



## DATA.AI MASTER SUBSCRIPTION AGREEMENT ("MSA")

**1. Definitions.** Any capitalized terms not defined in this MSA will have the meaning set forth in the Agreement.

- 1.1 "data.ai" or "Data.ai" means the data.ai entity set forth in the Order Form.
- 1.2 "Customer" means the entity that signs the Order Form and expressly excludes any related entities, affiliates, subsidiaries, partners, customers, clients, or third-party agents.
- 1.3 "Subscription Start Date" has the meaning set forth in the initial Order Form.
- 1.4 "Order Form" means an ordering document for the Services that incorporates this MSA by reference and is entered into by the parties.
- 1.5 "Services" means those services identified in the Order Form.
- 1.6 "Subscription Term" means the term of the subscription identified in the applicable Order Form, including all renewals, for the Services.
- 1.7 "Agreement" means the Agreement as defined in the initial Order Form with the Customer as amended by any subsequent Order Forms.

## **2. Payment.**

- 2.1 Customer agrees to pay the fees set forth in the Order Form. Unless otherwise expressly stated in an Order Form, all payments are due in United States Dollars. data.ai charges and collects in advance the annual fees for the Services as set forth in the applicable Order Form. Customer will pay all wire, electronic transfer, and administrative fees associated with its payment of fees under the Agreement; such fees may not be deducted from the amount payable to data.ai hereunder. Payment obligations are non-cancelable, fees paid are non-refundable, and Customer shall not withhold, reduce, or set-off fees owed under the Agreement.
- 2.2 If Customer in good faith disputes the accuracy of any portion of an data.ai invoice, then Customer shall pay all undisputed amounts when due, but may withhold any portion that is disputed in good faith pending resolution of the dispute, provided that Customer provides data.ai with written notice of such dispute within thirty (30) days of receipt of the invoice and provides reasonable detail for the basis of such dispute; otherwise such invoice will be deemed undisputed and due. If it is determined that Customer owes the disputed charges, then such charges will be paid with interest accrued beginning fourteen (14) days after resolution of such dispute at the rate of 1.5% per month or the maximum rate permitted by law, whichever is lower. Customer agrees to reimburse data.ai for all costs, expenses, and attorneys' fees to collect past due balances and interest.
- 2.3 Customer is responsible for maintaining complete and accurate billing and contact information with data.ai to avoid termination or interruption of the Services. If Customer fails to pay any amount owed by the date such amount is due then data.ai may, without limiting its rights and remedies: (a) suspend or terminate Customer's use of the Services until such amounts are paid in full; and (b) charge Customer interest on the outstanding amount at the rate of 1.5% per month or the maximum rate permitted by law, whichever is lower. In any action to collect or recover past due balances and interest under this Agreement, data.ai will be entitled to recover reasonable attorneys' fees in addition to other costs of enforcement to the maximum extent permitted under applicable law.
- 2.4 Customer is responsible for all applicable taxes under the Agreement (other than those based on data.ai's income) unless Customer provides data.ai with a valid exemption certificate (authorized by the applicable governmental authority) at least five (5) days prior to the applicable payment due date. All prices are exclusive of all taxes, duties, VAT, withholdings, and other government assessments (if payable and subject to provision of a proper tax invoice).

## **3. Term and Termination.**

- 3.1 The term of the Agreement will commence on the Subscription Start Date and continue thereafter for the duration of the Subscription Term (as applicable). Upon expiration of the Subscription Term or any renewal term, the Agreement shall automatically renew for the same duration as the prior period unless either party provides notice of non-renewal at least ninety (90) days before the expiration of the then-current term. Non-renewal notifications by Customer must be emailed to [cancellation@data.ai](mailto:cancellation@data.ai) and must identify the Customer's name and the corresponding Order Form number. All terms and conditions of this MSA shall remain in effect until termination of the Agreement.
- 3.2 A party may terminate the Agreement (a) upon thirty (30) days' written notice to the other party of the other party's material breach, unless such breach is cured during that thirty (30) day period, or (b) immediately, if the other party files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors. Notice of a material breach shall specify in reasonable detail the facts and circumstances constituting such breach.
- 3.3 data.ai may suspend (with or without prior notice) the Services and/or terminate (immediately upon notice) the Agreement in the event that Customer (or any of its affiliates, if applicable) (a) materially breaches the Agreement by commercially offering products and/or services that display any portion of the Services, including, without limitation, any mobile app download, revenue and/or usage trends (i.e., anything other than data solely about apps owned and operated by Customer that Customer sources on its own and is not part of the Services), or (b) begins commercially offering products and/or services that display mobile app download, revenue, rankings, sales analytics, usage trends and/or other market intelligence for mobile applications (in addition to data solely about Customer's own apps), or (c) engages in any other business activities that are competitive with data.ai. In the event of such suspension or termination, data.ai's obligations under the Agreement will be deemed to be fully discharged, no refunds will be issued, and any unpaid fees under the Agreement for the Subscription Term shall be immediately due and payable, in addition to any other rights or remedies available to data.ai under the Agreement or applicable laws.
- 3.4 Upon the effective date of termination of the Agreement, data.ai will cease providing the Services to Customer and Customer's right to use the Services and Confidential Information shall terminate. Following receipt of written request from the disclosing party to destroy or erase its Confidential Information, the receiving party must destroy/erase all such Confidential Information without undue delay, tangible or intangible, in its possession or control.
- 3.5 Sections 1, 2, 3.5, 4-8 and 10-12 of this MSA, and those sections of the Supplement(s) identified as surviving by their terms, shall survive the termination of the Agreement.

