



## **E-MAIL DATA SERVICES PROCESSING ACKNOWLEDGEMENT FORM**

Anchor Computer, Inc. requires that each customer sign an E-Mail Data Services Processing Acknowledgement Form prior to the commencement of any E-MAIL DATA SERVICES PROCESSING. This Processing Acknowledgement Form and the attendant Terms and Conditions shall remain in effect for a period of up to three (3) years with respect to E-MAIL DATA SERVICES PROCESSING. The EMAIL DATA SERVICES Acknowledgement Form must be updated on a three (3) year basis as of the date shown below (a new form must be executed annually, if such services continue to be performed).

I, the undersigned, an authorized representative of:

COMPANY Name (please print) \_\_\_\_\_

Address \_\_\_\_\_

City/State/Province/ZIP/Postal Code \_\_\_\_\_

Telephone Number \_\_\_\_\_;

Hereby acknowledge that we have received, reviewed and will abide by all of the E-MAIL DATA SERVICES PROCESSING TERMS AND CONDITIONS that are incorporated herein. I further agree to abide by the CAN SPAM Act (S.877) of 2003, the Utah Child Protection Registry Law and the Michigan Children's Protection Registry Act, and any other applicable Federal, State and Local laws, regulations and conditions all as outlined in Section 7.

Due to Utah & Michigan registry laws you are also required to answer the following questions:

1. Does your company sell any products or services that fall into the following categories?  
\_\_\_\_\_ (If yes, please circle all categories that pertain.)

1. Firearms
2. Alcohol
3. Tobacco
4. Gambling
5. Lottery
6. Pharmaceuticals
7. Pornography

2. Does your company have any subsidiaries, sister companies or third parties listed on your company website that sell products or services in any of the aforementioned categories? \_\_\_\_\_



3. If yes, can a visitor link from your company website to any of these company, subsidiary or third party products or services? \_\_\_\_\_ If yes, please list the products or services here:\_\_\_\_\_.

4. Are you familiar with the Michigan Children’s Protection Registry Act, the Utah Child Protection Registry Law, and all other applicable Federal, State and Local laws, regulations and conditions as outlined in Section 7?\_\_\_\_\_

By signing below, I confirm: (i) that I am at least eighteen (18) years of age with full authority to execute this document on the Company’s behalf; and (ii) that the COMPANY understands and accepts the provisions/restrictions stated hereunder.

CLIENT Name (please print) \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

For Anchor Use Only:

Customer # \_\_\_\_\_



## EMAIL DATA SERVICES TERMS AND CONDITIONS

1. SERVICES. Anchor Computer, Inc. ("Anchor") agrees to provide E-MAIL DATA SERVICES via its own computer facilities or on Anchor's behalf through a third party provider (together herein referenced as "Anchor") at agreed upon prices and charges, unless otherwise agreed to in a separate writing by Anchor and duly executed by the parties hereto. For purposes of definition herein, the term "CLIENT" will be in reference to the party that agreed to the Email Services provided.

2. DEFINITIONS. For purposes of definition herein, the interchangeable terms "Email Data" and "Email Services" mentioned herein are applicable to the following Anchor Services: Email Append, Email Append & Verify, Reverse Email Append, Email Change of Address, Email List Hygiene, Email Verification, Email List Rental, Email Data Suppression, Email Distribution; (ii) "Licensed Data" means only those records processed for CLIENT by Anchor, or on Anchor's behalf by a contractor or agent, to matching records supplied by CLIENT.

3. CLIENT agrees that once an Email Data Services job has been run on behalf of the CLIENT or its third party processor, the job is deemed to have been accepted by the CLIENT and payment shall be due to ANCHOR according to the terms of the invoice. Once an append job or any other Email Data Services job has been accepted, a job may not be cancelled for any reason.

4. ACCEPTANCE. Acceptance or use of Email Data in any form (e.g. magnetic tape or cartridge, any printed matter whether computer generated or produced in another fashion; Electronic Data Transfer; Etc.) by CLIENT, or its third party processor (e.g. service bureau, marketing agency, or consultant), acting on CLIENT'S behalf or on behalf of an ultimate user of the Email Data constitutes full acceptance of, and agreement with, the terms and conditions stated herein.

5. LICENSED DATA. CLIENT acknowledges that the Licensed Data is owned by Anchor or the data owners who provided the Licensed Data to Anchor (collectively the direct and indirect suppliers of the Licensed Data are referred to herein as the "Data Suppliers" and any reference to Anchor hereinafter shall include its Data Suppliers as applicable), and has no proprietary rights in the Licensed Data other than those granted hereunder. CLIENT acknowledges that Anchor is an intended beneficiary of the provisions of this Agreement and as such is entitled to directly enforce in its own name the rights and obligations undertaken by CLIENT, and to seek all legal and equitable remedies as are afforded to Anchor.

