

## 1. INTERPRETATION


1.1 In these Terms and Conditions and the Confirmation of Order save where the context otherwise requires the words and phrases below shall have the following meaning:

<b>"The Company"</b>	Progressive sales is a fully owned and operated brand of All Progress leads Private Limited C-3/4 1st floor Rajouri Garden New Delhi :110027 Registration Number: U74999DL2018PTC342271.
<b>"The Buyer"</b>	The Purchaser of the Data
<b>"The Confirmation Of Order"</b>	The Company's Sales Order signed by the Buyer to which these conditions are annexed.
<b>"The Order"</b>	Where the Company buys data from third party vendors on behalf of the Buyer as per the Buyer's Product Criteria set out in the Confirmation Of Order.
<b>"The Product Criteria"</b>	The details of the data the buyer is purchasing as specified in the Sales Order.
<b>"Data Record"</b>	means one data record provided (or to be provided) by The Company to the Buyer containing one person's and or business's name, postal address and / or telephone number and/or other information as specified on the Sales Order.
<b>"The Data"</b>	One copy of the Data Records as per the Product Criteria maintained by The Company or on its behalf provided to the Buyer either in paper, printed or other documentary form or in other digital form (or additionally, alternatively stored on The Company's computer or that of its bureau at an additional rate to be agreed).
<b>"The Fee"</b>	The fee payable by the Buyer to The Company for the service and license to be provided by The Company hereunder and calculated in accordance with clause 8 below a summary of which is set out in the section headed "Payment Terms" and "Fee" in the Sales Order.
<b>"The License"</b>	The license granted under clause 5 below by The Company to the Buyer to use the data.
<b>"The Delivery Date"</b>	The date on which the Data is or will be delivered to the Buyer in whole or as Instalments.
<b>"Order Quantity"</b>	The estimate by The Company of the amount of Data Records meeting the Product Criteria that can be bought by the Company on behalf of the Buyer.
<b>"The Instalment"</b>	The provision of each of a series of deliveries of data and the accompanying License.
<b>"Buyer Type"</b>	"End User" means the person or entity who will actually use the Data for sales and/or marketing purposes. "Reseller" means the Buyer is purchasing the Data to sell to an End User or a Reseller.
<b>"Agreement Type"</b>	"Net Names" as stipulated in clause 8.4, "All Names" means Net Names does not apply and Buyer cannot claim credit for duplicates unless otherwise specified in The Confirmation of Order.
<b>"Data Type"</b>	"First Usage" means data meeting the Product Criteria not sold by the Company before. "Second Usage" means data meeting the Product Criteria not sold more than once by the Company, as stipulated in clause 9.2.2. "List Rental" means data meeting the Product Criteria that may have been sold multiple times before.
<b>"Data Source"</b>	The entity that The Company purchases data from in order to resell to The Buyer.

1.2 The headings to the clauses in these Terms and Conditions are for the ease of reference only and shall not affect the interpretation or construction thereof.

## 2.0 TIMETABLE

- 2.1 The Company reserves the right at any time prior to the date of execution of the Order to cancel this agreement without incurring any liability other than liability which may not by applicable law be excluded or limited, in which event no part of the Fee shall be payable by the Buyer.
- 2.2 In the event that any delivery date shall be agreed between The Company and the Buyer, the Buyer acknowledges that such date shall be indicative only and that The Company shall not be liable for any loss or damage suffered by the Buyer as a result of late delivery of the data.

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### 3.0 USAGE

The Buyer acknowledges that The Company has the right in its sole discretion to amend the wording set out in the Product Criteria with a view to delivering data that still meets the Buyers criteria.

### 4.0 PROPRIETARY AND INTELLECTUAL PROPERTY RIGHTS

- 4.1 The property and the copyright and database rights (and all other intellectual property rights) in the Data and shall at all times remain reserved or vested in The Company and The Company reserves the right to grant licences in respect of the Data and supply the same to any other party.
- 4.2 In the event of the Buyer being aware of any unauthorised use of any part of the Data, Buyer must notify The Company in writing forthwith.


