

TechTarget Subscription Terms and Conditions

In addition to the “Insertion Order” (or “IO”) for the Subscription executed by you (“Client”) and delivered to TechTarget, Inc. (“TechTarget”), these Terms and Conditions will govern the delivery of the Services that Client has purchased from TechTarget (each, a “Campaign”). The IO, together with these Terms and Conditions, will be referred to herein as the “Agreement”.

1. Definitions. As used in this Agreement:

1.1 “**Access License(s)**” means the license(s) granted by TechTarget to Client under Article 2 below

1.2 “**Affiliates**” means any entity controlled by the Client when this Agreement becomes effective, where an entity is deemed to control another if it owns, directly or indirectly, at least fifty-one (51%) of the voting interest of the given entity.

1.3 “**API**” means the application interface provided by TechTarget that allows Client to access the Service. “API” also includes any enhancements or modifications as may be installed by TechTarget.

1.4 “**Authorized Contractor**” means a third-party contractor (a) performing services on behalf of Client under a separate agreement between Client and such third party, (b) who has a need to access the Services in performance of the contractor’s duties to Client, and (c) who has agreed in writing to abide by non-disclosure and confidentiality obligations consistent with those set forth herein.

1.5 “**Client Data**” means all data provided by Client to TechTarget in connection with the Services provided pursuant to this Agreement.

1.6 “**Data Protection Laws and Regulations**” means all laws and regulations, including laws and regulations of the European Union, the European Economic Area and their member states, applicable to the access, storage, handling processing or use of Personal Data under the Agreement, as the same may be amended or modified from time to time.

1.7 “**Data Subject**” means the individual to whom Personal Data relates.

1.8 “**Documentation**” means the manuals, help guides, or other materials, access to which is provided to Client by TechTarget, as they may be updated by TechTarget from time to time.

1.9 “Employee” means an employee of Client who has a need to access the API in performance of his or her duties to Client and who has agreed in writing to abide by non-disclosure and confidentiality obligations consistent with those set forth herein.

1.10 “Insertion Order”, “IO”, “Purchase Order” or “PO” (all are referred to in this Agreement as the IO) means the document issued or signed by Client, and accepted by TechTarget, that incorporates this Agreement and that specifically designates the Services ordered by Client. The Parties may execute separate IOs from time to time during the term of this Agreement.

1.11 “Lead” shall mean a person who (i) has completed the registration process on a TechTarget-owned site and (ii) meets the criteria set forth on the applicable IO (such criteria may also be referred to as a “filter”), as a result of which (a) that person’s individual information is captured by TechTarget and (b) such person may then access all TechTarget content; provided, however, if no filters are stipulated in the applicable IO, then for purposes hereof, a registration that includes the person’s name and email address will be deemed to be a “Lead”.

1.12 “Personal Data” means any information relating to an identified or identifiable natural person (as defined in Directive 95/46/EC), including but not limited to an individual’s name, personal address, personal telephone number, personal e-mail address, date of birth, national insurance number, photograph, marital/dependent status and emergency contact information, professional title, and employer.

1.13 “Prospect Information” means a series of TechTarget-provided data points allowing Client or Client’s Salesforce.com (“SFDC”) users, where Client has chosen such integration, to see the research dynamics at a particular prospect Client which are provided by TechTarget to Client as part of the Services.

1.14 “Service” mean access to and/or Use of the Priority Engine suite of services and Leads generated from TechTarget content, third party content and related banner advertisements, which enable subscribers to analyze information technology purchases, trends, and products that are purchased by Client under this Agreement as indicated on an IO.

1.15 “Service Level Agreement” means a written schedule incorporated into this Agreement that sets forth terms governing the Service Levels to be provided by TechTarget.

1.16 “Subsidiary” means any entity in which the Client owns the full interest in the entity.

1.17 “Use” means access of and to the Services, via the use of the API which includes the right to add Prospect Information to Client’s internal CRM system, by or on behalf of Client, in accordance with this Agreement.

1.18 “User” means any users that Client authorizes to Use the Services.

