

**CM SERVICES GENERAL TERMS AND CONDITIONS**

The Services provided by ADA shall be provided in accordance with these CM Services General Terms and Conditions (“**CM Services GTC**”) and the applicable CM Services Order Form (“**Order Form**”).

Each Order Form together with this CM Services GTC, forms an agreement between such Client (as described in the Order Form) and the ADA entity designated in the Order Form (“**ADA**”), and is collectively referred to herein as the “**Agreement**”.

Client and ADA are referred to herein individually as a “**party**”, and collectively, as the “**parties**”.

**1. DEFINITION AND INTERPRETATION**

- 1.1. Capitalised terms set out in the Order Form shall bear the same meaning when used throughout this Agreement.
- 1.2. Headings are used in this Agreement for reference only and will not be considered when interpreting this Agreement.
- 1.3. For the purposes of this Agreement, the following terms shall bear the meanings ascribed below.

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by or is under common control with the subject entity.

“**API**” means an Application Programming Interface (API); a set of clearly defined methods of communication between the Software and any system, websites, database, file, application, or data repository as identified as source of data and/or output platforms in the Order Form.

“**Business Day**” means any day of the week (excluding weekends and public holiday) on which commercial banks are open for business in the territory where ADA corporate entity domiciles in.

“**Client Data**” means any data, information, or content, including data derived from any source of data, that is submitted, uploaded, or otherwise made available to ADA and/or the Software or accessed via a Marketplace Platform API or any other source of API data, by or on behalf of the Client to enable the provision of the Services.

“**CM Data**” means any data or information generated by the Software or obtained by the Software from publicly available sources or its third-party content providers and made available to the Client through the Services, including organized, aggregated, or visualized outputs extracted or exported from the Software to any external output platforms.

“**Intellectual Property Rights**” means patents, inventions (whether patentable or not), copyright, moral rights, design rights, trademarks, trade names, business names, service marks, brands, logos, service names, trade secrets, know-how, domain names, database rights and any other intellectual property or proprietary rights or general intangibles of like nature (whether registered or unregistered) whether in the Intellectual Property Office or any similar agency or office, (whether registered or unregistered and whether in electronic form or otherwise) including rights in computer software, and all registrations and applications to register any of these items, rights in the nature of those items in any country or jurisdiction, any rights in the nature of unfair competition rights and rights to sue for passing off.

“**Marketplace Platforms**” means the third-party marketplace platforms identified as a source of data as specified in the Order Form.

“**Services**” means the products and services subscribed by the Client as specified under the Order Form, including the utilization of the Software but excluding the CM Data.

“**Service Fees**” means the rates and charges payable by the Client in connection with the usage of the Services and/or the CM Data, as set out in the Order Form.

“**Software**” means the ecommerce analytics software that, among others, provides downloading and unification of various data sets derived from third-party marketplace platforms and other sources of data.

“**Personal Data**” shall have the same meanings ascribed to them under the Personal Data Protection Law.

**“Personal Data Protection Law”** means the laws and regulations related to Personal Data protection imposed by any relevant state or government authority in the Service Territory, which shall include all applicable regulations, subsidiary legislation, guidelines, orders and any statutory amendments or re-enactments made under such Personal Data Protection Law from time to time.

