

**Privacy Policy**  
**Effective April 30, 2020**

Nineyard, Inc. (“Nineyard,” “We” or “Us”), provides this privacy policy (this “Privacy Policy”) to inform you of our policies and procedures regarding the collection, use, and disclosure of certain information we receive from users of our website accessible at <https://www.beta.nineyard.com/> (the “Site”). Unless otherwise defined herein, capitalized words have the meanings set forth in the Nineyard Terms of Service available at <https://ecom.datavanced.com/#/termsandconditions> which incorporates this Privacy Policy. This Privacy Policy also applies to information that we obtain when you communicate or interact with us outside of the Nineyard website, including by e-mail, telephone and otherwise.

YOU UNDERSTAND THAT BY USING THE SITE OR OTHERWISE USING THE SERVICES, YOU AGREE TO THE TERMS OF THIS PRIVACY POLICY AND YOU EXPRESSLY CONSENT TO THE PROCESSING OF YOUR PERSONAL DATA IN ACCORDANCE WITH THIS PRIVACY POLICY.

**1. INFORMATION COVERED BY THIS PRIVACY POLICY**

This privacy policy covers personal information, including any information we collect, use and share from you, as described further below. When you purchase a Service from us, your personal information will be collected, used, and shared consistent with the provisions of this privacy policy.

**2. TYPES OF INFORMATION WE COLLECT FROM YOU**

In the course of your use of the Services, we obtain the following information about you as described below.

**a. SIGNING UP FOR SERVICES; USER INFORMATION**

- Information you provide prior to any registration process, such as your email when you provide it to us;
- Information you provide during any registration process (such as your name, company name, email address, phone number, billing address or credit card information, geographic location and industry), when you call or email us (for support or otherwise) or when you use our products or services; and
- Payment information you provide to us (by way of our Services or otherwise) when you purchase some of our products and services, including credit card data.

**b. USE OF SERVICES, WEBSITE VISITS AND SUPPORT**

- Data relating to your online activity on our websites with respect to our Services, including but not limited to the following:

- i. IP address
- ii. browser type and version
- iii. geographic location
- iv. pages you view
- v. how you got to our Services and any links you click on to leave our Services
- vi. when you update your information, communicate with us, or order new Services
- vii. metadata about your use of our Services and your emails you send (including clicks and opens)
- viii. issues you encounter requiring our support or assistance
- ix. any device or other method of communication you use to interact with the Services

- We store this data we collect in a variety of places within our infrastructure, including system log files, back end databases and analytics systems.
- Your telephone conversations with us (which we may monitor or record).

#### **c. YOUR BUSINESS DATA**

We also collect Business Data you provide to us as you use the Services for business purposes, including, but not limited to:

- a list of catalog items with associated data from any third party integration added to Nineyard;
- information related to your sales and inventory; and
- information that allows us to automatically keep your inventory up to date based on your sales data.

You must obtain consent of any third person whose personal information you provide to us.

### **3. HOW WE USE YOUR PERSONAL DATA**

In general, Personal Data you submit to us is used to provide you with a customized experience, aid us in serving you better, and to respond to your requests. We use your Personal Data to:

- Facilitate the creation of your Nineyard Account.
- Identify you as a Nineyard User in our system.
- Provide the services and customer support you request.
- Provide improved administration of the Services.
- Analyze request and usage patterns, diagnose problems with our server and administer our Services.
- Improve the quality of experience when you interact with the Services.

- For internal purposes (e.g. procedures, risk management, staff training, reviews, billing);
- Send you marketing material you have subscribed to or we think You may be interested.
- Send you administrative email notifications, such as security or support and maintenance advisories.
- Notify you of Nineyard Platform updates, changes and improvements.
- Respond to your inquiries.
- Any other purpose for which you have given permission.

#### **4. DISCLOSURE OF YOUR PERSONAL DATA**

Except as we explicitly state at the time we request information, or in this Privacy Policy, we do not buy, sell, trade, share, or rent the Personal Data collected through our Services to third parties. We may, however, share your Personal Data with:

##### **a. DISCLOSURE TO RELATED THIRD PARTIES.**

- third parties under contract to perform functions (such as data analysis, e-mail services, technical support, etc.) on our behalf;
- successor in interest to our company, or any acquirer of all or a portion of our assets, if such assets include Personal Data;
- any Nineyard parent company, subsidiary, joint venture, or other company under common control with Nineyard (collectively, "Affiliate"). In such case, we will require that any third party service provider, successor in interest, or Affiliate agree to protect the confidentiality, security, and integrity of Personal Data to this same degree as this Privacy Policy.

