

This agreement is between 2k Web Group (AGENCY) and the party seeking email marketing software and services (CLIENT). As an organization or individual seeking email marketing software and services, the client agrees to the following:

## 1. Licensing & ownership

Client's use of this Software confers no title or ownership to Client. Agency is providing Client temporary, non-exclusive access to email marketing software and services – along with certain entitlements and privileges – that will endure as long as Client (a) continues to provide payment for service in a timely manner, and (b) continues to abide by the terms of this Agreement.

Client agrees not to copy, modify, re-package, reverse-engineer, disassemble, modify or otherwise use the Software or its components in ways not explicitly allowed by this Agreement. Client also agrees not to remove any proprietary notices or labels from the software.

## 2. Permission marketing

Client agrees to use its account for permission-based email marketing and communications, and to send emails using this Software that are truthful in nature and accurately identify the purpose of the email and the identity of the sending organization. Client agrees to include its physical address in all campaigns, as required by the U.S. Can-Spam legislation, and to adhere to the full Can Spam guidelines as well as any other applicable local, state, federal and international laws.

With regards to obtaining permission, Client understands and acknowledges that adhering to Can Spam alone is not enough to ensure high delivery rates and a solid reputation as an emailer. Therefore, Client agrees to use the software provided by Agency to email people who meet at least one of the following criteria:

- 1) The recipient has opted in to receive Client's emails, using a form that clearly indicates that by submitting his or her email address he or she will receive emails from Client; or
- 2) The recipient has provided his or her email address to Client, via business card, conference or similar, with the understanding that Client will send the recipient emails; or
- 2) The recipient has a clear relationship with Client, as (a) a member who pays dues to belong to Client's organization, (b) a subscriber who pays a subscription fee to gain access to Client's services, or (c) a customer who has purchased a good or service from Client within the past eighteen (18) months, in the course of which Client has obtained that customer's email address.

If any recipient, regardless of his or her prior opt-in status or relationship to Client, has indicated to Client its desire *not* to receive emails – either during or prior to Client's use of this Software – Client may not use this Software to email that recipient.

Client agrees to not use the Software to send to email addresses that have been purchased, rented or otherwise obtained from a third party, or which have been collected using a script or other harvesting method, or which have been obtained without the email address owner's knowledge. Sending emails to any address or list obtained using one or more of these methods may result in immediate termination of Client's email marketing account.

Client agrees to not use the Software to break any local, state, Federal or international laws or regulations (including but not limited to those related to spamming, e-commerce, obscenity, defamation or privacy); or to encourage or facilitate any illegal activities; or to harass, threaten or embarrass any person or organization; or to promote MLM (multi-level marketing) or Ponzi schemes; or to distribute illegal, pornographic or potentially harmful or offensive information, photos, software or materials, or include links to Web pages containing any such items (Agency reserves the right to use its own judgment in determining what is offensive).

Agency reserves the right suspend or terminate Client's account access and privileges in cases where a mailing sent by or on behalf of Client receives an unreasonable number of complaints from Internet Service Providers or email watchdog groups (with Agency having the right to determine what qualifies as unreasonable). Client will also be responsible for paying any fines incurred by Agency as a direct result of one of its mailings, in cases where clear and direct evidence is presented to Agency by the fining organization.

### 3. Opt out policy

Client agrees to use the opt-out link and process provided by this Software, to ensure that every recipient who requests to be opted out is removed instantly and permanently. In cases where recipients do not opt themselves out and instead request that Client opt them out, Client agrees to opt such recipients out within five (5) business days, or prior to the next mailing sent through Client's account, whichever comes first.

### 4. Account use and content

Client understands that it is responsible for everything that happens in Client's account, including the email addresses that are added, imported and stored, as well as the content published, distributed or linked to from Client's email campaigns. Client agrees to take full responsibility for any and all content distributed through Client's account, and to abide by all pertinent copyright laws.

