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## Terms & Conditions

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## Our Terms & Conditions

The following terms and conditions apply to the Agreement (see definition below) and each future request for the supply of our services received by the Supplier from the client. The communication of a request by the client to the Supplier for the supply of our services shall amount to the acceptance of these terms. These terms shall take precedence over any terms and conditions of the client, whether attached to, enclosed with or referred to in any purchase order of the client or elsewhere. They may not be varied except by written agreement between the company and the client.

### 1. WHEREAS:

- 1.1.1 The Supplier is engaged in the business of; data supply, lead generation, website design, graphic design, SEO, social media management, providing Customer Management and Outsourced Contact Centre related services.
- 1.1.2 The Client wishes to appoint the Supplier to provide the services described in this Agreement and outlined within the invoice or signed sales order to the Client and the Supplier is willing to provide the same and to accept such appointment upon the terms and conditions of this Agreement.
- 1.1.3 In consideration of the mutual covenants and undertakings set out below, **THE PARTIES AGREE** as follows:

### 2 Interpretation

- 2.1.1 In this Agreement unless the context otherwise requires the following terms shall have the following meanings:
- 2.1.2 **"The Supplier"**: "Digital Line Media" (may also be referred to herein after as 'DLM') registered at; 9 Byford Court Crockatt Road, Hadleigh, Ipswich, Suffolk, United Kingdom, IP7 6RD.
- 2.1.3 **"The Client"**: means the person, firm or Company purchasing the services/goods from the Company, described as such in the Schedule hereto and within the signed sales order.
- 2.1.4 **"Order Confirmation"**: or 'Contract' or 'sales order' means the contract herein and the Schedules hereto and concluded by either the Client signing the Contract/ Order Confirmation and returning it to the Supplier to deliver the Services/Data or Leads as required;
- 2.1.5 **"Client Campaign Brief"**: This is a document that the Client needs to fill out for any bespoke call centre work, sign and return to the Supplier. It outlines key information and campaign goals that will be needed by the supplier to set the campaign up. This document and the following Order Confirmation, form the basis of the order with the Supplier and the whole campaign will be built around the information given within these documents. The client must sign this document along with the order confirmation to confirm that all information given is correct. Not all clients need to fill in this document.
- 2.1.6 **"Agreement"**: includes these terms and conditions along with Signed Order Confirmation and Client Campaign Brief (where applicable) received back from client; this will define all agreed works to be undertaken by the Supplier (DLM)
- 2.1.7 **"Confidential Information"**: information which belongs or relates to the business or affairs of the Supplier or the Client and which is disclosed to the other party for the purpose of or incidentally to the carrying on of the Services and which would reasonably be considered to be confidential or which is designated as confidential by the party disclosing it. The Confidential Information of a party does not include any information which:
  - 2.1.8 is or becomes generally available to the public other than as a result of disclosure by the other party contrary to their obligations of confidentiality; or
  - 2.1.9 is or becomes available to the other party otherwise than pursuant to these terms and free of any restriction as to its use or disclosure.
- 2.1.10 **"Customer Interaction"**: an interaction through the medium of voice, e-channels or traditional mail with the Client's end user i.e. the Customer.
- 2.1.11 **"Data Controller"**: according to Article 4(7) of the GDPR means 'the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data'.
- 2.1.12 **"Data Processor"** according to Article 4(8) of the GDPR means 'a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller'
- 2.1.13 **"GDPR"** means 'The General Data Protection Regulation', Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016
- 2.1.14 **"Personal Data"**: has the meaning set out in section 1(1) of the Data Protection Act 1998 and relates only to personal data, or any part of such personal data, in respect of which the Client is the Data Controller and in relation to which the Supplier is providing services under this agreement.
- 2.1.15 **"Set Up Fee"**: the initial charge for any Services as referred to in clause 6.1.1 and set out in the Order Confirmation governing such Services.
- 2.1.16 **"Business Day"** means a day other than a Saturday or Sunday or a public holiday in England and Wales or the relevant country of origin the call centre is based.
- 2.1.17 **"Commencement Date"** means the commencement date for any Services as specified in the relevant Order Confirmation/ Order Confirmation;
- 2.1.18 **"Intellectual Property Rights"** means (i) patents, trade-marks, service marks, registered designs, applications for any of those rights, trade and business names (including Internet domain names and e-mail address names), unregistered trade-marks and service marks, copyrights, database rights, know-how, rights in designs and inventions; and (ii) rights of the same or similar effect or nature as or to those in (i), in each case in any jurisdiction;
- 2.1.19 **"Services"** means the services to be performed under this Agreement, as set out in any Order Confirmation and Client Campaign Brief concluded under clause 2.1.1 (as may be amended from time to time in accordance with this Agreement);

