

# ELECTRONIC TERMS AND CONDITIONS

YOU AGREE TO BE BOUND BY THESE TERMS BETWEEN YOU ("THE CLIENT") and AMD Communications, a trading name of AMD Print Limited, whose Registered Office is at Studio 5 St Chad's Industrial Estate, Breatley Street, Birmingham B19 3NP (trading as and referred to as AMD Communications in these terms), which sets out the terms and conditions ("Terms") governing your use of the AMD Communications system and Services. YOU MAY NOT USE THE AMD COMMUNICATIONS SERVICE UNLESS YOU AGREE TO BE BOUND BY THESE TERMS.

## 1. Interpretation

- 1.1 In these Terms: "data controller", "data processor", "data subject", "personal data" and "processing" shall have the meanings ascribed to them in the Data Protection Act 1998 or such other legislation as may supersede this Act; "Agreement" means the contract formed between You the Client and AMD Communication by Your use of the Services and agreement pay the Charges subject to these Terms or as otherwise agreed in writing; "Charges" means AMD Communication's charges for the Services which shall be together with such other additional charges as may be agreed between the parties from time to time; "Client" is You, the legal entity to whom AMD Communications is providing the Services pursuant to these Terms; "Intellectual Property" means any and all patents, copyrights (including future copyrights), design rights, trade marks, service marks, domain names, trade secrets, know-how, database rights, and all other intellectual property rights, whether registered or unregistered, and including applications for any of the foregoing and all rights of a similar nature which may exist anywhere in the world and provided by or owned by AMD Communications business model, the AMD Communications Material, the AMD Communications Trade Mark or the provision of the Services; "Material" means written documentation and content verbal, electronic and other information, databases, computer software (including the Software), designs, drawings, pictures or other images (whether still or moving), the Site, sounds or any other record of any information in any form; "Pay Per Send" means the option of paying for the Services based on the number of emails sent by AMD Communications on behalf of the Client as more particularly detailed on AMD Communication's Site; "Services" means the provision of the AMD Communications data processing services and Software whereby: (a) AMD Communications provides the Software to manipulate the personal data collected; (b) AMD Communications provides the facilities for the Client to send emails to data subjects who have expressly consented to the Client sending them such emails; and (c) AMD Communications provides facilities for the Client to export the personal data together with such other services agreed between AMD Communications and the Client from time to time or ancillary to the services detailed above; "Site" means AMD Communication's website from which the Services can be accessed; "Software" means AMD Communication's data management and manipulation software which is made available for use by AMD Communications to the Client over the internet as part of the Services; "AMD Communications" unregistered trade mark and logo and any future registration of either of these marks or any similar mark or branding of AMD Communications or any 3rd parties provided or used as a part of these services or any application for registration anywhere in the world.
- 1.2 Any reference in these terms to 'writing' or related expressions includes a reference to email, communications via websites and comparable means of communication.
- 1.3 Except where the context requires otherwise: the singular includes the plural and vice versa; a reference to one gender includes all genders; and words denoting persons include firms and corporations and vice versa.
- 1.4 Any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to what most nearly approximates in that jurisdiction to the English legal term.

## 2. Supply of the Services

- 2.1 Subject to early termination and payment of the Charges in accordance with this Agreement AMD Communications shall provide the Services to the Client for the duration of this Agreement.
- 2.2 AMD Communications warrants that it will not disclose any personal data to any business, organisation or individual without the Client's prior express consent, unless required or permitted by law.
- 2.3 AMD Communications uses a third party to host the application servers and to provide communication services. AMD Communications will use all reasonable endeavours to ensure the third party undertakes to provide its services to generally accepted industry standards. AMD Communications does not warrant that the Services will be uninterrupted, error, bug or virus free or that the delivery of emails will be without delay but will use all reasonable endeavours to maintain an uninterrupted service during core working hours (09.00 to 17.00, Monday to Friday UK local time excluding statutory holidays).
- 2.4 It may be necessary to temporarily suspend the Services from time to time to carry out maintenance of equipment. AMD Communications will provide the Client with as much notice as possible of temporary suspensions of the Services and where possible any such planned suspensions will take place outside of core working hours in order to minimise disruption to the services provided to the Client. Services may also be suspended (in whole or in part) where AMD Communications or the third party host is obliged to comply with an order, instruction or request of government, a court or other competent administrative authority or an emergency service organisation.
- 2.5 AMD Communications will process information about the Client in accordance with its privacy policy which is available on our website. By using the Site, the Client consents to such processing and warrants that all data provided by the Client is accurate.
- 2.6 Where the Site contains links to other sites and resources provided by third parties, these links are provided for the Client's information only. AMD Communications has no control over the availability or content of such other sites or resources, and accepts no responsibility or liability for them or for any loss or damage that may arise from the Client's use of third party sites or Materials.

