

# Terms and Conditions

The Products and Services on order forms are subject to these Master Terms and Conditions. These Master Terms combined with any applicable order forms and Supplemental Terms and Conditions (collectively the Agreement) are the terms under which Products and Services are licensed or made available to Customer. By accepting the Agreement Customer is agreeing to be bound by this Agreement personally. If Customer is acting on behalf of a business, Customer represents he or she is authorized by that business to sign this Agreement and that business agrees to also be bound by this Agreement. Please read this Agreement carefully before accepting this Agreement or using, or accessing the Products or Services.

## 1. Definitions

- a. **Accept, Accepts, or Accepting** means signing any order form, clicking any “agree”, “accept”, “submit”, “order” or similar acknowledgement to subscribe or purchase any Product or Service or using or accessing any Product or Service.
- b. **Authorized Users** means any natural person who has been given log in credentials to access any Product or Service in accordance with the terms of this Agreement.
- c. **Customer** means the natural person who signs this Agreement and in the case where Customer is acting on behalf of a legal business entity also means the business entity referenced herein.
- d. **Customer Location** means the physical locations identified on a relevant order form.
- e. **Feedback** means any recommendations, ideas, suggestions, information, comments or any other feedback Customer or any Authorized User provides to us about any Product or Service covered under these Terms.
- f. **Fees** means all fees due and payable by Customer to Us under these Terms.
- g. **Force Majeure Event** means any circumstance where a party’s obligations under these Terms is delayed by causes not under such party’s reasonable control, including fire, flood, earthquakes, acts of God, disruptive solar flares, acts of war, acts of terrorism, acts of any nation, state, territory, or other political organ, labor disruptions affecting employers generally, riots, epidemics, theft, civil disorders, quarantine, internet or other service disruptions involving hardware, software, power, or utility systems not under such party’s reasonable control.
- h. **Intellectual Property** means anything protected by or could be protected by the intellectual property laws of the United States or any other country including patents, copyrights, service marks, trademarks, trade names, domain names and trade secrets.
- i. **JAMS** is an organization that provides judicial arbitration and mediation services. More information is available at <https://www.jamsadr.com>.

- j. **Laws** means all applicable state, local and federal laws, regulations, rules, ordinances any other decrees of any government authority.
  - k. **Order form** means any applicable purchase or subscription confirmation page displayed on Our website(s) on the Customer's completion of the order process or any ordering document provided by Us to Customer that has been executed by Customer and returned to Us.
  - l. **Online platform** means any online website, product or service provided by Us to Customer in order to access or use any Product or Service under this Agreement.
  - m. **Our, We, Us** means Competitive Intelligence Solutions LLC.
  - n. **Party** means Customer or Us individually; and **Parties** means Customer and Us collectively.
  - o. **Personal Information** means any information that may be used to identify a natural person such as a first and last name, social security number, physical address, telephone number, or driver's license number.
  - p. **Product or Service** means any product or service provided by Us to Customer and identified on a relevant order form to purchase or subscribe to any Product or Service.
  - q. **Renewal Term** means the renewal of a subscription with the period being monthly unless otherwise specified on a relevant order form.
  - r. **SaaS** means an internet-based software as a service comprised of software and associated data accessible on a subscription basis.
  - s. **Subscription** means the right to access a Product or Service within a subscription term.
  - t. **Subscription Fees** means the recurring fees associated with a subscription.
  - u. **Taxes** means any direct or indirect federal, state, and/or local sales, use, value add, excise, withholding stamp, or similar taxes and any duties, tariffs, levies or similar government assessments or charges.
  - v. **Term** means the time a subscription under this Agreement is in effect.
  - w. **Terms of Service** means the terms and conditions provided by Us that are applicable to a Customer's or Authorized User's use and access of a Product or Service.
  - x. **Third Party** means any person or entity that is not a Party.
  - y. **Third Party Materials** means any materials licensed or sublicensed by a Third Party.
  - z. **Third Party Terms and Conditions** means any terms and conditions with a Third Party.
2. Product Orders

When Customer accepts an order form the relevant Services or Subscriptions identified on the order form will commence. Customer agrees to use Our established processes for processing order forms and agrees that Our established processes are effective to constitute the valid signature of Customer. The relevant Products or Services will be made available to Customer via Our online platform. Customer is solely responsible for any hardware, internet connection, software, or any other equipment required to access or use any Product or Service.

