

General Provisions of Non-Exclusive Leads Vendor Agreement (last updated 12/19/2022)

These General Provisions of Non-Exclusive Leads Vendor Agreement (“General Provisions”), are entered into by and between Next Wave Marketing Strategies, Inc., with offices located at 15527 Jasmine Place Tustin CA 92782 (“NWMS”), and the business entity identified as the vendor (“VENDOR”) on the Non-Exclusive Leads Vendor Agreement Cover Sheet to which these General Provisions are linked, which is incorporated herein by reference (the “Cover Sheet,” and together with these General Provisions, the “Agreement”). The “Effective Date” set forth on the Cover Sheet shall be deemed the Effective Date of these General Provisions. NWMS and VENDOR may hereinafter be collectively referred to as the “Parties,” and each individually as a “Party.” The Agreement sets forth the Parties’ respective rights and obligations concerning NWMS’s purchase, from VENDOR, of: (a) certain personal consumer information and/or business information (collectively, “Data”); and/or (b) certain leads from VENDOR containing all of the lead data fields (“Data Fields”), as further defined on the Cover Sheet (“Leads,” and together with the Data, the “Data Records”). To the extent that anything in or associated with these General Provisions is in conflict or inconsistent with the Cover Sheet, the Cover Sheet shall take precedence unless otherwise stated to the contrary herein.

1. **Sub-Marketers.** For purposes of the Agreement, any reference to VENDOR shall include any and all in-house and/or third-party marketing agents, partners, affiliates and/or publishers providing services and/or Data Records by and through VENDOR in connection with the Data Record-generation services (“Services”) contemplated hereunder (collectively, “Sub-Marketers”). VENDOR shall remain, at all times, fully liable for any and all acts and/or omissions of its Sub-Marketers, and for ensuring that each such Sub-Marketer complies with any and all obligations, restrictions and other terms applicable to VENDOR hereunder. VENDOR shall ensure that NWMS is listed as an express third-party beneficiary in any agreement between VENDOR and any Sub-Marketer.

2. **Data Records.** In connection with the Data Record-generation Services to be provided hereunder, and depending on which methods are authorized on the Cover Sheet, VENDOR may: (a) send e-mail (“VENDOR E-mail”) to individuals in VENDOR’s proprietary database(s) (collectively, “VENDOR Database”); (b) feature certain Creative (as defined below) on websites owned and/or operated by VENDOR (collectively, “VENDOR Websites,” and together with the VENDOR E-mail and VENDOR Database, the “VENDOR Media”); (c) where permitted by NWMS in the Cover Sheet, telemarket to individuals in the Vendor Database; and (d) employ any other method that complies with Applicable Law (as defined below), and the terms and conditions of the Agreement. VENDOR represents and warrants that the Leads consist of individuals that have provided valid information for all of the requested Data Fields, as specified by NWMS on the Cover Sheet, and have indicated an interest in being contacted by NWMS and/or its third-party advertisers or other third-party purchasers of the Data Records (collectively, “Advertisers”) about products and/or services associated with the applicable “Industry Vertical” specified on the Cover Sheet. VENDOR shall use commercially reasonable efforts to verify each Data Record using third-party service providers, such as LeadID and TrustedForm, and will, upon request, provide NWMS with any and all such third-party verification information that it obtains pertaining to the Data Records generated hereunder. VENDOR represents and warrants that NWMS shall be authorized and permitted to: (i) import each Data Record into one or more of its databases; (ii) maintain such Data Records in its computer databases; (iii) aggregate, compile, categorize, compose, organize, merge, update, modify, enhance, append, test and/or validate the Data Records; (iv) utilize the Data Records for any of the business purposes described on the Cover Sheet, and for any other lawful business purposes, as elected by NWMS in its sole discretion; (v) without limiting the foregoing, utilize the Data Records for purposes of sale, re-sale, licensing, re-licensing, sub-licensing, assignment, leasing, renting, sharing, exporting and/or forwarding to NWMS’s Advertisers; (vi) utilize the Data Records for the purposes of listing the availability of any such Data Records on Marketing Information Network (“MIN”), Standard Rate and Data Source (“SRDS”) and/or NextMark; and/or (vii) utilize the Data Records for the purposes of creating *data cards* promoting and marketing any such Leads on any of NWMS’s.