The delivery of emails to the recipient cannot be guaranteed and is dependant upon accurate and up to date email addresses, upon suitable internet availability and connectivity, on various anti spam and junk mail policies adopted by the recipients' email service providers as well as restrictions regarding the content, wording and graphics of an email. The basis of defining "spam" or "junk" mail is constantly changing. Whilst AMD Communications will assist the Client with the provision of tools and up to date guidance on how to maximise the delivery rate of emails, AMD Communications makes no representations or warranties whatsoever about the speed or proportion of emails sent that will be delivered.

## 3. Charges

- 3.1 The Client shall pay the Charges for the Services as set out in the Charges schedule or in accordance with the payment terms agreed with AMD Communications. Payment shall be made in pounds Sterling.
- 3.2 AMD Communications may alter the level of Charges or the payment terms from time to time on not less than 30 days' notice by email or notification on the website. Within 30 days of receiving such notice the Client may notify AMD Communications in writing that it wishes to terminate this Agreement with effect from the date of any proposed change in the Charges. AMD Communications may then either terminate this Agreement or withdraw its notice of the proposed changes to the Charges and/or the payment terms in which latter case the Agreement will not terminate as a result of the Client's notice. If no such notice is received from the Client, the Client shall be deemed to have accepted the changes proposed by AMD Communications.
- 3.3 All Charges quoted to the Client for the provision of the Services are exclusive of any Value Added Tax, for which the Client shall be additionally liable at the applicable rate from time to time.
- 3.4 AMD Communications will invoice the Charges on a monthly basis on or before the last day of each calendar month. Payment of the invoices to the Client are to be made within 14 days of the date of invoice.
- 3.5 Payment of the Charges may be made by cheque or bank transfer or cred/debit card. At some future date AMD Communications may offer the option to clients to pay by direct debit and relevant terms and conditions for such payment method will be issued at the appropriate time.
- 3.6 Subject to any separate agreement in writing between the parties from time to time, the Charges and any additional sums payable shall be paid by the Client (together with any applicable Value Added Tax, and without any set off or other deduction) to AMD Communications within 14 days of the date of each invoice.
- 3.7 No payment shall be deemed to have been made until AMD Communications has received such payment in cleared funds.  
If the Client fails to pay AMD Communications any Charges due pursuant to this Agreement, then without limiting any other rights it may have or its rights under the Late Payments of Commercial Debts (Interest) Act 1998, AMD Communications shall be entitled to charge interest (both before and after any judgement) on the outstanding amount at the rate of 4% above the base rate of Barclays Bank plc from time to time, accruing on a daily basis and compounded quarterly, from the due date until the outstanding amount is paid in full.
- 3.8 If the Client fails to pay any sums due within 14 days (subject to any separate agreement in writing between the parties from time to time) of the date of each invoice, AMD Communications retains the right to disable the account and suspend the provision of the Services until such time as any outstanding invoices have been settled in full in cleared funds.

- 3.9 In the event of an invoice being disputed by the Client for valid and reasonable grounds AMD Communications may agree to continued provision of the Services for a further 14 days whilst discussions take place to resolve the basis of the dispute. Where there have been previous unfounded disputes over invoices with the Client AMD Communications may at its discretion suspend the Services to the Client without allowing any 14 day extension for resolution of the dispute. If the Customer disputes any portion of an invoice based upon usage of the Services, AMD Communication's records of such usage shall be presumed to be accurate unless proved otherwise by an independent expert.

AMD Communications may require the Client to set up a Direct Debit mandate for payment of charges which must be completed and returned to AMD Communications within 7 days of signing an order for Services.

If the Client fails to pay within 14 days of the date of each invoice, AMD Communications retain the right to disable the account until such time that any outstanding invoices have been settled.