- 2.1.20 The headings to clauses are inserted for convenience only and shall not affect the interpretation or construction of this Agreement. Words importing the singular shall include the plural and vice versa. References to persons include an individual, company, corporation, firm or partnership.
- 2.1.21 References to any statute or statutory provision shall include (i) any subordinate legislation made under it; (ii) any provision which it has modified or re-enacted (whether with or without modification); and (iii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification).
- 2.1.22 References to a clause, sub-clause or Order Confirmation are to a clause or sub-clause of, or a Order Confirmation to, this Agreement and references to this Agreement include its Order Confirmations which shall be incorporated into and form part of this Agreement as provided in clause 2.1.1
- 2.1.23 In the event of any inconsistency or conflict between any term in the main body of this Agreement and any term in a Order Confirmation, the former shall prevail.
- 2.1.24 The words or phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as limiting any subsequent words to the same class as any preceding words where a wider construction is possible.

### 3 Specification of Services

- 3.1.1 The specification of any Services shall be as set out in the invoice and/or Order Confirmation in conjunction to this Agreement, which shall be completed and executed by both parties and shall thereupon form part of this Agreement.
- 3.1.2 The Supplier warrants that it shall provide the Services using all reasonable care and skill and shall use all reasonable endeavours to comply with the specification, timescales, service levels, reporting requirements and other details of such Services (together the "**Specification**") as set out in the relevant Order Confirmation.
- 3.1.3 The Supplier shall not be liable as a result of any failure to comply with such Specification, or any Service Level Agreement as referred to in clause 3.1.6, provided that it has fulfilled its duties under clause 3.1.2
- 3.1.4 Customer Interactions during call centre campaigns are inherently random and therefore difficult to correctly forecast. Accordingly, The Supplier will use reasonable endeavours to effectively process all Customer Interactions but will not be liable for any Customer Interactions that are not processed.
- 3.1.5 If the Client requires the Supplier to process a significantly higher volume of Customer Interactions than usual, the Supplier will require reasonable notice to enable it to make arrangements in advance.
- 3.1.6 The Client may notify the Supplier that it requires the Services to achieve exceptional service levels, in which case the Supplier may make arrangements to facilitate such service levels being achieved at an agreed cost to the Client. Such arrangements and any additional charges will be recorded in writing and outlined in an amended Order Confirmation executed by the parties which will be supplemental to (and form part of) the relevant Order Confirmation and may include provision for the Client to provide full management information on expected call volumes, email volumes etc, dates, times and other relevant details.

### 4 Change Control

- 4.1.1 If the Client wishes to change an aspect of the Services, it shall give the Supplier 14 days' notice. Before making such change, the Supplier shall notify the Client in advance of any consequent change to the price. If the Client agrees to this, the change to the Services and the price shall be recorded in a written (via email) variation to the relevant Order Confirmation which complies with clause 14.1.5, and the Supplier shall use reasonable endeavours to make the change within a timescale agreed between the parties.
- 4.1.2 If the change requested by the Client is such that the Supplier would have to increase or decrease staffing levels, the Supplier may require the Client to extend the notice period specified in clause 4.1.1 or may make the changes to the price in steps over an extended period in order to compensate for the additional investment in staff or loss of revenues, before agreeing to make the change.
- 4.1.3 The Supplier shall not be obliged to make changes to any Services as set out in a Order Confirmation which has been concluded in accordance with clause 3.1.1.

### 5 Client Obligations

- 5.1.1 The Client shall provide the Supplier (free of charge) with any information that the Supplier reasonably requires to perform the Services.
- 5.1.2 The Client is responsible for diverting calls, emails etc to, and for the same arriving at, the Supplier.

### 6 Charges

- 6.1.1 The charges relating to the Services shall be as set out in the relevant invoice and/or Order Confirmation and the Supplier may invoice such charges at such times as it sees fit (acting reasonably) including as provided in clause 7.
- 6.1.2 All per minute costs include both talk and wrap time i.e. the total quantity of time the advisor is dealing with your enquiry.
- 6.1.3 The Supplier may, by giving 1 months' notice to the Client at any time, increase the price of any Services. If the Client does not agree to the increase, the Client may give one full calendar months' notice (such notice to take effect at the end of the third full calendar month after notice is received) to terminate the relevant Order Confirmation, and the current prices will continue to apply during such termination notice period.
- 6.1.4 The charges stated for the Services as set out in each Order Confirmation shall be exclusive of applicable VAT which shall be due in addition.
- 6.1.5 The supplier reserves the right to implement penalty charges should the client request any changes outside of the reasonable time scales cited in clause 4.1.1. This includes any permanent or temporary changes to call volumes, staffing requirements, scripting, rota amendments or any other work necessary to implement the service as set out in the Order Confirmation. A price list for any such cases can be obtained from your relevant account manager.