3. **Consent.** VENDOR represents and warrants that the VENDOR Privacy Policy, as defined below (as well as: (a) any other privacy notice; and (b) the specific language above the “submit” button on the Vendor Websites where the Data Records are collected) provide NWMS and/or its designated Advertisers, with explicit consent to: (i) market third-party products/services to the Data Records (the “Permitted Use”); and (ii) re-sell the Data Records to third parties for the Permitted Use without obtaining any subsequent consent from those consumers (“Re-Sale Consent”). VENDOR represents and warrants that the contemplated Permitted Use Re-Sale Consent shall satisfy all requirements established in any and all statutes, regulations, regulatory guidelines and judicial or administrative holdings or interpretations related to consumer privacy including, but not limited to, the California Consumer Privacy Act, Cal. Civ. Code § § 1798.100 et seq. (“CCPA”), the California Privacy Rights Act (“CPRA”), the Colorado Privacy Act (“CPA”), the Connecticut Data Privacy Act (“CDPA”), the Utah Consumer Privacy Act (“UCPA”) and the Virginia Consumer Data Protection Act (“VCDPA”), as same are applicable to VENDOR’s collection and sale/sharing of Data Records (collectively, “Applicable Privacy Laws”). VENDOR further represents and warrants that each Data Record consists of an individual who has provided her/his: (i) “Prior Express Written Consent” (as defined in the Telephone Consumer Protection Act (47 USC § 227), and its implementing regulations adopted by the Federal Communications Commission (47 CFR § 64.1200), as amended from time-to-time (the “TCPA”)), as well as any consent required under other applicable state and federal laws including, without limitation, the Oklahoma Telemarketer Restriction Act, the Florida Telemarketing Act and Florida Do Not Call Act and Federal Do Not Call List requirements, the Washington Telemarketing Law HB1497, to receive commercial telephone calls (including pre-recorded calls, artificial voice calls, autodialed calls and/or text messages) from NWMS and/or its Advertisers and other third parties; and (ii) “Affirmative Consent,” as defined in the CAN-SPAM Act of 2003, as amended (“CAN-SPAM”), to receive commercial e-mail from NWMS and its Advertisers. VENDOR shall retain the records of each individual’s Re-Sale Consent, Affirmative Consent and/or Prior Express Written Consent, as applicable (“Consent Records”), for a minimum of five (5) years following collection of same. VENDOR must, within two (2) business days of receipt of NWMS’s request, provide the: (A) Consent Records to NWMS; and (B) the name, date, time, IP address and referral URL where the applicable individual(s) submitted the Data. Without limiting the foregoing, VENDOR will include the names of the top one hundred (100) entities within each Industry Vertical to the TCPA-related language used by VENDOR to obtain Prior Express Written Consent from the individuals comprising the Leads, as well as any other Advertiser name provided by NWMS, such that each such individual Lead will provide her/his Prior Express Written Consent to receive commercial telephone calls (including pre-recorded calls, artificial voice calls, autodialed calls and/or text messages) from such entities/Advertiser(s).

4. **Marketing Restrictions.**

(a) Other than where expressly permitted by NWMS, VENDOR may not engage in any Services via automated telemarketing, SMS, Smart Messaging, EMS, MMS or any other type of text messaging service or protocol. Where NWMS permits VENDOR to engage in any of the foregoing marketing methods, VENDOR represents and warrants that each individual in the VENDOR Database who is contacted by VENDOR in connection with automated telemarketing and/or text message marketing, has provided her/his Prior Express Written Consent to receive telemarketing and/or SMS text messages from VENDOR (“TCPA Consent”). VENDOR shall obtain evidence of TCPA Consent by using either Jornaya’s Lead ID or Active Prospect’s TrustedForm. Where VENDOR uses Jornaya, VENDOR shall maintain the Lead ID and Compliance Report for each TCPA Consent obtained (“Jornaya Consent Records”). Where VENDOR uses TrustedForm, VENDOR shall maintain the Certificate ID and Certificate of Authenticity for each TCPA Consent obtained (“TrustedForm Consent Records”). VENDOR shall retain the Jornaya Consent Records and TrustedForm Consent Records, as well as any other records showing Prior Express Written Consent, as applicable (collectively, the “Prior Express Written Consent Records”), for a minimum of five (5) years following collection of same. VENDOR must, within two (2) business days of receipt of NWMS’s request,

provide the: (i) Prior Express Written Consent Records to NWMS; and (ii) name, date, time, IP address and referral URL where the applicable individual(s) provided Prior Express Written Consent.

(b) Without limiting any of the marketing restrictions contained herein, without receiving NWMS's prior written approval in each instance, VENDOR may not: (i) include or promote any Creative by and through any blogs, news articles, third party newsgroups, message boards or other social media outlets; or (ii) use any endorsements or testimonials in connection with marketing the Creative. Where VENDOR receives NWMS's prior written consent to engage in the marketing activities described in Section 2 above, VENDOR shall fully comply with the Federal Trade Commission Guidelines Concerning the Use of Endorsements and Testimonials ("FTC Guidelines").