Where such transfers of your Personal Data are made, they will be made in accordance with applicable law.

##### **b. NECESSARY DISCLOSURE**

We may disclose information you provide (including Personal Data) if we have a good faith belief that disclosure is necessary to:

- comply with the law or with legal process served on us;
- protect and defend the rights or property of us or other Nineyard Users;
- to enforce this Privacy Policy or our Terms of Service; or
- act in an emergency to protect someone's safety.

#### **5. RETENTION OF YOUR PERSONAL DATA**

In general, we expect to keep your Personal Data for as long as is necessary for the purposes for which it was obtained from the date of collection or, where you enter into a contractual

arrangement with us, following the end of the performance of our contract or when your engagement with our Services ends.

We do not sell or rent your personal information to any third parties for marketing purposes. If you would like to know more about how long we will retain your Personal Data, please contact our Data Protection Representative at [admin@nineyard.com](mailto:admin@nineyard.com).

## **6. PAYMENT INFORMATION**

All financial and billing information that we may collect through the Site is used solely to bill for the Services. We do not use this billing information for marketing or promotional purposes. We may use third party service providers to manage billing and payment, including, without limitation, credit card processing. In such cases, you acknowledge that you may be required to leave the Site in order to provide certain information to such third party service providers. Any Personal Data you provide to third party service providers will be subject to that third party service provider's privacy policy and terms of use, and not to this Privacy Policy or the Nineyard Terms of Service.

## **7. YOUR RIGHTS**

Where the European Union's General Data Protection Regulation 2016/679, or GDPR, applies, in certain circumstances and subject to data processing agreements, you have rights in relation to the personal information we hold about you. We set out below an outline of those rights and how to exercise those rights. Please note we will require you to verify your identity before responding to any requests to exercise your rights by providing details only known to the account holder. To exercise any of your rights, please visit <https://ecom.datavanced.com/#/support>. Please note for each of the rights below we may have valid legal reasons to refuse your request, in such instances we will let you know if that is the case. You also may have a right to file a complaint with a national or local regulatory agency.

### **a. ACCESS**

You have the right to know whether we process personal information about you, and if we do, to access data we hold about you and certain information about how we use it and who we share it with.

### **b. PORTABILITY**

You have the right to receive personal information you provide us if we process it on the legal basis of our contract with you or with your consent in a structured, commonly used and machine-readable format and a right to request we transfer such personal information to another party. If you wish for us to transfer the personal information to another party, please ensure you provide details of the party and note we can only do

so where it is technically feasible. We are not responsible for the security of the personal information or its processing once received by the third party.

**c. CORRECTION**

You have the right to require us to correct any personal information held about you that is inaccurate and have incomplete data completed. Where you request correction, please explain in detail why you believe the personal information we hold about you to be inaccurate or incomplete so we can assess whether a correction is required. Please note that while we assess whether the personal information we hold about you is inaccurate or incomplete, you may exercise your right to restrict our processing of the applicable data as described below.

**d. REMOVAL**

You may request we remove and erase the personal information we hold about you in the following circumstances:

- where you believe it is no longer necessary for us to hold the personal information;
- we are processing it on the basis of your consent and you wish to withdraw your consent;
- we are processing your data on the basis of our legitimate interest and you object to such processing;
- you no longer wish us to use your data to send you marketing; or
- you believe we are unlawfully processing your data.

Please provide as much detail as possible on your reasons for the request to assist us in determining whether you have a valid basis for erasure.

**e. RESTRICTION OF PROCESSING TO STORAGE ONLY**

You have a right to require us to stop processing the personal information we hold about you other than for storage purposes in the following circumstances:

- You believe the personal information is not accurate for the period it takes for us to verify whether the data is accurate;
- We wish to erase the personal information as the processing we are doing is unlawful, but you want us to simply restrict the use of that data;
- We no longer need the personal information for the purposes of the processing, but you require us to retain the data for the establishment, exercise or defense of legal claims; or

- You have objected to us processing personal information we hold about you on the basis of our legitimate interest and you wish us to stop processing the personal information while we determine whether there is an overriding interest in us retaining such personal information.

