



LIST SERVICES TERMS AND CONDITIONS

These List Services Terms and Conditions apply to all list management and/or list brokerage services (the "Services") authorized by the client (hereinafter, the "Client") to be provided by AudienceFirst Media, a division of Simio Cloud, LLC (hereinafter, "AFM"). The specific Services authorized by the Client to be provided by AFM shall be as set forth in a written authorization agreement signed by Client and AFM. Such written authorization, and these terms and conditions, constitute the entire agreement between the Client and AFM (hereafter, the "Agreement") with respect to all Services provided by AFM to Client.

By authorizing AFM to proceed with providing the Client any Services, the Client and AFM agree that the Agreement constitutes the entire agreement between Client and AFM and supersedes: (i) all prior writings or oral agreements; and (ii) all terms and conditions stated in a PO, which shall not be binding on nor have any legal effect on AFM and/or any Services provided by AFM pursuant to this Agreement.

I. General Terms and Conditions

1. Payment Terms. Depending on the Services in scope, Client will pay AFM, or AFM will pay Client, as applicable, all fees and costs and per the payment terms set forth in this Agreement. If the Services in scope include list brokerage services, and Client has exceeded or is likely to exceed AFM's credit limit set for Client, AFM may institute a credit hold and decline to provide additional list brokerage Services pending receipt of payment from Client to keep Client in good standing. In the event of default by Client of its payment obligations to AFM, AFM may turn this account over to a collection agency or an attorney for collection and the Client agrees to pay all reasonable attorney fees and/or costs of collection whether or not suit is filed.

2. Term and Termination. The term of this Agreement ("Term") will commence on the date any Services are authorized to be provided by Client and will extend until the termination of the Agreement. Either party may terminate this Agreement if the other party defaults in the performance of any material provision of this Agreement, which default is not cured within thirty (30) days after written notice from the non-defaulting party. In addition, either party may terminate this Agreement, without cause, with not less than ninety (90) days' prior written notice to the other party.

3. Ownership. (A) AFM acknowledges and agrees that Client is, as between AFM and Client, the sole owner of all right, title, and interest to any client data and all other information, materials, or property prepared, developed, used, or provided by Client to AFM pursuant to this Agreement, including, but not limited to Client's logos, trademarks, trade names, copyrighted information, and mailing lists, unless otherwise provided in writing by Client. (B) Notwithstanding subsection (A) above, AFM hereby reserves and retains ownership of all right, title, and interest, including all trade secrets, copyrights, trademark, patent and other intellectual and proprietary rights therein, in and to all information, materials, or property that: (i) AFM had created or acquired before entering into this Agreement; (ii) AFM uses in performing its obligations under this Agreement, including such preexisting works that AFM may use in creating any deliverables, including any models, know-how, software, methodologies, technologies or techniques; (iii) AFM develops independent of this Agreement; or (iv) are not derivatives of or modifications of anything provided to AFM by Client and not otherwise subject to subsection (A) above. Nothing herein shall be construed to convey any ownership interest in any data that AFM helps Client obtain on a list rental basis through the Services under this Agreement. Nothing herein shall be construed to restrict, impair or deprive AFM of any of its rights or proprietary interest in anything that existed prior to and independent of the performance of Services performed under this Agreement. Any rights not granted by AFM under the Agreement are expressly withheld and reserved to AFM. Any rights not granted by Client under the Agreement are expressly withheld and reserved to Client.

4. Client Warranties. Client represents and warrants that: (i) it has authority to enter into this Agreement and carry out its obligations pursuant to this Agreement; (ii) any creative (images and/or text), data or other materials that Client provides to AFM or uses in its marketing program, and the provision of same to AFM for its use as permitted by this Agreement, does not and will not in any way infringe upon any intellectual property rights or violate any contractual or privacy rights of any third-party; (iii) with respect to any Client data made available through the Services for use by third parties, Client has all rights and authority to make the Client data available for use by third parties pursuant to the Services; and (iv) any Client marketing activity that results from the Services will comply with all relevant laws.

5. DISCLAIMER. AFM DOES NOT GUARANTEE THAT ITS PERFORMANCE OF SERVICES WILL PROVIDE ANY SPECIFIC RESULTS OR BENEFITS. AFM MAKES NO REPRESENTATION OR PROVIDES ANY WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE SERVICES IT PROVIDES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

6. Indemnity. Each party shall indemnify, defend, and hold harmless the other party from any and all third-party instituted claims and all resulting losses, damages, liabilities, judgments, or settlements, including reasonable attorneys' fees, costs, and other expenses (collectively "Claims") against the party arising as a direct result of the other party's material breach of its obligations hereunder.