## 7 Payment

- 7.1.1 An initial Set-Up Fee for the Services may be charged on certain campaigns upon the parties signing the Order Confirmation and will be included on their first invoice. Faster Payment / BACS payment is accepted for the initial Set-Up Fee/ Services required by the Client.
- 7.1.2 Subject to any credit terms specifically agreed in writing between the Supplier and the Client, all further payments shall be made monthly by Faster Payment / BACS payment in advance and/ or in arrears as agreed with the Supplier. DLM standard payment terms are 'prior to delivery' of services.
- 7.1.3 All payments for SEO and Social Media Management are taken in advance for the upcoming month via pre-approved Direct Debit through our partner GoCardless. Upon sign-up, clients enter into a monthly rolling agreement and payments will be taken on the same day every month until the client cancels the agreement in writing with 30 days' notice.  
The first payment will be taken within 5 working days of sign-up, and on the same day (or around this date) every month thereafter.
- 7.1.4 The Supplier may provide the Client with a VAT invoice in respect of all Services under this Agreement on or around the date of the signed Order Confirmation (or on termination of this Agreement or any Order Confirmation, for any part month up to termination). Unless otherwise agreed in writing, invoices shall be due and payable immediately on issue.
- 7.1.5 No payment shall be deemed to have been received until the Supplier has received cleared funds.
- 7.1.6 The Client shall make all payments due under this Agreement without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 7.1.7 If a Client does not pay any sum outstanding, the Supplier may charge interest on the balance at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998. Whilst any payment remains outstanding, the Supplier shall be entitled to withhold all or any of the Services under this Agreement.
- 7.1.8 The Client agrees to pay the Supplier all legal costs incurred by the Supplier in connection with any legal proceedings taken by the Supplier to recover sums due from the Client on a full indemnity basis.
- 7.1.9 Where applicable, the Supplier will assign a credit limit to the Client, which will be equal to the price for one month's Services under this Agreement unless specifically agreed otherwise by the Supplier in writing. If the total value of the outstanding invoices to the Client exceeds this credit limit, the Supplier may terminate this Agreement or any Order Confirmation forthwith by giving written notice to the Client.

## 8 Liability and Returns

- 8.1.1 Subject to clause 8.1.0.1, the following provisions set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client under or in connection with this Agreement, including in respect of (a) any breach of this Agreement; (b) any use made by the Client of the Services; and (c) any representation, statement or tortious act or omission including negligence arising under or in connection with this Agreement.
- 8.1.0.1 The Supplier accepts all liability for:
- 8.1.0.2 death or personal injury caused by the Supplier's negligence; and
- 8.1.0.3 for fraud or fraudulent misrepresentation; and
- 8.1.0.4 for any other matter in respect of which it is not possible for the Supplier to limit its liability as a matter of law.
- 8.1.2 Subject to clause 8.1.1:
- 8.1.2.1 the Supplier's total liability to the Client in respect of any event (or series of connected events) shall be limited to the amount of the charges that were due under that Order Confirmation which governs the Services with which such liability is most closely connected (or if none, under this Agreement as a whole) in the period of 3 months immediately preceding the date of the event giving rise to such liability (or in the case of a series of connected events, the first such event); and
- 8.1.2.2 the Supplier shall under no circumstances whatever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty (including under Article 82 of the GDPR), or otherwise, for any loss of profit, fine or other enforcement action, or any indirect or consequential loss arising under or in connection with the Licence; and
- 8.1.2.3 the Company's total liability to the Client in respect of all other losses arising under or in connection with the Licence, whether in contract, tort (including negligence), breach of statutory duty (including under Article 82 of GDPR), fine or other enforcement action, or otherwise shall in no circumstances exceed the charges paid by the Client for the Data or service.
- 8.1.3 Social Media & SEO - Whilst we take great care in ensuring every piece of content, we create for any social media or SEO services is accurate and relevant, we are not liable for damages should inaccurate information be published on The Clients social media handles or Web Blogs. All content is thoroughly researched from reputable sources and clients' company websites, and it is ultimately the responsibility of clients to monitor their social handles and alert The Supplier to any inaccurate information.
- 8.1.4 All warranties, conditions and other terms implied by statute or common law and not expressly set out in this Agreement are excluded to the fullest extent permitted by law.
- 8.1.5 No liability is accepted for loss caused by equipment or software and the Supplier shall have no liability for any third-party failures.
- 8.1.6 For all services including where a campaign is on a price per hour / per minute / per second basis; the Supplier offers no guarantees as to the amount of contacts or leads that will be generated on any campaign. The Supplier is not liable for any losses as a result of low conversions, lower number of leads than expected by the client or from missing any key performance indicators (KPI's) set out by the client.

