

MRA Data Services Ltd t/a Prospect Manager ("PM") will provide services to the person, company or other entity ("Subscriber") identified within the PM order placing process, subject to all of the terms and conditions set forth herein below ("the Terms"), within the PM order placing process and in any other document incorporated herein by reference (collectively, the "Contract").

Subscriber and PM hereby confirm their mutual intention to be legally bound by this Contract, as of the date stated on the Order Form ("Effective Date"), upon PM's acceptance of Subscriber's subscription order.

## 1. Provision of Service

- 1.1 This Contract governs the provision of Service to the Subscriber to the exclusion of any other oral or written statement or agreement.
- 1.2 PM licences the Subscriber to Use the Information on the terms & conditions set out in this Contract.

## 2. Definitions and Application

- 2.1 In this Contract "PM" means Prospect Manager, a brand of MRA Data Services Limited; "Subscriber" means the person, company or other entity with whom PM makes this Contract including a person reasonably appearing to PM to act with the Subscriber's authority; "Service" means the provision of business names, addresses and associated data via PM's Prospect Manager online service; "Information" means data belonging to PM to be provided by means of the Service but not the CRM data; "CRM data" means data inserted into Prospect Manager's customer relationship management (CRM) fields by the Subscriber and which remains the property of the Subscriber; "Use" means direct mail, telephone contact, e-mail, personal visit or activities such as market planning and research; "Permitted Use" means: (a) updating the Subscriber's own records whether in Prospect Manager's CRM fields or elsewhere; (b) direct mailing or telephone calling or e-mailing by the Subscriber's own staff; (c) the provision of sales contacts for the Subscriber's own sales force; and (d) carrying out the Subscriber's own market analysis and research; "Contract" means a contract between the Subscriber and PM incorporating these terms and conditions.
- 2.2 All definitions, terms and conditions referred to in any condition of this Contract form part of this Contract.

## 3. Contract period

Unless agreed otherwise in writing, the Contract shall continue for a continuous period of not less than 6 months subject to three complete calendar months' notice of termination subject to the condition at Clause 10.

## 4. Subscriber Responsibility

- 4.1 By placing an order with PM for the Service or by ticking the Terms and Conditions consent check box on Prospect Manager's web site, the Subscriber agrees that (i) it will comply with these terms and conditions; and (ii) it will procure that its employees and any agents and contractors with access to the Information will comply with these terms and conditions.
- 4.2 The Subscriber shall provide to PM any information PM may reasonably require and any consent relating to the information which PM may require in connection with the provision of the Service.
- 4.3 The Subscriber undertakes not to use the Information for any unlawful purpose or in any way that is likely to bring PM into disrepute. Such suitability shall be determined by PM and such determination shall be binding on the Subscriber.
- 4.4 The Subscriber undertakes to ensure that:
  - 4.4.1 the Information shall be used only in connection with a Permitted Use;
  - 4.4.2 the Information shall be used only for the Subscriber's own purposes and not for those of any third party;
  - 4.4.3 whenever the Information is stored in the data storage facility the PM reference number shall also be stored;
  - 4.4.4 upon contract termination, all PM information and data records are immediately destroyed. Being removed from all the Subscriber's CRM platforms and/or databases.
- 4.5 Without limitation to the provisions of clause 5.2 the Subscriber shall not without the written agreement of PM on each occasion:
  - 4.5.1 give the Information to its customers;
  - 4.5.2 allow its advertising agents or publicity consultants or other independent advisors to have access to or use the Information;
  - 4.5.3 permit other Subscriber's companies in the same group to have access to or use the Information.
  - 4.5.4 share passwords or access to anyone outside the definition of Subscriber.
- 4.6 Upon request the Subscriber shall provide to PM:

4.6.1 a list of those employees, agents and contractors who have access to the Information or media, including the name of the employee responsible for ensuring compliance with this Contract,

4.6.2 a statement of all Use made of the Information;

4.6.3 a statement of how the Information has been transferred to the Subscriber's records.

## 5. Copyright

5.1 Copyright in all Information supplied to the **Subscriber** under this Contract is the absolute property of, vests in, and shall remain vested in **PM**.

5.2 The Subscriber may not sell, rent, lease, hire or otherwise make available, in any manner or on any medium, in whole or in part any of the Information except as provided for by **PM** under this Contract.

## 6. Indemnity

Without prejudice to any other rights or remedies which **PM** may have the Subscriber shall indemnify **PM** against any claim, action, loss or expense sustained by reason of any breach of this Contract, including loss of profit and legal costs and expenses.