3. Authorized Locations

We will make available to Customer the Products and Services identified on an order form pursuant to Customer's compliance with this Agreement including payment of Fees. Customer is authorized to use provided Products and Services only in the location indicated on a relevant order form.

#### 4. License to Products

For as long as this Agreement remains in effect, We grant Customer and its Authorized Users a nonexclusive, limited, non-sublicensable, nontransferable, license to use the Products and Services Customer has purchased or subscribed to on a relevant order form. Customer may use the Products and Services for a lawful business purpose at the Authorized Locations pursuant to this Agreement. Basic email technical support is provided with each Product or Service. No additional technical or support services are offered to Customer unless indicated on a relevant order form.

#### 5. Authorized Users

Customer may designate additional natural persons to Us as an Authorized User of the Products or Services under this Agreement. We may, or if the Product or Service allows, Customer may issue to the Authorized User login information separate from Customer's login information to use the Products or Services under this Agreement and such login information may not be shared with any Third Party or any other Authorized User. Any Authorized User is required to accept these Terms and any additional terms specific to all Products or Services Customer has purchased or subscribed to and any breach of these Terms by Customer or any Authorized User must be reported to Us immediately. Customer is responsible and liable for any breach of these terms by any Authorized User associated with Customer's account.

#### 6. Restrictions

Neither Customer nor its Authorized Users may do any of the following, except as allowed by a relevant order form, to any Product or Service or portions of any Product or Service covered under this Agreement or relevant order form (a) download, copy, store, remove, sell, distribute, publish, rent, lease, license, sublicense, make derivative works of, attempt to reverse engineer, scrape, datamine, or harm; (b) make available to or provide access to any Third Party; (c) violate any law, or rights of Us or any Third Party in connection with the use of; (d) undertake or assist any Third Party in a challenge of any right or intellectual property of Ours that We may have; (e) create or attempt to create any competing Product or Service; (f) access any Product or Service by any means other than through the interface provide by Us. Certain Products or Services may have additional or different restrictions specified on a relevant order form.

#### 7. Proprietary Rights

We retain all rights to all portions of any Product or Service covered under this Agreement. Customer and Authorized Users are not granted any rights, title, or interest to any portion of any Product or Service under this Agreement except as specified in Section 4. If Customer or any Authorized User becomes aware of any violation of this Agreement Customer is required to notify Us immediately of that violation in writing.

#### 8. Third Party Material

The Products and Services under this Agreement may contain certain Third Party Materials. Third Party Materials are made available by a Third Party and not by Us and any use of any Third Party Materials by Customer or any Authorized Users is subject to the Terms of this Agreement

and any additional Third Party Terms. Customer acknowledges that certain Third Party Materials may not be available to Customer and in no circumstances will We be responsible or liable to Customer or any Authorized User for any Third Party Materials or any use thereof.

#### 9. Fees and Payments

Customer shall pay Us any Fees listed on a relevant order form or invoice in exchange for the rights and licenses granted by this Agreement. All Fees are nonrefundable. If Customer has any dispute or issue with an invoice Customer must notify Us in writing of such dispute or issue within forty-five (45) days of the issuance date on the invoice. All Fees invoiced to Customer are due in full by the due date listed on the invoice. The due date may be, but is not required to be, thirty (30) days after the issuance date on the invoice. Customer is solely responsible for any taxes or assessments to any government or taxation authority in connection to Customer's or Authorized User's use of any Product or Service covered under this Agreement. Interest may be charged on any late payment with a rate equal to the lesser of 2% per month, or the maximum legal rate. We reserve the right to sell any unpaid debts Customer incurs under this Agreement to a Third Party collection agency.

#### 10. Subscription Term

This Agreement shall be in effect whenever Customer has a subscription to any Product or Service under this Agreement. Customer's subscription to the Products or Services lasts for the Term specified on the relevant order form. Unless otherwise specified on the relevant order form, Customer's subscription to the Products or Services renew automatically each month, unless canceled pursuant to Section 11.