2. Access License Grant

2.1 Access License Grant. Subject to the terms and conditions of this Agreement, TechTarget hereby grants Client a non-exclusive, non-sublicenseable, non-transferable Access License for the Term, to allow Employees and Authorized Contractors to Use the Services and Prospect Information as specified on the applicable IO, in accordance with this Agreement and strictly for Client's internal business purposes, in accordance with the applicable IO. Access to the Prospect Information shall be provided either (1) through TechTarget's website designated for the delivery of the Services or (2) by installing the Services' API and integrating it with Client's SFDC database.

Client will permit only Employees and Authorized Contractors to access the Services. Client acknowledges and agrees that it will not have physical access to any facility providing such Prospect Information, nor will it attempt to download or gain physical access to the Prospect Information other than as provided by TechTarget. All rights not expressly granted to Client herein are expressly reserved by TechTarget. Client's access to the Prospect Information will be subject to the security processes and procedures implemented by TechTarget from time to time during the Term of this Agreement, as well as any applicable terms of use, privacy policy, and security statements as they may be modified from time to time.

2.2 Restrictions. Where Client will be integrating the Service with a SFDC database, Client agrees, except as expressly permitted in Article 2.1, not to:

- a. modify, adapt, alter, translate, or create derivative works from the API;
- b. distribute, license, lease, rent, loan, assign, pledge, sell, or otherwise transfer the API to any third party;
- c. reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the API;
- d. use any robot, spider, other automatic software or device, or manual process to monitor or copy the Services;
- e. access unauthorized areas of TechTarget's systems;
- f. engage in any hacking, reverse engineering, security breaches or other activity on TechTarget's systems; or
- g. otherwise use or copy the API, nor permit any third party to do any of the foregoing;

Client agrees to use the Services or Prospect Information other than for its own internal business purposes, regardless of the delivery method of the Prospect Information

Client will cooperate with TechTarget in TechTarget's investigation and remediation of any security, unauthorized use or misuse issues arising from or related to the Services. TechTarget may terminate Client's access to the Services at any time in the event that Client violates this Agreement or any applicable TechTarget security policy or procedure. TechTarget will use its reasonable efforts to notify Client of any such termination of access.

Client may not remove from or alter any of the trademarks, trade names, logos, or patent, copyright or other proprietary notices or markings contained on or in the Services, or add any logos, notices or markings to the Services.

2.3 Delivery. TechTarget will make the Services available to Client in electronic form promptly after execution of the applicable IO by sending Client, via email: (1) an Access License Key, where Client has chosen to integrate the Service with its SFDC database; or (2) credentials enabling Client to log into the Service via TechTarget's web portal, where Client has chosen not to integrate the Service with a SFDC database. The Services will be deemed accepted upon TechTarget making the Access License Key or Service website credentials available to Client, whether or not Client uses the Access License Key.

3. Limited Warranty

3.1 Service Warranty. TechTarget warrants to Client that the Services, when used as permitted under this Agreement, will operate substantially as described in the IO. TechTarget does not warrant that, (1) where Client has chosen to integrate the Services into a SFDC, the Services will find any matches between Client's SFDC database and TechTarget's registered user base (as none may exist) or (2) that the Services will be error-free, uninterrupted or otherwise meet Client's specific requirements. In the event that the Services does not comply with the foregoing warranty, TechTarget will use reasonable efforts to modify the Services so that they conform. TechTarget will have no warranty obligation for any failure by Client to Use the Services in accordance with the Documentation and this Agreement. Client agrees to provide all reasonable assistance in identifying, reproducing, researching and documenting the circumstances of any apparent non-conformance of the Services.

3.2 Warranty of Title. Subject to the remedies as stated in Article 8 (Indemnity), TechTarget warrants that it has the appropriate title and/or right to provide the Services to be provided pursuant to this Agreement.