6. LIMITATIONS OF USE. The Email Data provided is for CLIENT'S use only and shall not be copied, disseminated, rented, sublet, resold, or republished in any manner whatsoever. CLIENT DATA or other information delivered to Anchor shall (i) remain the sole property of CLIENT and (ii) not be used by Anchor for any purpose other than the performance of Services under this Agreement.

7. RESPONSIBILITIES. CLIENT acknowledges and agrees that: (a) It is the CLIENT'S RESPONSIBILITY to ascertain and comply with any and all Federal, State and Local laws, statutes and regulations, including but not limited to those pertaining to the CAN SPAM Act (S.877) of 2003, the Utah Child Protection Registry Law and the Michigan Children's Protection Registry Act; (b) Anchor suppresses only those email addresses of consumers that have opted-out of the Licensed Data database prior to Email Data processing; (c) By signing this Agreement, CLIENT agrees to hold Anchor harmless from all liabilities, damages, losses, claims, costs and expenses (including attorney's fees) from CLIENT'S failure to abide by any applicable Federal, State and local laws and statutes. CLIENT also agrees to pay Anchor upon request applicable processing fees that may result from CLIENT's compliance with such laws and regulations. The aforementioned laws can be found at the following web site addresses: CAN-SPAM: <https://www.fcc.gov/general/can-spam>  
Michigan Child Protection Registry Act: <https://www.protectmichild.com/>  
Utah Child Protection Registry Law: [https://donotcontact.utah.gov/senders/legal\\_info.html#:~:text=The%20Utah%20Kid's20Protection%20Registry,the%20provisions%20of%20the%20law](https://donotcontact.utah.gov/senders/legal_info.html#:~:text=The%20Utah%20Kid's20Protection%20Registry,the%20provisions%20of%20the%20law)

8. PAYMENT. Payment is to be made by Credit Card or by establishing a commercial credit relationship (an Anchor Network Account) with Anchor. CLIENT represents and warrants that it is an authorized user of the credit card or that it has submitted credit information to Anchor for approval. Anchor reserves the right to reject any Insertion Order placed by CLIENT if the credit card or other information provided cannot be processed for any reason whatsoever, with no liability to Anchor. In the event of changes in the specifications, schedules or materials authorized by CLIENT, any increased prices and additional charges shall be determined by Anchor and added to

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CLIENT invoice. Applicable cancellation charges will also be assessed and added. Invoices are due upon receipt. All amounts not paid within fifteen (15) days of the due date shall be subject to a service charge of the lower of one and one half percent (1½%) per month or the highest rate under applicable law effective from the invoice date. CLIENT agrees that it shall pay any and all reasonable attorney fees, court costs and other expenses incurred in the collection of any amounts owed by CLIENT and not paid when due. CLIENT agrees it (and not any other party) is totally responsible for any unpaid invoice unless otherwise agreed to in writing by Anchor.