**f. OBJECTION**

You have the right to object to our processing of data about you and we will consider your request. Please provide us with detail as to your reasoning so we can assess whether there is a compelling overriding interest in us continuing to process such data or we need to process it in relation to legal claims.

You also have the right, at any time, to object to our processing of data about you in order to send you marketing, including where we build profiles for such purposes and we will stop processing the data for that particular purpose.

**g. WITHDRAWAL OF CONSENT**

Where you have provided your consent to us processing your personal data, you can withdraw your consent at any time by sending an email to: [admin@nineyard.com](mailto:admin@nineyard.com).

**8. CALIFORNIA CUSTOMER PRIVACY TERMS**

To the extent your Data comprises personal information of California residents, the California Consumer Privacy Act of 2018 (CCPA) will apply to the processing of that personal information and the following provisions will apply:

- You remain the controller of the personal information you provide to us for processing. We will process personal information only on documented processing instructions from you, and we will not disclose or retain the personal information for any purpose other than for the specific purpose of performing the services under these Terms, or as permitted by the CCPA.
- We will not engage another service provider to process personal information you provide to Us without your prior consent. You acknowledge the separate disclosure that we have made to you of the service providers that We use, and note your consent to the use of those service providers. Where We use (with your consent) another service provider to process personal information, We have appropriate arrangements in place with that service provider to protect the personal information to the same standard that the personal information is protected under these terms and conditions.
- We shall co-operate as reasonably requested by you to enable you to comply with any request by a consumer for the deletion of that consumer's personal information, as permitted by the CCPA.

We process personal information in relation to the Services and the Website for the purpose of providing you with Services. We use this information only to the extent and for the duration required to provide the Services, and process only the personal information that you have collected and provided to us for that purpose. You understand and confirm that you will not provide any personal information to us that is not required for you or your end customers to receive the relevant Services, and you acknowledge that Nineyard does not filter or validate any data (including personal information).

## **9. LINK TO OTHER WEBSITES**

The Site contains links to third party websites and content from such third parties. Such links and content are not endorsements, authorizations or representations of our affiliation with that third party. We are not responsible for the privacy practices or the content of third parties. Nineyard Users should check the privacy policies of these third party websites. This Privacy Policy only covers this Site and the Services and does not cover any other websites.

## **10. CHILDREN**

The Site is directed to and is intended to be used only by persons who are 18 years of age or older. We do not knowingly collect information from children under 18. If you are under 18 years of age, you are not permitted to [register for an account or otherwise] submit any personally identifiable information to us, including your name, address or e-mail address. If we discover that we have collected any personally identifiable information from a child under the age of 18, we will remove that information from our database as soon as possible. By submitting any personally identifiable information to us, you represent and warrant that you are 18 years of age or older.

## **11. COMPLAINTS**

In the event you wish to make a complaint about how we process your personal information, please contact us at: [admin@nineyard.com](mailto:admin@nineyard.com).

## **12. TYPES OF DATA WE COLLECT**

**Personal and Anonymous Data.** We collect Personal Data and Anonymous Data from you when you visit our Site or use our Services, when you send us information or communications, and/or when you submit content or enter into transactions in connection with our Services. “Personal Data” means data that allows someone to identify or contact you, including, for example, your name, address, telephone number, email address, as well as any other non-public information about you that is associated with or linked to any of the foregoing data. “Anonymous Data” means data that is not associated with you, not linked to your Personal Data, and does not permit your identification as an individual person.

a. **Personal Data You Provide to Us.** When you register to use the Services or create a Nineyard Account, we may collect certain information, such as your email address, password, name, company name, and email address. We also collect Personal Data that you provide to us as you use the Services, including, but not limited to:

- a list of catalog items from any third party integration added to Nineyard;
- information related to your sales and inventory; and
- information that allows us to automatically keep your inventory up to date based on your sales data.

In addition, if you provide us feedback or contact us via e-mail, we may collect your name and email address, as well as any other content included in the email that you submit to us, in order to send you a reply.

b. **Personal Data Collected via Technology.** We collect Personal Data and Anonymous Data from you based on your use of the Site and Services, directly and indirectly using third party tools. Like most Internet services, we automatically gather this Personal Data and Anonymous Data and store it in log files each time you visit our website or access your account on our network.

