

By [clicking the submit button below], [INSERT REFERENCE TO COMPANY USING DATA] (“**Client**”) hereby agrees to and accepts the following terms and conditions (“**Terms and Conditions**”) governing its use of data provided by or on behalf of (“**Licensed Data**”) Epsilon Data Management, LLC (“**Epsilon**”).

**1. Authorized Use.** Client may use Licensed Data for the following purposes (the “**Authorized Use**”):

- (a) “**Analysis Services**” Use of the Licensed Data to: (a) create a profile report that describes lifestyle and demographic characteristics of Client’s file; (b) create a profile report that describes characteristics of Client’s file looking across historical attributes; and/or (c) to select or suppress a third party list; (d) location site planning; (e) trade area analysis; ((a) – (e), “Analysis Services”).
- (b) “**Model Development and Application**” Use of the Licensed Data by Client in the creation of an algorithm which is predictive of certain consumer behaviors and use of the Licensed Data in the execution of said algorithm to product scoring or ranking of a Client file.

In connection with its use of the Licensed Data, Client will comply with Schedule A.

**2. Unauthorized Access.** Client will notify Epsilon immediately in the event of any actual or suspected loss of, or unauthorized access to or use of the Licensed Data.

**3. Non-Disclosure.** Client may not and will not disclose any Licensed Data to any third party, and will exercise the same degree of care in safeguarding and protecting the confidentiality of the Licensed Data that it exercises with respect to its own confidential information and data, but in no event less than a reasonable degree of care. The termination of these Terms and Conditions will not relieve Client of its obligations with respect to Licensed Data disclosed pursuant to the terms hereof.

**4. Ownership.** Client does not obtain any rights in the Licensed Data. Licensed Data is and will remain the property of Epsilon or its third party licensors.

**5. Representations and Warranties; Disclaimer.** Client represents and warrants that it: (a) will comply with all relevant laws in performing its respective responsibilities and exercising its rights under these Terms and Conditions, and (b) is authorized to enter into these Terms and Conditions.

**6. Disclaimer.** Licensed Data is provided “AS-IS” and Epsilon assumes no responsibility with respect to its use by Client. EPSILON MAKES NO WARRANTIES, EXPRESS OR IMPLIED OR ARISING OUT OF CUSTOM OR TRADE USAGE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO ITS PERFORMANCE OF THE SERVICES HEREUNDER. EPSILON WILL NOT BE DEEMED TO BE IN BREACH OF ANY REPRESENTATION OR WARRANTY TO THE EXTENT THAT SUCH BREACH RESULTS FROM THE ACT OR OMISSION OF A THIRD PARTY.

**7. Limitation of Liability.** EPSILON WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY TYPE INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY TYPE, INCLUDING BUT NOT LIMITED TO LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES HEREUNDER, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A PARTY ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT.

**8. Indemnification.** Client will indemnify, defend, and hold harmless Epsilon and its employees, principals (shareholders or holders of an ownership interest, as the case may be), and agents from and against any losses, damages, costs, expenses (including court costs and reasonable attorneys’ fees), judgments, assessments, fines, and other liabilities arising out of or resulting from a breach of these Terms and Conditions.

**9. Term and Termination.** The term of this Agreement commences on the Effective Date and will continue until completion of the Services, unless sooner terminated as permitted herein. Epsilon may terminate this Agreement immediately and without further obligation if Epsilon, in its reasonable discretion, determines that its performance of this Agreement: (a) could cause irreparable damage to Epsilon’s reputation; (b) is deemed contrary to accepted industry practice; (c) may be in violation of applicable law, rule, regulation, or order; or (d) could result in public relations issues that are detrimental to Epsilon’s business. Upon termination of this Agreement for any reason, (i) Client will pay Epsilon the full amount of the final Epsilon invoice hereunder within 15 days after receipt, and (ii) within 30 days after such termination, each Party will delete all Confidential Information of the other Party and all information and other materials derived therefrom, provided that Receiving Party may retain, but not use, archived versions of such Confidential Information for a period of up to 24 months thereafter. Notwithstanding anything herein to the contrary, all terms logically construed to survive the termination of this Agreement will survive.

**10. Notices.** Any notices required or permitted pursuant to this Agreement will be in writing and deemed to have been sufficiently given or served for all purposes when presented personally or sent by overnight courier or registered mail to Epsilon at: Attn: General Counsel, 6021 Connection Drive, Irving, TX 75039, with a copy to legalnotices@epsilon.com.

