

SELECTABASE TERMS AND CONDITIONS

Version 10 December 2018

Selectabase Ltd, The Archive Centre, Honeywood Road, Dover, CT16 3EH (the Supplier)

Standard Terms and Conditions

1. Definitions

The following terms shall have the following meanings:

"**Users**" means the Customer, or any Third Party who use the Services and/or the Data of the Supplier on behalf of the Customer.

"**Agreement**" means the agreement between the Supplier and the Customer pursuant to clause 2.

"**Commencement Date**" means the date of acceptance by the Supplier of the Customer Order Form.

"**Confidential Information**" means any and all information relating to the trade secrets, operations, processes, plans, intentions, product information, prices, know-how, designs, customer lists, market opportunities, transactions, affairs and/or business of the parties and/or to their customers, suppliers, clients or Group Companies in or on any medium or format and any personal data pertaining to the Customers.

"**Credits**" means credits for the Data or other Services for which the Supplier may accept prepayment, as more particularly set out in the Customer Order Form.

"**Customer**" means any person named as the Customer in the Customer Order Form.

"**Customer Order Form**" means the form prepared by the Supplier and accepted by the Customer, which sets out the details of the supply of Services or Data from the Supplier and which together with these terms, forms the contract.

"**Data**" means the list rental data as set out in the Customer Order Form and supplied to the Customer.

"**Data Subject**" means any person, company, trading name or firm included in the Data.

"**DPA**" means the Data Protection Act.

"**Fee**" means the current applicable rate as set out in the Customer Order Form.

"**GDPR**" means the General Data Protection Regulation

"**ICO**" means the Information Commissioner's Office.

"**Improper Use**" means any use of the Services in an unlawful or immoral or disreputable or threatening manner or using the Data in such a manner so as to contravene any rules or regulations from time to time promulgated by anybody regulating the conduct of the Customer's business or the use of the Data, breach of data protection legislation, advertising or direct marketing standards, including without limitation breaches of Clause 4 and 13 of this Agreement or using the Services other than in accordance with the terms of this Agreement.

"**Latest Delivery Date**" means, (i) in the case of Services requiring a single delivery, 28 days after the

Payment Date, and (ii) in the case of repeated delivery within 28 days of the start of each month, unless in either case extended delivery has been agreed in writing by both parties in accordance with, Clause 2.7.

"**Media**" means the method, records or other materials and documents by which the Services are delivered to the Customer, including but not limited to downloads, or E-Mail.

"**Payment Card**" means any credit card or charge card of the Customer that may be used by the Supplier to make payments under this Agreement, subject to the provisions of Clause 5.5.

"**Payment Date**" means the date for payment for the Services as set out in the Customer Order Form.

"**Period**" means the period specified in the Customer Order Form from and including the Commencement Date as the period for which the Customer may use the Services unless the Services are provided for an immediate single use.

"**Permitted Purpose**" the specified method of direct marketing as set out in the Customer Order Form.

"**Reseller Agreement**" means the additional set of terms the Customer agrees to be bound by. The Reseller Agreement is available to download from <http://www.selectabase.co.uk/terms-and-conditions>.

"**Services**" means the services accepted and described on the Customer Order Form and with reference to the relevant sections of the Website;

"**Supplier**" means Selectabase Ltd or any person who is assigned the benefit of this Agreement.

"**Territory**" means the European Union.

"**Third Party**" means an individual, firm or limited company or other party, as may be specified in the Customer Order Form that will use or access the Data on behalf of the Customer but does not have the right to use the Data for its own purposes.

"**Virus**" means a computer virus which interferes or has the capacity to interfere with a computer's correct and proper functioning within the commonly understood meaning of the term "computer virus".

"**Website**" means <http://www.selectabase.co.uk> or such domain as may be chosen by the Supplier from time to time to market the Services.

2. Supply of Services

2.1 In consideration of payment of the Fee the Supplier hereby agrees to provide the Services and Data, subject to the remainder of this clause and the Licence referred to in Clause 3.

2.2 Before accepting a Customer Order Form and thereafter in the cases of Agreements that provide for periodical payments throughout the term of the Agreement, the Supplier shall have the right to carry out credit checks using commercial credit reference agencies and due diligence checks to ensure compliance with data protection legislation. The Supplier reserves the right to cancel the Agreement at any time or apply such additional terms as it deems necessary, if the Customer fails credit checks or the due diligence checks referred to.

2.3 Orders will be delivered via a secure online login. It is the Customer's responsibility to advise the Supplier if the download has not been received or is not capable of being accessed. If the Supplier is not advised to the contrary, within 28 days of the Latest Delivery Date, it will assume that the delivery was successful, meaning that there will be no grounds for the Customer to

seek a refund due to failed delivery. Requests for deliveries to be re-sent can be made and will usually be honoured prior to this time.