- 3.10 AMD Communications reserve the right to carry out credit checks on Clients, and initially to provide a restricted Service limiting the initial send volumes of emails based on the results of such credit checks AMD Communications also reserves the right to apply lower limits to Clients or to request payments of Charges in advance during the provision of the Services if a Client's credit rating reduces.

## 4. Data, Data Protection & Indemnity

- 4.1 The Client is the data controller in respect of any personal data that AMD Communications processes in the course of providing Services. The personal data is derived from that provided by the Client and is not checked or monitored by AMD Communications and, accordingly, AMD Communications has no liability or responsibility for the accuracy, contents or use of such personal data.
- 4.2 AMD Communications uses a third party to store data (including personal data) and to back it up. That third party shall be contracted to provide storage and back up services to an acceptable industry standard. However, AMD Communications has no responsibility or liability for the storage or back up of client data and although third party back-ups shall be carried out at regular intervals (at least daily), the Client has full responsibility to make its own back-up of such data if required, particularly if it adds a significant amount of data over a short time period. AMD Communications shall have no liability for any loss or damage, however caused, arising from any loss of data.
- 4.3 It is a condition of this Agreement that the Client complies with all applicable data protection AMD Communications legislation (including without limitation, if located in the European Economic Area "EEA", any locally applicable legislation giving effect to EC Directive 95/46/EC and EC Directive 2002/58/EC such as the provisions of the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003). In particular, the Client shall: (a) if located or operating in the EEA, ensure that it is appropriately registered; (b) take appropriate organisational and technical measures against unauthorised or unlawful processing; (c) obtain appropriate express, specific and informed consent when obtaining the personal data from data subjects; (d) keep full records of its customers opt-in/opt-out choices regarding unsolicited emails; (e) if located or operating in the EEA, only transfer personal data outside the EEA with, and only to the extent of, any express and informed written consent of the relevant data subject; and (f) permit AMD Communications to audit its compliance with this clause 4.3 and shall provide access to all its premises and systems for such purpose upon being given reasonable notice.
- 4.4 The Client shall fully indemnify and keep indemnified AMD Communications against any losses, claims, fines, damage or expenses (including reasonable legal and professional expenses) of whatsoever nature (whether direct, indirect or consequential) arising as a result of or in connection with any breach of this clause 4 and/or any applicable data protection legislation.

AMD Communications shall not use the Client data or materials except for the provision of Services as set out in this Agreement or as required by law, regulation or regulatory body or any court of competent jurisdiction. AMD Communications shall at all times comply with its obligations under the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003.