3.3 DISCLAIMER OF WARRANTY. THE EXPRESS WARRANTIES HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY REGARDING THE API AND THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE, THE SERVICES ARE PROVIDED “AS IS” AND TECHTARGET AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES AND CONDITIONS WHATSOEVER, EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, OR ANY ARISING FROM A COURSE OF DEALINGS BETWEEN THE PARTIES, OR BY ANY USAGE OF TRADE OR CUSTOM. CLIENT ACKNOWLEDGES THAT IT HAS NOT ENTERED INTO THIS AGREEMENT IN RELIANCE UPON ANY WARRANTY OR REPRESENTATION EXCEPT THOSE SPECIFICALLY SET FORTH HEREIN.

4. Service Levels

4.1 Service Level Agreement. TechTarget shall perform the Services described in the Service Level Agreement attached as Schedule 1 in consideration for the fees and other amounts set forth in the applicable IO.

5. Ownership and Confidentiality

5.1 Ownership. TechTarget and its suppliers own and retain all rights, title and interest in and to all intellectual property rights embodied in or associated with the Services (including the underlying API), and Documentation and, to all derivative works thereof and related materials. Client and its suppliers own and retain all rights, title and interest in and to all intellectual property embodied in or associated with Client Data, Client Marks and Client Confidential Information. There are no implied licenses under this Agreement, and any rights not expressly granted to Client hereunder are reserved by TechTarget and its suppliers. **Client acknowledges that it will acquire no right of ownership or exclusivity to any Prospect Information or other data it receives via the Services. Access to and the ability to view the Prospect Information shall cease upon the termination or expiration of the applicable IO.**

5.2 Confidentiality. It may be necessary for a party to disclose to the other party certain confidential information ("Confidential Information"). Confidential Information includes, but is not limited to, user data, information or materials related to the business affairs and/or procedures of the disclosing party and/or one or more of its affiliates, or and all documentation and information supplied by the disclosing party marked confidential or which by the type of information or manner of disclosure would reasonably indicate the proprietary or confidential nature thereof, including without limitation any user data provided by TechTarget. Confidential Information shall also include the pricing, and contents of this Agreement and IO. Confidential Information does not include information which (a) is known to the receiving party at the time of disclosure by disclosing party, (b) has become publicly known through no wrongful act of receiving party, (c) has been rightfully received by receiving party from a third party who is authorized to make such

disclosure, or (d) has been independently developed by receiving party without reliance upon any disclosing party Confidential Information.

The receiving party agrees to use Confidential Information solely in connection with the Campaign and not to disclose such Confidential Information to any third party, or make commercial use of such Confidential Information, except as permitted hereunder. The receiving party agrees to take all precautions necessary to safeguard the Confidential Information, which is in receiving party's custody or control, which in no event shall be less than reasonable care. The receiving party shall disclose the disclosing party's Confidential Information only to its employees and/or agents that have reason to know such Confidential Information for purposes of the Campaign and who are bound by written obligations of confidentiality no less protective of disclosing party's rights than provided under this Section 5.2. Because each party will have access to and become acquainted with the Confidential Information of the other party, each party agrees that its breach of this Section 5.2 will result in irreparable harm to the other party and that the disclosing party will have the right to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief without prejudice to any other rights and remedies that the enforcing party may have.

5.3 Data Protection

- a) In connection with the services rendered under an IO, Client and its Employees and Authorized Contractors may obtain or have access to the Personal Data of Data Subjects who are registered users of TechTarget's network of websites and related content ("Users"). Client shall, and shall ensure that any Client personnel, collect, access, maintain, use, process or transfer Personal Data, do so in accordance with the requirements set forth in this Agreement for the sole purpose of conducting marketing and business activities on behalf of Client, as may be set forth in further detail in a PO, IO and/or SOW.
- b) Client shall, and shall ensure that Client's Employees and Authorized Contractors, comply with TechTarget's instructions regarding the use, safeguarding, return, deletion, or uninstallation of Personal Data, as well as all applicable laws, including but not limited to Data Protection Laws and Regulations, and shall refrain from engaging in any behavior which renders or is likely to render TechTarget in breach of same. If Client processes any Personal Data under this Agreement, Client is deemed a Personal Data processor of TechTarget's Personal Data. Client agrees to enter into any supplemental agreement with TechTarget as may be reasonably requested by TechTarget from time to time to ensure compliance with Data Protection Laws and Regulations.
- c) TechTarget has certified to the EU-US Privacy Shield for the transatlantic transfer of Personal Data from EU member states to the U.S. Notwithstanding the foregoing, to the extent that Client accesses or receives Personal Data pursuant to this Contract, Client represents and warrants the following:

- i. Client will retain Personal Data for no longer than is necessary to fulfill the purposes for which it was collected or as required by applicable law, including Data Protection Laws and Regulations.
- ii. Client shall not disclose the Personal Information to any third parties except (a) Client's personnel or contractors to the extent necessary to enable Client to utilize the Personal Data as contemplated herein or (b) as is required under a court order, in which case Client shall notify TechTarget in writing immediately upon receipt of such a request.
- iii. Client shall, immediately upon receipt of same, notify TechTarget in writing of any request, complaint or allegation that Client or TechTarget is not in compliance with Data Protection Laws and Regulations or, if Client becomes aware of any fact or circumstance that would reasonably give rise to an allegation of noncompliance with Data Protection Laws and Regulations on the part of either Client or TechTarget In the event that Client receives such a request from a Data Subject, Client shall (a) fully cooperate with TechTarget to address any such complaint or request, including providing TechTarget with full details of any such request and any Personal Data it holds in relation to a Data Subject in a form specified by TechTarget within ten (10) business days of receipt of such request, (b) assist TechTarget in taking any action that TechTarget deems necessary or appropriate to deal with the complaint or allegation of noncompliance with Data Protection Laws and Regulations, including, without limitation, immediately providing TechTarget with any Personal Information it holds in relation to the Data Subject, (c) ensure that any Personal Data is entered into any data management systems in an accurate way and where necessary is kept up to date, or erased or corrected if found to be inaccurate, (d) immediately provide TechTarget with full details of any systematic issue relating to Client's systems or processes that would mean that Client is unable to comply with the Privacy Shield Principles or Data Protection Laws and Regulations, and (e) notify TechTarget immediately in writing if it discovers that there has been a breach or attempted breach of its security safeguards or systems, any known or suspected improper use, or misappropriation of, or fraudulent behavior involving Personal Data or if the security of Personal Data has been or may be compromised for any reason. Client will provide TechTarget with any reasonably requested details of any data security breaches of which Client becomes aware related to the Personal Data as well as any reasonable assistance which TechTarget may request, at the sole cost of Client, in providing information sufficient to allow TechTarget to fulfill its legal obligations under Privacy Shield Principles or Data Protection Laws and Regulations.

- iv. Client shall, at all times maintain appropriate technical and organizational measures which are (i) compliant with Data Protection Laws and Regulations, (ii) sufficient to protect the Personal Data and (iii) at least as secure as the measures which Client uses to protect its own information, which measures shall, among other things, be designed to (x) prevent the unauthorized or unlawful processing of Personal Data, (y) protect Personal Data from accidental loss, destruction or damage, and (z) ensure the reliability of Client personnel having access to Personal Data.
- v. TechTarget may, at reasonable intervals, request that Client complete (i) a written security questionnaire or (ii) a written description of the technical and organizational measures employed by Client, in order to comply with the provisions of this Section 13(c). Within twenty (10) business days of Client receiving such a request, Client shall supply TechTarget with written particulars of such measures detailed to a reasonable level such that TechTarget can determine whether or not the Personal Data has been maintained or used in accordance with the Privacy Shield Principles and Data Protection Laws and Regulations.
- vi. In the event that Client can no longer meet its obligation to provide the same level of protection as is required by the Privacy Shield Principles and Data Protection Laws and Regulations, Client will (a) immediately notify TechTarget in writing and (b) take reasonable and appropriate steps to remediate any unauthorized use or processing of the Personal Data.
- vii. Client shall not subcontract with or permit the transmission of Personal Data to any third party unless and until the following criteria has been met: (a) Client has provided TechTarget with such information as TechTarget may reasonably require to ascertain that the proposed third party has the ability to comply with the provisions of this Section 5; and (b) the proposed third party has entered into an agreement with Client which contains substantially the same terms as those contained herein.
- viii. Client shall indemnify TechTarget for any and all losses, damages, costs and expenses that it may incur as a result of a breach of this Section 5 by Client or Client's contractors.