- 2.4** Without prejudice to this Agreement, the Supplier does not warrant the accuracy of the Data provided and does not undertake to provide replacement names where the Data is inaccurate or contains errors.
- 2.5** Where satisfactory evidence is provided by the Customer to the Supplier within 3 months of the Latest Delivery Date of fundamental discrepancies or errors in the Data then the Supplier may replace names free of charge at its absolute discretion.
- 2.6** If the Data is not supplied to the Customer for any reason beyond the control of the Supplier including but not limited to those listed in Clause 18, by the Latest Delivery Date (other than due to non-payment by the Latest Delivery Date or a faulty address being provided by the Customer) then the Customer may immediately terminate this Agreement by giving notice in writing to the Supplier and shall have no further claim against the Supplier.
- 2.7** The Supplier will inform the Customer as soon as reasonably practicable of any delays likely to cause the Data to be delivered to the Customer later than the Latest Delivery Date and where both parties agree an extension period, the date this period ends shall be the Latest Delivery Date.
- 2.8** For some Services, the Customer will be required to re-download Data before subsequent uses. Customers are responsible for checking and cleaning Data prior to such subsequent uses.

3. Licence

- 3.1** The licence for the Customer to use the Services will be set out in the Customer Order Form and will apply to the Territory only.
- 3.2** The licence is non-transferable unless otherwise agreed and the Customer may only take such copies of the Data as are reasonably required for the use of the Data in accordance with this Agreement.
- 3.3** The licence for the Customer to use the Services shall expire:
 - 3.3.1** in the cases of single use: 3 months after the date of initial delivery, via any media, of the Data or Services specified in the Customer Order;
 - 3.3.2** in the case of Agreements that permit multiple usage of the Services: 12 months after the date of initial delivery of the Data or Services specified in the Customer Order Form; and
 - 3.3.3** where the Customer has identified that it does not intend to use the Data or Services solely for its own internal business purposes on the Customer Order Form, then as per the provisions contained within the Reseller Agreement.
- 3.4** For the avoidance of doubt, the single use of the Data referred to in Clause 3.3.1 means:
 - 3.4.1.** where only the mailing address is supplied then the once only use of each address for a mail campaign only;
 - 3.4.2** where only the telephone number is supplied then the once only use of each telephone number in a tele-marketing campaign;

3.4.3 where the telephone number and the mailing address is supplied then the once only use of the mailing address in a mailing campaign and the once only use of the telephone number in a telemarketing campaign;

3.4.5 where an e-mail address is supplied then the once only use of each address for an email campaign only.

and multiple use referred to in clause 3.3.2 means that use may be made an unlimited number of times within a 12-month period of the initial delivery of the Services, on the strict condition that the Data order is re-downloaded prior to each subsequent re-use.

3.5 The Permitted Purpose shall not entitle the Customer to use the Data to create any business directory, telephone directory, listings or classified directory in any media or format.

3.6 For the avoidance of doubt, the Permitted Purpose shall not permit the Customer to use the Data, the Services and the Supplier materials for profiling or enhancement of the Customer's, Third Party User's files for segmentation purposes.

3.7 Notwithstanding any other provision of this agreement, where the Supplier provides Data to the Customer for the purpose of deduplication or any other similar or analogous purpose, the Customer shall, unless expressly agreed otherwise in writing by the Supplier, only be permitted to use that Data for the process of such deduplication or the similar or analogous purpose for which the Data has been supplied and not for any other purpose whatsoever.

4. Usage

4.1 For the avoidance of doubt Users shall not be permitted to use the Data:

4.1.1 for the purposes of providing any bureau services to any Third Party;

4.1.2 on any laptop or portable device save for in accordance with Clause 4.2;

4.1.3 for the purposes of assessing creditworthiness or for tracing debtors;

4.1.4 for the sublicensing, selling or otherwise disclosing or making available to any third party acting (in the Supplier's reasonable opinion) as a credit reference agency or as a supplier of information used for assessing creditworthiness;

4.1.5 in combination with any Third-Party Data source including without limitation data derived from lifestyle surveys or credit assessment unless otherwise approved in writing by the Supplier in advance; or

4.1.6 for marketing to anyone under 18 years of age.

4.2 The Supplier may permit Users where appropriate to use the Data on a laptop or portable device provided that the relevant User:

4.2.1 ensures that they implement robust encryption protection with a minimum strength of AES256 (or such other best practice encryption standards as may in the reasonable opinion of the Supplier be applicable from time to time) on each such laptop or portable device;

- 4.2.2** includes a clause mandating such encryption requirements in a prominent position in the agreement signed between the Customer and the User;
- 4.2.3** includes a prominent reminder of such encryption requirements with each download of Data that the User makes as appropriate via the Supplier's Services;
- 4.2.4** limits the number of Data records that may be downloaded by a User to 50,000 records per download and enforces this via technical controls; and
- 4.2.5** takes reasonable steps to exercise such audit rights in the event that the Supplier becomes aware of any breach by the User or upon request from the Supplier.
- 4.3** It is a condition of the provision of the Services that prior to such provision the Customer shall specify in writing, to the Supplier the full name and address of Users and such information concerning such Users as the Supplier shall reasonably require. If no other details are provided by the Customer, the Customer shall be deemed to be the only user of the Services and shall not be permitted to allow any other Third Party to use the Services or Data on its behalf.
- 4.4** At a reasonable time prior to such use the Customer shall provide to the Supplier a sample of all promotional material to be delivered to any Data Subjects and the Customer further expressly agrees that it shall not, and Users shall not send out any promotional material if so required by the Supplier.
- 4.5** Users shall not use the Data or Services for any Improper Use.
- 4.6** The Customer shall procure that Users, shall fully comply with the obligations of the Customer under this Agreement as if they were each a party hereto and the Customer shall supply Users with a copy of these terms and conditions.
- 4.7** All Media must be returned to the Supplier's normal address or destroyed, or permanently deleted within one month of the use of the Data. Where the Media is destroyed, the Supplier (if so requested) must provide the Customer with evidence of this.
- 4.8** The Services are not intended to be used as the sole basis for any business decision and are based upon data which is provided by third parties, the accuracy and/or completeness of which it would not be reasonably possible and/or economically viable for the Supplier to guarantee. The Supplier's services also involve models and techniques based on statistical analysis, probability and predictive behaviour. The Supplier is therefore not able to accept any liability for (a) any inaccuracy, incompleteness or other error in the Data which arises as a result of data provided to the Supplier by any Third Party; or (b) any failure of the Services to achieve any particular result for the Customer.
- 4.9** The Customer may use the Data as provided to the Customer as part of the Services, as set out in the Customer Order Form. The Customer shall not sell, transfer, sub-license, distribute, commercially exploit or otherwise make available to, or use for the benefit of, any Third Party any of the Services or the Data and will not allow any Third Party to adapt, alter, modify, reverse engineer, de-compile or otherwise interfere with the Data without the prior written consent of the Supplier.
- 4.10** Where the Data supplied by the Supplier to the Customer contains the mailing addresses of consumers ("**Postal Data**"), unless expressly agreed otherwise in writing by the Supplier, the

