

## Multi-Channel Marketing Service Specification (2023)

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When you agree to purchase a multi-channel marketing services from the Company your Agreement will be subject to this Service Specification below (“Multi-Channel Marketing Service Specifications”) and the Company’s General Terms and Conditions, together “the Agreement”.

### 1. DEFINITIONS

The definitions and rules of interpretation in this Services Specification shall be as set out in the General Terms and Conditions, unless otherwise stated below:

- 1.1 **“Materials”** means Client Materials, goods and / or computer data provided by the Client to the Company in order for it to deliver the Multi-Channel Marketing Services;
- 1.2 **“Multi-Channel Marketing Services”** shall mean any multi-channel marketing services including but not limited to e- communications, design services, and / or printed mailings requested by you and provided by Us; and
- 1.3 **“Project”** means multi-channel campaign or activity as set out in the Order;
- 1.4 **“Project Fees”** means the fees that you shall pay to Us as set out in the Order; and
- 1.5 **“Suppression File”** means the list of addressees or such other contact details who have requested that the Client shall not contact them again.

### 2. SCOPE OF THIS SERVICE SPECIFICATION

This Agreement will apply whereby the Client has purchased Multi-Channel Marketing Services as set out in the Order and in accordance with the Agreement.

### 3. CLIENT WARRANTIES

3.1 The Client warrants that:

- 3.1.1 it is authorised to instruct the Company to distribute the Multi-Channel Marketing Services notwithstanding that the Client may be acting directly or indirectly for another person or organisation or in a representative capacity;
- 3.1.2 the reproduction and/or distribution of the Multi-Channel Marketing Services will not breach any contract or infringe or violate any copyright, trademark or any other personal or proprietary right of any third party or render the Company liable to any proceedings whatsoever;
- 3.1.3 the Multi-Channel Marketing Services are accurate, complete and true and not misleading and all Materials submitted to the Company is legal, honest and truthful and is professionally relevant to the intended recipient in their current role and that it is not an attempt to engage the recipient in any private capacity for any reason;
- 3.1.4 in respect of any Multi-Channel Marketing Services submitted for distribution which contain the name and/or pictorial representation (photographic or otherwise) of any living person and/or any part of any living person and/or any copy by which any living person is or can be identified, the Client has obtained the permission of such living person to make use of such name, representation and/or copy;
- 3.1.5 the Multi-Channel Marketing Services comply with the requirements of all relevant legislation and applicable regulations as amended from time to time in the United Kingdom and the member states of the European Union; and
- 3.1.6 any material provided by the Client by electronic means is error and computer virus free.

- 3.2 The Client warrants that it shall, at all times, comply with its obligations under Data Protection Laws in its use of the Product including its responsibilities as set out in Schedule 1.
- 3.3 The Client shall provide to the Company a Suppression File upon each new Order.
- 3.4 The Client shall provide all required copy and / or Materials to the Company in accordance with the Order.
- 3.5 Where the Client fails to provide to provide copy and / or Materials under clause 3.3:
  - 3.5.1 The Company shall have no liability to the Client for failure to deliver in accordance with the agreed schedule;
  - 3.5.2 The Company shall not refund any Fees paid under the Agreement in respect of the the Multi-Channel Marketing Services;
  - 3.5.3 The Company shall be under no obligation to offer and alternative date for the Multi-Channel Marketing Services.
- 3.6 The Company may, at its absolute discretion, rollover the Multi-Channel Marketing Services into the following calendar month, or such other month as the Company's schedule allows where the Client has provided four (4) prior weeks' notice for such request.