### 5.0 LICENCE

- 5.1 Subject to clauses 4.1 and 8, in consideration of the Fee, The Company hereby grants to the Buyer the Licence upon and subject to these terms and conditions.
- 5.2 The Buyer, as an End User, shall have the right to use, but not copy, alter, manipulate, adapt or licence others to use, the Data in accordance with The Confirmation of Order on one specific direct marketing campaign for a maximum period of twenty weeks. In the case of the Buyer being a Reseller, the Buyer may licence a maximum of one End User to use the Data as per these terms and conditions. For the benefit of doubt, the Buyer can resell the Data to a maximum of one End User where Buyer warrants that the End User shall have the right to use, but not copy, alter, manipulate, adapt or licence others to use the Data purchased in accordance with The Confirmation of Order on one specific direct marketing campaign for a maximum period of twenty weeks.
- 5.3 The Buyer's right to use the Data shall be non-exclusive.

### 6.0 THE COMPANY OBLIGATIONS


- 6.1 The Company will deliver the Data to the Buyer at the address specified in accordance with The Confirmation of Order.
- 6.2 The Company reserves the right to supply the Data in instalments ("Deliveries") on varying dates ("Delivery Dates").
- 6.3 The Company will only be obliged to supply replacement data for invalid records proven to equal or exceed 3% of the volume of the Data supplied.
- 6.4 In the event of any complaints or disputes concerning the Data supplied, The Company shall replace elements of Data only where the same is not in accordance with The Confirmation of Order, subject to the following:
  - 6.4.1.1 In respect of 'First Usage' Data collected via online surveys, the Buyer shall return all disputed data for investigation to the Company within 14 days of the Delivery Date or as otherwise stated on The Confirmation of Order.
  - 6.4.1.2 The Buyer must return all other disputed data for investigation to The Company via email at the specified address on the delivery notice within 21 days of the Delivery Date or as otherwise specified on The Confirmation of Order.
  - 6.4.1.3 The Company has the right to provide replacement Data should a dispute be validated in accordance with its internal procedures and compliance criteria.
- 6.5 Where a dispute concerns the conduct or content of a telephone Survey for First Usage data, in the event the Buyer requires call recordings thereof, the Buyer must pay for those recordings in advance at a cost of £5 plus per recording, the recording(s) provided will only contain information relevant to the Buyer's Product Questions. For the benefit of doubt, voice files are only available for First Usage data and are only available up to 56 days after the delivery of said data record.
- 6.6 The Company will, to the best of its ability, conduct due diligence on its Data Source(s) in respect to local laws within the country The Buyer will be using the data in for marketing purposes. This Due diligence is solely based upon the information shared with The Company via the completion of its due diligence form(s) & is a means to checking the level of compliance for said data.