## **4. Confidentiality.**

- 4.1 "Confidential Information" means: (a) any and all technical and non-technical information, including, without limitation, all business information, sales and pricing and related methodologies and practices, customers and customer lists, marketing plans, product and product roadmap, all data and datasets, partners, suppliers, intellectual property (including without limitation trade secrets), financial

information, regulatory and compliance matters, and any other information that the disclosing party designates as confidential at the time of disclosure or that should reasonably be understood to be confidential information of the disclosing party; and (b) with respect to data.ai, it also means the Services, data.ai Content, all pricing under the Agreement, the terms of the Agreement, business plans, and product and service designs. Confidential Information does not include information that: (i) is or becomes publicly available through no fault attributable to the receiving party; (ii) at the time of disclosure by disclosing party was already known to the receiving party free of any confidentiality obligation; (iii) is lawfully received by the receiving party from a third party without breach of any obligation owed to the disclosing party; or (iv) was independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information. Confidential Information of either party disclosed prior to execution of the Agreement will be subject to this Section 4.

- 4.2 The party receiving Confidential Information of the disclosing party will: (a) hold in strict confidence and protect all such Confidential Information as confidential with at least the same degree of care that it uses to protect its own similar Confidential Information, but not less than a reasonable standard of care; (b) not use or disclose any Confidential Information of the disclosing party for any purpose except (i) to exercise its rights and fulfill its obligations under the Agreement, or (ii) in furtherance of a business relationship of the parties; and (c) except as set forth in Section 4.3 below, not disclose any Confidential Information to any third party other than its directors, employees, contractors, agents and counsel (collectively, the "Representatives") or Authorized Users whose access is necessary for purposes consistent with the Agreement and who are bound by obligations of confidentiality no less stringent than those set forth herein. The receiving party agrees not to alter, modify, disassemble, reverse engineer, or decompile any of the Confidential Information received from the disclosing party (except to the extent permitted by mandatory law). The receiving party may make a limited number of copies of Confidential Information as necessary for purposes consistent with the Agreement. All copies made will reproduce the restrictive legends of the original.
- 4.3 The receiving party may disclose Confidential Information to the extent required by law, regulation, court or regulatory authority order if the receiving party provides advance written notice to the disclosing party (to the extent legally permitted) and uses diligent efforts to limit disclosure and obtain confidential treatment or a protective order and has allowed the disclosing party to participate in the proceeding, at the disclosing party's cost, if the disclosing party desires to contest the disclosure.
- 4.4 The parties agree that money damages are an inadequate remedy for breach of the obligations in this Section 4, and that any such breach would result in irreparable harm to the disclosing party. Therefore, in the event of any such actual or threatened breach, the disclosing party will be entitled, in addition to any other rights or remedies available to it at law or equity, to seek specific performance or injunctive relief without the posting of a bond.
- 4.5 Notwithstanding anything to the contrary, data.ai may use Customer's name and standard logo in customer listings or as part of data.ai's promotional and marketing efforts.