- 8.1.7 Data shall be transferred from the Supplier to the Client over the internet, which may not be secure. The Supplier has no control over data once it leaves the Supplier's server, and so shall have no liability for it after this point. Encryption facilities are available, but these will not be used unless the Client specifically requests them.
- 8.1.8 Reward Schemes; The Supplier may from time to time run promotions or reward schemes for the benefit of Clients. As a result of significant repeat business Client employees may become entitled to certain specified promotional goods ("Rewards"). Rewards are not intended as benefits in kind and the recipient of any Reward should disclose it in line with their employer's anti-bribery systems and any other applicable policy or law that may be in force from time to time.
- 8.1.9 Any rewards offered will be delivered within 10 days after cleared payment is received for the relevant service/ order confirmation.
- 8.1.10 If for any reason an order is refunded by Digital Line Media and a reward was given on that particular order, then any rewards received by the client will be deducted from the refund total.
- 8.1.11 Authorisation; Where necessary Digital Line Media will act as an agent for and on behalf of the Client. Where applicable the authorised business will cover Digital Line Media's activities and as such will be covered by the principal business's authorisation. The Client will be responsible for all activities (including any breaches of relevant industry Codes of Conducts, Rules and/ or authorisations) of the Supplier.
- 8.1.12 Nothing in these terms and conditions shall exclude or restrict the Supplier's liability for death or personal injury resulting from its negligence, liability for fraudulent misrepresentation or any other liability which cannot be excluded or limited under applicable law. Subject to this:
- 8.1.13 the Supplier's total liability to the Client in contract law or in tort or otherwise how so ever arising in relation to this Contract is limited to the Supplier's charges for the Services/Data and/or Leads;
- 8.1.14 the Supplier will not be liable for any campaign performance or Key Performance Indicators (KPI) set out by the Client or Supplier (Digital Line Media) regardless of written/ verbal communication prior to the Companies (Digital Line Media) signed order confirmation (relating to Telemarketing/ Email or Mailing (DM) campaigns). This includes loss of profits, business, contracts, revenues, goodwill, client reputation and anticipated savings of any description;
- 8.1.15 the Supplier shall not be liable in any way in respect of any failure, delay or defect in the supply or use of the Services/ Data and/or Leads caused by the supply or specification by the Client of unsuitable material or content or by the duplication of the Services/Data and/or Leads by a third party; and
- 8.1.16 the Supplier will not be liable to the Client for economic loss including loss of profits, business, contracts, revenues, goodwill, production errors or delays and anticipated savings of any description howsoever caused and even if foreseeable by the Supplier. All warranties, conditions and other terms implied by statute, common law or otherwise are hereby excluded from the Contract to the fullest extent permitted by law.
- 8.1.17 As far as Digital Line Media is aware, all data records supplied have permission for third party marketing by the contact method for which The Services were sold. The data is supplied however on the strict understanding that end user(s) of any database must themselves take responsibility for ensuring their use is compliant with all legal requirements, regulations and relevant codes of practice including, but not limited to, the ICO, MOJ/FCA, GDPR, PECR & DPA Regulations and all EU Directives and other European regulations and standards ("Regulations"). Digital Line Media shall not be liable for any claims, damages or costs of whatever nature whether in terms of loss of profit or consequential or other losses which may arise directly or indirectly as a result of any breach under these Regulations and it is agreed that this limitation is entirely reasonable in all the circumstances.
- 8.1.18 DATA PROTECTION WARRANTY - In accordance with the GDPR, the Client acknowledges and agrees that it will function as a Data Controller in respect of these Terms. The Client alone will be responsible for determining the purposes and means of the processing of the personal data to which these Terms relate, and will operate independently from, and therefore without direction or instruction from The Supplier as to the purposes and/or means of processing that data.
- 8.1.19 In the event that any disputed leads are returned and a voice file/ call recording is needed by our Client to determine the validity of the information supplied, The Supplier's in-house compliance team will listen to the relevant call recording(s) to determine that the capture process has been adhered to in-line with the Clients requirements. The Supplier will not release any call recording(s) direct to its client(s) unless specifically requested by the consumer in writing via The Supplier.
- 8.1.20 For all survey lead orders that require call recordings for investigation, The Supplier shall select up to 10 random call recordings from the campaign and investigate these. The findings from this investigation shall be reflective of the campaign as a whole. These records can be selected by The Client or The Supplier as agreed between the parties.
- 8.1.21 Call recordings are not available on list rental data.
- 8.1.22 Complaints or disputes concerning any List Data supplied; the Supplier shall replace elements of data only where the same is not in accordance with the Sales Order, subject to the following:
- 8.1.22.1 The Client must return all disputed data for investigation to the Supplier via email within 7 days of the initial complaint and within 30 days of data supply. (Complaints made after 30 days are subject to Digital Line Media discretion and will be judge on an individual case basis)
- 8.1.22.2 The Supplier has the right to provide replacement data should a dispute be validated in accordance with its internal procedures and compliance criteria.
- 8.1.23 List rental data; the Supplier will only be obliged to supply replacement data for invalid records proven to equal or exceed 5% for consumer landline telephone data, or 10% for mobile telephone data/email data/business to business data (B2B), of the total volume of the Data supplied.
- 8.1.24 Fresh first use call centre Leads (Survey or Hot Key Leads); the Company shall investigate returns and if a Lead is found to have been collected incorrectly by the Company, then the affected leads will be replaced on a 1 for 1 basis.

