



STANDARD TERMS AND CONDITIONS FOR THE LICENSING OF DATA AND EMAIL BROADCASTING

1. GENERAL

These terms and conditions are deemed to be incorporated in every contract entered into with US Marketing Management Inc. save where expressly varied in writing by the parties and supersede any buyer or renter Terms and Conditions.

2. DEFINITIONS

In these terms and conditions which expression includes the Schedule hereto the following words and expressions have the meanings set out below, unless the context requires otherwise:

- In these conditions "USMM" means US Marketing Management Inc.
- "Order Date" means the date you place an order for the Data or email broadcast.
- "Data" means information of any kind, however presented whether comprising words, numbers, graphs, maps, pictures, sketches or otherwise in any other form and whether or not the Data which is supplied or made available by us under this License, as the same is more particularly described in the Order Confirmation form herewith;
- "Services" means any products, materials or services supplied by USMM or its duly appointed Third Party Agent or Data Supplier;
- "Brokering" means USMM acting on behalf of the Data Supplier;
- "Data Supplier" a party who has supplied all or part of the Data to us with the right to sub-license its use or to carry out an email broadcast;
- "Direct Marketing" means any form of telephone sales, telephone marketing, direct mail, e-mail marketing, market research or use of circulation list or fax marketing which is targeted at the end user or business;
- "Material" means any lists of email addresses and any other information or Data or compilations of data supplied by USMM and includes any email lists, documents, labels, computer discs, tapes, printouts or other items on which such information is set out or in the form in which it is stored, displayed, contained, compiled or transferred.
- "License" means the license between you and us, or you and the Data Supplier, upon these terms governing your use of the Data.
- "Multiple Use" means repeated use on any number of occasions, within a defined time period;
- "Single Use" means use on one occasion only for one specific Direct Marketing campaign as may be more particularly qualified in Schedule 1 if applicable;
- "Third Party" means any individual, partnership, body corporate or other undertaking including any employees, principals, agents clients or associated companies of you or us (as the context requires);
- "we" or "us" or "our" means US Marketing Management Inc.;
- "you" or "your" means you, the Licensee, or buyer, or renter;

3. LICENSE (rental) see Appendix 1 for Purchase. Where a license to use the Data is agreed for a 12 month period, the following terms apply:-

3.1 USMM hereby grants to the Licensee a personal, non-exclusive License to use the Data strictly in accordance with the provisions set out in the Order Confirmation hereto for Direct Marketing only

3.2 In consideration for the License granted herein the Licensee will pay the License Fee as set out in the Order Confirmation

3.3 The License Fee does not include delivery, packing and insurance except where we indicate otherwise.

US Marketing Management Inc. 19 West 34th Street, Suite 1018, New York, NY 10001



US Marketing Management Inc.

3.4 The time of payment of the License Fee shall be essential to this License. All payments shall be made in full without deduction in respect of any set-off or counterclaim.

3.5 Unless otherwise expressly stated in writing payment of the full License Fee shall be due to us on the date of the invoice.

3.6 We are entitled to charge Sales Tax at the current rate from time to time whether or not it is included in the quotation or invoice.

3.7 If you fail to make payment of the License Fee by the due date, then without prejudice to any other right or remedy available to us, we shall be entitled to charge interest at the rate of 5% above Bank of America base rate, from the date of invoice, until you pay in full, calculated on a daily basis.

3.8 Without prejudice to our other rights, failing to make any payments due to us will entitle us, at our sole discretion, to suspend this License without incurring any liability to you for any loss caused by any such suspension.

3.9 You agree to a small number of seed names being included in the data to monitor usage.

3.10 Quotations for the number of records included in the Data are approximate only and may change without notice.

3.11 Where USMM is brokering the Data on behalf of the Data Supplier it accepts no personal responsibility for any such Data. USMM relies upon the description of the Data accorded to it by the Data Supplier. Whilst every effort is made to supply accurate information, USMM does not guarantee results of any mailing, telephone campaign, fax or email broadcast in the event of failure.

4. SINGLE USE

Where USMM agree to supply Data to you on a single use basis the following terms apply:

4.1 You warrant that the purpose for which the Data is to be used is only as stated in the Schedule.

4.2 If this is a Single Use License you undertake that on completion of the use of the Data, you will return to us or at our option destroy the Data

4.3 You agree not to copy, keep, reuse, disclose or disseminate any Data supplied in anyway without prior permission in writing having been obtained by USMM or the Data Supplier.

