes beyond such Party’s reasonable control, including fire, flood, earthquake, acts of God, acts of war, acts of a public enemy, labor disruptions affecting employers generally, acts of a nation or any state, territory, or other political division, terrorism, riots, civil disorders, epidemics, theft, quarantine restrictions, and internet or other service disruptions involving hardware, software or power systems that are not within such Party’s possession or reasonable control, including unauthorized network intrusions and denial of service attacks. For the avoidance of doubt, Force Majeure shall not include (a) financial distress nor the inability of either Party to make a profit or avoid a financial loss, (b) changes in market prices or conditions, or (c) a Party’s financial inability to perform its

obligations hereunder.

21.1.21. “**IAB**” means the Interactive Advertising Bureau.

21.1.22. “**Initial Period**” means the period of time specified on the applicable Service Order as the initial period.

21.1.23. “**Intellectual Property Rights**” means any and all patents, copyrights, trademarks, service marks, trade names, domain name rights, trade secret rights and all other intellectual property rights existing now or in the future, internationally.

21.1.24. “**Inventory**” means any collection of URLs or sites.

21.1.25. “**Laws**” means all applicable national, state, provincial and/or local laws, regulations, rules, ordinances and other decrees of any governmental authority.

21.1.26. “**Malicious Content**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

21.1.27. “**Modifications**” means changes, upgrades, updates, modifications, fixes or enhancements to, or derivative works of, NinaData Materials. “**Party**” means Client or NinaData, individually, as applicable; and “**Parties**” means Client and NinaData, collectively.

21.1.28. “**NinaData Data**” means any data, other than Client Data, that is generated or received by NinaData hereunder, including usage, log, or performance data.

21.1.29. “**NinaData Mark**” means any name, logo, trademark, service mark and other distinctive brand features of any NinaData Materials.

21.1.30. “**NinaData Materials**” means NinaData Data, Services, Dashboards, Reports, Buying Intent Data, Software and Documentation, and includes Modifications to any of the foregoing.

21.1.31. “**Permitted Affiliate**” means an Affiliate of Client that has entered into an Affiliate Adoption Agreement with NinaData that entitles such Affiliate to enjoy the benefit of this Agreement, other than as may be expressly modified in such Affiliate Adoption Agreement.

21.1.32. “**Personnel**” means agents, employees, officers, directors or contractors of a Party who are employed, engaged or appointed by such Party hereunder.

21.1.33. “**Personally-Identifying Information**” means Personal Data that reasonably identifies a natural person.

21.1.34. “**Personal Data**” means any information that relates to an identified or identifiable natural person and is protected as “personal data,” “personal information,” or “personally identifiable information” under applicable Laws.

21.1.35. “**Processing Software**” means NinaData software and Modifications thereto that analyze Client Data, Third Party Data and NinaData Data, as applicable, and generate Reports therefrom.

21.1.36. “**Receiving Party**” means the Party that receives Confidential Information from the Disclosing Party in connection with this Agreement.

21.1.37. “**Reports**” means Processing Software output, including the organization and presentation structure of such output, which is made available to Client via the Dashboard(s) or is otherwise transmitted to Client by NinaData. Reports will contain standard graphs and/or statistics as determined by NinaData in its sole discretion.



21.1.38. “**Service**” or “**Services**” means the NinaData software service(s) identified on the applicable Service Order, including the NinaData-developed or NinaData-procured infrastructure and tools used to deliver, deploy and support it.

21.1.39. “**Service Order**” means: (i) an ordering document executed by NinaData and Client, under which Client purchases Subscriptions to one or more Services; or (ii) online forms published by NinaData that have been “accepted” or “agreed to” electronically by an authorized representative of Client.

21.1.40. “**Subscription**” means the right to access and use a Service during the applicable Term, subject to and conditioned upon payment of Fees as set forth in the applicable Service Order.

21.1.41. “**Taxes**” means any direct or indirect federal, state and/or local sales, use, excise, withholding, stamp or similar taxes and any duties, tariffs, levies and other similar governmental assessments or charges, but excluding income tax assessed against the actual or potential income of NinaData.

21.1.42. “**Term**” means the period of time specified on the applicable Service Order when the applicable Subscription is in effect, which may include a Trial Period, an Initial Period, and one or more Renewal Periods.

21.1.43. “**Third Party**” means an entity or person that is neither a Party, nor an Affiliate of a Party.

21.1.44. “**Third Party Data**” means data licensed to NinaData by a Third Party for use in connection with Services.

21.1.45. “**Trial Period**” means the period of time specified on the applicable Service Order as a trial period.

20.2. In this Agreement, unless where otherwise specified:

20.2.1. headings are included for ease of reference only and shall not affect the construction;

20.2.2. a reference to writing or written includes email;

20.2.3. references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

20.2.4. references to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise; and

20.2.5. any phrase introduced by “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding them.

20.2.6. words used herein in the singular, where the context so permits, shall be deemed to include the plural and vice versa. The definitions of words in the singular herein shall apply to such words when used in the plural where the context so permits and vice versa.