7. Liability. Except where part of one party's indemnification obligations and notwithstanding anything to the contrary in this Agreement, in no event shall either party be liable to the other or to any third-party for any special, indirect, incidental, punitive or consequential damages of any kind, including for any business interruption or for any loss or reduction of campaign results, whether foreseeable or not, and without regard to the form of the action, including but not limited to contract, negligence or tort, arising out of or in connection with the furnishing, performance or use of the Services.

8. Confidentiality, Data Retention. Each party acknowledges that it may be exposed to certain information, materials, and property related to the other party and its activities that is confidential, including but not limited to donor names and other content (e.g., data, information, images and text) (collectively "Confidential Information") not intended for disclosure to third parties. At all times while in possession of Confidential Information, the receiving party shall hold such information as confidential and will not disclose it to any third party or use it for any purpose not expressly authorized by this Agreement without the prior consent of the disclosing party. In the event a receiving party is required to disclose the other party's Confidential Information by legal process, the receiving party shall make reasonable efforts to notify the other party of any such demand and will reasonably cooperate with any effort to prevent or restrict disclosure. Confidential Information

shall not include: (i) any information that the receiving party can show is generally available to or becomes known to the public through no act of the receiving party in breach of this Agreement; (ii) was previously known by the receiving party as evidenced by written records through no act in breach of any confidentiality agreement; (iii) was independently developed by the receiving party without the use of any Confidential Information of the disclosing party as evidenced by written records; or (iv) was disclosed to the receiving party by a third-party that, to the best of the receiving party's knowledge, is under no obligation of confidentiality to the disclosing party.

To the extent Client Confidential Information is required for AFM's performance of Services, AFM will return or destroy, at AFM's option, all such Confidential Information upon completion of the Services; provided, however, AFM may retain a copy of the data as necessary to comply with legal obligations.

9. Dispute Resolution. This Agreement shall be governed and interpreted in accordance with the laws of the State of Delaware, without giving effect to the principles of choice or conflicts of laws of that state or any other state.

10. Taxes. All fees and any other charges payable by Client under this Agreement are exclusive of all federal, state, municipal or other governmental excise, sales, use, or similar taxes. To the extent any state sales or use taxes are Client's responsibility under applicable laws, such taxes will be assessed on Client's invoices to the extent required to be collected and remitted by AFM. It is Client's obligation to provide AFM with all applicable sales tax exemption or reseller certificates, as applicable to the Client, wherever issued by any applicable states or to provide evidence of Client's exemption for such tax obligations as may be claimed by Client. Client will indemnify and hold harmless AFM from any and all tax liability of the Client under applicable laws.

11. Notices. All notices, requests, and other communications hereunder shall be in writing and shall be deemed delivered at the time of receipt if delivered by hand or communicated by electronic transmission (with electronic confirmation of receipt), or, if mailed, 5 days after mailing by first class mail with postage prepaid. Notices shall be addressed to the address for such party as provided herein or to such other address, as such party shall designate in writing to the other from time to time. Unless otherwise specified by AFM in writing, notices to AFM shall be directed to: AudienceFirst Media, Attn: Legal Department, 4200 Parliament Place, Suite 300, Lanham, MD 20706, or via email to: Legal@wearemoore.com. Unless otherwise specified by Client in writing, notices to Client shall be directed to the Client's address specified in the Client's written authorization for Services.

12. Miscellaneous. No waiver of any provision of this Agreement will be valid unless it is in writing and signed by the party making the waiver. Any waiver of a breach or observance of any provision of this Agreement will not be construed as a waiver of any subsequent breach. If any provision of this Agreement will be determined by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the remainder of this Agreement, which will be construed as if such invalid or unenforceable provision had never been a part of this Agreement but in a manner so as to carry out as nearly as possible the parties' original intent.

II. List Management Services and List Brokerage Services Terms and Conditions

13. Definitions. The following definitions apply to the terms set forth below when used in this Agreement:

"Base Rental Price" means the base cost-per-thousand price, excluding any list select charges, to be charged to Mailers for use of the List on a rental basis.

"Mailer" means any third-party user of the List on a rental or exchange basis for marketing purposes, as facilitated by AFM in its performance of the List Management Services in accordance with this Agreement.