6. Fees, Payment and Audit

6.1 Fees and Expenses. Clients shall pay to TechTarget the fees as set forth in the applicable IO, within thirty (30) days of receipt of invoice. Unless otherwise agreed, all payments must be made in U.S. dollars.

6.2 Late Payment. TechTarget reserves the right to impose interest on all or any portion of amounts due hereunder that are not paid when due at the rate equal to the lesser of one and one half per cent (1.5%) per month, or the highest legal rate permitted under applicable law, if less. If amounts due hereunder are not paid when due, TechTarget may suspend its performance under this Agreement and will not resume said performance until all past due amounts have been paid. If TechTarget initiates legal action to collect any overdue amount, then Client agrees to pay all costs of collection, including all court costs, collection agency fees, and reasonable attorney's fees.

6.3 Taxes. All fees and payments stated herein are exclusive of all taxes and similar fees now in force or enacted in the future that may be imposed on the Services. Client will pay any sales, use, VAT or any other tax related to the Parties' performance of their obligations, including payment of fees, or the exercise of their rights under this Agreement, exclusive of taxes based on TechTarget' net income. Client will make all payments free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments by Client hereunder will be Client's sole responsibility.

7. Cancellation

Unless otherwise set forth on the Contract, Company must provide TechTarget with at least thirty (30) days prior written notice of its intent to cancel all the subscription components of the Contract ("Cancellation Notice"). If Cancellation Notice is received prior to Contract start date, no fees related to the cancelled Contract shall be due. If Cancellation Notice is received after the Contract start date, but prior to ninety (90) days after the Contract start date, Company agrees to pay, upon invoice by TechTarget, the then-current quarterly rate for the subscription components of the contract less any payments received to date. If Cancellation Notice is received on or subsequent to ninety (90) days after the start date of the Contract, Company agrees to pay, upon invoice by TechTarget, an amount equal to the pro-rated value of the subscription components of the Contract, calculated based upon the duration from the start date through thirty (30) days after the receipt of the Cancellation Notice, less any payments received to date.

Cancellation Notice and/or modification notices must be in writing and transmitted (a) via email to the assigned TechTarget sales operations representative at the email address indicated on the applicable IO and the Contracts Management Group at CMT@techtarget.com and (b) via hard copy mailed to the attention of the Corporate Controller at the TechTarget address in the introductory paragraph of this Agreement.

8. Term and Termination

8.1 Term. This Agreement will commence upon the date stated in the applicable IO and will continue in full force and effect for the term stated in the applicable IO unless terminated earlier as provided in this Agreement (“Term”). Unless rejected by TechTarget, the Agreement may be renewed by the execution of a subsequent IO.

8.2 Termination for Breach. Either Party may terminate this Agreement, effective immediately by delivery of written notice to the other Party specifying the nature of the breach if the other Party breaches any of the material terms and conditions of this Agreement; provided, however, if the breach is curable such notice shall not be effective unless and until such breach remains uncured for a period of fifteen (15) days after delivery of such notice. In addition, TechTarget may immediately terminate this Agreement, or at its option, immediately suspend its efforts hereunder, if Client breaches any provision in Article 2 or Article 5 of this Agreement.

8.3 Effects of Termination. Upon termination or expiration, access to the Services and the ability to view the Prospect Information shall cease. Further, upon termination of this Agreement for any reason, any amounts owed to TechTarget will be immediately due and payable; all Access Licenses granted under this Agreement and TechTarget’ obligation to provide the Services will terminate immediately; Client must immediately discontinue all Use of the Services and uninstall all copies of the API and certify in writing that it has done so; and each Party will return to the disclosing Party, or destroy, all Confidential Information of the other Party in its possession or control. Articles 1, through 9, and any obligation to pay any owed but unpaid amounts, will survive any termination or expiration. Regardless of the reason, the Parties agree not to disparage the products or business reputation of the other upon any termination or expiration of this Agreement.