### 5. Data storage and privacy

Agency agrees to hold Client's account information, lists and data in strict confidence. Agency will not rent, sell or in any way share Client's email addresses with any third party. The only time Agency will ever share ANY information related to Client's use of the Software with an outside organization is if (a) the outside organization is processing Client's payment to Agency for use of the Software and requires certain information necessary for the transaction, (b) the outside organization is the federal government or other organization empowered to require Agency to divulge Client's personal or account information, (c) Agency is highlighting examples of Client's email campaigns or success, with Client's prior approval to do so, or (d) Agency is reporting on Agency's overall customer base and activity, in which case only general, aggregate (non-personally identifiable) information will be divulged.

Client will be provided with a username and password that grants it access to certain account data. Agency stores an



encrypted version of the password for added security, but Client understands and acknowledges that it is ultimately responsible for maintaining control of that username and password and ensuring its proper use by authorized personnel only.

#### 6. Safe Harbor Data Privacy Principles

The email marketing platform provided by Agency to Client adheres to the data privacy principles of the Safe Harbor program, designed to provide U.S. companies with guidance on how to provide adequate protection for personal data from Europe as required by the European Union's Directive on Data Protection.

#### 7. Payment for services

Client agrees to pay Agency in a timely manner for services rendered on "due on receipt" or automatic credit card debit. Failure to pay on time may result in temporary or permanent suspension of Client's access to the Software and service.

#### 8. Right to inspect

For the purposes of providing Client service and support, and to ensure that the terms of this Agreement are being followed, Agency reserves the right to inspect and monitor Client's account and data at any time, without notice, and to limit access to Client's account at any time should Agency have reason to believe that Client has already violated, or may at some point in the future violate, any terms set forth in this Agreement.

#### 9. Termination

Unless otherwise agreed upon in writing, Client's use of the Software requires no long-term contracts and therefore may be terminated at the end of any monthly billing cycle. Any request to terminate will take effect at the end of that month, and Client will be responsible for payment for any services rendered up through the termination date. If Client has paid in advance for a certain period of time for the Software and service, or any portion thereof, and terminates prior to the completion of that period, that payment is non-refundable.

Agency may terminate this Agreement if: a) payment for services rendered becomes at least 30 days overdue, or b) Agency determines that Client is in breach of any of the terms set forth in this Agreement.

Following termination, Agency will work with Client to help retrieve Client-owned email addresses and other vital account data, within a reasonable period of time. Agency makes no guarantees as to the availability of Client's data for more than 30 days following the date of termination by either party.

#### 10. Modifications to this Agreement

Agency may, from time to time, edit, append or otherwise modify the terms of this Agreement. Client will be notified to any changes made. After such notification, Client's continued use of the Software indicates its acceptance of those changes and agreement to abide by them. If Client disagrees with any changes made to this Agreement, Client may terminate its account as set forth in the 'termination' section above.

#### 11. Warranties and disclaimers

This Software and related services are provided "as is," and Agency expressly disclaims all warranties or conditions of any kind (express, implied or statutory), including without limitation the implied



warranties of title, non-infringement, merchantability and fitness for a particular purpose. Agency and its technology partners and providers will not be liable for any lost profits or special, incidental or consequential damages arising out of or in connection with the Software or this Agreement.

Client agrees to indemnify and hold harmless 2k Web Group and its officers, employees and business partners, from any claims arising from Client's use of the Software.

## 12. Miscellaneous

This Agreement says everything there is to be said about the use of the Software by Client and, therefore, it supersedes any other agreement about those topics. Client cannot transfer any of its rights or responsibilities under this Agreement. Agency may transfer any of its rights and responsibilities under this Agreement. Both parties agree to sort out any dispute arising from this Agreement through arbitration in the county in which Agency is located, in accordance with the regulations of the American Arbitration Association. If any provision of this Agreement is held to be invalid, that provision will be enforced to the extent possible and all other provisions of this agreement will be given full effect. If Agency fails to act to enforce any of the provisions of this Agreement, that inaction will not be a waiver of Agency's right to act and will not affect Agency's ability to act later.

## 13. Campaign Management

- Agency will manage campaigns for a rate of \$40 per hour.
- Client will manage campaigns.

Our signatures below indicate our agreement with the terms of this contract.

Signature of Client	Date
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Signature of 2k Rep	Date
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