- 8.1.25 For any Social Media Management packages; it is The Clients responsibility to monitor comments and messages sent to their accounts. On some plans, we may respond to client comments if necessary, although questions we cannot answer will be left for the account holder to monitor. We do not send emails alerting you to new comments or tweets unless important, so you should monitor your accounts on a regular basis. It's also the clients responsibility to respond to our emails in a prompt manner and alert us to any changes in your business offerings or branding.
- 8.1.26 The use of the web building software i.e. Evance, Squarespace, Shopify or Wordpress, etc in the client's website design, is purely a recommendation of the company and this will be deemed a separate agreement between the client and the chosen software provider. The company will not accept any form or liability for any issues or financial transaction losses to the client, as a result of using the platform or if the web building software ceases to trade in the future.
- 8.1.27 With the creation of a new website for the Client, whilst The Supplier will perform best practices to the best of our knowledge, the company cannot guarantee the SEO performance of the website.
- 8.1.28 Any agreement the client has with any third-party suppliers is separate to any agreement with the Company, we hold no liability or responsibility.
- 8.1.29 The Company has the right to display all Client material in our portfolio on our website without the need to ask client's permission.
- 8.1.30 Design and print colouration – this may vary at times, due to the PC display screen and colours may differ slightly in the final production.
- 8.1.31 The Client is solely responsible for proofing and signing off any print ready artwork destined for print or production. Once the artwork is signed off (by replying to any email containing print ready artwork and stating your intention to allow the artwork to go to print), The Supplier will not be liable or responsible in any way for any content or artwork errors found within the final printed artwork.
- 8.1.32 The quantity of materials stated at time of ordering cannot be amended after the print authorisation date, any amendments will incur an extra cost.
- 8.1.33 It is The Clients responsibility to return printing to The Supplier, if unsatisfied or not fit for purpose. Our Quality Team will then proceed to investigate further, upon receiving the returned goods. Goods must be received in full, as they were delivered, for our quality investigation to be thorough and to be able to re-print new copies. We can then investigate any transit, courier or print-press issues. Without receiving an order in full, we cannot proceed with re-prints or refunds.

## 9 Term and Termination

- 9.1.1 This Agreement shall take effect from the date of its execution. Each Order Confirmation shall take effect from the Commencement Date specified within it.
- 9.1.2 Either party may terminate this Agreement, including all its Order Confirmations, by giving at least one full calendar months' written notice (such notice to take effect at the end of the calendar month that notice is received) to the other.
- 9.1.3 Where an Order Confirmation has been signed for a particular contract period, this contract length and expiry date will be stated on the Order Confirmation. Any termination notice from the Client to the Supplier within this term will be actioned on the timescales highlighted within 9.1.2 and the Supplier will raise an invoice for the Client to the value of services for the remaining term of the agreement.
- 9.1.4 Notwithstanding any other provision of this Agreement, either party may terminate this Agreement or any Order Confirmation if the other party:
  - 9.1.4.1 is subject to an order or resolution for winding up;
  - 9.1.4.2 is subject to an order for the appointment of an administrator to manage its affairs, business or property, or documents are filed with a court for the appointment of such an administrator, or notice of intention to appoint such an administrator is given by that party or by a qualifying floating charge holder (as defined in paragraph 14 of Order Confirmation B1 to the Insolvency Act 1986);
  - 9.1.4.3 is subject to the appointment of a receiver over any of its assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint such a receiver;
  - 9.1.4.4 makes any arrangement or composition with its creditors, or makes an application to court for the protection of its creditors in any way;
  - 9.1.4.5 ceases, or threatens to cease, to trade;
  - 9.1.4.6 is subject to a change of control (as defined in section 574 of the Capital Allowances Act 2001);
  - 9.1.4.7 suffers any similar or analogous action to those in clauses 9.1.3.1 to 9.1.3.6 in any jurisdiction; or
  - 9.1.4.8 commits a material breach of this Agreement which (if capable of remedy) it does not remedy within 14 days of written notice from the other party specifying such breach and requiring its remedy.
- 9.1.5 The supplier withholds the right to terminate the agreement in writing with immediate effect at any time should it see fit.
- 9.1.6 The Supplier may assign or delegate its rights and duties under this Agreement or any part of it to any person, firm or company.
  - 9.1.6.1 The Client shall not be entitled to assign or delegate its rights or duties under this Agreement or any part of it without the prior written consent of the Supplier.
  - 9.1.6.2 The supplier withholds the right to terminate the agreement in writing with immediate effect should it be proven that:
  - 9.1.6.3 the expectations of the client as signed and agreed in the Order Confirmation differ significantly to any future expectations without signed amendment and any necessary consideration thereof;
  - 9.1.6.4 the client has negated to pay, whether intentionally or negligently, any additional penalty charges for any short notice changes as laid out in clause 6.1.4