**“Term”** means the Term as specified in the Order Form.

**“Pilot Period”** means the Pilot Period as specified in the Order Form.

## **2. SERVICES**

- 2.1. In consideration of Client’s payment of the Service Fees and Client’s acceptance of the terms of the Agreement, the Client hereby appoints, and ADA hereby accepts the appointment for ADA to provide the Services for the Term as set out in the Order Form.
- 2.2. ADA hereby grants the Client a limited, revocable, non-exclusive, non-transferable, non-sublicensable right and license during the Term to remotely access and use the Services in the normal course of Client’s business and in accordance with this Agreement.
- 2.3. Client hereby grants and shall procure its relevant parties to grant to ADA, a fully paid up, worldwide, royalty-free, non-exclusive, non-transferable right and license during the Term to access and use the Client Data and the API. Client acknowledges that ADA’s access to the Client Data and the API is integral to ADA’s performance of the Services and the provision of CM Data, and ADA shall not be held liable for any failure to perform the Services or deliver the provision of CM Data, if ADA’s access to the Client Data or the API has been terminated, suspended or otherwise interrupted (where such termination, suspension and interruption was not caused by any acts or omissions of ADA).
- 2.4. The Client agrees that the provision of Services and delivery of the CM Data is conditional on the Client: (a) complying with the provisions of this Agreement, including but not limited to paying the Service Fees; (b) providing ADA with access to Client Data and any required third party systems including making all necessary third-party disclosures and obtaining any required third-party consents needed for such access, to enable the Software to access Client Data and the API; and (c) providing ADA with permission to access and interact with other relevant third-party applications, software, platforms, services, or tools required for the provision of the Services and/or CM Data.
- 2.5. ADA does not screen, audit, or endorse any content, materials, data, and/or information it receives from the Client or from the Client Data. Any content, materials, data, and/or information provided, submitted, or made available to ADA shall be in strict compliance with the rights and conditions, if any, granted to the Client by any third party.
- 2.6. The Client shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services and/or CM Data, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like.
- 2.7. Client shall have access to the Services and CM Data only through remote access, limited for internal usage of the Client, subject to the terms of this Agreement.
- 2.8. Client agrees (a) to keep confidential and secure all identification numbers, passwords and other security processes and devices used for accessing the Services and CM Data, among its employees, and any approved agents and subcontractors (if any) (b) to promptly notify ADA in writing if Client suspects that access to the Services or CM Data Account security has been breached or compromised, (c) that CM Data is for reference only and that the Client is responsible to evaluate the CM Data outputs for its accuracy and suitability for Client’s use case.
- 2.9. From time to time, ADA may designate certain new functionality or services to be made available in connection with the Services as beta services. Any use of such beta services is at the Client’s discretion and shall be subject to the terms and conditions set forth in this Agreement. Client acknowledges and understands that (a) beta services are incomplete and still in development, may contain bugs, errors, defects or deficiencies, may materially change prior to a full commercial launch (if any), and may never be released commercially, (b) Client’s use of the beta services will be for purposes of evaluating and testing the beta services and for providing feedback to ADA, (c) ADA has no obligation whatsoever to correct errors or provide any technical support or revisions or updates to the beta services, and (d) ADA may at any time change, withdraw, suspend or discontinue any beta services (in whole or in part) in its sole discretion. Without limiting the generality of any disclaimers in the Agreement,

the beta services are provided "as is" and "as available" and are exclusive of any warranty whatsoever. ADA will have no liability for any harm or damage arising out of or in connection with the Client's use of the beta services.

### **3. RESTRICTIONS**

3.1. Unless otherwise expressly permitted under this Agreement, the Client will not, directly or indirectly:

- a) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services and CM Data or any software, documentation or data related to the Services, or create derivative works based on the Services or CM Data;
- b) cache the Services and the CM Data (or any part thereof) in a manner that would permit the Client to reuse them (or any functional equivalent or model of them) in a manner that is in breach of this Agreement;
- c) utilise the Services or the CM Data in violation of any applicable law;
- d) use, distribute, sublicense, white label, lend, lease, resell, distribute, share, sell, copy, reproduce, and/or modify any part of the Services or CM Data in any manner; and/or
- e) use any parts of the Services or CM Data for the purposes of developing, directly or indirectly, a product competitive to the Services.

### **4. CONFIDENTIALITY**

4.1. Each party understands and acknowledges that, by virtue of this Agreement, a party may receive or become aware of information belonging or relating to the other party, its business, business plans, technical and financial information or activities, which information is confidential and proprietary to the other (the "**Confidential Information**").

4.2. In consideration of such Confidential Information being disclosed or otherwise made available to either party for the purposes of the performance of this Agreement, both parties hereby undertake that they will not at any time, either before or after the termination of this Agreement, and either directly or indirectly, disclose, divulge or make unauthorized use of any Confidential Information, except to the extent to which such Confidential Information:

- a) is publicly known at the time of its disclosure or being made available to them;
- b) after such disclosure or being made available to them, becomes publicly known otherwise than through a breach of this provision;
- c) was independently developed without the use of any Confidential Information of the disclosing party; or
- d) is required by law, regulation or order of a competent authority (including any regulatory or governmental body or securities exchange) to be disclosed by one of the parties, provided that, where practicable, the other party is given reasonable advance notice of the intended disclosure.