#### 11. Termination and Cancellation

This Agreement may be terminated by either party, after any minimum subscription duration set forth on a relevant order form has elapsed, by providing the other party with 30 days written prior notice. We may in Our sole discretion, by notifying Customer in writing, immediately terminate this Agreement (a) if Customer or any Authorized User materially breaches this Agreement; (b) if Customer or any parent company of Customer files a bankruptcy, insolvency, or similar petition; (c) if We believe Customer or any Authorized user has breached a restriction placed on them in this Agreement; (d) if Customer defaults on any obligation to Us; (e) for any other reason.

Upon termination of this Agreement all rights, obligations, and licenses granted to Customer and Authorized Users by Us immediately and automatically terminate and all unpaid Fees under this Agreement are immediately due.

Sections 1, 6, 7, 8, 12, 13, 15, 16, 17, 18, 19, 20, 21 22, and 24 will survive any termination of this Agreement. Sections 14, and 6(e) will survive the any termination of this agreement for 2 years after the date of termination.

#### 12. Representations and Warranties

Customer represents to Us that Customer (a) has the authority to enter into this Agreement; (b) if acting as a representative of a business entity, Customer has the authority to enter into this

Agreement and that business entity was lawfully formed and validly exists and is in good standing under the Laws of the state it was organized in; (c) is not party to any contract, litigation, or other obligation that would prevent or restrict Customer from entering into this Agreement or otherwise perform any obligation under this Agreement; (d) and any Authorized User will not violate any laws or Intellectual Property rights of any Third Party; (e) will notify Us promptly of any bugs, errors, or malfunctions in any Product or Service covered by this Agreement Customer discovers.

#### 13. Indemnification

CUSTOMER AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND US, OUR SUCCESSORS, AND EACH OF OUR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, MEMBERS, REPRESENTATIVES, SHAREHOLDERS, VOULUNTEERS, INTERNS, INDEPENDENT CONTRACTORS, SERVICE PROVIDERS, AND AGENTS FROM AND AGAINST ANY AND ALL CLAIMS, DEBTS, LIABILITIES, LOSSES, DEMANDS, CAUSES OF ACTION, ATTORNEY'S FEES, PAYMENTS, FINES, EXPENSES, AND COURT COSTS ARISING OUT OF OR RELATING TO (A) ANY PERSONAL INJURY OR PROPERTY DAMAGE YOU MAY CAUSE; (B) ANY BREACH OR ALLEGED BREACH BY CUSTOMER OR ANY AUTHORIZED USER OF THIS AGREEMENT; (C) CUSTOMER'S OR ANY AUTHORIZED USER'S USE OF ANY PRODUCT OR SERVICE UNDER THIS AGREEMENT OR APPLICABLE ORDER FORM.

#### 14. Confidentiality

You agree not to disclose, allow to be disclosed, make available, use, or allow to be used any information provided by Us to You that is marked or specified to be confidential, including any information or materials relating to the operations, customers, contractors, software, technology, marketing, intellectual property, Products or Services, or portions of any Product or Service under this Agreement to any entity that is not party to this Agreement. In addition you must keep confidential any login or access credentials to any of our Products or Services.

#### 15. Contributions to Us

You agree and acknowledge any concepts, ideas, suggestions, documents, or proposals ("Feedback") you submit to Us that (a) the Feedback is not subject to restriction by third parties and that you have all necessary rights to share such Feedback with Us; (b) We are free to use or share Feedback as We see fit; (c) We may have already conceived, created, developed, built, patented, or sold something similar to the Feedback; (d) We may include any portion of Feedback into our own Products or Services at any time and We shall own such Products and Services; (e) We are not obligated to you in any way for such Feedback including any obligations of payment; (f) Feedback does not contain Personally Identifiable Information of any natural person not bound by this Agreement; (g) Feedback is not in a form that is unlawful to possess, transmit, or receive either in the physical location Feedback is submitted or received.