## 7. The Information

7.1 **PM** has used reasonable endeavours to ensure that the Information is up to date and reflects changes according to **PM's** normal operating practice. However, **PM** gives no warranty that the Information shall be free from errors or inaccuracies nor that it is a complete list of the category of persons or thing described therein.

7.2 **PM** reserves the right to withhold specific information or data where it considers this necessary.

## 8. Limitation of Liability

8.1 For the avoidance of doubt **PM** has no obligation duty or liability in Contract, tort, for breach of statutory duty or otherwise beyond that of a duty to exercise reasonable skill and care.

8.2 Time is not of the essence of this Contract save with regard to the time for payment by the **Subscriber** and **PM** accepts no liability for its failure to meet any date proposed by either the **Subscriber** or **PM**.

8.3 In any event and in no circumstances shall **PM** be liable in contract, tort (including negligence or breach of statutory duty) or otherwise for loss (whether direct or indirect) of profits, business or anticipated savings or for any indirect or consequential loss whatsoever.

8.4 **PM** shall not be liable for any inability of the Subscriber to access the Information online unless through the non-functioning of Prospect Manager's computer servers in which case **PM's** liability shall be restricted to crediting the Subscriber for the time the Information has been unavailable pro-rata to the monthly subscription price paid by the Subscriber for the Information and in any event no credit shall be payable for non-availability of less than two days.

8.5 Each provision of this condition is to be construed as a separate limitation applying and surviving even if one or other of the said provisions is held invalid or unenforceable for any reason.

## 9. Fees and Taxes

9.1 The Subscriber shall pay the subscription fees ("The Fees") in the amount(s) indicated.

9.2 All Fees are payable on demand **via Direct Debit**. **PM** may, in the event of any delay by the Subscriber in making payments due, withdraw the availability of the Information from the Subscriber until such payment is made.

9.3 Value Added Tax where applicable will be added at the appropriate rate to the total of all fees.

9.4 Payment is due **via Direct Debit on the date of invoice where no other conditions are agreed and all overdue monies are subject to interest of 15% per month or part of month in which they are outstanding both before and after any judgement.**

9.5 The agreed Contract sum may be increased at intervals of not less than one year starting with the first anniversary of this Contract by an amount equivalent to the rate of inflation as defined by the Retail Prices Index excluding mortgage payments (RPIX).

## 10. Default

10.1 If the Subscriber does not pay any charge where due or breaks this Contract in any other way **PM** may terminate this Contract by immediate notice and withdraw the availability of the Information.

10.2 If the Subscriber is subject to bankruptcy, insolvency or (in Scotland) sequestration proceedings, including appointment of an administrator or receiver or going into voluntary liquidation, this Contract automatically terminates.

10.3 In the event of termination under this paragraph the Subscriber shall nevertheless remain liable for all charges due or

which would have been payable under this Contract.

10.4 If **PM** waives a breach of Contract by the Subscriber that waiver is limited to that particular breach. **PM's** delay in acting on a breach is not to be regarded in itself as a waiver.

#### **11. Surviving Conditions**

The provisions of conditions 4, 5, 6, 8 and 10.3 shall survive termination of the Contract from any cause.

#### **12. Giving Notice**

A notice given under this Contract must be in writing and may be emailed to [info@prospectmanagerdata.co.uk](mailto:info@prospectmanagerdata.co.uk), delivered by hand or sent by prepaid post to the addressee:

12.1 To **MRA Data Services t/a Prospect Manager**, 18 Market Street, Wotton-under-Edge, Gloucestershire, GL12 7AE

12.2 To the Subscriber: the address to which from time to time the Subscriber will advise **PM** to send invoices, the address of the Subscriber's premises, or if the Subscriber is a limited company, the Subscriber's registered office.

#### **13. Matters Beyond **PM's** Reasonable Control**

**PM** is not liable for any breach of this Contract where the breach resulted from circumstances, actions or causes outside **PM's** reasonable control.

#### **14. Proper Law**

This Contract is made in England according to English Law and subject to the jurisdiction of the English Courts.

#### **15. Limitation on Assignment**

15.1 The Subscriber may not assign the benefit of this Contract in whole or in part.

15.2 Except with the prior written consent of **PM**, the Service shall not be used by or on behalf of any person other than the Subscriber, nor may the Service be transferred to other corporate entities within a group of companies, or other associated bodies.