4.3. Any information provided or divulged by ADA to the Client under this Agreement shall be the sole and exclusive property of ADA and the Client shall not in any event whatsoever derive any right or license to use such information for such other purpose other than as specifically set out herein.

4.4. The obligations set out in this Clause 4 will survive the termination of this Agreement.

### **5. INTELLECTUAL PROPERTY RIGHTS**

5.1. Subject to the limited rights expressly granted hereunder, ADA, its Affiliates, its licensors reserve all of their rights, titles and interest in and to (a) the Services and CM Data, (b) its respective name, logos, software, applications, technology in connection, (c) the Software, all improvements, enhancements or modifications thereto, (d) any software, applications, inventions or other technology developed in connection with the Services or CM Data, and (e) all intellectual property rights related to any of the foregoing. No rights are granted to the Client hereunder other than expressly set forth herein.

- 5.2. The Client has the right to access and use applicable CM Data subject to the terms of the applicable Order Form and this Agreement.
- 5.3. ADA shall retain the right to use in any way it considers appropriate, any skills, techniques, processes, methodologies or know-how acquired, developed or used in the course of the provision of the Services, and any improvements or modifications to the Services or to other ADA products or services created during the course of the Services or use of the Services will vest exclusively in ADA. The Client agrees that any suggestions, feedbacks, recommendations, or ideas ("**Feedback**") the Client provides to ADA regarding the Services, the CM Data or its other services or product and any suggested improvements thereto will be the exclusive property of ADA. ADA may also use data about the Client's usage of the Services or the CM Data for internal purposes such as for operating, maintaining and improving ADA's products and services. Where the foregoing assignment of right is prohibited by applicable law, the Client hereby grants ADA an exclusive, transferable, worldwide, perpetual, royalty-free, fully paid-up license (including the right to sublicense) to use and exploit all Feedback as ADA may determine in its sole discretion.
- 5.4. Client grants ADA a limited, revocable, non-exclusive, fully paid, royalty-free, worldwide right and license to display the Client's logo and name in ADA's promotional materials, and to identify the Client as a customer of ADA, for ADA's own marketing purpose (including but not limited to on ADA's website, in press release, promotional and sales materials, customer/prospect presentations, case studies and customer lists).

## **6. SERVICE FEES**

- 6.1. The Client shall pay ADA rates and charges as set out in the Order Form for the provision of the Services and/or CM Data under this Agreement (the "**Services Fees**").
- 6.2. All costs and expenses relating to payment shall be borne by the paying party. Each party is responsible for complying with and paying all taxes, duties, regulatory assessments, or surcharges assessed by the relevant government authorities with jurisdiction over its activities or the Services. The Service Fees under this Agreement exclude all sales taxes (including, but not limited to, value added tax), duties or levies imposed by any authority, government or government agency and/or other applicable governmental fees.
- 6.3. Except as otherwise set forth herein or where expressly set forth in an applicable Order Form, (a) all payment obligations are non-cancellable, (b) Service Fees are non-refundable and non-creditable, (c) failure to use the Services provided does not constitute a basis for refusing to pay Service Fees, and (d) Services and/or products/deliverables purchased cannot be decreased during the Term for which they were purchased.
- 6.4. ADA shall issue an invoice and unless stated otherwise in the Order Form, the Client shall pay the Services Fees to ADA within 30 (thirty) days from the date of the invoice or upon receipt of an invoice corresponding to the Order Form (whichever earlier), based on the payment instructions on such invoice, with no right to set-off for any reason whatsoever.
- 6.5. In the event of a valid dispute on the invoice, the Client shall raise the matter with ADA as soon as practically possible, however the Client shall remain liable under the terms of this Agreement for any undisputed amounts including undisputed amounts within the disputed invoice.
- 6.6. If the Client fails to pay any amount payable by it under this Agreement, ADA may charge the Client interest on the overdue amount from the due date up to the date of actual payment, after as well as before judgment, at the rate of 5% per annum of the amounts being late/past due from the period commencing from the due date up until the date of the actual payment. Such interest shall accrue on a daily basis and be compounded weekly, and The Client shall pay the interest immediately on demand.
- 6.7. Client shall reimburse ADA for all reasonable fees (including legal and other costs) incurred in relation to the collection or enforcement of payment.