#### 16. Remedies

Customer acknowledges and agrees that any wrongful disclosure of Our confidential information or any unauthorized use of any Product or Service covered under this Agreement may cause irreparable injury to Us and that remedies other than injunctive relieve may be insufficient. We shall have the right to seek equitable and other injunctive relief to prevent any

wrongful disclosure or unauthorized use of Our Products and Services, as well as any other damages and relief to which We may be entitled to under this Agreement or any applicable law.

17. Disclaimer

THE PRODUCTS AND SERVICES UNDER THIS AGREEMENT ARE PROVIDED “AS IS” AND “AS AVAILABLE” WITHOUT WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY EXPRESSED OR IMPLIED REPRESENTATION OR WARRANTY OF SUITABILITY, SATISFACTORY QUALITY, LEGALITY, MERCHANTABILITY, FREEDOM OF ERRORS, CORRECTNESS, FREEDOM OF VIRUSES OR OTHER HARMFUL COMPONENTS, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ANY OTHER REPRESENTATION OR WARRANTY OF ANY TYPE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.

18. Limitations of Liability

UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE TO CUSTOMER OR ANY OTHER PERSON FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, LOST PROFITS, LOSS OF BUSINESS, LOSS OF USE, OR ANY OTHER DAMAGES RELATING TO OR ARISING FROM THE USE OF ANY PRODUCT OR SERVICE UNDER THIS AGREEMENT. UNDER NO CIRCUMSTANCES WILL OUR AGGREGATE LIABILITY UNDER THIS AGREEMENT AND ALL ORDER FORMS EXCEED THE AMOUNT PAID TO US UNDER THIS AGREEMENT BY CUSTOMER IN THE PREVIOUS TWELVE MONTHS BEFORE THE EVENT CAUSING LIABILITY, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

19. Force Majeure

Neither party will be liable for any failure or delay in performing any obligation or duty under this Agreement or any order form, except the requirement to pay Fees, to the extent such failure or delay is attributable to any act of God, act of War, act of Terrorism, or other condition or event outside of its reasonable control.

20. Usage Data

By using any Product or Service under this Agreement, Customer and Authorized Users consent to and allow Us to collect information about how they use the Product or Service. We may use such information consistent with our Privacy Policy for our business purposes. Customer and Authorized Users agree We retain all rights to such information and may keep it indefinitely, including after the Termination of this Agreement.

21. Arbitration and Class Waiver

CUSTOMER AGREES TO ARBITRATE ANY DISPUTE OR CLAIM WITH US THAT ARISES OUT OF OR RELATES IN ANY WAY TO THIS AGREEMENT, ANY PRODUCT, ANY SERVICE, OR ANY SUBSCRIPTION. SUCH ARBITRATION WILL BE FINAL AND BINDING. THIS ARBITRATION PROVISION MEANS THAT ANY CLAIMS AGAINST US WILL BE RESOLVED THROUGH ARBITRATION INSTEAD OF LITIGATION IN COURT. CUSTOMER AGREES THAT WE MAY, BUT ARE NOT REQUIRED TO, SUBMIT TO ARBITRATION ANY DISPUTE OR CLAIM THAT WE MAY HAVE AGAINST CUSTOMER WITH ANY SUCH ARBITRATION BEING GOVERNED BY THE PROVISIONS OF THIS SECTION 21.

CUSTOMER MAY OPT OUT OF THIS ARBITRATION AGREEMENT AND WILL NOT PREJUDICE OR AFFECT YOUR DEALINGS WITH US IN ANY WAY. TO EXERCISE THIS OPT OUT CUSTOMER MUST PROVIDE WRITTEN NOTICE OF ITS ELECTION TO OPT OUT TO US AT 17192 MURPHY AVE #17546, IRVINE CALIFORNIA 92623 NO LATER THAN 10 DAYS AFTER THE DATE ON WHICH CUSTOMER FIRST (A) SIGNS ANY ORDER FORM; (B) USES OR ACCESSES AND PRODUCT OR SERVICE UNDER THIS AGREEMENT; (C) USES ANY WEBSITE OR ONLINE PLATFORM PROVIDED BY US. THE PROCEDURE SET FORTH IN THIS SECTION IS THE ONLY WAY TO OPT OUT AND ANY ATTEMPT MADE AFTER THE DEADLINE SET FORTH HERIN WILL BE INEFFECTIVE.