#### **4. MULTI-CHANNEL MARKETING SERVICE**

- 4.1 Where the Company is providing Multi-Channel Marketing, the Client shall remain, at all times, responsible for the content of any communications.
- 4.2 The Client acknowledges that the recipient addresses held by the Company are business addresses and that the named recipient has therefore not given consent to receive communications from the sender.
- 4.3 The Company shall, at its absolute discretion, have the right to appoint third parties in the provision of the Multi-Channel Marketing Services.
- 4.4 A proof of the communication will be provided to the Client for approval before distribution.
- 4.5 The Client shall assume absolute responsibility for the correctness of communications and any such other Multi-Channel Marketing Services and immediately notify any error to the Company. The Company shall have no liability to the Client for any error or omission not notified to the Company in accordance with this clause.
- 4.6 The Parties will endeavour to follow an agreed schedule, as set out in the Order. The Company however does not provide any warranty that it will complete the Multi-Channel Marketing Services within an agreed timescale. Due to the nature of Multi-Channel Marketing Services, the Company does not guarantee that any of the Multi-Channel Marketing Services will be received and / or read by the recipient.
- 4.7 If the dispatch of a communication is time critical, approval and / or delivery of Materials supplied by the Client must be within the agreed timescale. The Company reserves the right to apply additional Fees for late delivery of Materials by the Client.
- 4.8 In accepting delivery of the Materials and goods supplied, the Company does not accept that the Materials are of adequate quality and/or fit for purpose.
- 4.9 Where Materials supplied by the Client are not suitable and / or inadequate either in volume and / or quality), the Company shall not be responsible for any defective work failure to deliver.
- 4.10 The Company at its absolute discretion reserves the right to decline to distribute any communication.

4.11 The Company will use reasonable efforts to comply with the instructions of the Client. The Company may, in its absolute discretion, refuse to distribute a communication.

## **5. PROJECT FEES**

- 5.1 In consideration of the Company providing the Multi-Channel Marketing Services, the Client will pay the Project Fees in accordance with the Order and, where applicable, the payment schedule.
- 5.2 If the Project Fee is not received when due, the Company reserves the right not to provide, or cease to provide, any or all of the Multi-Channel Marketing Services.
- 5.3 Unless otherwise agreed between the Parties, where the Project Fee is payable in one instalment such payment will be due and payable immediately on the date specified on the Order and, where not specified, no later than 30 days from the date of the invoice.

## **6. POSTPONEMENT OR CANCELLATION OF THE MULTI-CHANNEL MARKETING SERVICES**

- 6.1 The Company shall have no obligation to refund or credit all or part of the Project Fee in the event of the Client's postponement and/or cancellation of the Commencement Date for the provision of the Multi-Channel Marketing Services.
- 6.2 In the case of the Company's postponement of the Commencement Date, unless otherwise agreed in writing between the Parties, the Client is deemed to accept the new Commencement Date.
- 6.3 In the event that the Client decides to terminate part-way through a Project, the provision of the Multi-Channel Marketing Services will cease, and the Client shall be liable to pay the Project Fees in full.

## **7. TERM AND TERMINATION**

- 7.1 The Multi-Channel Marketing Services will commence on the Commencement Date specified on the Order and will continue in accordance with the schedule in the Order, unless terminated in writing by either Party in accordance with this Agreement.
- 7.2 The Client may terminate this Agreement at any time by giving written notice and paying any outstanding Project Fees owing to the Company on termination.
- 7.3 The Company shall have the right to terminate this Agreement with immediate effect, with written notice, where the Client has not paid Project Fees.

## **SCHEDULE 1**

## DATA CONTROLLER / DATA PROCESSOR RESPONSIBILITIES

Our Company information notice has been sent to all current data subjects and is sent to all new data subjects.

The Privacy Policy is made available to the data subjects at the point of collection and/or Validation.

The legitimate interest assessment details the Company's definition of legitimate interest for the licensing of data to third-parties.

In terms of data controller and data processor, these are the definitions that the Company uses in determining data protection responsibilities (below). These are derived from the Information Commissioner's Office ("ICO") and Data Protection Law, and form the basis of our data protection policy, processes and notices.