## **7. INDEMNIFICATION**

- 7.1. The Client shall fully and effectively indemnify and keep ADA and its Affiliates harmless from and against any and all claims, actions, liabilities, losses, expenses, damages, and costs (including, without limitation, reasonable attorneys' fees) incurred by or awarded against ADA and/or any of its Affiliates as a result of or in connection with:
  - a) Client's breach or alleged breach of its representations and warranties or any terms in this Agreement;

- b) any unlawful conduct engaged or non-compliance with any applicable laws and regulations by the Client in relation to the performance of its obligations under this Agreement;
  - c) the use of any Client Data provided to ADA to be included in the Services and/or the CM Data, including any claims for intellectual property rights infringement relating to the Client Data; and/or
  - d) Client's breach of its obligations under, Clause 4 (Confidentiality), Clause 5 (Intellectual Property Rights) Clause 11 (Data Protection), and/or Clause 13 (Non-solicitation and Anti Bribery).
- 7.2. In the course of defending, settling or paying damages on behalf of ADA, the Client shall not make any admission of fault or liability on behalf of ADA without ADA's prior written consent.
- 7.3. If ADA receives notice of an alleged infringement against any aspect of the provision of its Services to the Client, ADA shall have the right, at its sole option to (a) obtain the right to continue use of the Services, and/or (b) modify any part of the Services so that it is no longer infringing. If neither of the foregoing options is reasonably available to ADA, ADA in its sole discretion, may terminate the license rights granted under the Agreement immediately. The foregoing are ADA's sole and exclusive obligations, and Client's sole and exclusive remedies, with respect to intellectual property infringement.

## **8. TERM AND TERMINATION**

- 8.1. During the Pilot Period, the Client may terminate this Agreement and the Order Form without cause at any time by providing seven (7) days' prior written notice to ADA.
- 8.2. Subject to earlier termination as provided below, this Agreement shall be automatically renewed for additional periods of **12 (twelve) months ("Renewal Term")**, unless either party requests termination at least **90 (ninety) days** prior to the end of the then-current Term.
- 8.3. Either party may, without prejudice to any of its other rights and remedies, terminate this Agreement by serving written notice on the other party if:
- a. the other party is in material breach of the Agreement and fails to remedy that breach, if the breach is capable to be remedied, within thirty (30) days from the date of the breach and if the breach is a material breach other than otherwise specifically provided for herein (a material breach means a breach which has a serious effect on the benefit which the terminating party would derive from this Agreement), two (2) weeks after being given notice to do so; or
  - b. the other party shall go into liquidation whether compulsory or voluntary (otherwise than for the purposes of restructuring or amalgamation which shall have been approved in advance) or if a petition shall be presented or an order made for the appointment of an administrator in relation to the other party or if a receiver, administrative receiver, judicial manager or manager shall be appointed over any part of the assets or undertaking of the other party and such appointment is not revoked within thirty (30) days from the date of such appointment or if any event analogous to any of the foregoing shall occur in any jurisdiction.
- 8.4. Without prejudice to ADA's rights under this Agreement or applicable law, ADA may in its sole discretion indefinitely suspend, limit or terminate access to the Services and/or the CM Data (in whole or in part) and/or terminate the Agreement, by serving a written notice to the Client:
- a. if the Client has committed a material breach of this Agreement, or ADA reasonably suspects a breach of this Agreement or a misuse of the Services and/or CM Data;
  - b. if the Client fails to pay any amount due under this Agreement on the due date of the invoice and remains in default for more than fourteen (14) days after being notified in writing to make such payment;
  - c. if any changes to the provisions of laws and regulations and/or government policies render it commercially impractical or unlawful for ADA to continue the performance of this Agreement; or

- d. in the event of termination, expiration or material loss of the licenses, approvals or access granted to ADA for the provision of Services and/or CM Data (including but not limited to the licenses or access to the Marketplace Platform, third party provider, or their APIs).