Customer shall only be permitted to market to that Postal Data by mail or post by using the Supplier's own print and post services and not its own postal or mailing services or those of any third party.

5. Charges

- 5.1** All fees, charges and other sums payable are payable in advance of delivery by any medium and/or, by the Payment Date, whichever is the sooner, unless otherwise stated within the Customer Order Form and are subject to VAT at the rate then currently applicable.
- 5.2** The Customer shall have no right of set-off against the Supplier in respect of any claims it may have against the Supplier (whether in connection with this Agreement or otherwise).
- 5.3** Interest at the rate of 4% per annum above the base rate of Barclays Bank Plc from time to time is payable on all sums outstanding after the Payment Date or in accordance with the Late Payment of Commercial Debts (Interest) Regulations 2002 if greater.
- 5.4** Where the Agreement provides for periodical payments (e.g. continuous authority) for Payment Card payments, the Supplier reserves the right to:
 - 5.4.1** attempt to take payment for the Customer's nominated Payment Card, if this payment method is being used, until full payment has been made;
 - 5.4.2** amend the payment period for subsequent payments so that an earlier Payment Date is required for subsequent periods; and
 - 5.4.3** if payment is again not made by the Payment Date terminate the Agreement in accordance with Clause 10.2.
- 5.5** Where any transaction by a Payment Card is declined or continuous authority is revoked, the Customer warrants to make payment for the Services rendered by the Supplier by an alternative Payment Card, transfer of funds or any other method of payment explicitly agreed by the Supplier. Where no such payment is received, the Supplier will recover the owing amount as a debt from the Customer and/or its agents plus interest and any costs incurred by the Supplier in recovering the amount.
- 5.6** If the Supplier agrees to supply the Data for the purpose of deduplication against other data held by the Customer and on the basis that the Customer shall only pay a proportion of the price reflecting the "Net Names" actually used, any claim for credit for the unused portion of the Data;
 - 5.6.1** must be made within a period not exceeding three months from the date of delivery, unless otherwise agreed in writing by the Supplier; and
 - 5.6.2** must be supported by a deduplication report or certificate from a recognised data processing bureau or other independent agency approved by the Supplier.

6. Compliance and Audit

- 6.1** Each party shall in connection with the provision or use of the Data or the Services comply with all legislation, regulations, and other rules having equivalent force which are applicable to that party.

In addition, the Customer shall:

- a. notify all relevant details of any processing of Personal Data to the ICO as set out in the DPA and only process such Personal Data in accordance with the terms of its notification under the DPA;
- b. comply with its obligations in respect of the rights of the individuals to whom the provision of the Services relates as set out in the DPA (including the data protection principles referred to in the DPA).

6.2 The Supplier shall (in circumstances where it is a data processor) process any Personal Data contained within the Customer's Data only in accordance with the instructions of the Customer. The Customer shall be deemed to have instructed the Supplier to process any such Personal Data to the extent reasonably necessary for the provision of the Services.

6.3 The Customer shall ensure that the processing by the Supplier (as contemplated by this Agreement) of any Personal Data which the Customer makes available to the Supplier satisfies the requirements of the first data protection principle under the DPA.

6.4 Each party warrants that it shall take appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, the Personal Data of the other party. The Customer shall from time to time, provide the Supplier with details of the security measures undertaken by the Customer to protect Personal Data and implement such measures as the Supplier may reasonably require in order to ensure compliance with this Clause 6.

6.5 The Customer shall promptly provide to the Supplier all subject access requests which it receives in connection with the Services or Data.

6.6 In order to protect the integrity of the Data used in connection with the Services, the Customer shall:

- a. comply with the Supplier's reasonable instructions and guidelines relating to data security; and
- b. not copy, interfere with and/or use in any unauthorised way any digital certificate, web certificate or any other security device provided by the Supplier.

6.7 If any Third-Party Data or software becomes permanently unavailable to the Supplier, the Supplier shall be entitled to do one of the following on giving three months' prior notice to the Customer:

- a. modify the affected Services as necessary to accommodate such changes or unavailability; or
- b. terminate this Agreement (without liability) in respect of those Services which are affected by such changes or unavailability.