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## 7.0 BUYER OBLIGATIONS

- 7.1 The Buyer undertakes to The Company that it will use the Data solely for the internal business purpose of the End User, and for the purpose only of use as a source of reference for its circulation by mail or by telephone or if applicable electronic mail to some of or all of the individuals listed in the Data.
- 7.2 The Buyer agrees with and warrants to The Company that any documents or other items mailed by or on behalf of the Buyer as a result of or following its use of Data will at all times comply with the current British Code of Advertising Practice, the British Code of Sales Promotion Practice and the ICSTIS Code and will contain nothing which infringes copyright or any other right of any third party or is defamatory, obscene, indecent or otherwise illegal or unlawful whether or not such a claim is justified or upheld. The Buyer further agrees and warrants that it will upon request by The Company forthwith supply to The Company copies of any such documents or other items.
- 7.3 In the event that any recipient of any documents or other items mailed by the Buyer objects to such mailing or requests that it ceases or asks for his or its name to be removed from any list the Buyer shall procure that such mailing ceases forthwith and shall inform The Company and provide The Company on a quarterly basis with particulars of any documents and other items mailed to that recipient and of the name and address to which they were sent.
- 7.4 The Buyer hereby undertakes to The Company that it will deliver to The Company any notice or other communication in respect of the Data received from the Data Protection Registrar on its receipt thereof
- 7.5 The Buyer undertakes to The Company that it will at all times comply with the provisions of the Data Protection Act 1984 in respect of its use and storage of the data.
- 7.6 The Buyer warrants that the Question Criteria supplied is correct and complete.
- 7.7 The Buyer must supply the Question Criteria to the Company at least 7 days prior to the proposed delivery date and in the event of the Buyer failing to do this the Company reserves the right to recover from the Buyer any additional costs incurred.
- 7.8 The Buyer shall allow the Company to include in the Data a small percentage of seed and dummy data subject details for control purposes.
- 7.9 The Buyer and its servants and agents shall keep confidential all information concerning the business of the Company that it has obtained or received as a result of the performance of this Agreement; and
- 7.10 The Buyer must comply with the provisions of clause 6.4 above in relation to any complaints or disputes arising concerning Data supplied and agrees to make available voice files and legible disposition reports to the Company to aid any investigations the Company carries out in respect of the complaint and /or dispute.
- 7.11 The Buyer undertakes to provide the Company with any notices it receives relating to any breach of the provisions of this clause 7 and the Buyer agrees to indemnify and hold the Company harmless in respect of any losses and costs (including reasonable legal costs) it might sustain as a result thereof.
- 7.12 In the case of regulated and or licensed market sectors, Buyer confirms that Buyer is covered by and adheres to regulations and licenses set out for said market sectors and therefore allows and covers The Company as a legal representative of Buyer to perform the duties as set out in The Confirmation of Order on the Buyers behalf. In the case of any financial loss to The Company resulting from performing the duties as set out within The Confirmation of Order in a regulated and or licensed market sector, Buyer agrees to fully indemnify and pay all such losses in full to The Company
- 7.13 The Buyer agrees that The Company may change age groups on the Data Records to better fit the Buyer's specific age groups where necessary.
- 7.14 If the Buyer orders data that is not TPS or MPS screened, Buyer warrants that it will only use the data as per ICO & PECR guidelines.

## 8.0 PAYMENT


- 8.1 The Fee will be calculated by reference to the quantity of Data supplied and will be charged in bands at the rate set out in The Confirmation of Order or as a fixed fee as referred to in The Confirmation of Order.
- 8.2 In the event that the Fee shall be a fixed fee:
  - 8.2.1 The Company shall deliver as the Data such quantity of Data as is available as shall equal the Order Quantity
  - 8.2.2 The Company shall be entitled to offer to the Buyer at a pro rata rate and calculated by reference to the Order Quantity and the flat fee, all additional Data

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- 8.2.3 The Company shall offer to its other customers any additional Data which the Buyer shall decline to accept on such terms as the Company may determine
- 8.3 In the event that the Company agrees to supply the Data for the purpose of deduplication against other data held by the Buyer and on the basis that the Buyer shall only pay a proportion of the price reflecting the net names actually used ("Net Names Agreement") any claim for credit for the unused proportion of Data:
- 8.3.1 Must be made within a period not exceeding 14 days from the date of delivery unless otherwise agreed in writing by the Company; and
- 8.3.2 must be supported by a written deduplication report or certificate from a recognised data processing bureau or other independent agency approved in writing by the Company
- 8.4 The Company reserves the right to charge interest on any sum not paid on a due date for payment at the rate of 2.5% per month or part thereof from the date due to the date such sum is received by The Company.
- 8.5 In the case where The Buyer cancels the order before the Order Quantity has been fully delivered, the Buyer agrees to pay in full for the order unless otherwise agreed on the Confirmation of Order.