9. Indemnity

9.1 By TechTarget. TechTarget will defend any action against Client brought by a third party to the extent the action is based on a claim that the Services directly infringes such third party's U.S. patent, copyright, or misappropriates such third party's trade secret (a "**Claim**"). TechTarget agrees to pay all damages and costs (including reasonable attorneys' fees incurred while assisting TechTarget) finally awarded against Client by a court of competent jurisdiction that are specifically attributable to such Claim or those costs and damages agreed to by TechTarget in a monetary settlement of such Claim. If the Services are deemed to actually infringe intellectual property rights and its Use by Client is enjoined by a court of competent jurisdiction, or if TechTarget reasonably believes that the Service is or may become the subject of an infringement claim, TechTarget will, at its own expense and at its option either: (a) procure for Client the right to continue Use of the Service; (b) modify the Service so it becomes non-infringing (while retaining substantially equivalent functionality); or, if (a), or (b) are not commercially reasonable, then (c) terminate the Access License and refund the fees paid for the infringing module pro-rated on a straight-line basis over the Term. Notwithstanding the foregoing, TechTarget will have no obligation under this Article 9 or otherwise with respect to any infringement claim based upon any Use of the Service not in accordance with this Agreement or not in accordance with the Documentation.

9.2 By Client. Client will defend and indemnify TechTarget and its suppliers against any and all claims, losses, liabilities, costs and expenses, including reasonable attorneys' fees, that TechTarget and its suppliers may incur as a result of a claim brought by a third party arising from or related to Client's or its Users' unauthorized access or misuse of the Services, or resulting from any Client Data, or any violation of the law related to Client's misuse of the Services, Prospect Information or Personal Information.

9.3 Procedure. A party seeking indemnification hereunder (an "Indemnified Party") shall give the party from whom indemnification is sought (the "Indemnifying Party"): (a) reasonably prompt written notice of the relevant claim; (b) reasonable cooperation, at the Indemnifying Party's expense, in the defense of such claim; and (c) giving the Indemnifying Party sole control of the defense and settlement of any such claim. The Indemnified Party will have the right to participate in the defense at its expense.

9.4 Sole Remedy. The foregoing states each Party's entire liability, and the other Party's sole and exclusive remedy, with respect to any breach of the warranty of title, infringement or misappropriation of any intellectual property right of any third party.

10. Limitation of Liability

10.1 IN NO EVENT WILL EITHER PARTY BE LIABLE, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY (INCLUDING STRICT LIABILITY AND NEGLIGENCE) FOR LOST PROFITS OR REVENUES, LOSS OR INTERRUPTION OF USE, LOST OR DAMAGED DATA, REPORTS, DOCUMENTATION OR SECURITY, OR SIMILAR ECONOMIC LOSS, OR FOR ANY INDIRECT, EXEMPLARY, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR SIMILAR DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.2 EXCEPT FOR A BREACH OF ARTICLES 2, 5 OR 8 OR IN NO EVENT WILL TECHTARGET BE LIABLE TO CLIENT FOR AMOUNTS IN EXCESS OF ONE (1) YEAR'S FEES PAID HEREUNDER.

10.3 EXCEPT FOR ANY ACTION BY TECHTARGET FOR NON-PAYMENT, WHICH MAY BE BROUGHT WITHIN TWO (2) YEARS OF THE FAILURE TO PAY, NO ACTION, REGARDLESS OF FORM, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT MAY BE BROUGHT BY CLIENT MORE THAN ONE (1) YEAR AFTER THE FIRST TO OCCUR (A) THE TERMINATION OF THIS AGREEMENT, OR (B) THE EVENT GIVING RISE TO SUCH CAUSE OF ACTION.