6.8 In exercising its rights under Clause 6.7 above, the Supplier will consult with the Customer, and act reasonably and in a way, which is consistent with its treatment of its other Customers.

6.9 The Customer shall keep adequate records of Users to be provided to the Supplier at their reasonable request when exercising their audit rights under this Agreement. The Customer shall permit the Supplier and its authorised agents during the continuance of this Agreement and for a period of 3 months thereafter to enter upon the premises of the Customer upon reasonable prior written notice for the purpose of ascertaining whether the provisions of this

Agreement have been and are being complied with by the Customer and to allow the Supplier and its authorised agents to inspect the Customer's records (including those kept in accordance with this Clause 6.9).

6.10 Any audit to be conducted by the Supplier shall be carried out by a third-party (appointed by the Supplier), if the Customer reasonably objects to such audit being carried out by the Supplier. The Customer shall pay the reasonable costs of the third-party audit, if such audit identifies significant non-compliance with the provisions of this Agreement.

6.11 The Customer shall promptly:

- (i) audit a User's compliance with these terms, if the Supplier notifies the Customer that it reasonably believes a User may have breached them, and;
- (ii) provide written details of the outcome of the audit to the Supplier. The reasonable costs of such audit will be paid by the Customer if the User has breached these terms, or by the Supplier if the User has not breached these terms.

6.12 The Customer shall promptly provide to the Supplier full details of all complaints relating to the Services made by a User or an individual to whom the Services relate. The Customer shall co-operate with the Supplier and the User to resolve any complaints.

6.13 If the Supplier receives a complaint relating to the Services, the Customer shall co-operate with the Supplier and the User to resolve that complaint and shall respond promptly, and in any event within 5 working days, to any request for information relating to the complaint.

6.14 Nothing in Clauses 6.9 or 6.10 shall require the Supplier to monitor prices or provide any other information which could be used directly or indirectly to fix the prices of the Services.

6.15 The Customer shall conduct due diligence in relation to all Users as required by the Supplier from time to time. Such due diligence to be defined at the time of the request and reasonably agreed between the parties.

6.16 If the Supplier reasonably believes the Services have been used in serious breach of this Agreement by the User, in the absence of any other remedy, the Supplier shall be entitled to suspend provision of the Services and the Customer shall procure that the User shall, co-operate fully with the Supplier's investigations into such use, and the Supplier and the Customer shall use all reasonable endeavours to resolve the investigations and recommence provision of the Services without delay.

7. Indemnity

The Customer shall fully indemnify and keep fully indemnified the Supplier against all and any actions, proceedings, claims and demands brought against the Supplier or the Supplier's sources by any User save that this indemnity shall not apply to the extent that the claim arises as a direct result of a breach of this Agreement by the Supplier.

8. Copyright and other Intellectual Property

8.1 All intellectual property rights, database rights and title in the Data, software and all other materials contained in the Supplier's website or delivered as part of the Services will remain vested in the Supplier (or the Supplier's licensors or suppliers). Nothing in this Agreement is intended to affect or give rise to any assignment of copyright or other intellectual property right howsoever conferred acquired or obtained and the Customer hereby acknowledges that it

acquires no such proprietary rights. To the extent that any such rights vest in the Customer by operation of law, the Customer hereby assigns such rights to the Supplier.

- 8.2** Neither the Customer nor any User may sell lease hire loan pledge gift or otherwise make available dispose of or part with possession of any of the Services or Data in any manner or on any medium in whole or in part or allow any other person to use or copy the Services in whole or in part or for any other reason, except with the Supplier's prior written consent.
- 8.3** The products, technology or processes described on the Website may be the subject of other intellectual property rights reserved by the Supplier or by other third parties. No licence is granted in respect of those intellectual property rights. Images on the Website are protected by copyright and may not be reproduced or appropriated in any matter without written permission of their respective owner(s).
- 8.4** The Customer acknowledges and agrees that it shall not acquire or claim any title to any of the other party's intellectual property rights (or those of the other party's licensors) by virtue of the rights granted to it under this Agreement or through its use of such intellectual property rights.
- 8.5** The Customer agrees that it will not, at any time, do, or omit to do, anything which is likely to prejudice the Supplier's ownership (or the other party's licensors' ownership) of such intellectual property rights.
- 8.6** The Customer agrees not to remove, suppress or modify in any way any proprietary marking, including any trade mark or copyright notice, on or in the materials of the other party and agrees to incorporate any such proprietary markings in any copies it takes of such materials.

9. Verification

The Services may contain a small amount of false information or "check Data". The Customer shall ensure that Users do not knowingly delete any such false information and will notify the Supplier immediately upon becoming aware of any such misuse of the Services.

10. Termination

- 10.1** This Agreement shall remain in force for the period specified in the Customer Order Form except as provided in this Agreement.
- 10.2** The Supplier may terminate this Agreement immediately at any time on the happening of any of the following events:
 - 10.2.1** The Customer fails to make any payment due;
 - 10.2.2** A material breach of these terms and any special terms applying to a service, whether or not such breach is remediable, but if capable of remedy such breach has not been remedied 7 days' after written notice has been delivered to the Customer;
 - 10.2.3** A resolution for the Customer's winding up being passed, except for the purpose of a reconstruction or amalgamation;
 - 10.2.4** The Customer being unable to pay its debts within the meaning of the Insolvency Act 1986 Section 123;
 - 10.2.5** An encumbrance, a taking possession, or a receiver, or an administrative receiver being appointed, or a petition being presented for the appointment of an

administrative receiver in respect of the whole or any part of the Customer's undertaking or assets; or

10.2.6 A material misrepresentation by the Customer.

10.3 The Supplier may in addition terminate this Agreement if it is unable to supply the Data in accordance with the Customer Order Form for reasons beyond its control, whereupon it will refund any payment received from the Customer in respect of any unsupplied Data without liability for any other loss accrued by the Customer and without prejudice to Clause 14.