ANY ARBITRATION PROCEEDING UNDER THIS SECTION WILL TAKE PLACE ON AN INDIVIDUAL BASIS. CLASS ARBITRATIONS AND CLASS OR REPRESENTATIVE PROCEEDINGS OF ANY KIND ARE NOT PERMITTED AND CUSTOMER EXPRESSLY WAIVES ITS ABILITY TO PARTICIPATE IN A CLASS OR REPRESENTATIVE PROCEEDING AGAINST US. TO THE EXTENT THAT CUSTOMER OPTS OUT OF THE ARBITRATION CLAUSE BY FOLLOWING THE PROCEDURE SET FORTH IN THIS SECTION, OR IF THE ARBITRATION CLAUSE IS FOUND TO BE INAPPLICABLE TO CUSTOMER'S DISPUTE WITH US, THIS CLASS ACTION WAIVER WILL CONTINUE TO APPLY IN LITIGATION. CUSTOMER AGREES THAT THIS CLASS ACTION WAIVER IS AN ESSENTIAL ELEMENT OF OUR AGREEMENT AND THAT IT MAY NOT BE SEVERED. IN THE EVENT THAT THIS CLASS ACTION WAIVER IS DEEMED INVALID OR UNENFORCEABLE, THEN THE ENTIRE AGREEMENT OT ARBITRATION IN THIS SECTION WILL BE NULL AND VOID.

ANY DISPUTE OR CLAIM SUBMITTED TO ARBITRATION UNDER THIS SECTION SHALL BE SUBMITTED TO BINDING ARBITRATION ADMINISTERED BY THE JUDICIAL ARBITRATION AND MEDIATION SERVICE (JAMS) PURSUANT TO ITS STREAMLINED ARBITRATION RULES AND PROCEDURES AS IN EFFECT AT THE TIME OF THE SUBMISSION OF SUCH DISPUTE OR CLAIMS. THE DISPUTES AND CLAIMS SUBJECT TO ARBITRATION PURSUANT TO THIS SECTION WILL BE RESOLVED BY A SINGLE ARBITRATOR SELECTED PURSUANT TO THE JAMS STREAMLINED RULES. THE ARBITRATOR SHALL BE BOUND BY AND SHALL STRICTLY ENFORCE THIS AGREEMENT AND ANY OTHER APPLICABLE AGREEMENT BETWEEN CUSTOMER AND US, AND MAY NOT LIMIT, EXPAND OR OTHERWISE MODIFY ANY OF THE PROVISIONS OF THIS AGREEMENT OR ANY OTHER AGREEMENT BETWEEN CUSTOMER AND US. THE ARBITRATOR MAY AWARD INJUNCTIVE RELIEF IF PERMITTED BY LAW, BUT THE INJUNCTIVE RELIEF AWARED BY THE ARBITRATOR MAY NOT EXTEND BEYOND OUR DEALINGS WITH CUSTOMER. THE LAWS OF THE STATE OF CALIFORNIA WILL APPLY TO ANY CLAIMS OR DISPUTES BETWEEN US AND CUSTOMER. ANY ARBITRATION WILL BE HELD IN ORANGE COUNTY, CALIFORNIA UNLESS OTHERWISE AGREED UPON BY THE PARTIES IN WRITING. EACH PARTY WILL BEAR ITS OWN EXPENSES IN THE ARBITRATION AND WILL SHARE EQUALLY THE COSTS OF THE ARBITRATION; PROVIDED HOWEVER THAT THE ARBITRATOR SHALL AWARD US ANY COSTS AND FEES TO WHICH WE MAY BE ENTITLED UNDER THIS AGREEMENT IN CONNECTION WITH ANY INDEMNIFICATION CLAIM, AND SHALL ALSO AWARD US ANY ATTORNEY'S FEES AND OTHER COSTS AND EXPENSES TO WHICH WE MAY BE ENTITLED PURSUANT TO THIS AGREEMENT.

## 22. Individual Guarantee

The natural person accepting this Agreement personally guarantees full payment and performance of all obligations under this Agreement and all relevant order forms, whether

personally or as a representative of another entity, despite the fact that you may be participating in a representative capacity.