11. General

11.1 Assignment/Affiliates. Client may not assign or transfer, by operation of law (including under any merger or acquisition) or otherwise, any of its rights or delegate any of its duties under this Agreement to any third party without TechTarget's prior written consent, which may be withheld at its discretion, and any purported attempt to do so is null and void. Throughout the term of this Agreement, Client may assign or transfer its rights in the Services to its Subsidiaries without TechTarget's prior written consent. Notwithstanding the foregoing, Client may not add Subsidiaries after the initiation of the Services without TechTarget's prior written consent, which may be withheld at its discretion and any purported attempt to do so is null and void. CLIENT SHALL BE RESPONSIBLE FOR THE FAILURE OF ANY SUBSIDIARY TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT.

11.2 Delegation. TechTarget may delegate the performance of certain parts of the Services to third parties, provided TechTarget remains responsible to Client for the delivery of such Services.

11.3 Independent Contractors. The Parties hereto are independent contractors. No agency, partnership, franchise, joint venture or employment relationship is intended or created by this Agreement. Neither Party has the power or authority to represent, bind, or create or assume any obligation, or make any warranties or representations, on behalf of the other Party.

11.4 Notices. All notices hereunder shall be in writing and mailed to the parties at the address included in the introductory paragraph herein.

11.5 Force Majeure. Neither party will be liable for that occur as a result of events beyond its control including Acts-of-God, actions by any government entity, fire, flood, riot, explosion, embargo, strikes, labor or material shortage, transportation interruption, national emergency, acts of terrorism or war, or Internet or communications failure.

11.6 Right to Reject. TechTarget reserves the right to reject any order for any reason at any time.

11.7 Entire Agreement. This Agreement constitutes the exclusive and entire agreement and understanding between the parties with respect to its subject matter and as of its date supercedes all prior or contemporaneous agreements, negotiations, representations and proposals, written or oral relating to its subject matter. The parties understand and acknowledge that this Agreement may be amended only by a written document executed by a duly authorized representative of each party. Further, any purchase order provided by Client is deemed to be accepted by TechTarget solely for billing purposes, and any terms or conditions set forth on any such purchase order shall not apply to this Subscription Agreement or take precedence over the terms of this Agreement. This Agreement includes any properly executed attachments, including, but not limited to, exhibits, addenda, schedules, or statement(s) of work now or hereafter attached hereto. Further, the Parties agree that the recitals contained herein are specifically incorporated into this Agreement by the reference herein. Neither Party will be bound or liable to the other Party for any representation, promise or inducement made by any agent or person in the other's employ that is not embodied in this Agreement. Article and Section headings are provided for convenience only and are not to be used to construe or interpret this Agreement.

11.8 Validity. If any term or condition in this Agreement conflicts with any term or condition in any purchase order, work order or similar supplementary document submitted by Client, the term or condition set out in this Agreement shall prevail.

11.9 Modification and Waiver. No purchase order or other document that purports to modify or supplement this Agreement shall add to or vary the terms of this Agreement and all proposed variations or additions submitted by Client are objected to and deemed material unless otherwise agreed to in a writing signed by both parties. Any waiver shall be limited to the circumstance or event specifically referenced in the written waiver document and shall not be deemed a waiver of any other term of this Agreement or of the same circumstance or event upon any recurrence thereof. Any terms contained in an exhibit, attachment, or mutually executed addenda hereto, that may be contrary to, inconsistent with, or in addition to the terms and conditions contained in this Agreement, will be governed, interpreted, and construed by the terms of the applicable exhibit, attachment, or amendment solely with respect to the subject matter of such exhibit, attachment, or amendment. All IOs shall be deemed accepted only when executed by TechTarget.

11.10 No Third-Party Beneficiaries. Client and TechTarget intend that this Agreement will not benefit or create any right or cause of action in or on behalf of any person or entity other than the Parties.

11.11 Governing Law and Venue. The Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts (excluding conflict of laws principles) and Client agrees to the non-exclusive jurisdiction of the courts in the Commonwealth of Massachusetts in the event that there is any dispute involving the Agreement.

11.12 Electronic Signatures. Each party hereto agrees that the electronic signatures of the parties to this Agreement or any IO, or any modification thereof, are intended to authenticate this writing and to have the same force and effect as manual signatures. For purposes of this Agreement or any IO or any modification thereof, “electronic signature” means any electronic sound, symbol or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimiles or email electronic signatures.