(c) VENDOR shall not use ANY "incentivized marketing" or establish, or cause to be established, any promotion that provides any sweepstakes entries, rewards, points or other compensation to be earned in connection with generating Leads, nor create the appearance of incentivized marketing or otherwise attempt to induce prospective Leads to provide Lead-related information through use of any other incentives.

(d) VENDOR may not, nor knowingly permit any person to, inflate the amount of Data Records through any deceptive or misleading practice, method or technology including, but not limited to, the use of any spyware, adware, device, program, robot, iFrames, redirects, spiders, computer script or other automated, artificial or fraudulent methods designed to appear like an individual, real live person completing a Lead registration form. VENDOR may not: (i) place misleading statements in close proximity to the Creative; (ii) take control of an end-user's computer by delivering advertisements that the end-user cannot close without turning off the computer or closing all sessions of the Internet browser for the computer; (iii) install or execute on another's computer one or more additional software program(s) without consent of the end-user (in addition, VENDOR must clearly provide instructions to disable the software, such that the software is easily identifiable and the removal can be performed without undue effort or knowledge by the end-user); and/or (iv) distribute spyware or other similar harmful software.

(e) Unless authorized in writing, in advance, VENDOR may not use third-party trademarks or any other term excluded in any applicable Cover Sheet, in any manner to direct traffic to any VENDOR Websites. This prohibition includes, but is not limited to, purchasing keywords from search engine service providers ("Paid Search Networks"), or purchasing inclusion in search engine networks ("Paid Inclusion Networks"), where the associated keywords include the trademark, service mark and/or brand name of any third party. VENDOR must provide all text and proposed keywords/phrases that it would like to bid on ("Keyword Text") to NWMS for approval or editing, prior to submitting same to any Paid Search Network or Paid Inclusion Network. Without limiting the foregoing, VENDOR must not violate the rules, requirements or regulations of any Paid Search Network or Paid Inclusion Network, and VENDOR shall fully indemnify and hold harmless NWMS from and against any and all liability arising in connection with such violation(s).

(f) VENDOR will not use inappropriate content on, or in connection with, the Creative, VENDOR Websites and/or e-mail messages sent to the prospective Leads including, without limitation, content that promotes or contains language referring to: (i) the use of alcohol, tobacco or illegal substances, nudity, sexually explicit material, pornography, profanity, adult-oriented content, expletives or inappropriate language; (ii) illegal or unethical activity, deceptive acts, racism, hate, material that promotes violence, "spam," mail fraud, gambling, pyramid schemes, investment opportunities or illegal advice; (iii) libelous, defamatory, infringing, false or misleading content, or other content that is contrary to public policy; (iv) content that may expose NWMS to negative publicity; (v) piracy (of software, videos, audio/music, books, video games, etc.), hacking/cracking/phreaking, emulators/ROMs, or distribution of copyrighted materials; (vi) content that violates the rights of others, such as intellectual property or privacy rights; (vii) activities generally understood as Internet abuse including, but not limited to, the sending of unsolicited bulk electronic

mail; or (viii) content that is otherwise offensive or inappropriate in NWMS's sole discretion.

(g) VENDOR hereby agrees, acknowledges and covenants that: (i) it may not, and shall not, access, exploit or use or attempt to access, exploit or use any NWMS owned and/or operated website (including, without limitation, www.agedleadstore.com and www.nextwavemarketingstrategies.com, collectively, the "NWMS Websites") for its own commercial purposes, except to facilitate the conveyance of Data Records to NWMS in accordance with the Agreement; (ii) it may not, and shall not, download any Data Records from any NWMS Website, and/or use any downloaded or otherwise conveyed Data Records, in whole or in part, for any purpose that is unlawful, or is unauthorized or prohibited by or in accordance with this Agreement; (iii) it may not, and shall not, modify, copy, distribute, transmit, display, reproduce, publish, license, re-license, sub-license, create derivative works from, frame in another webpage, use on any other website, convey, exploit, transfer, sell, re-sell, rent, lease, encumber, hypothecate, pledge, finance, transfer and/or otherwise dispose of any NWMS lists of consumers, any NWMS lists of its Advertisers and/or other clients, any NWMS Data Records acquired by NWMS from any other vendor or third-party supplier, and/or any other NWMS consumer information generated or originated by NWMS independently of VENDOR or acquired by NWMS from any other vendor or third-party supplier, that has been furnished through or obtained from, or become accessible on, one or more of the NWMS Websites, or otherwise obtained from NWMS or under this Agreement, except with the express authorization of NWMS in writing and for purposes entirely in accordance with this Agreement; (iv) it may not, and shall not, engage in the practices of screen scraping, database scraping, and/or any other activity for the purpose of obtaining any NWMS lists of consumers, any NWMS lists of its Advertisers and/or other clients and/or any other NWMS consumer information contained within any NWMS Data Records and/or any NWMS databases; (v) it may not, and shall not, use any of the NWMS Websites in any manner that could corrupt, damage, disable, overburden, or impair any of the NWMS Websites or interfere with NWMS's use and commercial operation of any of the NWMS Websites; (vi) except with the express authorization of NWMS in writing, it may not, and shall not, access or attempt to access password protected, secure and/or non-public areas of any of the NWMS Websites; and (vii) it may not, and shall not, copy, infringe, appropriate, violate and/or use unlawfully any proprietary or trade secret information embodied within and/or constituting any NWMS Website.