4.4 You agree to a small number of seed names being included in the data to monitor usage.

4.5 Quotations for the number of records included in the Data are approximate only and may change without notice.

4.6 Where USMM is brokering the Data on behalf of the Data Supplier it accepts no personal responsibility for any such Data. USMM relies upon the description of the Data accorded to it by the Data Supplier. Whilst every effort is made to supply accurate information, USMM does not guarantee results of any mailing, telephone campaign, fax or email broadcast in the event of failure

5. DELIVERY

5.1 Delivery dates are estimates given by USMM or the Data Supplier in good faith at the time of contact but are not guaranteed and are subject to change without notice. USMM uses its best endeavours to meet all delivery dates 5.2 If we agree with you to deliver the Data any cost of carriage, package, postage and insurance in transit will be added to the License Fee and you must notify us in writing within 7 days of delivery of any shortage of or damage to the Data.

5.3 The right to use the Data shall pass upon payment by you and not delivery by USMM.

6. PAYMENT

6.1 Sales Tax will be payable upon the price of Data and Services whether or not mentioned, where appropriate.

6.2 100% of the price along with any Sales Tax on such will be paid by you upon the placing of the order.



6.3 In the event that payment of the price in full is not made to USMM at the time stipulated, and the services are rendered to you, interest on the balance outstanding will become immediately payable at the rate of 2.5% per month or part thereof until such payment is received by USMM.

7. PRICES

Unless USMM otherwise agrees in writing:

7.1 All prices charged for data and services will be in accordance with USMM pricing documentation, and any errors or omissions are exempt. You will have been provided with such pricing prior to the order and are deemed to have knowledge thereof.

7.2 Prices quoted prior to acceptance of the order are subject to alteration without notice.

7.3 Additional charges shall be payable for limited or additional Services.

7.4 All handling and delivery are charged to you.

8. E-MAIL ADDRESS RENTAL & BROADCASTING

8.1 USMM, the Data Supplier or a Third Party Agent will broadcast the email message as soon as possible following the acceptance of the Order Confirmation by you. In the event that a date of broadcast is agreed between USMM and you, USMM shall use its reasonable endeavours to ensure that the broadcast occurs on the agreed date. However, USMM accepts no responsibility for loss or damage which may result from its failure to broadcast the email on the agreed date.

8.2 If you wish us to exclude certain criteria from our range of criteria you must provide a suppression file to us that clearly states your requested exclusions prior to the Order Date.

8.3 If you wish us to exclude general e-mail addresses from the e-mail Data field you must request this prior to the Order Date.

8.4 You will submit to USMM the proposed email communication at least 3 working days before the date on which the broadcast is required. USMM will, where necessary submit the mail pieces or other items to the Bodies responsible for administering the Codes of Practice for their advice and guidance as to compliance with the Codes. The decision of those bodies shall be accepted by USMM, and no claim shall be made for damage or consequential loss as result of their decision.

8.5 We are not responsible or liable for e-mail addresses that prove to be undeliverable save that where the number of undeliverable addresses exceeds the Undeliverables Threshold and subject to you providing proof of non-delivery within 14 days of the Order Date, we will endeavour to provide additional e-mail addresses on a like for like basis to maintain the Undeliverables Threshold.

8.6 USMM's obligations stated in clause 8.5 above shall not apply where you decide to use a method of delivery that has not been approved in writing by USMM.

8.7 We reserve the right to require you to cease or modify use of the e-mail Data where we discover that the content of e-mails sent by you is in our reasonable opinion inappropriate or you have misled us about the content.

8.8 Where you procure the use of the e-mail Data to send e-mails, you must ensure that the recipient is given a simple means to opt-out of receiving further communications and you must forward to USMM the details of any recipients who do exercise their right to opt-out including any comments that may be made by such recipients in an excel or comma separated format.

8.9 Where an email broadcast is undertaken using Data supplied by you, you must ensure that the Data is Opt-in, where opt-in is defined as an email address for which the addressee, with adequate prior notice, has given his or her explicit consent to receive promotional Materials via email from you and you Third Party Agents. Adequate prior notice means the addressee has been notified in a conspicuous manner that a) his or her consent may result in the receipt of promotional Materials including of the kind actually sent, and b) Third Party Agents use of addressees email address are subject to Third Parties privacy policy. Explicit consent means the addressee has taken some affirmative action giving you permission to



send promotional Materials to addressee and, absent such action, addressee will not receive any promotional Materials under this agreement. Where your data is used you should have records which evidence this affirmative action which it will show to USMM upon written request.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 The copyright and/or data base right and all other intellectual property rights in the Data are, shall be and remain our property, or the property of our Data Supplier.