If ADA exercises its right to suspend its Services pursuant to this Clause 8, ADA shall use reasonable endeavours to resume the provision of the Services and/or CM Data within a reasonable period of time, taking into account the circumstances that led to the suspension, and insofar as (in ADA's reasonable opinion) resumption is commercially practicable and feasible in all of the circumstances.

- 8.5. ADA may terminate this Agreement in its entirety at any time without cause or liability to the Client, by providing the Client with fourteen (14) days' prior written notice.
- 8.6. Upon termination being effective or upon the expiry of this Agreement:
  - a) All access to the Services and the CM Data shall terminate automatically;
  - b) Except for termination caused by material breach attributable to ADA, ADA shall be entitled to charge the Client the amount which equals to the remainder Service Fees for the remainder of the Term as stated in the Order Form, regardless of the actual termination date, and in case of any prepaid Service Fees, the Client agrees that no refunds or credits shall be issued in respect of any prepaid Service Fees;
  - c) Except for termination caused by material breach attributable to ADA, the entire Service Fees for the Term shall become immediately due and payable upon termination, and ADA reserves the right to invoice the Client for any outstanding Service Fees; and
  - d) Client shall delete all access to the Services and/or CM Data, and ADA shall destroy all copies, extracts, or excerpts of the Client Data, except for Feedback.
- 8.7. In addition and without prejudice to the rights and remedies under Clause 8.6, if for any reason this Agreement is terminated prior to the end of the then Term (inclusive of any renewal term) of this Agreement other than as a result of ADA's breach, in view of the impracticality and difficulty of ascertaining actual damages and by mutual agreement of the parties, the Client agrees to pay on-demand to ADA, an early termination fee in the amount equal to 100% of the remainder Service Fee for the remainder of such Term abovementioned. The early termination fee constitutes reasonable compensation and liquidated damages to compensate ADA for its losses.
- 8.8. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

## **9. WARRANTY AND DISCLAIMER**

- 9.1. Each party represents and warrants that: (a) it is duly organized, validly existing, and in good standing in the jurisdiction it is formed; (b) its execution and delivery of this Agreement has been duly and validly authorized and this Agreement constitutes a valid, binding, and enforceable obligation upon its execution; and (c) it shall comply with all applicable laws in performing this Agreement.
- 9.2. The Client represents and warrants that:
  - a) the execution, delivery, and performance of this Agreement, including the provision of the Client Data will not be in conflict with or constitute a default under the terms of any agreement, instrument, judgment, decree, or any order, statute, rule, or governmental regulation applicable to the Client;
  - b) all of the information provided by the Client to ADA, including, Client Data and any information provided on behalf of Client, is complete, true, accurate, and current;
  - c) the Client Data made available or supplied to ADA or submitted to the Software or through API, and the Client's usage of the Services and/or the CM Data do not violate applicable laws, guidelines, policies, regulations, codes of conduct

or third-party rights, including any applicable terms and conditions, policy, guidelines, or any other policies, rules and guidelines applicable to the Client; and

- d) it shall work with ADA to obtain all rights and authorisation (including from all relevant Marketplace Platform and other systems, websites, databases, files, application, or data repositories) to enable it to provide ADA with access to the Client Data and has made all necessary disclosures or taken all required measures to enable ADA's access and use of the Client Data throughout the Term.

9.3. ADA shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions for access to the Services and/or CM Data. Access to the Services and/or CM Data may be temporarily unavailable for unscheduled emergency maintenance, either by ADA or by third-party providers, or because of other causes beyond ADA's reasonable control. In cases of scheduled maintenance, ADA shall endeavour to provide advance notice prior to such scheduled maintenance.

9.4. The Services and the CM Data contain generalized information, which does not constitute a reliable basis for decision-making in individual cases and may also be inaccurate or open to interpretation if used without further explanation. ADA do not take any responsibility for the accuracy, or the completeness of the data, results or assessments provided by the Services and/or the CM Data. The Client must cross-check the CM Data, or other data, results or assessments before making important decisions or relying on them. ADA cannot be held liable for any damages regarding such risks or damages caused by the use of the Services and/or the CM Data and in any materials created under this Agreement.