10.4 Termination of this Agreement for any reason shall be without prejudice to the accrued rights of either party as at the date of termination.

10.5 Any waiver by the Supplier of any breach of this Agreement by the Customer shall not operate as a waiver of any other past or future breach.

11. Consequences upon Termination

Upon termination or expiry of this Agreement the Customer and Users shall:

11.1.1 destroy, or if requested by the Supplier, return to the Supplier any Data whether it be on paper or any other physical or tangible medium within 14 days' notice of the termination;

11.1.2 permanently delete or procure the permanent deletion of all Data from all computer files and computers and if required to do so by the Supplier, provide written evidence in such form as the Supplier may reasonably require that such deletion has been effected;

11.1.3 return to the Supplier all and any magnetic media where property in the said media remains with the Supplier and the Customer shall ensure that such media are adequately labelled and packaged to avoid damage; and

11.1.4 make payment for the balance of any sums owed to the Supplier in respect of unpaid charges for the Services rendered or Data provided to the Customer by the Supplier within 14 days of termination.

11.2 Where termination occurs as a result of one of the reasons stated in Clauses 10.2.1, 10.2.2 or 10.2.6 above, the Supplier reserves the right to seek damages for breach of contract.

12. Cancellation

Payment is due immediately. In anticipation of payment the Customer's order will be processed and selected in accordance with the Customer Order Form. The order will be despatched upon receipt of payment. Should you cancel your order you remain liable for full payment regardless of whether it has been despatched or not.

13. Data Protection and Advertising Standards

13.1 The Supplier, Customer and Users agree to comply with their obligations under all data protection legislation including GDPR.

- 13.2** The Customer warrants that Users shall at all times comply with all relevant advertising standards and direct marketing guidelines, regulations and legislation (as such guidelines, regulations and legislation are amended, consolidated, extended or replaced from time to time) including data protection legislation (and in particular the data protection principles referred to in the DPA and will ensure that if the Customer passes to the Supplier any Personal Data each individual who is the subject of such Personal Data has given consent to the processing by the Supplier of such Personal Data and shall upon the request of the Supplier provide sufficient evidence that it has complied with such legislation and has obtained all relevant consents and approvals.
- 13.3** Without prejudice to the generality of Clause 13.1 the Customer shall itself carry out such checks and searches as may be required under the Privacy and Electronic Communication (EC Directive) Regulations 2003 prior to use of the Data, the Supplier being under no obligation to carry out such checks and searches for or on behalf of the Customer or prior to the supply of the Data to the Customer and shall comply with all relevant codes of practice with respect to its use of the Data including "Direct Marketing Association (UK) Limited Code of Practice", Telephone Preference Services rules, Fax Preference Service rules, "The British Code of Advertising Practice", "The British Code of Sales Promotion Practice" and "The Advertising Association's Standards of Practice in List and Database Management" (as such codes are amended and re-drafted from time to time). Notwithstanding the foregoing the Supplier may carry out such checks and searches prior to the supply of the Data and afterwards but the Supplier does not warrant that it will carry out those checks and searches or that they will be complete or accurate although it will use its reasonable endeavours to ensure that they are.
- 13.4** If the Customer or any person claiming rights through the Customer breaches any of the above it must immediately rectify the breach and fully indemnify the Supplier against any fines, costs, claims, demands and expenses incurred by the Supplier as a result of the Customer's breach and procure that Users also rectify any breaches for which they are responsible and the Customer shall fully indemnify the Supplier against any fines, costs, claims, demands and expenses incurred by the Supplier as a result of such breach and in the event of any failure to procure such indemnity, they will themselves be liable.

14. Limitation of Liability

- 14.1** The Customer understands and accepts that the Services involve the use of the Supplier's Data which is based upon and comprises data provided to the Supplier by third parties or is otherwise publicly available and the Supplier is not able to control or verify the accuracy and/or completeness of such data. Accordingly, whilst the Supplier agrees to use all reasonable care and skill in the collection and collation of the Data it otherwise gives no warranty about the accuracy or fitness for any particular purpose of the Data and in particular accepts no liability for any inaccuracy, incompleteness or other error in the services which arises as a result of the Services provided by the Customer to Users.
- 14.2** Under no circumstances will the Supplier or any source of the Data comprised in the Services be liable for any Consequential Loss that may arise from the use of the Data or other materials included in the Services or available on the Website. 'Consequential Loss' shall for these purposes mean pure economic loss, loss of profits and losses arising from business interruption or damages in respect of any breach of the terms of this Agreement.
- 14.3** Without prejudice to any other terms in this Agreement the aggregate liability of the Supplier in respect of claims of whatsoever nature arising out of or in respect of any breach by the Supplier of any obligations or duty relating to the Data or its sale supply or use (including without limitation any liability of Supplier for negligence or breach of copyright) under the terms

of this Agreement or otherwise shall not in any circumstances exceed the total sum payable by the Customer to the Supplier under this Agreement in any calendar year in which any liability arises.