Our servers (which may be hosted by a third party service provider) collect Personal Data and Anonymous Data from you, such as browser type and version, operating system, platform, Internet Protocol (IP) address (a number that is automatically assigned to your computer when you use the Internet, which may vary from session to session), domain name, a date/time stamp for your visit, and other demographic information.

- **Cookies and Beacons.** We may use cookies, beacons and similar technologies, now or in the future, to support the functionality of our Website. This provides a better experience when you visit our Website and allows us to improve our Website. Our service providers may use cookies and beacons to collect and share Non-Personally Identifiable Information about your activities both on our Website and on other websites. In addition, third parties that are unaffiliated with us may also collect information about you, including tracking your browsing history, when you use our Website. We do not have control over these third party collection practices. If you wish to minimize these third-party collections, and you can adjust the settings of your browsers or install plug-ins and add-ins.
- **Browser Cookies.** A browser cookie is a small file placed on the hard drive of your computer. That cookie then communicates with servers, ours or those of other companies that we authorize to collect data for us, and allows recognition of your personal computer. We associate cookies with Personally Identifiable Information only if you use the automatic recognition capabilities on restricted areas of the Website, order a Service, use the personalization services available as part of the Website, or ask



us to contact you with additional marketing information. We do not otherwise collect Personally Identifiable Information from browser cookies and we do not associate browser cookies with your Personally Identifiable Information.

You may use the tools available on your computer or other device to set your browser to refuse or disable all or some browser cookies, or to alert you when cookies are being set. However, if you refuse or disable all browser cookies, you may be unable to access certain parts or use certain features or functionality of our Website.

You may choose whether to activate automatic recognition when you register for an account. After registration, you may disable the persistent cookie that supports recognition using the tools in your browser. If you choose to disable the cookies that support automatic recognition, you will need to re-enter your [User ID/username/email] and password each time you access a gated portion of the Website.

Unless you have adjusted your browser settings so that it refuses all cookies, we may use cookies when you direct your browser to our Website.

- **Flash Cookies.** Certain features of our Website may use local stored objects called flash cookies to collect and store information about your preferences and navigation to, from and on our Website. We also include cookies in our third party hosted video players to count the number of unique viewers who see a customer's video press release and to provide aggregate reporting. The cookies do not identify you as an individual or track your online behavior. We do not collect Personally Identifiable Information from flash cookies and we will not associate them with your Personally Identifiable Information.

Flash cookies are not managed by the same browser settings as are used for browser cookies. To learn how you can manage your Flash cookie settings, visit the Flash player settings page on Adobe's website. If you disable or refuse Flash cookies, please note that some parts of our Website may be inaccessible or may not function properly.

- **Beacons.** Our Website and e-mails may contain small electronic files known as beacons (also referred to as web beacons, clear GIFs, pixel tags and single-pixel GIFs) that permit us to, for example, count Users who have visited those pages or opened an e-mail and for other website-related statistics. Beacons in e-mail marketing campaigns allow us to track your responses and your interests in our content, offerings and web pages. You may use the tools in your device to disable these technologies as well.

**c. User Controls.** We offer you certain choices in connection with the information we collect from you.

- **Email Communications.** You may have the opportunity to receive certain communications from us related to our Website. If you provide us with your e-mail

address in order to receive communications, you can opt out of marketing e-mails at any time by following the instructions at the bottom of our e-mails and adjusting your e-mail preferences. Please note that certain e-mails may be necessary for the operation of our Website. You will continue to receive these e-mails, if appropriate, even if you unsubscribe from our optional communications.

- **Cookies/ Beacons.** If you wish to minimize information collected by cookie or beacon, you can adjust the settings of your browsers to notify you when you receive a cookie, which lets you choose whether or not to accept it. You can also set your browser to automatically reject any cookies. You may also be able to install plug-ins and add-ins that serve similar functions. However, please be aware that some features and services on our Website may not work properly. In addition, the offers we provide when you visit us may not be as relevant to you or tailored to your interests.
- **Network Advertising Initiative.** Certain websites you visit may provide options regarding advertisements you receive. If you wish to minimize the amount of targeted advertising you receive, you can opt out of certain network advertising programs through the Network Advertising Initiative (NAI) Opt-Out Page. Please note that even if you choose to remove your information (opt out) you will still see advertisements while you're browsing online.