### Definitions:

**"Data Controller"** determines the **purposes** for which and the **means** by which personal data is processed. So, if a company/organisation decides 'why' and 'how' the personal data should be processed, it is the data controller. More than one organisation can be the data controller of the same data, if they are individually responsible for different elements of use, process and data protection. The ICO's definition provides flexibility, such that it can allow one data controller to mainly, but not exclusively, control the purpose of the processing with another data controller. In other words, just because restrictions are imposed on the use of personal data, this does not necessarily mean that there is a controller – processor relationship.

**"Data Processor"** – processes personal data only **on behalf of the controller**.

Based on these definitions, we have produced the following assessment of our respective data protection responsibilities and obligations where a Client is licensing Company data:

- The Company provides HCP data to the Client under licence.
- The Company is the data owner (in that it has rights in the data), and a data controller, in that it determines how the data can be used by licensees, which is detailed in the Licence and /or Services Agreement. The restrictions put in place on the use of data are not just there for commercial purposes, they are also there for compliance. As a data owner and controller, we need to have a record of how, where, when and who uses our data, so we can fulfil not just our data protection obligations but also our commitments made to the data subjects in our information processing and privacy notices. Copies can be available on request.
- The Company provides warranties that the data is collected, processed and validated within relevant data protection laws, and can be passed to third-parties under licence. Our legitimate interest assessment for licensed data provides details of this. Copies can be made available on request.
- The Company has sent an information processing notice to all data subjects, detailing that their data will be processed under legitimate interest, and may be used by third-parties for a variety of 'services and communications', which are 'healthcare related' and where appropriate 'relevant to their professional role'. In respect of WH's decision to make the data available, The Company is the data controller.
- The Client works within the terms of the licence in respect of the data provided to them under licence by the Company.

- The Client, once the data is licensed from the Company, is responsible for its own data protection obligations in respect of using the data under the terms of the licence. This would include defining their own legal basis for using the Company data, and any other data protection responsibilities that they feel they have in relation to that legal basis, the day-to-day use of the data and the nature of their individual business, for example: The Company is not involved in any scripts used for calls to data subjects or processes directly related to the provision of Client's services, communications or its own activities. In respect of this data processing, the Client would be the data controller. If the Company is sending out a communication (mailing or email) on behalf of the Client, then this would be from the Client. The Company's role is to provide the platform (in the case of email) or the facilities (in the case of mailing). In this instance, the Client is the data controller and the Company is the data processor.
- The Client is responsible for managing any opt-outs or permissions, given to them directly by an individual data subject. An opt-out from the Client does not automatically translate into an opt-out from the Company and vice versa. The Client would be the data controller.
- The Client may use the data for i) its own purposes for analysis and reporting. In these circumstances, Client is not processing this data on behalf of the Company. The Company is not involved in the processes used in the carrying out of these tasks. The Client would be the data controller.
- The Client may also use the data for ii) the purposes of providing sales and marketing services to its own clients. In these circumstances, the Client is not processing this data on behalf of the Company, but in order to provide its services to, or communicate with, or to its own clients. The Client is responsible for carrying out these services in compliance with Data Protection Laws. The Company is not involved in the processes used in the carrying out of these services. The Company therefore cannot be responsible for any data protection breach pertaining to the provision of these services. In these instances the Client will be a data controller. Where a Client third-party is using the Company to carry out services on behalf of the Client (with the written permission of the Company, by way of a DSA), then both the Client and the third-party would be data controllers.
- Should the Client receive a data subject access request from a data subject, they would be responsible for responding to this directly but may say that the original source of the data is the Company. The Client would only be responding about the data they have about the individual, which may not be all the data the Company has. If a data subject wanted to see all of the Company information then they would need to make a DSAR direct to the Company. In addition, the Client may also have data attributes, activity etc, against that individual that the Company are not privy to, and which they may also be required to disclose. The Client would be the data controller.