14.4 These provisions shall not apply to any liability in respect of death or personal injury arising out of the negligence of the Supplier, its servants or agents.

14.5 The Supplier shall use all reasonable endeavours to complete the Services and supply the Services to the Customer in accordance with any agreed timetable. However, the Customer hereby expressly agrees that time shall not be of the essence in relation to the Supplier's obligations under this Agreement and that upon leaving the premises of the Supplier the Media shall be at the risk of the Customer.

15. Confidentiality

15.1 The Customer undertakes for itself and shall procure the undertaking of all Users for and on its behalf:

15.1.1 that it shall not, and Users shall not (without the prior written consent of the Supplier) reuse, copy, reproduce, publish or transmit the Services (or any part thereof) in any manner whatsoever except as provided in this Agreement;

15.1.2 that it shall not, and Users shall not disclose communicate or make available any part of the Services or any confidential information (as defined hereunder) to any party not authorised under this Agreement to receive it, provided always that the Customer shall be permitted to disclose the Data to Users specified in this Agreement solely in accordance with Clause 4.3;

15.1.3 that it will prevent unauthorised access to the Confidential Information and not use the Confidential Information other than for the purposes set out in this Agreement; and

15.1.4 it will take all reasonable steps to prevent unauthorised access to the Confidential Information.

15.2 For the purposes of sub Clause 15.1.3 hereof the expression "confidential information" shall mean:

15.2.1 any information concerning the Supplier's (or the Supplier's sources and providers of Data or other material used in the Services) trade secrets or business dealing transactions or affairs which may come to the notice of the Customer;

15.2.2 any information or know-how relating to the methods or techniques used by Supplier (or the Supplier's sources and providers of Data or other material used in the Services) in devising and developing the Services and any media documents or other materials comprising any part of such information and/or know-how made available by Supplier hereunder; and/or

15.2.3 any user identification code, password or any other piece of information we may provide as part of our security procedures.

15.3 The Supplier shall have the right to disable any user identification code or password, whether chosen by the Customer or allocated by the Supplier, at any time, if in its opinion the Customer has failed to comply with any of the provisions of this Clause 15 or for any other reason.

15.4 The provisions of sub Clause 15.1.2 hereof shall not apply to any confidential information to the extent that the Customer is required to divulge the same by a Court tribunal or governmental authority with competent jurisdiction.

16. Severance

16.1 If any part of this Agreement is found to be invalid or unenforceable by any Court or other competent body, such invalidity or unenforceability shall not affect the other provisions of this Agreement and such other provisions shall remain in full force and effect.

16.2 If any part of this Agreement is found to be invalid or unenforceable by any Court or other competent body but would be valid or enforceable if some part of the provision were deleted, the provision in question shall be treated as having been amended as necessary to make it valid and enforceable.

16.3 In the circumstances referred to in Clause 16.1 and if Clause 16.2 does not apply, the parties agree to attempt to substitute for any invalid or unenforceable provision a valid and enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

17. Viruses

17.1 The Supplier shall not be liable to the Customer or any other party for any cost damage or expense howsoever arising as a result of any Virus irrespective of the source of that Virus.

17.2 You must not misuse our site by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful. You must not attempt to gain unauthorised access to our site, the server on which our site is stored, or any server, computer or database connected to our site. You must not attack our site via a denial-of service attack or a distributed denial-of service attack or any other or similar occurrences.

17.3 By breaching the provisions of Clause 17.2 you would commit a criminal offence under the Computer Misuse Act 1990. We will report any such breach to the relevant law enforcement authorities and we will co-operate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use our site will cease immediately.

18. Force Majeure

18.1 The Supplier shall not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is beyond its reasonable control, materially affects the performance of any of its obligations under this Agreement and could not reasonably have been foreseen or provided against.

18.2 The Internet or our systems, servers and equipment may from time to time be inoperative in full or in part as a consequence of but not limited to mechanical breakdown, maintenance, hardware or software upgrades, telecommunication connection problems or any function beyond our control. We will not be liable for any failure of the Internet or any inability to provide continuous, error free, uninterrupted services under any circumstances. In an exceptional case

or circumstance beyond the Supplier's control the Supplier shall be entitled to cancel this Agreement or delay the performance thereof for as long as necessary.

19. Limitation of Assignment

This Agreement and the benefit of any rights and licences granted by the Supplier to the Customer by this Agreement shall be personal to the Customer and the Customer shall not assign the benefit of the Agreement either in whole or in part, except with the Supplier's previous written consent.

20. Agreement Terms

The parties contract upon this Agreement, which shall prevail over any inconsistent terms which the Customer may seek to introduce. Such inconsistent terms shall have no effect. The Supplier may by mutual agreement with the Customer enter into separate contracts but unless specified therein, the terms of this Agreement shall take precedence. The data processing agreement in the Appendix to this Agreement shall form part of this Agreement. To the extent of any conflict between the provisions of the main body of this Agreement and the provisions of the data processing agreement, the provisions of the main body of this Agreement shall prevail to the extent permitted by applicable law.