## 21. Entire Agreement.

- 21.1. This Agreement represents the entire agreement between the Parties relating to its subject matter and supersedes all prior and/or contemporaneous representations, discussions, negotiations and agreements, whether written or oral, except to the extent NinaData makes any software or other services available to Client under separate written terms.
- 21.2. NinaData shall have the right to, in its sole discretion, update these Master Subscription Terms from time to time by posting updated terms to the NinaData website at the following URL: <https://ninadata.io/legal>. If such changes have a materially adverse effect on your use of the Services, you shall promptly notify NinaData of your objection to such modifications and the previous Master Subscription Terms shall continue to apply until the end of the then-current Initial Period or Renewal Period, as applicable.
- 21.3. Each Party acknowledges and agrees that it does not rely on, and shall have no remedy in respect of, any representation made (whether innocently or negligently) by the other Party or any other person except as set out in this Agreement. The terms on any purchase order, confirmation, or similar document submitted by Client to NinaData will have no effect and are hereby rejected.
- 21.4. This Agreement may be entered into in one or more counterparts, each of which will be deemed an original, and all of which taken together shall constitute one and the same instrument.
- 21.5. The Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

## Exhibit A – Service Specific Terms

### **Buying Intent Prediction Service-Specific Terms and Conditions:**

#### 1. Buying Intent Prediction-Specific Licenses and Restrictions.

Subject to and conditioned upon Client's compliance with the terms and conditions of this Agreement, including the applicable terms of the relevant Service Order(s), NinaData hereby grants Client a limited, revocable, non-transferable non-exclusive, non-sublicensable right to access and use the applicable NinaData Materials to receive and store Buying Intent Data.

Client will: (i) use the Buying Intent Prediction solely for its own internal use; (ii) ensure that information regarding issuance of Credentials to Authorized Users of the Buying Intent Prediction Service is kept accurate, complete and up to date, and (iii) prohibit Authorized Users from sharing their Buying Intent Prediction Service Credentials. Client hereby grants NinaData the limited right, during the applicable Term, to use, reproduce, store, transmit, modify, adapt, reformat, display and create derivative works of Client Data as reasonably required to provide the applicable Services and associated Reports to Client and its Authorized Users, and to maintain and improve the Services.

#### 2. Buying Intent Prediction Licence

Subject to Client's compliance with the terms and conditions of this Agreement, including the applicable terms of the relevant Service Order(s), NinaData hereby grants Client a limited, revocable, non-transferable, non-exclusive, non-sublicensable license to access and use the Buying Intent Data for the sole purpose of and in connection with the Buying Intent Prediction Service.

#### 3. Suspension.

Further to Section 5 of the Master Subscription Terms, NinaData reserves the right to temporarily suspend or terminate Client's access to the Buying Intent Prediction Service, with or without notice, if NinaData reasonably determines that the security or continuity of the Services is at risk. An indication of such may be, for example, that there is an unusual spike or increase in Client's use of such Service.

#### 4. Termination.

Upon any termination of this Agreement, NinaData will cease providing Client with access to and use of the Buying Intent Prediction Service. Any outstanding Fees balance through the date of termination will be immediately due and payable in full.

## **Exhibit B – Service Level Agreement**

### 1. Service Levels.

The following Services are covered by this Agreement;

**Service Levels.** NinaData undertakes that its servers and any other equipment reasonably required to operate the Service(s) and API(s) shall be available as follows:

Proposed Service Levels with Availability:

Level 1	99.9%
Level 2	99.0%
Level 3	98.0%

Availability shall be measured on the basis of twenty-four hours per day, seven (7) days per week during each calendar month of the applicable Term, except during times of scheduled Service Maintenance or Force Majeure Events.

### 2. Response Times based upon Severity.

Once notified by Client of an error in the applicable Service(s) or API(s), NinaData will respond within the following timeframes:

<b>Severity of Error</b>	<b>Initiate Response to Problem</b>
Severity 1 Error	Within 60 business minutes of notification
Severity 2 Error	Within 2 business hours of notification
Severity 3 Error	Within 4 business hours of notification

Definitions:

(a) "Business Hours" means 9:00 a.m. to 5:00 p.m. (Eastern Time), Monday through Friday, exclusive of U.S. federal holidays.

(b) Severity 1- means an error that causes complete unavailability of the applicable Service(s) or API(s).

(c) Severity 2 - means an error that causes the material unavailability of a particular feature or functionality of the applicable Service(s) or API(s).

(d) Severity 3 - means an error that causes a reduction of the average performance of a particular feature or functionality of the applicable Service(s) or API(s).

### 3. Service Provider Requirements

Service Provider responsibilities and/or requirements in support of this Agreement include:

- Meeting response times associated with service related incidents.
- Appropriate notification to Customer for all scheduled maintenance.

#### 4. Service Management

Effective support of in-scope services is a result of maintaining consistent service levels. The following sections provide relevant details on service availability, monitoring of in-scope services and related components.

##### Service Availability

Coverage parameters specific to the service(s) covered in this Agreement are as follows:

- Email support: Monitored 9:00 A.M. to 5:00 P.M. Monday – Friday (Eastern Time)
  - Emails received outside of office hours will be collected, however no action can be guaranteed until the next working day