- 9.1.6.5 The client has intentionally solicited any member of Digital Line Media's staff for their own employment in any role;
- 9.1.6.6 The client has intentionally implemented any intellectual property or processes into their own processes or procedures without the supplier's explicit written consent and/or compensation has not been paid for such an event.
- 9.1.6.7 The agreement no longer becomes profitable to the supplier following reasonable steps by the supplier to propose and implement changes to the Order Confirmation and services outlined in this agreement

## 10 Assignment

- 10.1.1 The Supplier may assign or delegate its rights and duties under this Agreement or any part of it to any person, firm or company.
- 10.1.2 The Supplier shall have the right to sub-contract any of its duties and obligations under this Agreement and Licence
- 10.1.3 If the Supplier has sub-contracted any of its duties and obligations, the Client shall not be liable for a refund or resupply prior to the Company receiving the same from the Subcontractor
- 10.1.4 The Client shall not be entitled to assign or delegate its rights or duties under this Agreement or any part of it without the prior written consent of the Supplier.
- 10.1.5 Authorisation; Where necessary Digital Line Media will act as an agent for and on behalf of the Client. Where applicable the authorised business will cover Digital Line Media's activities and as such will be covered by the principal business's authorisation. The Client will be responsible for all activities (including any breaches of relevant industry Codes of Conducts, Rules and/ or authorisations) of the Supplier.

## 11 Data & License

- 11.1.1 The standard Usage Terms for list rental data shall be; for a single use license (one time only) unless stated otherwise in the Order Confirmation. All data supplied on a single use license must be used within 30 days unless agreed otherwise and outlined on the signed Order Confirmation. The end user Licence is terminated immediately the Data has been used to the extent hereby licensed, or by the 30-day expiry date.
- 11.1.2 The Licence Terms for use of Postal, Email or SMS Contact Channels permit the despatch by End User of one Mailing Piece/Creative to each Name supplied, unless otherwise agreed on the Order Confirmation.
- 11.1.3 The Licence Terms for use of Landline Telephone or Mobile Telephone Contact Channels permit a single contact to be made by end user through telephony to each individual whose contact details are provided.
- 11.1.4 The Client shall only contact each Recipient for the number of times set out in the Order Confirmation: if a Recipient replies to the contact the Client is then permitted to contact that Recipient freely from the date of such reply. If a Recipient does not reply to the contact the Client shall not contact that Recipient again.
- 11.1.5 For the avoidance of doubt an out of office message or other automatic response to any contact made by the Client does not constitute a reply
- 11.1.6 Any orders marked as second use or third use leads are classed as list rental data and our standard single use policy applies.
- 11.1.7 If a Client contacts a unique seed record that has been inserted into the data by DLM and it's found that the data is being used outside of the agreed license terms, then the Client becomes liable for the full cost of original Order Confirmation value for each extra contact made to the data outside of the terms given. A data destruction order will also be sent to the Client by DLM to be signed confirming that all data files have been deleted from their internal systems. These data files need to be fully destroyed including; all original files, any copies of the files, and any derivatives or additional files created from the original that includes any of the original information
- 11.1.8 The Client accepts that data supplied on a list rental basis may contain gone-aways, deceased's, dead and wrong numbers, Email bounce backs and inaccuracies. The Client accepts that no guarantees are offered for response, contact or open rates, click-throughs or deliverability through any Contact Channel in respect of DLM Data. Signing of the Order Confirmation 'the Client' agrees to be bound by the terms of this Agreement regardless of whether the output data is used by the Client.
- 11.1.9 All subject access requests should be made in writing to the Company and the relevant information shall be supplied by the Company to the Client or consumer within the timescales set by the ICO (currently 40 calendar days). The Company shall use its best endeavours to provide all opt-in requests sooner than this and always have the aim of providing such requests within 7 working days where possible.
- 11.1.10 All content created by The Supplier for clients (including videos and images) is copyrighted to the account holder unless otherwise stated. However, DLM reserves the right to reuse and repurpose content (unless the client holds ownership – for example, photography and video) for other client accounts and projects. Examples include graphics templates which can be repurposed with different colours, fonts, and images. If DLM is tasked with opening new social media accounts for a client, the client gains ownership as soon as the login information is handed over to them.