## **5. Warranties.**

- 5.1 Each party represents and warrants that it has the full corporate power and authority to execute the Agreement and each Order Form.
- 5.2 THE SERVICES, AND ALL INFORMATION, REPORTS, ESTIMATES, CONTENT, AND OTHER MATERIALS PROVIDED OR MADE AVAILABLE TO CUSTOMER BY DATA.AI IN CONNECTION WITH THE SERVICES AND AGREEMENT (THE "DATA.AI CONTENT") ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND AND DATA.AI DOES NOT GUARANTEE THE ACCURACY OR AVAILABILITY OF ANY SERVICES OR DATA.AI CONTENT. THE SERVICES AND DATA.AI CONTENT ARE NOT INTENDED AS, AND SHOULD NOT BE RELIED ON AS ADVICE, GUIDANCE, OR DIRECTION, AND CUSTOMER MUST USE ITS INDEPENDENT BUSINESS JUDGEMENT IN THE CONDUCT OF ITS BUSINESS. TO THE FULLEST EXTENT PERMITTED BY LAW, DATA.AI DISCLAIMS ANY AND ALL OTHER WARRANTIES (EXPRESS, IMPLIED OR OTHERWISE), INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING BY A COURSE OF DEALING, USAGE OR TRADE PRACTICE OR COURSE OF PERFORMANCE. CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT THE SERVICES AND DATA.AI CONTENT PROVIDED HEREUNDER RELY ON AND/OR ARE BASED ON INFORMATION, CONTENT, MATERIALS, AND SERVICES OBTAINED THROUGH A VARIETY OF METHODOLOGIES, INCLUDING AUTOMATED METHODS, FROM THIRD PARTY WEBSITES, ONLINE, AND OTHER SOURCES THAT ARE NOT AFFILIATED WITH OR CONTROLLED BY data.ai, AND ACCORDINGLY, DATA.AI CANNOT AND DOES NOT MAKE ANY REPRESENTATIONS AS TO, AND HEREBY DISCLAIMS ANY AND ALL LIABILITY ARISING OUT OF OR ASSOCIATED WITH THE ADEQUACY, SUFFICIENCY, COMPLETENESS, CURRENCY, PROVENANCE, RIGHTS, OR OTHER ATTRIBUTES OF SUCH SERVICES AND DATA.AI CONTENT, OR DATA.AI'S COLLECTION AND PROCESSING THEREOF. CUSTOMER AGREES THAT IT IS NOT RELYING ON DELIVERY OF ANY FUTURE FUNCTIONALITY, OR ON ANY ORAL OR WRITTEN PUBLIC COMMENTS OR ADVERTISING OF DATA.AI, IN ITS PURCHASE OF THE SERVICES, NOR IS IT RELYING ON THE SERVICES OR DATA.AI CONTENT AS A SOURCE OF ADVICE, GUIDANCE, OR DIRECTION IN THE CONDUCT OF ITS BUSINESS, AND ACCORDINGLY, ALL ACTS, OMISSIONS, AND DECISIONS CUSTOMER UNDERTAKES OR MAKES (OR REFRAINS FROM MAKING OR UNDERTAKING) THROUGH THE USE OF THE SERVICES, DATA.AI CONTENT, OR OTHERWISE ARE CUSTOMER'S SOLE RESPONSIBILITY.

## **6. Indemnification.**

- 6.1. data.ai will defend Customer against claims brought against Customer by any third party alleging that data.ai knowingly infringed third-party patents. Data.ai will indemnify Customer against all damages and costs (including reasonable attorney fees) finally awarded against Customer (or the amount of any settlement data.ai enters into) with respect to these claims. data.ai's obligations under this Section 6.1 will not apply if the claim results from Customer's: (a) use of the Services in violation of, or inconsistent with, the Agreement; (b) use of the Services in combination with any equipment, data, documentation, product or service not provided by data.ai; (c) failure to use an upgrade or replacement version of the Services when such version has been made available; or (d) negligent or fraudulent acts or omissions. In the event of a claim, data.ai may, in addition to the foregoing, at its sole option and expense: (i) procure for Customer the right to continue using the Services under the terms of the Agreement; (ii) replace or modify the affected Services to be non-infringing and substantially equivalent in functionality; or (iii) terminate Customer's subscription to the affected Services and refund to Customer a prorated portion of prepaid unused fees for such Services.
- 6.2 Customer will indemnify data.ai with respect to damages, costs and losses related to Customer's use of the Services (including any and all acts, omissions, or decisions undertaken or made by Customer or any of its affiliates or third parties with whom Customer shares the Services or data.ai Content, in each case arising out of or in connection with such parties' use of the Services or related data.ai Content) other than as expressly permitted in the Agreement.

- 6.3 The party against whom a third-party claim is brought: (a) shall notify the indemnifying party in writing of any such claim within thirty (30) days of learning of such claim; (b) shall make no admissions or settlements without the indemnifying party's prior written consent; (c) shall reasonably cooperate in the defense and give the indemnifying party all information and assistance as it may reasonably require; and (d) may participate in the defense (at its own expense) through counsel reasonably acceptable to the party providing the defense. The party that is obligated to defend a claim will have the right to fully control the defense. Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the party against whom the claim is brought.
- 6.4 The provisions of this Section 6 state the sole, exclusive, and entire liability of a party to the other party, and is the other party's sole remedy, with respect to claims covered in this Section 6.

