



DIRECT MARKETING ASSOCIATION DMAchoice SUBSCRIPTION AGREEMENT

The Direct Marketing Association ("DMA") agrees to provide certain list services subject to the terms and conditions contained herein unless otherwise agreed to in writing by DMA. Acceptance or use of one or more services (hereinafter "DMAchoice Services") offered by DMA in any form to you (hereinafter "Subscriber") constitutes Subscriber's full acceptance of, and agreement with, the terms and conditions contained herein.

- 1. Exclusive Purpose.** Subscriber agrees that it will use of the DMAchoice Services only for the purpose of suppressing consumers' names from marketing lists and for no other purpose, unless specifically stated in this agreement. Subscriber understands that the DMAchoice Services are intended exclusively for Subscriber's own use and Subscriber shall not disseminate, sublet, resell, reproduce, transfer or republish the DMAchoice list in any medium in any manner whatsoever. Subscribers identifying themselves as service bureaus or service providers (hereinafter "Service Organizations") are permitted to use DMAchoice Services to remove individuals from lists owned or licensed by their clients.
- 2. Irreparable Harm.** Subscriber agrees that unauthorized use of the DMAchoice Services will cause irreparable harm to the direct marketing industry and to DMA. Therefore, Subscriber agrees that any unauthorized use of the DMAchoice Services or use for an unauthorized purpose will, at DMA's discretion, subject Subscriber to (1) referral to the DMA Committee on Ethical Business Practice, (2) suspension of the DMAchoice Services provided under this agreement without refund, (3) notification thereof to the Federal Trade Commission or other law enforcement authority, (4) entry of an injunction prohibiting such conduct and (5) monetary damages and an accounting of Subscriber's profits.
- 3. Force Majeur.** DMA shall not be responsible for, or incur any liability as a result of, delays or failures in the performance of the DMAchoice Services as a result of any act or occurrence beyond DMA's reasonable control.
- 4. Password.** Subscriber agrees to protect its password and will not disclose its password to any unauthorized person. Subscriber will promptly notify DMA if Subscriber's password is lost, stolen or otherwise compromised.
- 5. Refund.** If Subscriber is not satisfied with the DMAchoice Services, DMA will refund the unused portion of the subscription price within thirty (30) days of receipt of a request therefor.
- 6. No Warranties.** Subscriber acknowledges that information and/or programs originating from or through DMA and delivered to Subscriber are provided "AS IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.
- 7. Limitation on Liability.** Subscriber agrees that DMA shall not be liable to subscriber for any loss or injury arising out of or caused, in whole or in part, by DMA's negligent acts or omissions in procuring, compiling, collecting, processing, communicating or delivering the DMAchoice services. DMA's sole liability and subscriber's sole remedy regardless of the form of legal action subscriber may take, whether in tort or in contract, shall not exceed the refund of the amounts, if any, subscriber has paid to DMA. Subscriber agrees that DMA shall not be liable for lost profits or any indirect, incidental, special or consequential damages, even if advised of the possibility of such damages. This paragraph contains DMA's entire liability and subscriber's sole remedy for any breach hereunder.

8. **Indemnification.** Subscriber shall indemnify, defend and hold DMA harmless from and against any and all claims, demands, judgments, liability, damages, losses, costs, and expenses, including reasonable attorneys' fees, arising out of Subscriber's use of the DMAchoice Services. DMA shall give Subscriber written notice of any claim of which it has knowledge, and shall provide Subscriber with the assistance, information and authority necessary to perform Subscriber's obligations under this section.
9. **Change in Fees and Terms & Conditions.** Subscriber understands that DMA reserves the right to modify or discontinue its DMAchoice Services at any time and to increase the price of subscribing thereto without notice. The Terms and Conditions herein may be amended from time to time, in DMA's sole discretion. Subscriber shall strictly comply with all restrictions and requirements now or hereafter imposed and made known to Subscriber.
10. **Use of Recent Names.** Subscriber acknowledges that it is Subscriber's responsibility to ensure that its files have been processed using the most recent suppression information before such files are used for marketing. Subscriber acknowledges that DMA may not have identified and included the names or telephone numbers of all consumers who have signed up for DMAchoice in the data supplied to Subscriber hereunder. Subscriber agrees to use the most recent file every thirty (30) days, and shall not use the most recent file past forty-five (45) days.
11. **No Publicity.** Subscriber shall be responsible for accepting and responding to any communication initiated by a consumer ("Consumer Inquiries") arising out of Subscriber's use of the DMAchoice Services. Subscriber agrees that it will provide in-house suppression of consumer names, upon request, for future marketing initiatives by Subscriber. No reference to DMA in written or oral communication to consumers or in scripts used by Subscriber in responding to Consumer Inquiries shall be made without DMA's prior written approval.
12. **Choice of Law.** The terms and conditions contained herein will be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles. Any legal action shall be commenced exclusively in a court of competent jurisdiction located in the State, County and City of New York, and Subscriber hereby waives any claim of lack of personal jurisdiction or of inconvenient forum.

ACCEPTED AND AGREED TO:

I understand and agree to the above Terms and Conditions.

Authorized Signature: _____

Name (Printed): _____

Title: _____

Email: **(REQUIRED)** _____

Company Name: _____

Telephone No: _____

Street Address: _____

Fax No: _____

City/State/Zip: _____

MPS PRICING

Annual Subscription

End Users – Flat fee of \$2,500 for DMA members, \$5,000 for non-DMA members.

Service Providers - A tiered pricing structure with a floor of \$2,500 and a ceiling of \$25,000 based upon the volume of names the data processing company runs against the MPS file

Annual Subscription Pricing for Service Providers

Level #	Records Processed against the MPS file (Yearly Estimate)	DMA Member Price	Non-DMA Member Price
1	0 to 50 Million	\$ 2,500	\$5,000
2	50 Million to 100 Million	\$ 5,000	\$10,000
3	100 million to 500 Million	\$10,000	\$20,000
4	500 Million to 1 Billion	\$15,000	\$30,000
5	1 Billion to 5 Billion	\$20,000	\$40,000
6	Over 5 Billion	\$25,000	\$50,000

Subscription Options:

Media: Internet downloads CD-ROM Tab delimited format

This Company is a:

Marketing Service Provider End User

If user, please indicate your product(s) or service(s): _____

Pricing Options:

DMA Member

Member Company Number _____

End User: \$2,500

Service Provider: Level # (from table) _____ Price (from Table above): _____

non-DMA Member:

End User: \$5,000

Service Provider: Level # (from table) _____ Price (from Table above): _____

Surcharge for Shipping CD out of the U.S. \$600/yr

Payment Options: American Express Master Card VISA Check enclosed

Cardholder or Authorized signature

Printed Name of Authorized Cardholder

Credit Card number

Expiration date

**Make Checks Payable To:
Direct Marketing Association
Remit to:
Interactive Marketing Solutions
777 Summer Street Ste 502
Stamford, CT 06901**

**Fax Credit Card Payment To:
Fax: 203-653-2767**