"List" means Client's data consisting of Client's current donor file, comprised of consumer information that is made available by Client on a rental or exchange basis to third parties for the third parties' use in serving its own marketing offers to prospective donors.

"Gross Revenue" means all rental income invoiced by AFM to Mailers in exchange for the rental of the List, excluding any ancillary service charges billed to and paid by Mailers to AFM.

"List Brokerage Services" means the services to be provided by AFM as set forth in Section 14 of this Agreement subject to Client's authorization.

"List Management Services" means the services to be provided by AFM as set forth in Section 15 of this Agreement in order to generate Net Revenue to Client, subject to Client's authorization.

"Net Revenue" means Gross Revenue, less: (i) standard list broker/brokerage fees, or such other list broker/brokerage fees agreed to by the parties in writing; (ii) AFM's List Management Services fee, as agreed to by the parties in writing; and (iii) any rental order fulfillment charges, if applicable.

14. List Brokerage Services. The terms of this Section 14 shall apply to List Brokerage Services, if such Services are authorized by Client.

14.1 Description of List Brokerage Services. AFM's List Brokerage Services will include the following services for Client's donor acquisition programs:

- Provide list and coop strategies and plans for each acquisition mail campaign
- Co-op database management services, if applicable (see Section 17 of this Agreement for additional terms)
- Conduct individual list and coop performance evaluation monthly
- Receive counts and clearances for outside lists and coops
- Provide test recommendations
- Discover refinement and expansion opportunities
- Oversee merge science and forecast dupe rates
- Forecast full P/L performance
- Maintain up to date list history and full reporting
- Collaborate on FY budget recommendations
- Warehouse and provide performance data rolled up at list and campaign levels
- Lead relationship with coops and modeled sources
- Meet with Client and its AOR for plan reviews
- Participate in Quarterly business reviews as needed
- Negotiating and Cost Management –

- Negotiate list cost savings, net name arrangements, and other terms on Client's behalf
- Provide ongoing effective list cost analysis
- Provide ongoing cost savings opportunities
- actively maintain list exchange balances

14.2 List Brokerage Services Fees and Payment Terms. (A) AFM's brokerage fee compensation will be in accordance with the brokerage fees agreed to by the parties in writing, and Client shall be invoiced monthly. AFM's invoiced amounts for list rental or exchange orders will be inclusive of its compensation in accordance with this Agreement. (B) AFM will act as Client's point of contact for all billing received from list owners or list managers with respect to list rental or exchange orders placed by AFM on behalf of Client. (C) Payment by Client of AFM's invoices will occur within net 30-days of the receipt of the invoice detailing the work performed and the amounts due.

15. List Management Services. The terms of this Section 15 shall apply to List Management Services, if such Services are authorized by Client. In connection therewith, AFM will use commercially reasonable efforts to promote and market the List during the Term for third-party use on a list rental or an exchange basis, as approved by Client. All advertising, sales and marketing in connection with the List including, but not limited to, the name by which the List will be marketed, will be done by AFM with the approval of Client, and at no charge to the Client.

15.1 List Pricing and Order Fulfillment. (A) Client and AFM will mutually agree upon the Base Rental Price to be charged by AFM for the rental of the List and, if applicable, the amount of any List selection charges payable by Mailers that rent the List through AFM. (B) if requested by Client, AFM, either directly or using a third-party supplier, will fulfill List rental (if applicable) and exchange orders. The running charges incurred in the List rental or exchange fulfillment processing will be in accordance with those agreed to by the parties in writing. List rental fulfillment charges will be deducted monthly from the Gross Revenue. Any specialized or customized data processing needs of Client will be priced separately, as requested, and is not included in the basic List fulfillment charges schedule approved by both parties, in writing. (C) Any additional fees applicable to List Management Services, if any, will be as agreed by the parties.

15.2 Payment. (A) AFM will perform all billing and collection services on behalf of Client with respect to List rental orders. AFM will remit to Client the Net Revenue calculated on each order fully paid by Mailers to AFM. Such payment will be paid in the month subsequent to the month payment is received in full by AFM. AFM will not in any way be obligated to Client for any rental fees not paid by or uncollected from Mailers. The mutual agreement of AFM and Client will be required with respect to the commencement of any legal proceedings against a Mailer whose account remains delinquent for more than 180 days. If the parties agree that collection efforts are to be turned over to a third-party collections agency to pursue payment, the Gross Revenue with respect to any such order(s) will be the amount collected, net of the collection agency's collection fee, and the Net Revenue payable to Client with respect to such order(s) will be calculated accordingly. (B) To the extent that Client desires to rent or utilize marketing data owned by third persons and AFM, in agreeing to procure the right for Client to use such data, incurs expenses and charges in connection therewith (e.g., brokerage fees) or otherwise uses other services provided by AFM or its affiliates in connection with the List (e.g., computer service or media service charges), AFM is hereby authorized, in the event payment therefore is not directly received from Client, to deduct and offset the amount of such expenses and charges from the Net Revenue otherwise due to Client.