(h) E-Mail Marketing Requirements. The e-mail marketing requirements set forth in this Section 4(h) (the "Requirements") state the minimum standards that VENDOR must adhere to in light of current laws, rules and regulations governing the transmission of e-mail and best practices in the industry. In the event that any state or federal law, rule or regulation governing e-mail communications is enacted or amended after the Effective Date setting forth standards more restrictive than those set forth herein, the more restrictive standards contained in such subsequently enacted or amended law, rule or regulation shall apply to VENDOR, notwithstanding anything to the contrary contained in these Requirements. VENDOR shall be responsible for ensuring that each VENDOR E-mail sent in connection with the Services is sent in accordance with all Applicable Law including, but not limited to, CAN-SPAM and the Canadian Anti-SPAM Legislation ("CASL"). Any and all costs and/or fees charged to VENDOR by its Internet Service Provider(s) related to responding to and/or managing allegations of "spam" or any other unauthorized usage complaints received from VENDOR E-mail recipients, regulatory agencies or otherwise shall be borne exclusively by VENDOR. VENDOR shall: (i) make adequate disclosures as required by law to those in the VENDOR Database regarding its e-mail privacy and security policies; (ii) respond to all complaints within three (3) business days after VENDOR becomes aware of the subject complaint(s); and (iii) provide NWMS with a copy of every complaint, immediately, upon VENDOR's receipt thereof. VENDOR is solely responsible for all consumer complaints associated with its e-mail marketing Services. VENDOR represents and warrants that it shall: (A) not falsify e-mail header, domain or transmission information (including, without limitation, source, destination and routing information); (B) not, unless expressly authorized by NWMS in writing, in advance, in each instance, use brand names and/or trademarks of another party as a domain, or in the subject or from lines or body, of any VENDOR E-mail; (C) not seek or obtain unauthorized access to computers for the purpose of sending any VENDOR E-mail; (D) include within all VENDOR E-mail, VENDOR's correct point-of-origin e-mail address, transmission information and routing information; (E) include within all

VENDOR E-mail, a toll-free telephone number or valid e-mail address at which recipient may contact VENDOR to file complaints and/or opt-out from the receipt of future e-mail; (F) include within all VENDOR E-mail a valid physical postal address; (G) not send any VENDOR E-mail to any recipients featured on industry Blocklists. For purposes of the Agreement, "Blocklist" means any IP or URL-based listing of e-mail addresses to which marketers should never disseminate or attempt to disseminate commercial e-mail including, without limitation, Barracuda, Brightmail, CBL, NJABL, Spamcop and Spamhaus; and (H) include within all VENDOR E-mail, a functioning unsubscribe link which, when activated by the end-user, actually and permanently removes the end-user's e-mail address from the VENDOR Database. If, at any time, NWMS is identified on an industry Blacklist (as defined below) as a result of actions attributable to VENDOR, then VENDOR shall have no more than twenty-four (24) hours from the receipt of Blacklist notification to remedy the situation. If, after the expiration of the allotted twenty-four (24) hours, VENDOR has been unable or unwilling to obtain satisfactory resolution (as reasonably determined by NWMS), then NWMS may terminate the Agreement immediately for VENDOR's material breach. For purposes of the Agreement, "Blacklist" means any and all industry lists of individuals or entities identified as disseminators of spam. VENDOR agrees that it is responsible for ensuring that the VENDOR E-mails do not generate spam complaints in excess of industry norms. NWMS shall determine, in its sole discretion, whether VENDOR's number of spam complaints is within industry norms. VENDOR agrees that NWMS's determination shall be final, binding and conclusive for all purposes. If NWMS determines that VENDOR's number of spam complaints is in excess of industry norms, NWMS reserves the right to immediately terminate the Agreement upon written notice (with e-mail sufficing as written notice), and VENDOR shall forfeit all amounts that may otherwise be due VENDOR hereunder.