Additionally, many advertising network programs allow you to view and manage the interest categories that they have compiled from your online browsing activities. These interest categories help determine the types of targeted advertisements you may receive. The NAI Opt-Out Page provides a tool that identifies its member companies that have cookies on your browser and provides links to those companies.

- **Do Not Track.** Some browsers support a “Do Not Track” (or, DNT) feature, a privacy preference that Users can set in certain web browsers, which is intended to be a signal to websites and services that you do not wish to be tracked across different websites or online services you visit. Our Website does not currently recognize or respond to DNT signals, so DNT settings do not change the way the Website operates. Please note that we cannot control how third party websites or online services you visit through our Website respond to Do Not Track signals. Check the privacy policies of those third parties for information on their privacy practices.
- **Updating or Deleting Information.** The accuracy of the information we have about you is very important. Users may update their information at any time by contacting us at <https://ecom.datavanced.com/#/support>.

### **13. SECURITY OF YOUR DATA**

Nineyard uses a commercial security certificate to ensure all data communicated between Nineyard and users using SSL technology. Communication between Nineyard and partner integrations is also encrypted at all times with the same encryption mechanism to ensure the security of your data. However, the internet itself is not a secure environment. Nineyard users must ensure that their browsers are up-to-date with the latest security updates from browser and operating system vendors. Nineyard will take all steps reasonably necessary to ensure that your data is treated securely and in accordance with this privacy policy.

The security of your Personal Information is important to us, and we strive to implement and maintain reasonable, commercially acceptable security procedures and practices appropriate to the nature of the information we store, in order to protect it from unauthorized access, destruction, use, modification, or disclosure. Our measures include firewalls, system-wide data encryption, SSL encryption, physical and electronic access controls, and strict rules regarding the access and use of data on our system.

#### **14. MOBILE APPLICATIONS**

Without limiting the generality of this Privacy Statement, in addition to information gathered through its Website or submitted to its Services, Nineyard may obtain information through applications (“Mobile Applications”) that Customers or their Authorized Users download to, and run on, their mobile devices (“Devices”). Mobile Applications provided by Nineyard may obtain information from, or access data stored on, Users’ Devices to provide services related to the relevant Mobile Application. Information obtained to provide Mobile Application services may include information obtained in preparation for anticipated updates to those services. Mobile Applications may transmit information to and from Devices to provide the Mobile Application services.

#### **15. WHERE WE STORE YOUR DATA**

The Website is hosted in the United States of America and is subject to U.S. state and federal law. Nineyard stores your Data in locations that Nineyard considers will give Nineyard and its users the most efficient access from wherever in the world they may be. Access and storage controls via the Software and the Website are however administered by Nineyard in the United States as the holder of that Data. The Nineyard corporate headquarters address and contact details are available on our contact page.

If you are accessing our Website from other jurisdictions, please be advised that you are transferring your personal information to us in the United States, and by using our Website, you consent to that transfer and use of your personal information in accordance with this Privacy Policy. You also agree to abide by the applicable laws of applicable states and U.S. federal law concerning your use of the Website and your agreements with us. Any persons accessing our Website from any jurisdiction with laws or regulations governing the use of the Internet, including personal data collection, use and disclosure, different from those of the jurisdictions

mentioned above may only use the Website in a manner lawful in their jurisdiction. If your use of the Website would be unlawful in your jurisdiction, you may not use the Website.

Access to this data may be granted to Nineyard employees and its agents at any time and the origin of this access may be from somewhere other than the country where the Data is stored. A Nineyard User consents to that Data being transferred from one country to the other (including via any intermediate country) as a function of transmission across the internet.

## **16. NOTIFICATION OF CHANGES**

We reserve the right to modify this privacy policy at any time, so please review it frequently. If we decide to change this privacy policy in any material way, we will notify you here, by email, or by means of a notice on <https://beta.nineyard.com> prior to the change becoming effective. In all cases, your continued use of any Services constitutes acceptance to any such changes. Please note that we may condition your continued access to our Website on your consent to changes to this Privacy Policy.

## **17. ADDITIONAL INFORMATION**

Questions regarding this Privacy Policy or the practices of this Site can be addressed by emailing us at [admin@nineyard.com](mailto:admin@nineyard.com). You may update or delete your Nineyard account data at any time by logging into your Nineyard account portal and making the appropriate changes.