21. Agreement Variation

No variation to the terms or conditions of this Agreement shall be affected against the Supplier unless expressly agreed in writing by both parties. This Agreement supersedes all agreements and understandings between the parties whether written or verbal unless otherwise agreed by the Supplier. The Supplier may change the terms of this Agreement in accordance with market practice and its commercial requirements and may notify such changes on the Website.

22. Waiver

If the Supplier waives a breach of contract by the Customer that waiver is limited to that particular breach and no delay by the Supplier acting upon a breach of contract will be regarded as waiver.

23. Other Services of Supplier

The Supplier may inform the Customer from time to time by mail, e-mail, fax, telephone, SMS, or any other suitable medium of the Supplier's products and services. If the Customer does not wish to receive this service or part of this service, the Customer should inform the Supplier in writing at the Supplier's address.

24. Proper Law and Jurisdiction

This Agreement is made in England according to English law and is subject to the exclusive jurisdiction of the English Courts.

25. Notices

25.1 Any notices to be sent by one party to the other in connection with this Agreement shall be in writing and shall be delivered personally or sent by special delivery post (or equivalent service offered by the postal service from time to time) or email or fax to the addresses of each party or as otherwise notified in accordance with the provisions of this Clause 25.

25.2 Notices shall be deemed to have been duly given as follows:

- a. if delivered personally, upon delivery;
- b. if sent by post, two clear days after the date of posting;
- c. if sent by email, when transmitted provided that a confirmation of receipt notice is received by the sender;
- d. if sent by fax, when transmitted provided that a confirmatory copy is sent by special delivery by the end of the next business day after transmission.

25.3 If either party notifies the other party of a change to its details, such notification shall only be effective on the date specified in such notice or seven days after notice is given, whichever is later.

25.4 If the address for service of notices under this Clause is outside the United Kingdom, the Customer elects the person or organisation named in the Customer Order Form for the purposes of accepting service of notices within the United Kingdom on the Customer's behalf. Any notices sent to in accordance with this Clause are deemed given in accordance with Clause 25.2.

APPENDIX
Data Processing Agreement

This agreement forms part of the Data Processor's standard terms and conditions, is entered into on the same date as the Parties entered into those standard terms and conditions and is made between:

- (A) The person or entity which is being provided with services by the Data Processor (the "**Data Controller**"); and
 - (B) Selectabase Ltd (company registration number 05234487), a company registered in England and Wales, the registered office of which is at The Archive Centre, Honeywood Road, Whitfield, Dover, England, CT16 3EH (the "**Data Processor**"),
- each a "**Party**" and together the "**Parties**".

1 Definitions

- 1.1 "**data controller**" means a data controller or controller (as the case may be) as defined by the Data Protection Legislation (and 'controller' shall be construed accordingly).
- 1.2 "**Data Processing Agreement**" means this agreement.
- 1.3 "**data processor**" means a data processor or processor (as the case may be) as defined by the Data Protection Legislation (and 'processor' shall be construed accordingly).
- 1.4 "**Data Protection Legislation**" means the GDPR for as long as it is directly applicable in the United Kingdom and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the United Kingdom, and then any successor legislation to the GDPR or the Data Protection Act 1998.
- 1.5 "**Data Subject**" means a data subject as defined by the Data Protection Legislation.
- 1.6 "**GDPR**" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- 1.7 "**Personal Data**" means personal data as defined by the Data Protection Legislation.

2 General obligations

- 2.1 Both Parties shall comply with all applicable requirements of the Data Protection Legislation. This clause 2.1 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.
- 2.2 The Parties acknowledge that for the purposes of the Data Protection Legislation and this Data Processing Agreement, the Data Controller is the data controller and the Data Processor is the data processor. The Schedule to this Data Processing Agreement sets out the scope, nature and purpose of processing by the Data Processor, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 2.3 Without prejudice to the generality of clause 2.1, the Data Controller will ensure that it has, at all times:

- 2.3.1 a valid legal basis under the Data Protection Legislation for the processing of Personal Data under this Data Processing Agreement, including, without limitation, such processing by the Data Processor as instructed or permitted by the Data Controller under clause 3.1.1 and clause 3.2 of this Data Processing Agreement;
- 2.3.2 where required by law (for example, as required for the transmission by electronic means of direct marketing communications under the Privacy and Electronic Marketing Communications Regulations 2003), valid consent (under the Data Protection Legislation) for such processing; and
- 2.3.3 appropriate notices in place as required by the Data Protection Legislation to enable lawful transfer of Personal Data to the Data Processor for the duration and purposes of this Data Processing Agreement.

3 Data Processing

3.1 Without prejudice to the generality of [clause 2.1](#), the Data Processor shall, in relation to any Personal Data processed in connection with the performance by the Data Processor of its obligations under this Data Processing Agreement:

- 3.1.1 process Personal Data only on lawful documented instructions from the Data Controller, including with regard to transfers of Personal Data to a third country or an international organisation, unless required to do so by European Union or European Union Member State law to which the Data Processor is subject; in such a case, the Data Processor shall inform the Data Controller of that legal requirement before processing Personal Data, unless that law prohibits such information on important grounds of public interest;
- 3.1.2 ensure that persons authorised to process Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- 3.1.3 take all measures required pursuant to Article 32 of the GDPR;
- 3.1.4 respect the conditions referred to in paragraphs 2 and 4 of Article 28 of the GDPR for engaging another processor;
- 3.1.5 taking into account the nature of the processing, assist the Data Controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Data Controller's obligation to respond to requests for exercising the Data Subject's rights laid down in Chapter III of the GDPR;
- 3.1.6 assist the Data Controller in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR taking into account the nature of the processing and the information available to the Data Processor;
- 3.1.7 at the choice of the Data Controller, delete or return all Personal Data to the Data Controller after the end of the provision of the services relating to processing, and delete existing copies unless European Union or European Union Member State law requires storage of Personal Data; and
- 3.1.8 make available to the Data Controller all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by the Data Controller or another auditor mandated by the Data Controller. The Data Processor shall immediately inform the Data Controller if, in its opinion, an instruction infringes the GDPR or other European Union or Member State data protection provisions.