## **7. LIMITATION OF LIABILITY.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT WITH RESPECT TO (A) CUSTOMER'S OBLIGATIONS TO PAY FEES, AND (B) CUSTOMER'S SHARING, REDISTRIBUTION OR OTHER USE OF THE SERVICES OR DATA.AI CONTENT IN BREACH OF THE AGREEMENT, (I) IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGES AND (II) EACH PARTY'S MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT AND NOT OTHERWISE SEPARATELY DISCLAIMED AND OR LIMITED HEREUNDER, SHALL BE LIMITED TO THE AMOUNTS PAID TO DATA.AI UNDER THE AGREEMENT DURING THE TWELVE (12) CALENDAR MONTHS IMMEDIATELY PRIOR TO THE INCIDENT GIVING RISE TO THE LIABILITY. DATA.AI EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY ARISING OUT OF OR RELATED TO ANY ACTS, OMISSIONS, OR DECISIONS MADE OR UNDERTAKEN (OR NOT MADE OR UNDERTAKEN) BY CUSTOMER OR ANY OF ITS AFFILIATES OR THIRD PARTIES WITH WHOM CUSTOMER SHARES THE SERVICES OR DATA.AI CONTENT, ARISING OUT OF OR IN CONNECTION WITH SUCH PARTIES' USE OF THE SERVICES AND DATA.AI CONTENT.

## **8. Ownership.**

Except as otherwise expressly granted under the Agreement, Customer retains all ownership and intellectual property rights in and to Customer Confidential Information. data.ai owns and retains all rights, titles and interests and all intellectual property rights, including, without limitation, all copyrights, trademarks, patents, goodwill, trade secrets, and moral rights, in and to the Services, data.ai Confidential Information, data.ai Content, industry-specific performance reports as part of data.ai's Performance Index, and all documentation, specifications, guidelines, trade names, graphics, sounds, content, and materials made available to Customer, and usage data collected in connection with Customer's use of the Services, and any and all derivative works thereof. The Services and any data.ai Content are never undertaken or provided to Customer as works for hire as such term is defined under applicable copyright laws. All rights not expressly granted to Customer are reserved by data.ai.

## **9. Security.**

Customer uses and will maintain commercially reasonable and appropriate security standards and measures to protect against unauthorized access and use of its systems and devices through which its Authorized Users access and use the Services and data.ai Content. Neither Customer nor its Authorized Users will: (a) share any data.ai account credentials (including usernames and passwords) either within its organization or with third parties; (b) obtain, attempt to obtain, access, or use any account information relating to any other data.ai user; (c) abuse or misuse the application program interface calls to the Services if any are allocated to Customer pursuant to the applicable Order Form, (d) probe, scan, or conduct vulnerability or penetration testing of the Services or any related system or network; (e) interfere with the network, send a virus, overload, flood, spam, or mail-bomb the Services; or (f) except to the extent such rights cannot be validly waived by law, decipher, decompile, disassemble, reverse engineer, or otherwise attempt to obtain the source code, underlying logic, or software used to provide the Services. Customer is responsible for all activity associated with its data.ai account(s) and its access and use of the Services and data.ai Content. Customer will notify data.ai immediately upon any unauthorized access or use of the Services or data.ai Content, including but not limited to unauthorized access or use of any password or account or any other known or suspected breach of security.

## **10. Feedback.**

Customer grants to data.ai a worldwide, perpetual, irrevocable, royalty-free right to use, disclose, and incorporate into the Services, or any future data.ai, its affiliates', or partners' product or service, without Customer's consent, at data.ai's discretion, any suggestion or request for improvement, modification, or enhancement, comments, ideas, reviews, recommendation, correction, or other feedback provided by Customer to data.ai (collectively, "Feedback"). For the avoidance of doubt, Feedback shall not be considered Confidential Information under the Agreement, and neither data.ai nor any of its customers or business partners shall have any obligation or liability to Customer with respect to any use or disclosure of Feedback.

## **11. Third Party & Other Services.**

The Services may include links to third-party websites, systems, or networks ("Third-Party Services") or Customer's websites, systems, or networks (together with Third-Party Services, the "Other Services"). The Third-Party Services are subject to terms and conditions of those third parties and are not part of the Services and the Agreement does not apply to them. Data.ai is not responsible or liable for any part of the Other Services (including, without limitation, availability, or accuracy of Other Services). data.ai does not endorse any Other Services. Customer acknowledges and agrees that Customer is solely responsible for and assumes all risk arising from Customer's use of Other Services. In addition, in connection with using the Services, Customer may choose to purchase or license certain other third-party products and/or services identified by data.ai. The terms and conditions related to Customer's purchase or license of any such third-party products and services are between Customer and the relevant third parties. data.ai does not license, support, control, endorse or otherwise make any representations or warranties regarding, and shall have no liability associated with, any such third-party products or services described in this Section 11.