## **SCHEDULE: DATA PROCESSING AGREEMENT**

## Processing Details

### Subject-matter:

Healthcare Professionals (UK and ROI) in relation to their professional role

### Nature and Purpose:

- Sending out communications on behalf of Licensee; and/or
- Data matching or suppression management against Licensee owned data (not other third-party owned data); and/or
- Building, managing and/or validation databases and/or lists on behalf of Licensee, and/or
- Contacting journalists, KOLS or other named contact(s) on behalf of Licensee

### Types of Personal Data:

Personal data in relation to a healthcare professional's professional role including:

- Name and job title
- Roles and responsibilities
- Interests/specialties
- Organisation name and postal address (workplace)
- Telephone number and email address (workplace)
- Gender (where applicable)
- Professional qualifications and year/place of qualification
- Professional registration (i.e GMC Code)
- Interaction information and profiling (where applicable)

### Duration:

- For the term of the agreement or 12 months (whichever is shortest). DPA to be reviewed annually.

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Personal data in relation to a healthcare professional's professional role including:

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- Organisation name and postal address (workplace)

- Telephone number and email address (workplace)
- Gender (where applicable)
- Professional qualifications and year/place of qualification
- Professional registration (i.e GMC Code)
- Interaction information and profiling (where applicable)

**Categories of Data Subject:**

- Healthcare professionals (the client's customers)

**Sub-processors:**

When operating as a Data Processor, WHC engages the following sub-processors for the activities listed

- Forfront (email communications sent on behalf of clients)
- Paragon (postal communications sent on behalf of clients)
- AWS (hosting of online platform)
- Merit (data validation and research on behalf of clients)

Any changes by the Company to the sub-processors set out above will be notified in writing to the Client.

This addendum shall be read in accordance with Data Protection Law, and in the event that any of the term, condition or provision of this addendum is deemed invalid, unlawful, unenforceable or non-

compliant with Data Protection Law to any extent, it shall be deemed modified to the minimum extent necessary to make it valid, legal, enforceable and compliant under Data Protection Law whilst maintaining the original intention of this addendum.

## **BASIS, DEFINITIONS AND INTERPRETATION**

- 1.1 Data Protection Law: as applicable the Data Protection Act 2018, the General Data Protection Regulation ((EU) 2016/679), (and any UK law which implements or acts as a domestic equivalent of it in whole or in part), and any applicable laws, regulations or secondary legislation relating to privacy or data protection, as amended or updated from time to time.
- 1.2 Provider: As set out in the Order.
- 1.3 Any terms or words defined in Data Protection Law and used in a provision of this addendum relating to personal data shall, for the purposes of that provision, have the meaning set out in Data Protection Law.
- 1.4 In consideration of the mutual promises set out in this addendum (the sufficiency of which each party expressly acknowledges), the parties agree to amend the Agreement (as defined in the General Terms and Conditions and below) as set out below.

## **DATA PROTECTION**

- 1.5 The Provider and the Customer are parties to an agreement for the provision of services which include data processing by the Provider for or on behalf of the Customer (the Agreement). This addendum is intended to ensure that the Customer's appointment of the Provider is compliant with Data Protection Law.
- 1.6 Both parties will comply with all applicable requirements of Data Protection Law. This clause 1 is in addition to, and does not relieve, remove or replace, a party's obligations under Data Protection Law.
- 1.7 The parties acknowledge their understanding that for the purposes of Data Protection Law, the Customer is the data controller and the Provider is the data processor in relation to any personal data processed on behalf of the Customer in connection with the performance by the Provider of its obligations under the Agreement. Where, in respect of any personal data, the Customer is a data processor on behalf of a third party, the Customer warrants that the Customer's instructions and actions regarding such personal data (including the appointment of the Provider as a data processor) have been authorised by such third party. The front sheet of this addendum and the Agreement set out the subject-matter, nature and purpose of processing by the Provider, the duration of the processing and the types of personal data and categories of data subject. The Customer acknowledges and agrees all such details as accurate and comprehensive
- 1.8 Without prejudice to the generality of clause 1.6, the Customer will ensure that it has all necessary consents and notices in place to enable lawful transfer of the personal data to the Provider for the duration and purposes of the Agreement.
- 1.9 Without prejudice to the generality of clause 1.6, the Provider shall, where it acts as a data processor on behalf of the Customer:



- 1.9.1 process that personal data only on the written instructions of the Customer (and the Customer hereby instructs the Provider to process that personal data as required to perform its obligations under the Agreement) unless the Provider is required by the laws of England and Wales or of any member of the European Union or by the laws of the European Union applicable to the Provider to process personal data (Applicable Laws). Where the Provider is relying on Applicable Laws as the basis for processing personal data, the Provider shall notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Provider from so notifying the Customer;
  - 1.9.2 ensure that it has in place appropriate technical and organisational measures as required by Data Protection Law;
  - 1.9.3 ensure that all its personnel who have access to and/or process personal data are obliged to keep the personal data confidential;
  - 1.9.4 not transfer any personal data outside of the European Union and the UK unless the prior written consent of the Customer has been obtained (save that where any personal data held by the Provider is accessed by or on behalf of the Customer from outside the European Union and the UK, the Customer hereby instructs the Provider to permit such access);
  - 1.9.5 taking into account the nature of the processing, assist the Customer, at the Customer's cost, in responding to any request from a data subject (insofar as this is possible) and in ensuring compliance with the Customer's obligations under Data Protection Law with respect to (taking into account the information available to the Provider) security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - 1.9.6 notify the Customer without undue delay on becoming aware of a personal data breach, and (in with regard to its obligations under clause 1.9.8) immediately inform the Customer if (in the Provider's opinion) an instruction of the Customer's infringes Data Protection Law;
  - 1.9.7 at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Agreement unless required by Applicable Law to store the personal data; and
  - 1.9.8 make available to the Customer all information necessary to demonstrate its compliance with this clause and Data Protection Law (which shall remain the Provider's confidential information and which the Customer shall not disclose or use other than to confirm the Provider's compliance with Data Protection Law) and allow for and contribute to audits by the Customer or the Customer's designated auditor at the Customer's expense, on reasonable written notice during business hours and subject to such reasonable measures as the Provider (or any sub-processor) requires in relation to its security and confidentiality requirements and not causing disruption to its business activities.
- 1.10 The Customer specifically authorises the appointment of any sub-processor set out on the front page of this addendum or identified in the Agreement and generally authorises the Provider to appoint further or alternative sub-processors on such sub-processors' terms of

business which incorporate terms which are substantially similar to those set out in this clause. Where the Provider appoints or replaces a sub-processor it shall notify the Customer in advance. If the Customer wishes to object to such changes, it may, within 30 days of receipt of the original notice, terminate on written notice without penalty the relevant services directly affected by that change. Where the Customer does not provide written notice of such termination, or continues to use such services following the change, it shall be deemed to have accepted such change. The Provider shall remain fully liable for all acts or omissions of any sub-processor engaged by it.

- 1.11 The Customer acknowledges that it has been provided with the Provider's security information, policies, evidence and guarantees (Guarantees), and having reviewed and considered such Guarantees, considers the measures set out in them to be such that the Provider meets the requirements of Data Protection Law in respect of its processing under the Agreement.

## **GENERAL**

- 1.12 This addendum shall form part of the Agreement continue for the duration of the Provider's processing of personal data for or on behalf of the Customer under the Agreement. Any limitations on liability set out in the Agreement shall include the provisions of this addendum as this addendum is part of the Agreement.
- 1.13 In the event of any conflict in relation to the data protection provisions of this addendum and the Agreement, the provisions of this addendum shall prevail.

The parties hereby agree that this addendum shall be governed by and interpreted in accordance with English Law, and hereby submit to the English courts.