9.5. The Services and the CM Data are provided on an "as is", and "as available" basis, ADA provides no guarantees, nor make any representations or warranties that the Services and CM Data (including recommendations, information or data) will: (i) be error-free, disruption-free or interruption free; (ii) operate without loss or corruption of data or technical malfunction, (iii) be fit for any particular purpose, whether or not ADA has notice of that purpose; and (iv) produce any particular results, or that such results will be accurate, adequate, reliable or timely. In particular, and without limiting the foregoing, no guarantees, warranties or representations is made as to sales, target customers, impressions, leads or revenue that may be achieved or that will receive any new or increased sales, target customers, impressions, leads or revenue as a result of the Services and/or the CM Data.

9.6. The Client agrees and acknowledges that the Services may include access or use of third-party websites, systems, infrastructures, software, products and/or networks ("**Third-Party Services**") and that the Services and/or CM Data operate in an online environment and, accordingly, the Services' and/or CM Data's availability and performance relies on Third-Party Services, and to that extent:

- a) availability of Services and/or CM Data are subject to the terms and conditions of those Third-Party Services and this Agreement does not apply to them. Accordingly, ADA is not responsible or liable for any part of Third-Party Services (including, without limitation, availability or accuracy of the Third-Party Services); and
- b) ADA shall not be liable to the Client for any loss, injury, claim, liability, or damage of any kind resulting in any way from:
  - i. any unavailability of the Services and/or CM Data due to scheduled maintenance or emergency maintenance that is reasonably unforeseeable and necessary for purposes of maintaining the security, integrity or operation of the Services and/or CM Data; or
  - ii. the accuracy or completeness of Client Data and/or any Third-Party Services;

## 10. Limitation of Liabilities

10.1. Notwithstanding any provision or agreement to the contrary, neither party shall be made liable or responsible to the other party under this Agreement for any punitive, exemplary, indirect, consequential or incidental damages, whether foreseeable or unforeseeable and whether based upon lost goodwill, lost profit, business custom, income or revenue or any other form of economic loss, (collectively referred to as "**special damages**") incurred by a party, regardless of whether such claim arises under or results from contract, tort or strict liability.

10.2. Notwithstanding anything to the contrary elsewhere contained herein, ADA's maximum liability to the Client, in any event, shall not exceed the aggregate charges or payments paid to ADA under this Agreement for the six (6) months' period preceding the date the first liability arose. For any liability arising during the Pilot Period, ADA maximum liability to the Client, in any

event, shall not exceed the aggregate charges or payment paid to ADA under this Agreement for the 3 (three) months period preceding the date the first liability arose.

## **11. Data Protection**

- 11.1. Each party undertakes, where applicable, to comply fully with the applicable Personal Data Protection Law and to procure that its employees, agents and contractors observe the said laws, regulations and/or policies. Any breach or potential breach of the provisions of this Clause 11 shall be immediately notified in writing by the breaching party to the non-breaching party.
- 11.2. Client shall:
- a) take all necessary steps to prevent any viruses or malware from being introduced into any software or onto the Services (including the Software or any part thereof), API and/or any information technology (including computer hardware) used by the Client in relation to the Services and/or API;
  - b) apply security procedures to guard against the loss, destruction, corruption or alteration of the Services (including the Software and any part thereof) and/or the CM Data in the possession or control of (or accessed by) the Client; and
  - c) not use or attempt to use any data to re-identify any individuals or otherwise derive personally identifiable information by any linking combination, cross-comparison of the data obtained through the Services with any other third-party data sources, products or services, and shall not assist or permit any third party to do so.

## **12. FORCE MAJEURE**

Save for the obligation to make payments under this Agreement, neither party shall be responsible for any failure or delay in the performance of this Agreement if the failure or delay is due to an event beyond the reasonable control and without the fault or negligence of the party seeking to excuse performance, including without limitation, acts of God, acts of terrorism, war, pandemic, epidemic, labour disputes and strikes, fire, flood, riot, and unforeseen delays in transportation or communications (each, a "**Force Majeure Event**"). Any party seeking to excuse or delay performance due to a Force Majeure Event shall provide detailed written notice to the other party of the nature and anticipated duration of the delay. A party claiming the benefit of a Force Majeure Event shall use all reasonable efforts to avoid or overcome the causes affecting performance and diligently fulfill all outstanding obligations. In the event that any such Force Majeure Event continues in excess of thirty (30) days, the party receiving such notice of excuse or delay shall have the right to terminate this Agreement upon giving thirty (30) days' written notice to the other party, provided that, if the Force Majeure Event ceases within such thirty (30) days period, this Agreement shall remain in full force and effect upon prior written notice being given by the party affected by the Force Majeure Event to the other party.