Schedule 1

Service Level Agreement

1. Definitions.

For the purposes of this Schedule, the following defined terms shall have the meanings set forth herein. Terms not otherwise defined in this Schedule shall have the meanings assigned to them in the Agreement.

- a) “**Downtime**” means the inability of most users to access the servers and majority of applications of the Services. Specifically excluded from the definition of downtime are:
 - i. Downtime resulting from Client requests;
 - ii. Network errors outside of the control of TechTarget or agents of TechTarget;
 - iii. Server errors and limitations set by third-party service providers;
 - iv. Planned and scheduled maintenance announced at least forty-eight (48) hours prior;
 - v. Outages resulting from the actions of Client, its Employees and Authorized Contractors other than normal operation of the Services; and
 - vi. Any other failure, defect, or unavailability caused by circumstances beyond TechTarget’s reasonable control, including, without limitation, acts of God, acts of government, floods, fires, earthquake, civil unrest, acts of terror, strikes or other labor problems (other than those involving TechTarget’s employees), Internet service provider failures or delays, or denial of service attacks..
- b) “**Downtime Minutes**” means the sum of the minutes of Downtime minus any Scheduled System Maintenance.
- c) “**Scheduled System Maintenance**” means maintenance of the TechTarget system, including maintaining and upgrading the software and hardware of the TechTarget System. Scheduled System Maintenance is not Downtime.
- d) “**Uptime**” means time when the TechTarget System is scheduled to be accessible to Authorized Users excluding any time set for Scheduled System Maintenance outages.
- e) “**Uptime Minutes**” means minutes that are included in Uptime.
- f) “**Uptime Percentage**” means the product of the following equation:

$$[(\text{Uptime} - \text{Downtime Minutes}) \text{ divided by } (\text{Uptime})] \text{ times } 100$$

2. Application Services.

TechTarget agrees to supply Application Services as follows:

- a) **TechTarget Application Services Obligations.** TechTarget agrees to provide Client with Application Services in connection with operation and Use of, and access to the

Service, including without limitation, providing servers, production storage, and the connection between Server(s) and the Internet. TechTarget is responsible for the integration, set-up and configuration of the equipment necessary to provide the Application Services. This includes, but is not limited to, any integration or configuration of the equipment with the software necessary to provide the Application Services.

- b) **Sub-Contracting of Application Service Obligations.** TechTarget may subcontract any portion of its application obligations with respect to the Service; provided however, that notwithstanding any subcontracting of Application Services, TechTarget shall remain solely responsible to Client for all such managed application duties and obligations with respect to the Service.
- c) **Application Platform.** The Application Services will be available for an average uptime of ninety-nine (99%), twenty-four (24) hours per day, seven (7) days per week, subject to scheduled outages for maintenance. TechTarget will provide at least forty-eight (48) hours' notice of scheduled outages for maintenance.
- d) **Special Service Terms.**
 - 1. Client and TechTarget acknowledge that continued rapid change in the technology associated with data processing, data storage, and telecommunications is expected to result in changes in Client's and TechTarget's computer and data-communications equipment and systems. Accordingly, each Party reserves the right to supplement, alter, or change its data-processing equipment and related telecommunications equipment, subject to the terms of this Agreement.
 - 2. TechTarget will provide and maintain all necessary hardware and software, telecommunications hardware and software, security software and other software that is reasonably necessary to operate and maintain the access to the Service.
 - 3. In the event that Client chooses to integrate the Services with their SFDC platform, TechTarget agrees to employ due care and attention in processing Client's data. Client is responsible for complying with all local, state, and federal laws pertaining to the use and disclosure of any data.

2. Downtime Credits

If a monthly report, based on the criteria stated below, shows that TechTarget has failed to meet the ninety-nine percent (99%) Uptime Percentage stated above, Client shall be entitled to a credit equal to one percent of the monthly Subscription Fee for each percent TechTarget is below the target. Should the Uptime Percentage fall below eight-five percent (85%) Client shall be entitled to a credit equal to fifty percent (50%) of one twelfth (1/12) of the Annual Subscription Fee.