5. **Creative.** All images, graphics, advertisements, links, copy or other creative material used by VENDOR: (a) in connection with the Lead generation activities hereunder must be approved by NWMS in writing prior to being utilized in connection with any campaign and must comply with the terms of the Agreement ("Lead Creative"); and (b) in connection with the Data-generation Services ("Data Creative," and together with the Lead Creative, the "Creative") and Lead-generation Services must comply with all Applicable Law. VENDOR shall be fully responsible for all aspects of the Creative. NWMS may reject any Lead Creative with or without cause, even after such Lead Creative was previously approved by NWMS. In the event that NWMS desires to cancel the use of any Lead Creative for any reason, VENDOR shall cease the distribution and use of same to, and/or in connection with, the VENDOR Media no more than two (2) business days following NWMS's written request.

6. **Payment for Data Records/Valid Data Records.** The amount that NWMS shall pay VENDOR for, or the revenue share amount attributable to, each Data Record shall be set forth on the Cover Sheet. Unless set forth to the contrary on the Cover Sheet, NWMS shall pay VENDOR: (a) for each Valid Data Record purchased by NWMS, within thirty (30) days of the end of the month in which the subject Valid Data Record was purchased; and/or (b) the designated percentage of the revenue that NWMS actually collects from its Advertisers and other third parties through sale or other disposition of the subject Valid Data Records. For purposes of the Agreement, a "Valid Data Record" shall mean a Data Record: (i) submitted by VENDOR that contains valid and complete information submitted by an individual; and (ii) is not a Low Quality Data Record, Duplicate Data Record, Invalid Data Record or Fraudulent Data Record (as those terms are defined below). For purposes of the Agreement, a "Low Quality Data Record" means a Data Record submitted by VENDOR to NWMS that NWMS determines, in its sole discretion, is not marketable. For purposes of the Agreement, a "Duplicate Data Record" means a Data Record submitted by VENDOR to NWMS that reproduces all or substantially all of the uniquely identifying data of an individual already in NWMS's database. For purposes of the Agreement, an "Invalid Data Record" means a Data Record submitted by VENDOR to NWMS that: (A) does not include all of the Data Fields as set forth on the Cover Sheet or later requested by NWMS; (B) does not include the requisite Affirmative Consent and/or Prior Express Written Consent, where applicable, as set forth in Section 3 hereof; and/or (C) is not otherwise deemed satisfactory by NWMS in its reasonable discretion. For purposes of the Agreement, a "Fraudulent Data Record" means a Data Record submitted by VENDOR to NWMS that is the product of incentivized

marketing, fraud or manipulation of information on the part of VENDOR and/or any of its Sub-Marketers.

7. **Rejection Report of Data Records; Revenue Share Reporting.** Where NWMS is paying a “Flat Fee” for Data Records as indicated in the Cover Sheet, and NWMS determines and/or suspects that a Data Record submitted by VENDOR is either a Low Quality Data Record, Duplicate Data Record, Invalid Data Record or Fraudulent Data Record (collectively, “Bad Data Records”), NWMS shall notify VENDOR thereof via a “reject report” within thirty (30) days of NWMS’s receipt of such Data Record. VENDOR shall refund NWMS (within thirty (30) days of such determination) for the fees associated with any Bad Data Record where NWMS has already paid for it or, in the alternative, NWMS’s payment obligations shall be excused with respect to any Bad Data Record where NWMS has not yet made payment. Where NWMS is paying on a revenue share basis, NWMS may, at its option, provide VENDOR with monthly reports providing certain information pertaining to the amounts of revenue generated, and any applicable deductions and offsets.

8. **Ownership.** Without limiting any of the provisions set forth in Section 2(i) through 2(vii), following the delivery of a Data Record to NWMS hereunder, regardless of whether NWMS will pay a flat fee for the Data Record or if the Data Record is subject to a revenue share arrangement, NWMS shall have joint ownership of that Data Record; *provided, however*, that upon termination of the Agreement for any reason other than VENDOR’s uncured breach, NWMS shall continue to pay VENDOR revenue share amounts for a period of six (6) months following termination, pursuant to the revenue share terms that were in effect at the time that the Agreement was terminated.

9. **Term.** The Agreement shall commence on the Effective Date and continue for a period of twelve (12) months (“Initial Term”). Thereafter, the Agreement shall automatically renew on a month-to-month basis (the Initial Term, together with each such monthly renewal, the “Term”). Either Party may terminate the Agreement at any time during the Term, with or without cause, upon two (2) business days’ prior written notice to the other Party. Either Party may terminate the Agreement immediately upon written notice if the other Party materially breaches the Agreement.