## 12 Force Majeure

- 12.1.1 The Supplier shall not be liable for any failure or delay in its provision of the Services to the extent that such failure or delay results from circumstances beyond its reasonable control. Moreover as the Supplier needs to commit resources to providing the Services, and these may not easily be amended, the Client shall continue to be liable to pay for the Services during any period in which they are suspended (save to the extent that the level of payment is dependent on the extent of utilisation of an element of the Services that has been suspended).

### 13 Confidentiality, IP and Data Protection

- 13.1.1 Each party undertakes that it shall not at any time disclose (except to its professional advisers or as may be required by law, by a court of competent jurisdiction or any public body having authority to require the same) any Confidential Information of the other party, or use such Confidential Information for any purpose other than that for which it was made available to it.
- 13.1.2 The Client acknowledges and confirms that all Intellectual Property Rights existing or arising in connection with the Services and any associated materials belong to the Supplier and its licensors and the Client shall acquire no such Intellectual Property Rights as a result of this Agreement, its use of the Services or otherwise. The Client shall carry out no action inconsistent with this clause 12.1.2 and shall notify the Supplier immediately in writing (giving reasonable details) if it becomes aware of any actual or potential infringement of the Supplier's or its licensors' Intellectual Property Rights.
- 13.1.3 The Supplier and the Client acknowledge that for the purposes of the Data Protection Act 1998, the Client is the Data Controller and the Supplier is the data processor in respect of any Personal Data.
- 13.1.4 Subject to clause 12.1.5, each party warrants to the other that it will adhere to all relevant laws and regulations concerning data protection in its performance of this Agreement and exercise of any rights under it.
- 13.1.5 The Client acknowledges that the Supplier is reliant on the Client for direction as to the extent to which the Supplier is entitled to use and process the Personal Data. The Client warrants that any data it supplies to the Supplier has the relevant opt-ins and chain of consent to be contacted. All data supplied to the Supplier meets ICO, GDPR, DPA, and all EU directives and other European regulations and standards. Consequently, the Supplier will not be liable for any claim brought by an individual who is the subject of Personal Data arising from any act or omission of the Supplier, to the extent that such action or omission resulted directly from the Client's instructions. The Client shall indemnify the Supplier for all claims, demands, losses, liabilities and costs resulting from the Supplier's adherence to such instructions or from the acts or omissions of the Supplier about Personal Data.
- 13.1.6 Supply of data from Client; As far as the Client is aware, all records supplied have permission for third party marketing by telephone. The data is supplied however on the strict understanding that end user(s) of this database must themselves take responsibility for ensuring their use is compliant with all legal requirements, regulations and relevant codes of practice including, but not limited to, the ICO, MOJ, PECR & DPA Regulations and all EU Directives and other European regulations and standards ("Regulations"). Digital Line Media shall not be liable for any claims, damages or costs of whatever nature whether in terms of loss of profit or consequential or other losses which may arise directly or indirectly as a result of any breach under these Regulations and it is agreed that this limitation is entirely reasonable in all the circumstances.

### 14 Notices

- 14.1.1 Notices under this Agreement shall be in writing and delivered by hand or sent by recorded delivery post:
- 14.1.2 (in the case of notices to the Supplier) to its registered office or such changed address as shall be notified to the Client by the Supplier in accordance with this clause 13; or
- 14.1.3 (in the case of notices to the Client) to any address of the Client set out above or such changed address as shall be notified to the Supplier by the Client in accordance with this clause 13.
- 14.1.4 Notices shall be deemed received at 9am on the first Business Day after hand delivery or the second Business Day after despatch of recorded delivery post.

### 15 General

- 15.1.1 Each right or remedy of the Supplier under this Agreement is without prejudice to all other rights or remedies of the Supplier whether arising under this Agreement or otherwise.
- 15.1.2 If any provision of this Agreement is found by any court or similar body of competent jurisdiction to be illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of this Agreement and the remainder of such provision shall continue in full force and effect.
- 15.1.3 Failure or delay by the Supplier in enforcing or partially enforcing any provision of this Agreement shall not be construed as a waiver of any of its rights. Any waiver by the Supplier of any breach of, or any default under, any provision of this Agreement shall not be deemed a waiver of any subsequent breach or default.
- 15.1.4 It is not intended that any term of this Agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 15.1.5 This Agreement (including any Order Confirmations and client campaign briefs concluded in accordance with clause 3.1.1) sets out the parties' entire agreement relating to its subject matter and supersedes all prior understandings, representations or arrangements in that regard. This Agreement (including any such Order Confirmations and client campaign briefs) may not be amended except in writing signed by both parties.
- 15.1.6 Should TUPE apply, the Customer shall indemnify Digital Line Media Ltd in full for and against all claims, costs, expenses, administrative costs or liabilities whatsoever and howsoever arising incurred or suffered by Digital Line Media Ltd including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to Order Confirmation – Transfer of employees to Digital Line Media Ltd at the effective date. This Agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.
- 15.1.7 Where data is supplied by the supplier, this data will be used on a single use license as standard. The standard Usage Terms for list rental data shall be; for a single use license (one time only) unless stated otherwise in the Order Confirmation. All data supplied on a single use license must be used within 30 days unless agreed otherwise and outlined on the signed Order Confirmation. The end user Licence is terminated immediately the Data has been used to the extent hereby licensed, or by the 30-day expiry date.