15.3 Reporting. AFM will maintain documentation of all orders for the List. Within thirty (30) days following the end of each month, AFM will provide the following standard monthly reports for all applicable transactions related to the rental of the List: (a) current monthly billing activity; (b) accounts receivable aging due to Client; and (c) cash reconciliation report. In the event Client requests customized reports, AFM will use commercially reasonable efforts to honor such request.

15.4 Approval of Mailers. Client shall have prior written approval rights over any Mailers that are permitted to use the List on a rental or exchange basis, as applicable, and to approve the Mailer's proposed marketing copy for any promotional materials to be sent to the records on the List, and the quantity of records from the List that AFM may make available to Mailers for use on a rental or exchange basis in accordance with the terms of this Agreement.

III. SimioCloud Service Provider/Processor Designation

16. Service Provider/Processor Designation. To the extent AFM has access to and/or discloses, the List pursuant to the List Management Services provided hereunder or the lists acquired by AFM on behalf of Client on a list rental basis through the performance of its List Brokerage Services hereunder ("Brokered Data") for the purpose of providing the Services pursuant to this Agreement, AFM is being engaged by Client as a service provider, or processor, as such terms may be defined in applicable state consumer data privacy laws, with respect to the List or any Brokered Data, which is accessed or acquired for the sole purpose of providing the Services on behalf of Client under this Agreement. If required by applicable state law, Client and AFM will agree to the terms of a Data Processing Agreement that includes any additional terms that are required to be in agreements between a data controller and its data processors.

IV. Co-Op Database Management Services Terms and Conditions

17. Co-Op Database Management Services Additional Terms. The terms of this Section 17 shall apply if such Services are authorized by Client.

17.1 Client Authorizes AFM to Manage Client's Cooperative Database Participation. Client designates and appoints AFM to act as its legal agent solely to take actions necessary on behalf and for the benefit of the Client including, without limitation, signing contracts ("Participation Agreements") to facilitate Client's participation within one or more cooperative databases, such as (but not limited to) SimioCloud, Wiland, Apogee/DataAxle, DonorBase, Abacus, Choreograph/I-Behavior, Target Analytics, Path 2 Response, Dataline, and others as may be approved by Client (the "Databases"), in order to enable Client, and/or AFM on Client's behalf, to procure prospective donor data and/or other services from the Databases.

17.2 Execution of Participation Agreements. AFM is authorized to sign Participation Agreements with the owners of the Databases on behalf of Client in a manner that legally binds Client to the applicable terms required for participation including, without limitation, the terms pertaining to the contribution of Client's donor and donation transactions data ("Client Data") to the Databases and the terms applicable to Client's use of any prospect names sourced from the Databases. Client also agrees, with respect to those Databases that require the Client to sign additional documents demonstrating AFM's authority to act on the Client's behalf in accordance with this section, to sign such required documentation in order to facilitate Client's participation in the applicable Databases. Client acknowledges that failure to sign such additional documentation required by any of the Databases may result in the Client's inability to participate in the applicable Databases and AFM's inability to procure services from such Databases on Client's behalf. Client further acknowledges that participation in Databases requires inclusion and updating of Client Data, including names, addresses, and specific contribution data on a periodic basis.

Client authorizes AFM to provide and update the Client Data, as necessary, to the Databases in a manner as required for compliance with the Participation Agreements. Pricing for such services is negotiated and set in the Participation Agreements. Client agrees to the pricing as negotiated by AFM and is authorized to review that pricing at any time upon request.

17.3 Use of Client Data Within Cooperative Databases. Client further acknowledges that other participants in the Databases may also benefit from the Client Data's inclusion in the Databases, but only to the extent that the donor names within the Client Data have been contributed by one or more other participants. Upon AFM's receipt of Client's request to discontinue Client's participation in any of the Databases, AFM will take steps to promptly terminate the applicable Participation Agreements to remove the Client Data from the applicable Databases.

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