## **13. NON-SOLICITATION AND ANTI BRIBERY**

- 13.1. The Client shall not, without the prior written consent of ADA, at any time from the date of this Agreement until the expiry of the one (1) year period after expiry or early termination of this Agreement, solicit or entice away from ADA or employ or attempt to employ any person who is, or has been, engaged as an employee of ADA in the provision of the Services. This Clause 13 does not impose any restriction upon Client's general recruitment processes, where such processes do not directly target ADA employees and where the ADA employees responds to such processes on his own accord.
- 13.2. The parties shall always comply and shall ensure that its directors, employees, representatives, agents, and sub-contractors comply with the applicable laws and regulations concerning bribery, corruption, fraud, anti-money laundering and any other prohibited business practices in any jurisdiction including but not limited to laws relating to criminal practices or conduct such as the Penal Code (or its equivalent) and anti-bribery or anti-corruption laws as well as all other related applicable laws, rules, regulations, ordinances, and codes, directives and any anti-bribery and anti-corruption terms or policies that applies to the parties from time to time. The parties must keep accurate and complete records and supporting documentation to demonstrate that it is in compliance with this provision. Each party shall immediately notify the other party, if it becomes aware of any breach of this provision and the parties agree that any non-compliance shall be deemed as a material breach of this provision. If a party has committed any breach under this provision, the other party may immediately at its absolute discretion terminate this Agreement, without any ensuing obligations nor liabilities to the terminating party.

## **14. GOVERNING LAW AND JURISDICTION**



14.1. Unless it is expressly stated otherwise, this Agreement shall be construed in accordance with the laws applicable where the corporate domicile of ADA is located, as further stipulated in the table below (“**Relevant Jurisdiction**”).

| <b>ADA</b>  | <b>CORPORATE<br/>DOMICILE</b> | <b>GOVERNING<br/>LAWS</b> |
|---|-------------------------------|---------------------------|
| Axiata Digital & Analytics Sdn Bhd<br>ADA Asia Malaysia Sdn Bhd   | Kuala Lumpur, Malaysia        | Malaysia                  |
| ADA Digital Singapore Pte Ltd<br>AAD Holdings Pte Ltd   | Singapore                     | Singapore                 |
| PT Axiata Digital Advertising Indonesia<br>PT ADA Asia Indonesia<br>PT Awake Asia DistributionIndonesia | Jakarta, Indonesia            | Indonesia                 |
| ADA Digital (Thailand) Co., Ltd.  | Bangkok, Thailand             | Thailand                  |
| ADA Digital Philippines Inc   | Manila, Philippines           | Philippines               |
| Branch of ADA Digital Singapore Pte Ltd   | Phnom Penh, Cambodia          | Cambodia                  |
| ADA Digital Singapore Pte Ltd (Branch office)   | Colombo, Sri Lanka            | Sri Lanka                 |
| ADA Digital Singapore Pte Ltd (Branch)  | Seoul, South Korea            | South Korea               |
| Thien An Investment Co Ltd  | Ho Chi Minh City, Vietnam     | Vietnam                   |
| ADA Digital Analytics Private Limited   | Mumbai, India                 | India                     |

14.2. Parties agree and acknowledge that the courts of the Relevant Jurisdiction shall have exclusive jurisdiction and the Parties hereby submit to such courts, for the purposes of enforcing any and all terms of this Agreement (including all matters, questions or issues of interpretation of this Agreement and the rights and liabilities of the Parties hereto).

**15. NOTICES**

Any notice, consent, waiver or other communication to be given under this Agreement shall be in writing and deemed to have been duly given when it is received by (i) registered mail, (ii) hand or (iii) electronic mail to the Party to which it is to be given at such Party’s address as specified in the Order Form. If the notices are received after the official office hours of the receiving party, such notices shall be deemed to have been received on the next Business Day.