## **12. General.**

- 12.1 Assignment. Customer may not assign or transfer the Agreement or any of its rights or obligations thereunder, to any party without the prior written consent of data.ai; any assignment in violation of this Section 12.1 shall be deemed null and void.
- 12.2 Export Control. Data.ai's Services and Confidential Information are subject to export control laws of various countries, including the laws of the United States, and Customer will not export or provide any data.ai Confidential Information to countries, persons or entities if prohibited by applicable export laws.
- 12.3 data.ai Affiliates. Customer acknowledges and agrees that the Services and data.ai's obligations under the Agreement may be performed in part or in whole by data.ai affiliates worldwide, who will be considered "data.ai" when performing hereunder.
- 12.4 Relationship of the Parties. The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties is created by the Agreement. Data.ai is not registered in any investment advisory

capacity in any jurisdiction globally, and does not offer any legal, financial, investment or business advice. Nothing contained in any communications, or in any data.ai products, services, or other offerings, should be construed as an offer, recommendation, or solicitation to buy or sell any security or investment, or to make any investment or financial decisions. Any reference to past or potential performance is not, and should not, be construed as a recommendation or as a guarantee of any specific outcome. Customer should always consult its own professional legal, financial, investment and business advisors.

- 12.5 **Force Majeure.** Any delay in performance (other than for the payment of amounts due) caused by conditions beyond the reasonable control of the performing party is not a breach of the Agreement. The time for performance will be extended for a period equal to the duration of the conditions preventing performance.
- 12.6 **Notices.** Except as otherwise set forth in the Agreement, all notices will be in writing and given: (a) when delivered to the relevant party's physical address set forth in the most recent Order Form executed by the parties (with copy to the legal department); or (b) when received electronically by data.ai at legal@data.ai or Customer (as the case may be) at such party's email address for notices as set forth in the most recent Order Form executed by the parties. Notices pertaining to the Services (e.g., operation or support) may be in the form of an electronic notice to Customer's administrator.
- 12.7 **Governing Law; Waiver.** Any dispute arising out of or related to the Agreement will be construed in accordance with the laws of England and Wales, without giving effect to any choice of law principles. The courts located in London, England shall have sole and exclusive jurisdiction to resolve any and all claims or disputes arising out of or in connection with the Agreement. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act does not apply to the Agreement. Electronic signatures that comply with applicable law are deemed original signatures. A waiver of any breach of the Agreement is not deemed a waiver of any other breach.
- 12.8 **Entire Agreement.** The Agreement constitutes the, complete and exclusive agreement between the parties related to the subject matter of the Agreement and supersedes, terminates and extinguishes all prior and contemporaneous agreements (including any confidentiality or non-disclosure agreements), rights granted, discussions, correspondence, negotiations, promises, arrangements, proposals, quotes, marketing materials, due diligence documentation, representations, purchase orders and understandings, whether written or oral, concerning the subject matter of the Agreement which are not expressly incorporated into the Agreement. Any amendments, additions, or modifications to the terms of the Agreement must be set forth in a written document signed by both parties. Notwithstanding the foregoing, the Agreement does not govern access or use of any cost-free data.ai products or services made available through mobile applications, which shall be governed by the terms and conditions referenced in or otherwise applicable to such cost-free products or services. Other than as expressly set forth in the Agreement, each party acknowledges that, in entering into the Agreement, it has not relied and is not relying on, and each party shall have no claim or remedies (including any claims for misrepresentations) for, any representation, statement, understanding, agreement, commitment, assurance, warranty or collateral contract of any person (whether party to the Agreement or not), whether written, oral or otherwise, and whether made by or on behalf of the parties prior to the date of this Agreement. Each party waives all rights and remedies which, but for this clause, might otherwise be available to it in respect of any such representation, statement, understanding, agreement, commitment, assurance, warranty, or collateral contract. If any provision of the Agreement is held prior to be illegal, invalid, or unenforceable, the provision will be enforced to the maximum extent permissible so as to affect the original intent of the parties, and the remaining provisions of the Agreement will remain in full force and effect. To the extent any translation is provided to a party, it is provided for convenience purposes only, and in the event of any conflict between the English and translated version, where permitted by law, the English version will control and prevail. Nothing in this Section 12.8 operates to limit or exclude any liability for fraud or fraudulent misrepresentation.