10. **Representations and Warranties.** Each Party represents and warrants to the other Party that: (a) it has the full corporate right, power and authority to enter into the Agreement, to grant the licenses granted hereunder and to perform the acts required of it hereunder; (b) the performance of its obligations and duties hereunder, do not and will not violate any agreement to which it is a party or by which it is otherwise bound; (c) the Agreement will constitute the legal, valid and binding obligation of each Party, enforceable against each Party in accordance with its terms; and (d) its marketing activities will neither infringe upon any copyright, trademark, U.S. patent or any other third party right, nor knowingly violate any Applicable Law or regulation.

VENDOR hereby represents and warrants that: (i) it, as well as its Services, Creative and VENDOR Media will comply with all applicable state and federal laws, rules, Federal Trade Commission and Federal Communications Commission implementing regulations, international laws, rules and regulations including, but not limited to, Applicable Privacy Laws, the FTC Guidelines, the Gramm-Leach Bliley Act, the Fair Credit Reporting Act, the Federal Trade Commission Act, CAN-SPAM, the TCPA, California Business & Professions Code §17529 et seq., Nevada’s privacy law, as amended by Senate Bill 220 (the “Nevada Privacy Law”), the Fair Debt Collection Practices Act, the Federal Communications Act, the Amended Telemarketing Sale Rule (“ATSR”), 16 CFR 310 et seq., and laws governing the National Do-Not-Call Registry, the Oklahoma Telemarketer Restriction Act, the Florida Telemarketing Act and Florida Do Not Call Act, the Washington Telemarketing Law HB1497, CASL, the EU General Data Protection Regulation (“GDPR”), and all rules and regulations promulgated under any of the foregoing (collectively, “Applicable Law”); (ii) the Leads supplied to NWMS consist of records of persons who have supplied the requisite Re-Sale Consent, as well as Prior Express Written Consent and/or Affirmative Consent, as applicable, as set forth in Section 3 hereof; (iii) any and all VENDOR Websites and VENDOR E-mail shall, at all times during

the term of the Agreement, link to a privacy policy (“VENDOR Privacy Policy”) that complies with all Applicable Law; (iv) the VENDOR Privacy Policy shall explain that VENDOR is allowed to share any information collected therethrough with third parties, such as NWMS, for the marketing purposes contemplated hereunder; and (v) the Data Records will be obtained, collected and compiled without employing harvesting, dictionary attacks and/or any other deceptive or illegal act or practice.

VENDOR shall timely honor all Consumer Requests (as defined below), as required by Applicable Privacy Laws. Without limiting the foregoing, VENDOR shall notify NWMS, in writing, of any requests received from any individual whose Personal Information (as defined below) was accessed by VENDOR in connection with the Agreement, including any consumer requests to: (A) opt-out from and/or limit the use and/or sharing of sensitive Personal Information (“Request to Limit”); (B) opt out from the sale and/or sharing of any Personal Information (“Request to Opt-Out”); and/or (C) delete any Personal Information collected (“Request to Delete”).

Each Party shall provide all assistance as is reasonably requested by the other Party to meet its obligations under Applicable Privacy Laws with respect to responding to individuals’ Consumer Requests, including opt-out preference signals. Such assistance shall be promptly provided. VENDOR shall notify NWMS no later than five (5) business days after VENDOR makes a determination that it can no longer meet its obligations under any Applicable Privacy Laws.

For purposes of the Agreement, “Consumer Requests” means consumer: (I) requests to correct inaccurate and/or outdated Personal Information; (II) Requests to Limit; (III) Requests to Opt-Out; (IV) requests to know the: (aa) categories of Personal Information that such Party has collected about the subject consumer(s); (bb) specific pieces of Personal Information that such Party has collected about the subject consumer(s); (cc) categories of sources from which the Personal Information is collected; (dd) business or commercial purpose for collecting, selling and/or sharing the subject Personal Information; and (ee) categories of third parties to whom such Party discloses Personal Information; and/or (V) Requests to Delete.

For purposes of the Agreement, “Personal Information” means, in addition to any definition under Applicable Privacy Laws, any personally identifiable information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, to any individual or household that would be considered a resident of California, Colorado, Connecticut, Utah or Virginia.

11. **Audit.** VENDOR agrees that, at all times during the term of the Agreement, it shall maintain accurate books and records relating to its generation of Data Records hereunder, including its compliance with Applicable Law in connection with same. VENDOR agrees that NWMS, or any designee of NWMS that is legally bound to obligations of confidentiality and non-disclosure, shall have the right during the term of the Agreement, and for three (3) months thereafter, to reasonably examine, inspect, audit and review all such books, records and any source documents used in the preparation thereof during normal business hours upon written notice to VENDOR at least seven (7) business days prior to the commencement of any such examination, inspection, review or audit. Such audit shall be at NWMS’s sole cost and expense and shall be strictly limited to those books and records that specifically relate to VENDOR’s generation of Data Records, as well as VENDOR’s compliance with Applicable Law and the terms of the Agreement in connection therewith. Notwithstanding the foregoing, if NWMS uncovers any material misconduct associated with VENDOR’s generation of Data Records hereunder, then the audit shall be at the sole cost and expense of VENDOR.

