



## SmartClean Service

### INTERACTIVE MARKETING SOLUTIONS SUBSCRIPTION/PURCHASE AGREEMENT

Interactive Marketing Solutions ("IMS") and Licensors of data used by IMS List Management Services (hereinafter collectively known as the "Company") agree to provide products and services subject to the terms and conditions stated herein unless otherwise agreed to in writing by the Company. Acceptance or use of one or more products or services (hereinafter named "IMS List Management Services") offered by the Company in any form to the Customer (Subscriber) constitutes the Subscriber's full acceptance of, and agreement with, the terms and conditions stated herein.

#### List Management Service Terms and Conditions

- Subscriber agrees that its use of IMS List Management Services, is strictly for the purpose of suppressing consumers from contact lists and the Company authorizes its use for no other purposes unless specifically stated in this agreement. Subscriber understands that the IMS List Management Services are intended exclusively for its use and it shall not disseminate, sublet, resell, or republish them in any manner whatsoever. Subscriber agrees by its acceptance below that its use of IMS List Management Services will be solely for the authorized purposes specified in this agreement and may not use the Data as a factor in establishing an individual's creditworthiness or eligibility for (i) credit or insurance, or (ii) employment. Organizations subsequently identifying themselves as Service Providers are also permitted to use the product(s) to remove individuals from lists owned or licensed by its clients and to enhance client data with the following exceptions:
  - For the Ported Number product, service organizations may scrub client lists and remove matching ported numbers, **however, the client must be a subscriber to the Ported Number service.**
  - For Recently Recorded Deceased File (RRDF) product, service organizations may use this file to scrub client lists and remove matching individuals, **however, each client must be a subscriber to the RRDF.**

Subscriber agrees that unauthorized use of IMS List Management Services might cause irreparable harm to the direct marketing industry. Any unauthorized use of this service or use for an unauthorized purpose may subject Subscriber to appropriate recourse to be determined by the Company, including but not limited to (1) suspension of the services provided under this agreement, (2) notifying the Federal Trade Commission or applicable legislative authority, (3) the Company's seeking injunctive or equitable remedies, or (4) the Company's seeking monetary damages or sanctions.

Use of IMS List Management Service does not relieve Subscriber from complying with any applicable federal, state or foreign law governing unsolicited commercial communications. Many states have enacted some type of legislation governing solicited and unsolicited commercial communications. The requirements of these laws vary and participating merchants are strongly encouraged to comply with all applicable legal requirements.

Subscriber agrees that: (a) It is Subscriber's RESPONSIBILITY to ascertain and comply with any and all Federal, State and Local laws and statutes, including those that pertain to Do-Not-Call laws and regulations; (b) By signing or accepting this agreement it agrees to hold the Company harmless from all liabilities, damages, losses, claims, costs, and expenses (including reasonable attorneys' fees) arising from Subscriber's failure to abide by all applicable Federal, State and local laws and statutes.

The Company and its Data Providers shall not be responsible for, or incur any liability as a result of, delays or failures in the performance of IMS List Management Services in the event of any act or occurrence beyond the Company's reasonable control.

Subscriber agrees to protect its password and will not disclose the password to an unauthorized individual. Subscriber will promptly notify the Company if Subscriber's password is lost, stolen or otherwise compromised.

If Subscriber is not satisfied with IMS List Management Services, the Company will refund the purchase price within thirty (30) days of the signing of this agreement. See the below for any exceptions.

Subscriber acknowledges that information and/or programs originating from or through the Company and delivered to Subscriber may be less than 100% error free and is furnished "AS IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF CORRECTNESS, COMPLETENESS, CURRENTNESS, PERFORMANCE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

SUBSCRIBER AGREES THAT THE COMPANY AND ITS DATA PROVIDERS SHALL NOT BE LIABLE TO SUBSCRIBER FOR ANY LOSS OR INJURY ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY THE COMPANY'S OR ITS DATA PROVIDER'S NEGLIGENT ACTS OR OMISSIONS IN PROCURING, COMPILING, COLLECTING, PROCESSING, COMMUNICATING OR

DELIVERING IMS LIST MANAGEMENT SERVICE, DIRECTLY OR INDIRECTLY. THE COMPANY'S AND ITS DATA PROVIDER'S SOLE LIABILITY AND SUBSCRIBER'S SOLE REMEDY REGARDLESS OF THE FORM OF LEGAL ACTION SUBSCRIBER MAY TAKE, WHETHER IN TORT OR CONTRACT, SHALL NOT EXCEED THE REFUND OF THE AMOUNTS, IF ANY, SUBSCRIBER HAS PAID. SUBSCRIBER AGREES THAT THE COMPANY AND ITS DATA PROVIDERS SHALL NOT BE LIABLE FOR LOST PROFITS OR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PARAGRAPH STATES THE COMPANY'S AND ITS DATA PROVIDER'S ENTIRE LIABILITY AND SUBSCRIBER'S SOLE REMEDY FOR ANY BREACH HEREUNDER.