- 15.1.8 Where data is supplied by the Supplier and replacement records or a refund is required to cover incorrect records contained within the data; the Supplier will deal directly with the relevant list owners to resolve this.
- 15.1.9 Where data is supplied by the Client, the Client must inform the Supplier of the usage license imposed on the data from any third-party where applicable. The Supplier (DLM) accepts no liability or costs for data used outside of usage terms when supplied by the Client.
- 16 Company's status**
- 16.1.1 The Supplier acts in this Contract/ Order Confirmation as a principal and only as an agent where necessary in relation to clause 8.1.9. Where clause 8.1.9 is not relevant the Companies standard terms and conditions will apply and the Client will enter into all related Contract/ Order Confirmations as such.
- Data & Lead Supply**
- 17 Services/Data and/or Leads and changes**
- 17.1.1 The Client warrants that the description of the Services/Data and/or Leads is accurate in all respects as outlined on the signed order confirmation. As the Services/Data and/or Leads will be agreed on this basis, any changes to it after the conclusion of the Contract, whether resulting from alterations by the Client, delay in providing the Supplier with information, instructions or authorisations, or any other circumstances beyond the Supplier's control, will be subject to extra charges for the Supplier's time and work and may involve delays in supply. The Client will pay these extra charges and any third party charges or expenses incurred by the Supplier on the basis of the original Order.
- 17.1.2 The client accepts that Data may contain gone-aways, deceased's, dead and wrong numbers, Email bounce backs and inaccuracies. The client accepts that no guarantees are offered for response, contact or open rates, click-throughs or deliverability through any Contact Channel in respect of Digital Line Media. Signing of the Order Confirmation 'the client' agrees to be bound by the terms of this Agreement regardless of whether the output data is used by the client.
- 18 Delivery**
- 18.1.1 The companies' estimated delivery date for survey leads will be provided on the order confirmation but is subject to change frequently due to collection and call centre conditions.
- 18.1.2 While the Supplier will always endeavour to deliver within the timescales given to the client, a delivery date can never be guaranteed by the Supplier and data or leads should be ordered well in advance.
- 18.1.3 The Supplier will not be liable for any negative effects on the client's business caused by late delivery of leads, list data or any other Service provided by The Supplier.
- 19 Rejection or cancellation**
- 19.1.1 Once the Order Confirmation is concluded as provided in these terms and conditions, any subsequent cancellation by the Client will result in the Client being liable for the full Cost of the services if the cancellation had not taken place, excluding such committed third party expenses as the Supplier is able to avoid liability for within its existing contractual commitments to suppliers. Any leads/ data that the client wishes to return must be returned within 30 days of the order date.
- 20 Property**
- 20.1.1 Where Services/Data and/or Leads are supplied to the Client on computer disks or other electronic storage method, then the Supplier remains the owner of these storage media and reserves the right to require immediate return of them. The Supplier remains the owner of the Services/Data and/or Leads at all times.
- 20.1.2 The client agrees that by signing this order confirmation and agreeing to our Terms & Conditions, they also agree to allow Digital Line Media to use their company logo and name within the company's website & literature as reasonably required.
- 20.1.3 The Supplier retains the entire copyright in all completed design material (including all logos and designs) at all times, throughout the World and : -
- 20.1.4 Where reproduction of works has taken place and settlement has not been made, the company will make such charges to the client as falls within the Copyright, Designs and Patents Act 1988.
- 20.1.5 Title/Copyright to any materials used in producing any material is not transferred to the Client upon payment of the invoice.
- 21 Severance**
- 21.1.1 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 22 Service of notices**
- 22.1.1 Any written notice required should be sent to the supplier's address via email to the relevant account manager/contact.
- 23 Governing law and jurisdiction**
- 23.1.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with English law and each of the parties irrevocably submits to the non-exclusive jurisdiction of the courts of England and Wales. The foregoing terms and conditions are agreed to and accepted in relation to the attached Contract/ Order Confirmation.