**16. AMENDMENTS**

ADA reserves the right to modify the Service from time to time in its sole discretion. If any change made to the Service is a material reduction in its nature and functionality, Client may, as Client’s sole remedy for such change, stop using the Service and send a cancellation request to ADA for the unused portion of the subscription Fees paid for the Service. Additionally, ADA may update the CM Services GTC from time to time, and the Client is required to check this domain periodically or request from ADA for a copy of the most recent version of this CM Services GTC.

**17. NON-ASSIGNMENT AND NO THIRD PARTY RIGHTS**

17.1. Neither Party shall have the right to assign, transfer, or novate this Agreement, without the prior written consent of the other Party, which consent shall be in the sole determination of the Party with the right to consent, of which shall not be unreasonably

withheld or delayed; provided however that either party may assign, transfer or novate this Agreement, in whole or in part, to any of its affiliates and the said party shall give advance written notice to the other party of such assignment, transfer or novation as soon as reasonably practicable.

- 17.2. A person who is not a party to this Agreement shall have no right to enforce any of its terms. No person who is not a party to this Agreement shall acquire any rights under it or be entitled to benefit from any of its terms even if that person has relied on any such term or has indicated to any party to this Agreement its assent to any such term.

## **18. RIGHT TO SUBCONTRACT**

- 18.1 The Client acknowledges and agrees that the Services and/or CM Data may be provided or performed by ADA's affiliate. Client acknowledges that ADA may delegate, sub-contract or assign certain or all portions of ADA's obligations under the Agreement to any third-party service provider or ADA's affiliate without prior notice to the Client. In such cases, ADA shall remain responsible for the performance of the Agreement.

## **19. ENTIRE AGREEMENT & COUNTERPARTS**

- 19.1. This Agreement sets out the entire agreement between the Parties and supersedes any previous agreement or understanding relating to this subject matter. Neither Party has entered into this Agreement in reliance upon any representation, warranty or undertaking of the other Party that is not expressly set out or referred to in this Agreement. This Clause 19 shall not exclude any liability for fraudulent misrepresentation.
- 19.2. Unless otherwise provided for in this Agreement, this Agreement may not be varied except by the mutual agreement of the Parties in writing.
- 19.3. This Agreement may be executed in one or more counterparts; each shall be deemed as original and together, when executed, shall constitute one and the same agreement. This Agreement can be executed by electronic signatures and it shall be deemed as original signatures. Delivery of an executed counterpart of a signature page together with the main body of the Agreement by electronic transmission, such as a PDF, shall be as effective as delivered physically in hard copy and as an original document.

## **20. WAIVER**

Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time will not be construed as a waiver of the party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice the party's right to take subsequent action. Exercise or enforcement by either party of any right, remedy or waiver under this Agreement will not preclude the enforcement by the party of any other right or remedy under this Agreement or that the party is entitled by law to enforce.

## **21. LANGUAGES**

- 21.1. This Agreement is made in English. Notwithstanding this Agreement being signed in English language only, each party hereto in good faith agrees that it will not (and it will not allow or assist any party to) in any manner or forum in any jurisdiction:
- i. challenge the validity of, or raise or file any objection to, this Agreement or the transaction contemplated in this Agreement;
  - ii. defend its non-performance or breach of its obligations under this Agreement; and/or
  - iii. allege that this Agreement is against public policy or otherwise does not constitute its legal, valid and binding obligations, enforceable against it in accordance with its terms;

by reason of the Agreement being made in the English language or not made in the language required by law.

- 21.2. The Parties, if required to comply with any relevant laws, will translate this Agreement to the required language promptly upon the request of any party. The version of such other language shall be deemed to be executed at the effective date of this Agreement. In the event of any inconsistency or conflict between the English version and the version of such translated language, the English version shall prevail.

## **22. EFFECT OF INVALID OR UNENFORCEABLE PROVISIONS**

If any provision of this Agreement is held by any court or other competent authority to be invalid or unenforceable in whole or in part, this Agreement shall continue to be valid as to its other provisions and the remainder of the affected provision, unless it can be concluded from the circumstances that, in the absence of the provision found to be null and void, the Parties would not have concluded this Agreement. The Parties shall use all reasonable efforts to replace all provisions found to be null and void by provisions that are valid under the applicable law and come closest to their original intention.

***[END]***