9.2 Where any of the Data is derived from information supplied to us by a Data Supplier you acknowledge the rights of the Data Supplier and that you will not acquire any rights in relation to such information derived from the Data Supplier's database or other intellectual property rights including, without limitation copyright, data base right, trademarks, service marks or get up other than expressly granted in this License.

10. CONFIDENTIALITY

10.1 We acknowledge a duty not to disclose without your permission any confidential information resulting from studies or surveys commissioned and paid for by you and any data given to us by you concerning your customer and prospect database.

10.2 Any information and documents (including financial information and information relating to our intellectual property) disclosed by us to you shall be and remain confidential and you shall not disclose it to any person without our written authority.

10.3 The Data supplied to you under this License is supplied in strict confidence and for your internal business use only. You warrant and undertake not to transmit or otherwise reveal such information to any person not employed in your own business in any form or manner. You may, with our prior written consent supply lists of addresses or parts of such lists to agents for addressing correspondence provided that you procure that any such agents comply with all the restrictions contained in this License. You will not without our prior written consent ask for the Data knowingly for the use of others or wilfully or negligently permit such requests to be made by others.

10.4 You may not make any copies of the Data other than one copy of the Data for archiving purposes. You must store the Data separately from other data in a secure environment. You must not permit any other person to copy the Data.

10.5 You may disclose part of the Data to any of your customers only as necessary to do so by law. You agree to indemnify us on a full and unqualified basis for any loss or damage whatsoever caused by breach of this clause 5 by you.

10.6 You warrant that you will inform all persons employed by you who have access to the Data of the restrictions and obligations under the terms of this License and procure compliance by them.

10.7 You will keep the Data confidential and require your employees to do likewise. You will at all times take all reasonable steps in relation to your employees, authorised or duly appointed agents to ensure that no Third Party reproduces or publishes the Data. You will neither during or after the subsistence of this License, disclose the Data to your customers or any Third Party except in accordance with the terms of this License.

10.8 Your obligations of confidentiality set out in this License shall not apply to any information, which was already legitimately in the possession of the recipient, or is subsequently obtained from a Third Party which did not obtain the same under conditions of confidentiality.

10.9 You agree to notify us immediately upon becoming aware of any unauthorised use of the Data.

11. RESTRICTIONS

11.1 You will ensure the Data is not used as a component of a product marketed by you to compete with a product of ours or of a Data Supplier and in particular will not use or permit the use of the Data for any purposes connected with the business of publishing directories (local, regional or national) on printed or electronic media whose content is primarily either classified advertising or "white pages" (i.e. name, address, telephone number data) listings or to provide or enable the provision of a telephone directory enquiry service to the general public.



11.2 You may use the Data only for Direct Marketing and are not permitted to include the Data in any product or service that you sell.

11.3 We may mark the Data to show our and our Data Supplier's proprietary rights in respect of the Data by, for example, placing notices of our or the Data Supplier's copyright conspicuously on products incorporating the Data. You will ensure that such notices remain incorporated.

11.4 We and/or the Data Supplier may insert a number of seed (dummy) records into the Data for the purpose of ensuring that no breaches of this License occur and you agree not to delete or alter such records.

12. ADVERTISING STANDARDS AND DATA PROTECTION

12.1 We will endeavour to comply with all applicable Federal, State, Local and foreign laws, statutes, rules and regulations ("Laws"), including Laws regarding telemarketing, email and facsimile marketing, customer solicitation and all applicable guidelines of the Direct Marketing Association ("DMA"). Your use of email data will comply with all applicable Laws, including the CAN-SPAM Act, COPPA, and any State Registry laws.

12.2 You will ensure that any use to which the Data is put complies with the current regulations of the Post Office and the Universal Postal Union and with the current codes of practice of any applicable regulatory bodies.

12.3 You will provide a list warranty confirming that any data supplied to us has been appropriately obtained and is registered under and complies with the Data Protection regulations.