12. **Indemnification.** VENDOR agrees to indemnify, defend and hold harmless NWMS, its subsidiaries, Advertisers, agents, contractors, officers, directors and employees from and against any loss, cost, claim, injury or damage (including reasonable attorney’s fees) arising out of or relating to any: (a) breach of the Agreement by VENDOR; (b) any claim related to the collection of the Data Records and/or VENDOR’s marketing practices associated therewith; (c) any claim related to the Creative, VENDOR

Privacy Policy and/or VENDOR Media; (d) any act or omission of any Sub-Marketer; (e) any claim related to any violation or alleged violation of Applicable Law, including any Applicable Privacy Law; and/or (f) any allegation related to the requisite Re-Sale Consent, Prior Express Written Consent and/or Affirmative Consent as set forth in Section 3 hereof. NWMS agrees to indemnify, defend and hold harmless VENDOR its subsidiaries, agents, contractors, officers, directors, members and employees from and against any loss, cost, claim, injury or damage (including reasonable attorney's fees) arising out of or relating to any breach of the Agreement by NWMS.

13. **Confidentiality.** During the Term of the Agreement, and until such time as the "Confidential Information" (as defined below) is no longer protectable under New York State law, neither Party will use or disclose any "Confidential Information" of the other Party except as specifically contemplated herein. "Confidential Information" means information that: (a) is sufficiently secret to derive economic value, actual or potential, from not being generally known to other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy or confidentiality. Subject to the foregoing, Confidential Information shall include, without limitation, the Data Records, all technical or non-technical data, formulae, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, lists of actual or potential customers or suppliers and the terms of the Agreement. Confidential Information does not include information that: (i) has been independently developed by the receiving Party without access to the other Party's Confidential Information; (ii) has become publicly known through no breach of this Section 13 by the receiving Party; (iii) has been rightfully received from a third party authorized to make such disclosure; (iv) has been approved for release in writing by the disclosing Party; or (v) is required to be disclosed by a competent legal or governmental authority. At the request of the disclosing Party, the receiving Party shall return all of the disclosing Party's Confidential Information to the disclosing Party.

14. **Non-Circumvention.** VENDOR recognizes that NWMS has proprietary relationships with its Advertisers. VENDOR agrees not to circumvent NWMS's relationship with its Advertisers, or otherwise offer, make available, provide, contract for or otherwise perform, directly or indirectly, advertising, marketing or promotional services similar to the Services provided hereunder to any Advertiser during the Term and for the two (2) year period following termination or expiration of the Agreement. Notwithstanding the foregoing, to the extent that VENDOR can show that any such Advertiser already obtained such services from VENDOR prior to the Effective Date, then VENDOR shall not be prohibited from continuing such relationship. VENDOR agrees that monetary damages for its breach, or threatened breach, of this Section 14 will not be adequate and that NWMS shall be entitled to: (a) injunctive relief (including temporary and preliminary relief) without the requirement to post a bond; (b) liquidated damages from VENDOR in an amount equal to one hundred percent (100%) of the fees paid to VENDOR in violation of this Section 14 for the prior twelve (12) month period; and/or (c) any and all other remedies available to NWMS at law or in equity.

15. **Disclaimer of Warranties.** NWMS MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO ANY RESULTS AND/OR REVENUE OBTAINABLE BY VENDOR THROUGH NWMS'S USE OF THE DATA RECORDS, AS CONTEMPLATED HEREUNDER. EXCEPT AS SET FORTH IN THE AGREEMENT, THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED HEREUNDER INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

16. **Limitation of Liability.** OTHER THAN FOR GROSS NEGLIGENCE, WILLFUL MISCONDUCT AND INDEMNIFICATION OBLIGATIONS ARISING HEREUNDER, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOST BUSINESS AND LOST PROFITS, WHETHER BASED IN CONTRACT, TORT OR ANY OTHER THEORY.

17. **Waiver.** No delay or failure by either Party to exercise any right under the Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided for herein. A waiver of default shall not be a waiver of any other or subsequent default.

18. **Force Majeure.** Neither Party will be liable, or be considered to be in breach of the Agreement, on account of such Party's delay or failure to perform as required under the terms of the Agreement as a result of any causes or conditions that are beyond such Party's reasonable control and that such Party is unable to overcome through the exercise of commercially reasonable diligence (a "Force Majeure Event"). If any such Force Majeure Event occurs including, without limitation, acts of God, fires, explosions, telecommunications, Internet or network failure, results of vandalism or computer hacking, storm or other natural occurrences, national emergencies, acts of terrorism, insurrections, riots, wars, strikes or other labor difficulties, or any act or omission of any other person or entity, the affected Party will give the other Party notice and will use commercially reasonable efforts to minimize the impact of any such event.