9. **NON-PAYMENT.** Without limiting any other remedy available to Anchor in law or equity, in the event that CLIENT is delinquent in payments required to be made hereunder pursuant to the provisions stated in Section 17 hereof, CLIENT shall upon written notice by Anchor cease and desist from any further use of the Licensed Data and the license hereunder shall terminate immediately. All payments due hereunder are in U.S. dollars. CLIENT shall be responsible for all applicable taxes except those based on the income of Anchor if any.
10. **DATA EXAMINATION.** CLIENT and/or Third party processor is obligated to examine all Licensed Data upon delivery and to notify the appropriate Anchor representative if any questions or problems arise. CLIENT is not obligated to pay for any E-mail Address appended, updated or corrected that is not deliverable within 14-calendar days immediately following CLIENT's or Third party processor's receipt of the Licensed Data. Within said 14-calendar day period, CLIENT shall identify all such undeliverable E-mail addresses and provide appropriate proof of non-delivery to Anchor. Any Insertion Order adjustment in prices and charges can only be made when a written claim and supporting proof of non-delivery is received by an appropriate Anchor representative.
11. **DISCLAIMER OF WARRANTIES.** CLIENT acknowledges that the Licensed Data originating from or through Anchor and delivered to CLIENT may be less than 100% error free and is furnished "AS IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO THE WARRANTIES OF CORRECTNESS, COMPLETENESS, CURRENTNESS, PERFORMANCE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.
12. **LIMITATIONS ON LIABILITY.** ANCHOR SHALL NOT BE LIABLE TO CLIENT FOR ANY LOSS OR INJURY ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY ANCHOR'S NEGLIGENT ACTS OR OMISSIONS IN PROCURING, COMPILING, COLLECTING, PROCESSING, COMMUNICATING OR DELIVERING THE LICENSED DATA, DIRECTLY OR INDIRECTLY, TO CLIENT. ANCHOR'S SOLE LIABILITY AND CLIENT'S SOLE REMEDY REGARDLESS OF THE FORM OF LEGAL ACTION TAKEN BY CLIENT, WHETHER IN TORT OR CONTRACT, SHALL NOT EXCEED THE REFUND OF AMOUNTS, IF ANY, PAID BY CLIENT. CLIENT AGREES ANCHOR 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 SECTION STATES ANCHOR'S ENTIRE LIABILITY AND THE CLIENT'S SOLE REMEDY FOR ANY BREACH HEREUNDER.
13. CLIENT represents and warrants:
  - A. CLIENT has the full right and authority to deliver the CLIENT DATA to Anchor.
  - B. CLIENT is not violating CLIENT's privacy policy, terms of service for its customers, or the privacy rights of customers.
  - C. CLIENT is the owner of the CLIENT Data and has full title and rights to the CLIENT DATA.
  - D. CLIENT is not bound by any contract or arrangement of any kind that conflicts with the terms of this Agreement.
  - E. CLIENT DATA complies with all applicable laws/regulations including but not limited to the Can Spam Act (S.877) of 2003, the Utah Child Protection Registry Law and the Michigan Children's Protection Registry Act.
  - F. CLIENT shall use the Licensed Data for CLIENT'S own lawful marketing and management purposes only.
14. **RIGHT TO MODIFY.** Anchor reserves the right to modify or discontinue its Email Data Processing Services at any time. The Terms and Conditions contained herein may be amended from time to time, and further restrictions may be added by Anchor at its sole discretion. (Anchor may modify the Terms and Conditions by posting any such changes on its web site). If CLIENT does not agree with any amendments made to this Agreement pursuant to this Section 13, CLIENT may immediately terminate this Agreement in accordance with Section 17 (as defined below).
15. **FORCE MAJEURE.** Anchor shall not be responsible for, or incur any liability for, the delay or failure in the delivery of any Licensed Data or its performance thereof resulting from any act or occurrence that is beyond Anchor's reasonable control including but not limited to any act of God, act of governmental authority, act of public enemy, or due to war,



terrorism, riot, flood, civil commotion, insurrection, severe weather conditions, or any other cause beyond the reasonable control of the party delayed.

16. **GOVERNING LAW.** The terms and conditions contained herein will be governed by, and construed, in accordance with the laws of the State of New York, which are intended to supersede any choice of laws or rules which might otherwise be applicable. Anchor and CLIENT consent to the jurisdiction of the courts of the State of New York, whether Federal, state, or local with respect to any actions that may arise out of, or relate to, this arrangement.
17. **GENERAL.** With respect to the subject matter hereof, this statement of terms and conditions shall be the complete and exclusive statement of the agreement between Anchor and CLIENT with respect to the subject matter herein unless a separate definitive Agreement has been executed between CLIENT and Anchor overriding the terms and conditions hereof. Any changes must be accepted in writing by Anchor before such changes become effective. Any terms and conditions contained on an Insertion Order or similar documentation issued by the CLIENT shall not alter any of the terms and conditions contained herein and shall be only for the internal administrative convenience of CLIENT.
18. **TERM & TERMINATION.** The term of this Agreement (the "Term") shall be thirty six (36) months commencing on the date of this Agreement; provided, however, either party may terminate this Agreement by providing written notice of termination not less than thirty (30) days prior to the expiration of the Term or at any time thereafter. Termination of this Agreement shall not relieve CLIENT of its obligation to pay for any amounts due hereunder. Any and all restrictions upon the use or disclosure of the Licensed Data, CLIENT DATA, and other materials shall survive any termination of this the Agreement for any reason. Notwithstanding the foregoing or any other provision of this Agreement to the contrary, a non-defaulting party may terminate this Agreement immediately upon the occurrence of an Event of Default (as defined below) without prejudice to any other rights such party may have against the other with respect thereto. As used herein, "Event of Default" means: (i) the failure of CLIENT to pay any fees or charges hereunder when due and such failure continues for a period of thirty (30) days after receipt of written notice thereof; (ii) either party including End User of Licensed Data is in default under this Agreement, in whole or part, and fails to cure such default within thirty (30) days of written notice from the non-defaulting party specifying the nature of such default; (iii) the breach by a party including Third party processors of its confidentiality obligations; (iv) either files for bankruptcy or is the subject of a bankruptcy or receivership proceeding and such bankruptcy or receivership is not dismissed within thirty (30) days of the commencement of such proceeding; (v) either party makes an assignment for the benefit of its creditors or otherwise enters into any scheme or composition with its creditors; or (vi) the failure of a party including Third party processors to perform any other term, condition or covenant of this Agreement and such failure continues for a period of thirty (30) after receipt of written notice thereof.
19. CLIENT is responsible for any applicable sales or use taxes imposed upon transaction(s) rendered herein by Federal, State and Local governments and/or agencies.

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