13. WARRANTY

13.1 We warrant that any services we provide to you will be provided in a good and workmanlike manner. Where the Material is a disk or tape, we warrant that the disk or tape will be free from material defects in material and workmanship for a period of 90 days from delivery. We will replace free of charge any disk or tape which is defective if you return the disk or tape to us at your risk and expense within the 90- day period. We are not liable for any defect if it is caused by wear and tear, or intentional damage, or failure to follow instructions.

13.2 We do not warrant that the Data shall be fit for any particular purpose.

14. LIMITATION OF LIABILITY

14.1 Time for us to perform any obligations is not and may not be made of the essence.

14.2 Notwithstanding anything contained in this License, except in respect of death or personal injury caused by our negligence, we will not be liable for any consequential, economic, or indirect loss including but not limited to loss of profits, loss of revenue, loss of contracts, loss of anticipated savings, arising in any way in connection with the supply or non-supply of the Data to you, including reasonable attorneys' fees and legal costs. USMM's maximum liability under this agreement will not exceed the amount you paid USMM under the agreement which gave rise to the liability.

14.3 Whilst we attempt to ensure that the Data is accurate and complete, by reason of the immense quantity of matter dealt with in providing and in compiling the Data and the fact that part of the Data may be supplied by sources not controlled by us, which cannot always be verified, as well as the possibility of negligence or mistake, we do not guarantee the correctness or accuracy of the Data and you agree not to hold us responsible for any error therein or omissions therefrom. USMM disclaims any and all warranties of any nature, express or implied, including any warranties of merchantability or fitness for a particular purpose. You have 14 days from your receipt of the data to inspect it and notify USMM of any problems or mistakes in the data and if you so notify USMM within that 14 day period the problem or mistake will be corrected at no additional charge to you.

14.4 Save in respect of death or personal injury due to our negligence for which no limit shall apply, our aggregate liability under this License for any one cause of action or series of connected causes of action shall not exceed the License Fee paid.



15. TERMINATION

15.1 We shall be entitled (without affecting any other rights we may have) immediately to suspend or terminate this License if: 15.2 you commit any breach of this License and fail to remedy that breach (if it is capable of remedy) within a period of 30 days from receiving notice in writing from us requesting remedy; or

15.3 Your business becomes subject to legal distress or execution; or

15.4 you offer to make any arrangements with your creditors or become bankrupt or being a limited company have a receiver, administrative receiver or administrator appointed over the whole or part of the property; or

15.5 Any order is made or a resolution is passed or proceedings are taken for your winding up; or

15.6 You cease to carry on or threaten to cease to carry on all or a substantial part of your business.

16. FORCE MAJEURE

We shall not be liable to you or be deemed to be in breach of the Terms by reason of any delay in performing, or any failure to perform any of our obligations in relation to the provision of the Services if the delay or failure was due to any cause beyond our reasonable control.

17. YOUR INDEMNIFICATION OF USMM NOTICE

You shall indemnify, defend and hold harmless USMM, its shareholders, directors, officers, employees, independent contractors and agents against any claim, demand, loss, liability, damage, injury cost or expense (including attorneys' fees and legal costs) which arises, directly or indirectly, out of your act or omission with respect to the Data or any violation of the Agreement or any violation of Laws.

18. NOTICE

Notices may be given by either of us to the other by sending them to the registered office of the other party. Any such notice will be valid if sent by first class post or fax and deemed to be received on the second business day following posting or transmitting.

19. ENTIRE AGREEMENT

This contract comprises the entire agreement between the parties and there are not any agreements, understandings, promises or conditions, oral or written, expressed or implied, concerning the subject matter which are not merged into this contract and superseded hereby. This contract may be amended in the future only in writing executed by the parties.

20. LAW AND JURISDICTION

This License is governed by and construed under the laws of the State of Delaware, without regard for the principles of conflicts of law of that State or any other state. Any litigation or other dispute relating to or arising under the Agreement shall only be brought in the state or federal courts located in Delaware, and you agree to submit to the exclusive jurisdiction of those courts and waive any obligations to the venue of any such proceedings in those courts. Any data supplied is compliant with legislation at the date of the order. Changes to legislation subsequent to the date of data delivery are your responsibility.

APPENDIX 1

1. PURCHASE

1.1 Where data is provided on an outright purchase basis you will receive a copy of the file for your unlimited usage within the restrictions of federal, state or local law. Changes to legislation regarding use of the data are your responsibility, and not the responsibility of US Marketing Management Inc. or its Data Suppliers.