19. **Governing Law/Venue/Attorneys' Fees.** The Parties hereby agree and covenant that any dispute, action, claim or controversy arising out of, relating to or in connection with the Agreement, or the breach, default, violation, termination, enforcement, interpretation or validity hereof including, without limitation, the determination of the scope or applicability of the following agreement to arbitrate, shall be determined by binding arbitration before one (1) arbitrator, which shall be conducted at the offices of JAMS in Irvine, California, or at JAMS's next nearest office location in Orange County, California, if such Irvine office is no longer open at the time of the arbitration. The arbitration shall be administered by JAMS pursuant to JAMS's Streamlined Arbitration Rules and Procedures. Judgment on the arbitral award may be entered in any court having jurisdiction thereof. This agreement to arbitrate shall not preclude the Parties from seeking provisional remedies (*e.g.*, injunctive relief) in aid of arbitration from a court of competent jurisdiction. The Federal Arbitration Act shall govern the determination of the scope, applicability, interpretation, enforcement and validity of this agreement to arbitrate, notwithstanding anything appearing to the contrary in the Agreement. The prevailing Party in any such arbitration shall be entitled to recover from the other Party all of its costs and expenses (including reasonable attorneys' fees) incurred in connection with such arbitration.

20. **Entire Agreement.** These General Provisions, together with any applicable Cover Sheets, contain the entire agreement between the Parties. No modification of the Agreement shall be effective unless in writing and executed by an executive officer of both Parties.

21. **Severability.** If any provision contained in the Agreement is determined to be invalid, illegal or unenforceable in any respect under any Applicable Law, then such provision will be severed and replaced with a new provision that most closely reflects the real intention of the Parties, and the remaining provisions of the Agreement will remain in full force and effect.

22. **Relationship of the Parties.** The relationship of NWMS and VENDOR established by the Agreement is solely that of independent contractors, and neither Party is an employee, agent, partner or joint venturer of the other. Neither Party shall make any representation, warranty or covenant, or assume or create any obligation, on the other Party's behalf. Each Party shall be solely responsible for the actions of its respective employees, agents and representatives.

23. **Assignment.** Neither Party shall, without the prior written consent of the other Party, assign its rights or delegate its duties under the Agreement, which consent shall not be unreasonably withheld, delayed or conditioned; *provided, however*, that either Party may, in the event of a merger, acquisition, joint venture, or sale of substantially all of such Party's assets or business (or any substantially similar transaction), assign the Agreement without the consent of the other Party. The provisions of the Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

24. **Headings.** All section headings and captions have been inserted for convenience only and shall not

affect the interpretation of the Agreement.

25. **Drafting.** Each Party entering into the Agreement agrees that it has fully participated in the drafting of the Agreement and that no Party shall be deemed to be the drafting Party of the Agreement.

26. **Electronic Signatures.** Vendor acknowledges and agrees that Vendor accepts these General Provisions via electronic means rather than via traditional handwritten signature (“Electronic Acceptance”). Vendor acknowledges and agrees that by taking such action as may be designated by NWMS as a means of accepting these General Provisions, Vendor is submitting a legally binding electronic signature and is entering into a legally binding contract. Vendor acknowledges that Vendor’s electronic submission constitutes Vendor’s agreement and intent to be bound by these General Provisions. Pursuant to any and all applicable statutes, regulations, rules, ordinances or other laws including, without limitation, the United States Electronic Signatures in Global and National Commerce Act, P.L. 106-229 (the “E-Sign Act”) and other similar state and federal statutes, **VENDOR HEREBY AGREES TO THE USE OF ELECTRONIC SIGNATURES, CONTRACTS, ORDERS AND OTHER RECORDS AND TO ELECTRONIC DELIVERY OF NOTICES, POLICIES AND RECORDS OF TRANSACTIONS INITIATED OR COMPLETED THROUGH ANY ONLINE PLATFORMS, WEBSITES AND/OR SERVICES OPERATED BY NWMS.** Further, Vendor hereby waives any rights and/or requirements under any statutes, regulations, rules, ordinances or other law in any jurisdiction which requires an original signature or delivery or retention of non-electronic records, or to payments or the granting of credits by other than electronic means. Vendor acknowledges and agrees that it has the ability to print information delivered to Vendor electronically, or otherwise knows how to store that information in a way that ensures that it remains accessible to Vendor in unchanged form.