#### 9.0 WARRANTY AND LIMITATION OF LIABILITY

- 9.1 Save as specifically set out herein, the Company shall not be liable whatsoever (however arising) in relation to any loss suffered by the Buyer or any third party arising from the supply of the Data.
- 9.2 The Buyer acknowledges:
- 9.2.1 That the Company has no responsibility for and gives no warranty or representation as to the performance of the Data or the rate at which it converts into actual or eventual sales or payment activity; and
- 9.2.2 Any data description including the words "first", "second" or "third" etc. usage data relates to the number of times the Company has sold the data. It cannot denote the preclusion of any other or prior distribution of the same or similar data by the data subject itself over which the Company has and can have no control.
- 9.2.3 The Company does not warrant that the Data is 100% accurate or complete or that any information contained therein is 100% accurate or complete and the Buyer shall not be entitled to refuse to pay any part of the Fee by reason of any error or admission which the Buyer may suffer as a result and any claim which the Buyer may have shall not exceed the Fee.
- 9.2.4 The employees and agents of the Company are not authorised to make oral or written representations concerning any Data Sales Order.
- 9.2.5 the Company shall not be liable for any damages or costs of whatever nature either in terms of loss of profits or otherwise which may arise as a result of any breach of these Terms and Conditions or The Confirmation of Order or if the Data quantity is less than the Order Quantity or any failure by the Company to perform any obligation hereunder due to causes beyond its reasonable control or any other circumstances which the Company could not reasonably foresee and provide against.
- 9.2.6 The Buyer shall not institute proceedings for damages for breach of these Terms and Conditions or arising from The Confirmation of Order after the expiration of two months from the date on which the Buyer became aware of the same or the date on which it ought reasonably to have become aware of the same.

#### 10.0 TERMINATION


- 10.1 The Company may terminate this Agreement and Licence forthwith on giving written notice to the Buyer if:
- 10.1.1 The Buyer commits a serious breach of these Terms and Conditions and in the event of the breach being capable of being remedied shall have failed to remedy the breach within fourteen days after the receipt of a request in writing from the Company to do so; or
- 10.1.2 The Buyer fails to comply with any statutory demand or goes into liquidation or has passed a resolution for its winding up or an Administration Receiver appointed or a Petition presented to the Court for an Administrative Order or a Voluntary Arrangement; or
- 10.1.3 At any time prior to supply of the Data or the execution of the Sales Order the Company serves written notice to the Buyer of its intention to do so without incurring any liability other than liability which may not by applicable law be excluded or limited in which event no part of the Fee shall be payable by the Buyer.

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10.2 In the event of any termination of this Agreement and Licence (irrespective of the reasons) the Buyer shall forthwith return the Data together (including all copies) with all other information which the Buyer might hold on or have received from the Company and confirm in writing that the Buyer has done so. Termination of this Agreement and Licence for whatever reason shall not affect the accrued rights or liabilities of either party.

#### 11.0 ASSIGNMENT OF AND SUB-CONTRACTING

11.1 This Agreement nor the Licence is assignable or otherwise transferable by the Buyer

11.2 The Company shall have the right to sub-contract any of its duties and obligations under this Agreement and Licence

#### 11. WAIVER

The rights of the Company shall not be prejudiced or restricted by any indulgence or forbearance extended by the Company to the Buyer and no waiver by the Company in respect of any breach shall operate as a waiver in respect of any subsequent breach.

#### 12. NOTICES


Any Notices given under the Agreement shall be in writing and shall be sent by courier service addressed in the case of a Notice to the Company to the Company's trading address and in the case of a Notice to the Buyer to the address of the Buyer or its representative or agent shown in The Confirmation of Order. Notices may also be served by email or facsimile provided proof of sending is given. Any Notice that is given shall be deemed served if by post forty-eight hours after posting and if by email or facsimile when despatched.

#### 13. JURISDICTION

These Terms and Conditions shall be governed by and construed in all respects in accordance with Indian law and the courts of the Republic of the India shall be the sole courts of jurisdiction.

Signed : Puneet kang  
Position : Owner  
Date :29/12/2017  
Next review date : 01/04/2019

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