**11. Force Majeure.** Epsilon will not be liable in connection with any failure or delay in performance of these Terms and Conditions if such failure or delay arises out of causes beyond its control

**12. Miscellaneous.** The section headings to these Terms and Conditions do not form a part of it and will not affect or limit the meaning of the paragraphs. No waiver by Epsilon of any default hereunder by the other will operate as a waiver of any other default or of a similar default on a future occasion. No waiver of any term or condition hereof by Epsilon will be effective unless the same is in writing and signed by Epsilon. In the event that any provision of this Terms and Conditions (other than a provision which goes to the essence of the consideration for this Terms and Conditions) is declared invalid, unenforceable, or void, to any extent, by a court of competent jurisdiction, the remainder of this Terms and Conditions and the application thereof will not be affected thereby, but rather will be enforced to the greatest extent permitted by law. Epsilon is an independent contractor of Client, and nothing herein will be construed as creating a joint venture, partnership, or similar relationship. These Terms and Conditions are governed by and will be construed in accordance with the laws of the State of New York, other than such laws and case law that would result in the application of the laws of a jurisdiction other than the State of New York. These Terms and Conditions may not be modified except as mutually agreed to in writing, signed by an authorized representative of each Party. These Terms and Conditions supersede all prior agreements, communications, representations, and understandings, either oral or written, between Epsilon and Client with respect to the subject matter contained herein. All terms and conditions on any Client-issued purchase order, order acknowledgment, or other document in connection with these Terms and Conditions will be deemed deleted and of no force or effect. Client may not assign any or all rights and liabilities hereunder without the Epsilon's prior written consent. Epsilon may assign these Terms and Conditions or any portion thereof without the consent of Client. Any assignment by Client, in whole or part, is null and void. These Terms and Conditions are binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**SCHEDULE A**  
**ADDITIONAL PROVISIONS**

**1. General.**

1.1. **Notice and Choice.** Client represents and warrants that an easy-to-find privacy policy is/was featured on each website and mobile application from which consumer data used by Client is collected and that it complies with applicable laws, rules, and regulations, and that such privacy policy provides clear and conspicuous notice to consumers that their data may be disclosed to third parties for the performance of services on Client's behalf.

1.2. **Restrictions by Epsilon and Third Parties.** Epsilon may, at any time, impose restrictions on the use of Licensed Data (a) to the extent they are imposed on Epsilon by third parties, or (b) to properly manage the integrity of the Licensed Data and/or its use in light of issues concerning privacy, confidentiality, and other issues to which consumers may be sensitive. Use of the Licensed Data is subject to compliance with all such restrictions. Epsilon reserves the right to make changes to the content, structure, and form of the Licensed Data including, without limitation, changes to keep it current and/or to make deletions to comply with the desire of persons who wish to have their information removed.

1.3. **Compliance with Laws.** Client represents and warrants that the Licensed Data will be used in accordance with all applicable laws, rules, and regulations, as well as relevant self-regulatory guidelines and principles, including without limitation the Data & Marketing Association's guidelines and the principles promulgated by the Digital Advertising Alliance (as applicable). Epsilon is not responsible for obtaining any required consumer consent under applicable law and makes no representation or warranty with respect to compliance with any legislation relating to telemarketing, privacy, or email activities.

1.4. **Individual Reference Service, FCRA and Eligibility.** Client represents and warrants that Licensed Data will not be used in connection with: (a) any individual reference service application, skip tracing, electronic directory assistance or other e-data look-ups, verification of the accuracy of a record (unless expressly permitted in this Agreement); (b) employment or a review of employee records, including without limitation for evaluating an individual for employment or for promotions, reassignment, or retention as an employee; (c) a determination of an individual's eligibility for a license or other benefit granted by a governmental instrumentality; or (d) any other type of review, analysis, or assessment of an individual record that is not expressly permitted hereunder, or in connection with credit granting, credit monitoring, account review, collection, or insurance underwriting, or for any other purpose covered by the Fair Credit Reporting Act (15 U.S.C. § 1681 *et seq.* ("FCRA")), Federal Trade Commission or Consumer Financial Protection Bureau interpretations of the FCRA, and similar federal and state statutes.

1.5. **Derivative Works.** Client may not modify, further develop, or create any derivative products from the Licensed Data. No Licensed Data may be decompiled, decoded, or reverse engineered.

1.6. **Audit.** Client will maintain business and financial records for a continuing (rolling) period of three years. Such records will contain information sufficient to (a) verify the completeness and accuracy of payments made in connection with the Licensed Data, and (b) verify that the use of Licensed Data complies with this Agreement. Client will permit Epsilon or its representatives and agents to conduct periodic inspections, reviews, and/or audits ("Audits") of such records. Such Audits will be conducted during Client's normal business hours with reasonable advance notice. Epsilon will pay for the cost of the Audit unless Epsilon reasonably determines from the Audit that Client has breached a material provision of this Agreement, in which case Client will be solely responsible for the cost of the Audit and any additional amounts owed as determined by the Audit.

1.7. **Government Programs.** Client represents and warrants that Client will not use the Licensed Data in connection with any government-run program, including but not limited to Medicare and Medicaid.