### 23. Amendments and Updates

If We make a material change to this Agreement We will notify Customer via email or via notice within the Product or Service. If Customer does not agree to the change Customer must notify Us within 30 days of the change via email at [support@competitiveintelligencesolutions.com](mailto:support@competitiveintelligencesolutions.com). If We receive such notification from Customer the immediately previous terms will remain in effect. If Customer renews a subscription the latest terms immediately become effective.

### 24. Miscellaneous

This Agreement and any order form shall be governed and construed in accordance with the laws of the State of California and without regard to California's internal conflicts of law analysis. Any claim or dispute by Customer that arises under or related to this Agreement or any order form and not subject to mandatory arbitration shall be filed exclusively in a state or federal court located in Orange County, California. Customer shall be responsible for and reimburse Us for any legal fees and other costs incurred by or on behalf of Us in connection with any breach of this Agreement by Customer or any action taken by Us in an effort to enforce this Agreement. Customer may not assign this Agreement, any subscription, other rights, or obligations to any other entity without prior written authorization of Us. If any provision of this Agreement is invalid or prohibited by law, such prohibition or invalidity shall be construed as if such provision was not included in this Agreement and such prohibition or invalidity shall not affect any other provision in this Agreement. Any failure of Ours to enforce any provision of this Agreement is not a waiver of our right to enforce such provision neither is it an endorsement of such violation; and we retain all rights under this Agreement to enforce such provision. This Agreement represents the entire agreement between Us and Customer with respect to use of Our Products and Services and supersedes all prior agreements and understandings between Us and Customer.

## APPENDIX

### ITEM 1

#### Service Descriptions and Additional Terms

##### Products: CIS Automotive API

- Additional Terms for: CIS Automotive API
  - Authorized Uses: Customer may use the Service to retrieve data (API Data) from an authorized endpoint and incorporate that data into Customer's application pursuant to the Terms in this Agreement.



- Restrictions:
  - Customer may store or cache the API Data for up to the time specified by the endpoint. If no maximum cache time is specified by the endpoint the API Data may not be cached.
  - Customers enrolled in a “Trial”, “Basic”, or similar plan without a base monthly fee may only use the Service for personal, non-commercial purposes and may not display or distribute API Data to any third parties in any form.
  - Customers enrolled in a subscription with a base monthly fee greater than \$0 to the CIS Automotive API may distribute derivative works of API Data, but Customers may not distribute API Data programmatically as a data feed, an API, or as an export file.
  - Customers who distribute API Data shall include in their End User License Agreements provisions that provide substantially equivalent protections to Us as those specified in Section 6 of this Agreement.
  - Customers who distribute API Data shall take reasonable steps to detect and prevent unauthorized use of API Data, and remove access to API Data from any entities that have used API Data in an unauthorized way. If Customer fails to remedy unauthorized use of API Data, it would constitute a material breach of this Agreement and may result in punitive action by Us including immediate termination of this Agreement.
- Attribution: If Customer distributes or incorporates API Data into an application, Customer must state the data was provided by the CIS Automotive API and provide a hyperlink to <https://AutoDealerData.com> visible to users of the application.
- Documentation: API Documentation may be provided by Us. Customer should read Our Documentation to understand how to use the CIS Automotive API and Customer shall comply with any API usage requirements.
- Changes to the API: We may make changes to the CIS Automotive API that add, remove, or change functionality. We will make commercially reasonable efforts to notify Customer if the changes are backwards incompatible or remove functionality. We may make changes with none or minimal notice if the changes are meant to fix a security or usability issue. Deprecation and change notices may be displayed in the API Documentation.
- Premium Endpoints: Certain API Data may be billed at a higher fee (Premium Endpoints) than other API Data. Premium Endpoints may be labeled “Premium” in API Documentation and it is Customer’s responsibility to understand which API Data may belong to a Premium Endpoint before requesting such data.
- Rate Limiting: We may enforce API rate limits to protect Our API and ensure access for all Customers. Our standard rate limits are generous and should be enough for almost all users, but if Customer’s use case requires a significant number of requests per second Customer must contact Us and explain their use case.