Subscriber shall indemnify, defend and hold the Company and its Data Suppliers harmless from and against any and all claims, demands, judgments, liability, damages, losses, costs, and expenses (including reasonable attorneys' fees) arising from Subscriber's use of IMS List Management Services provided by the Company. Company shall give the Subscriber prompt written notice of any claim of which it has knowledge, and shall provide Subscriber with the assistance, information and authority necessary to perform Subscriber's obligations under this section.

Subscriber understands that the Company reserves the right to modify or discontinue its IMS List Management Services at any time. The Terms and Conditions hereunder may be amended from time to time by agreement of the parties, and the Company may add further restrictions at its sole discretion. Subscriber shall strictly comply with all restrictions and requirements now or hereafter imposed and made known to the subscriber.

Subscriber shall be responsible for accepting and responding to any communication initiated by a consumer ("Consumer Inquiries") arising out of Subscriber's use of the Data. No reference to COMPANY or the Data Owners in written or oral communication to a consumer or in scripts used by Subscriber in responding to Consumer Inquiries shall be made without Company's and the Data Owner's prior written approval.

During the terms of this agreement, Subscriber will receive e-mail concerning the status of the subscription.

The terms and conditions contained herein will be governed by, and construed, in accordance with the laws of the State of New York, which are intended to supersede any choice of laws or rules which might otherwise be applicable.

**Notes and Exceptions:**

A. For Ported Number file Subscribers only:

- The Ported Number Wireless-to-Landline file, used appropriately, may add numbers to a calling list.
- May be used to identify cellular telephone number to be called manually.
- **All sales are final; no refunds are permitted.**
- A separate agreement must be executed for each computer/server used to host the files.
- Payments to NEUSTAR are included in the IMS subscription price. IMS will remit all payments to NEUSTAR on behalf of the subscriber.
- If the Ported Number data is provided to a service organization for list scrubbing or any other purpose, the service organization must be acting as an agent of the subscriber.

B. For Wireless Block file Subscribers only:

- May be used to identify cellular telephone number to be called manually.

C. For Recently Recorded Deceased File (RRDF) subscribers only:

- **EACH MONTHLY FILE MAY BE USED FOR NO MORE THAN 45 DAYS AND IN NO EVENT MAY A SUBSCRIBER USE THE DATA FOR MORE THAN ONE (1) YEAR FROM THE ORIGINAL OR RENEWAL SUBSCRIPTION DATE.** Active subscribers will receive a replacement file the beginning of each month.
- The distributed data file will be adjusted monthly to contain the deceased data recorded during the previous 12 months.
- **All sales are final; no refunds are permitted.**
- The distributed data is not intended to be representative of, or include, all Deaths occurring during any period.

D. For State and Federal Prison File (SFPF) subscribers only:

- The distributed data **may not** contain **all** State and Federal Prisons.

I understand and agree to the above Terms and Conditions.

Authorized Signature: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Title: \_\_\_\_\_

Email:(Required): \_\_\_\_\_

Company Name: \_\_\_\_\_

Telephone No: \_\_\_\_\_

Street Address: \_\_\_\_\_

Fax No: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

**This Company is a:**

Service Bureau

End User

If user, please indicate your product(s) or service(s): \_\_\_\_\_

Complete and mail or fax the subscription form and you will be notified by email where to upload your file. **SmartClean** will remove all records matching the files indicated during the upload process. Within 24 hours, you will be notified where to pick-up the cleaned file by email.

File Specifications: Comma or Tab Delimited text file with a maximum of 40 fields

Field Requirements: **MPS** : First Name, Last Name, Street Address, Zip Code (each in separate fields)

**TPS**: Area Code, Exchange and Number in one, two or three fields

**EMPS**: E-MAIL address

**Wireless**: 10 digit telephone number in the first field

**All charges for SmartClean will be collected during the file upload process.**

**If you wish to pay by check, call IMS Customer Service at 203-653-2762 for instructions.**