3.2 The Data Controller hereby gives its prior consent, documented (written) instructions and written authorisation to the Data Processor to:

- 3.2.1 engage any other processors as the Data Processor deems fit in the course of its provision of the services under this Data Processing Agreement, provided that the Data Processor shall inform the Data Controller of any intended changes concerning the addition or replacement of other processors prior to such appointment or replacement, thereby giving the Data Controller the

opportunity to object to such changes and does so in compliance with Data Protection Legislation; and

3.2.2 transfer Personal Data to a third country or an international organisation, provided that the Data Processor satisfies all legal obligations under the Data Protection Legislation and any other applicable laws for doing so, including: (i) ensuring appropriate safeguards are in place in relation to the transfer; (ii) the Data Subject has enforceable rights and legal remedies; (iii) the Data Processor provides an adequate level of protection to any Personal Data transferred; and (iv) the Data Processor complies with reasonable instructions notified to it in advance by the Data Controller with respect to its processing of Personal Data.

3.3 Where the Data Processor engages another processor for carrying out specific processing activities on behalf of the Data Controller, the Data Processor shall ensure that the same data protection obligations as set out in this contract or other legal act between the Data Controller and the Data Processor as referred to in paragraph 3 of Article 28 of the GDPR are imposed on that processor by way of a contract or other legal act under European Union or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the Data Protection Legislation. Where the other processor fails to fulfil its data protection obligations, the Data Processor shall remain fully liable to the Data Controller for the performance of that other processor's obligations.

3.4 Any contract or other legal act referred to in this clause 3 shall be in writing, including in electronic form.

3.5 The Data Controller agrees that it has considered the Data Processor's obligations under Article 32 of the GDPR and considers that the Data Processor is in compliance with such obligations, in particular the obligation to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk of the Data Controller's processing of Personal Data.

3.6 Either party may, at any time on not less than one month's prior written notice, revise clause 3 by replacing it with any applicable Data Controller to Data Processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Data Processing Agreement).

3.7 The Parties shall make such amendments to this Data Processing Agreement as are required to ensure that this Data Processing Agreement complies with any applicable legislation, including any applicable Data Protection Legislation from time to time.

4 Limitations and exclusion of liability

4.1 The Data Processor excludes any and all liability to the Data Controller to the maximum extent permitted by law.

4.2 In any event, the Data Processor's total aggregate liability to the Data Controller in any given calendar year shall not exceed an amount equal to fifty per cent. (50%) of any fees or charges paid by the Data Controller to the Data Processor for any services provided by the Data Processor to the Data Controller in that calendar year.

5 Costs

5.1 Where the Data Controller exercises any of its rights under this Data Processing Agreement, the Data Processor reserves the right to charge the Data Controller for any costs it reasonably incurs in complying with its corresponding obligations under this Data Processing Agreement.

5.2 The Data Processor shall only exercise its rights under clause 5.1 where it considers it just and equitable to do so.

Schedule

Subject matter of the processing

Any Personal Data processed by the Data Processor on behalf of the Data Controller in the course of the Data Processor providing Services (as defined below) to the Data Controller.

Duration of the processing

The duration of the provision of the Services (as defined below) by the Data Processor to the Data Controller.

Nature of the processing

The provision of any one of more of the following services (the “**Services**”) by the Data Processor to the Data Controller as agreed between the Parties:

- print, fulfilment and general mailing house services; and
- data checking including flagging of TPS, MPS, gone aways, deceased, email verification, line number testing and data enhancement.

Purpose of the processing

The provision of the Services by the Data Processor to the Data Controller.

Types of personal data processed

- Names
- Titles
- Email addresses
- Company and legal entity names
- Phone numbers
- Addresses
- Date of Birth
- Gender (Male / Female / Unknown)
- Employment Status
- Marital Status
- Estimated Age Band
- Estimated Household Income
- Estimated Property Value
- Council Tax Band
- Households with Children
- Tenure
- Residency Type
- Length of Residency
- Household Composition
- Affluence
- Family Lifestage
- Financial Strategy Segments
- Mosaic UK
- Contact Name & Job Function
- Job Title
- Industry Sector

- Employee Size
- Turnover
- Location Type (Head Office Flag)
- Legal Status
- Age of Business
- Not for Profit Business
- Premise Type
- Estimated Net Worth Band
- Date of Latest Accounts
- No of Directors
- Total Number of Trading Sites Band
- Small Or Home Office
- Registered Office Location Flag
- Company Registration Number
- Director Flag
- Any other Personal Data processed by the Data Processor on behalf of the Data Controller from time to time

Categories of data subjects

- Consumer and business prospect data

Obligations and rights of the data controller

The obligations and rights of the data controller are set out in clauses 2 and 3 of this Data Processing Agreement.