## 5. Client's Obligations & Indemnity

- 5.1 It is a condition of the provision of these Services that the reputation, goodwill and brand of AMD Communications are fully preserved and protected and, the Client shall not: (a) use the Services in any way so as to bring the Services or AMD Communications into disrepute; or (b) use the Services to send unsolicited or unauthorised advertising, promotional material, "junk mail", "spam", "chain letters or pyramid Schemes" or any other form of solicitation to any data subjects or third party; or (c) forge headers or otherwise manipulate identifiers in order to disguise the origin of any content or materials transmitted through the AMD Communications Services; (d) use the Services in a manner which is unlawful, harmful, threatening, abusive, harassing, tortuous, indecent, obscene, libellous, menacing or invasive of another persons privacy; or (e) use the Services in a manner which infringes the Intellectual Property, proprietary or personal rights of any third party, including data subjects; or (f) misuse the Site by introducing viruses, trojans, worms, logic bombs or other material which is technologically harmful; or (g) attempt to gain unauthorised access to the Site or Services, the server on which the Site or Services are stored or any server, computer or database connected to the Site or Services; or (h) attack the Site or Services via a denial-of-service attack or a distributed denial-of service attack.
  - 5.2 It is a further condition of this Agreement that the Client agrees: (a) to comply, and to ensure that all its use of the Services complies, in all respects, with all applicable legislation, regulations, directions, codes of practice, best practice guides (including, without limitation, the Spamhaus best practice guides) and other rules and guidelines, mandatory or otherwise, promulgated from time to time by governments, regulators and/or email User Groups acknowledged both UK and worldwide (collectively, "Codes"); (b) that where AMD Communications is notified that a Client is or has been in breach of any Codes, AMD Communications shall be entitled to act on any request or recommendation for access to be barred to such Services and for such periods in each case as are reasonable; (c) to provide all reasonable assistance to AMD Communications in connection with AMD Communications compliance with any requirements or conditions which are at any time imposed by law or any regulator or appropriate User Group which are applicable to or affect the Services; and (d) to provide the relevant authority, User Group or regulator with such information or material relating to the Services or a future service as it may reasonably request in order to carry out any investigation in connection with the Services.
  - 5.3 The Client will keep its password and other access details for use with the Services confidential and restricted to those members of staff who need to know such details and shall ensure all such staff are aware of the confidential nature of such information and treat it accordingly. The Client shall notify AMD Communications immediately if it believes that such information is no longer secret. The Client is solely responsible for all activities that occur under the Client's password or account.
  - 5.4 AMD Communications does not accept and shall have no responsibility or liability for the content of any emails sent using the Services or for sending them to the recipients in accordance with this Agreement and the Client agrees to indemnify fully and keep indemnified AMD Communications against any losses, claims, fines, damages and expenses (including reasonable legal and professional expenses) of whatsoever nature (whether direct, indirect or consequential) arising as a result of or in connection with any breach by the Client of this clause 5 and/or any applicable legislation.
  - 5.5 Without prejudice to its other rights in this Agreement AMD Communications reserves the right to remove any item placed on the Site or included in any emails forming part of the Services or any other item or material made available via the Services by the Client at any time and without notice.
- ## 6. Ownership & Use of the Intellectual Property Rights
- 6.1 The Client acknowledges and AMD Communications warrants that is the proprietor of the Intellectual Property in the Services and Materials.
  - 6.2 AMD Communications hereby grants to the Client a personal, non-exclusive and non-transferable licence to use the Materials and the Trade Mark for the duration of this Agreement for its own business purposes and strictly on these Terms.
  - 6.3 Use of the Materials is on the following terms: (a) "use" of the Materials shall be restricted to use over the internet and for the purpose of utilising the Services only; (b) the Client shall have no right to copy, translate, reproduce, adapt, reverse engineer, decompile, disassemble, create derivative works or modify the Materials in whole or part except as permitted by law; (c) the Client shall have no right to sell, rent, lease, transfer, assign or sub-licence the Materials to any third party; (d) the Client shall have no right to make any representations, warranties or guarantees with regard to the Materials or AMD Communications; and (e) the Client acknowledges that the Materials will not be treated as goods within the meaning of the Sale of Goods Act 1979.
  - 6.4 The Client undertakes not knowingly to do or permit to be done any act which would or might jeopardise, affect or invalidate any registration of the Intellectual Property, or application for such registration, nor to do any act which might assist or give rise to an application to remove any of the Intellectual Property from an official register or which might prejudice the right or title of AMD Communications to the Intellectual Property.
  - 6.5 All use of the Intellectual Property by the Client shall be for the benefit of AMD Communications and any goodwill which may accrue to the Client from its use of the Intellectual Property or the Materials shall be assigned to AMD Communications at its request at any time whether during or after the term of this Agreement.

- 6.6 The Client shall only use the Trade Mark or any AMD Communications branding in the form stipulated by AMD Communications from time to time and shall observe all directions given by AMD Communications as to colours and size and representations of the Trade Mark and branding and their manner and disposition on the Client's products, packaging, labels, wrappers and any accompanying leaflets, brochures or other material. The Client shall be responsible for ensuring that all other requirements relating to labelling, packaging, advertising, marketing and other such matters are complied with.
- 6.7 The use of the Trade Mark by the Client shall at all times be in keeping with and seek to maintain its distinctiveness and reputation as determined by AMD Communications and the Client shall cease any use to the contrary as AMD Communications may require.
- 6.8 The Client shall not use any mark or name confusingly similar to the Trade Mark in respect of any of its goods or use the Trade Mark as part of any corporate business or trading name or style.
- 6.9 The foregoing obligations as to Intellectual Property rights shall remain in full force and effect notwithstanding any termination of this Agreement.
- 6.10 The Client shall as soon as it becomes aware thereof give AMD Communications in writing full particulars of any use or proposed use by any other person, firm or company of a trade name, trade mark or get up of goods or mode of promotion or advertising which amounts or might amount either to infringement of AMD Communications' rights in relation to the Intellectual Property or to passing off.
- 6.11 If the Client becomes aware that any other person, firm or company alleges that the Trade Mark is invalid or that use of the Trade Mark infringes any rights of another party or that the Trade Mark is otherwise attacked or attackable the Client shall as soon as reasonably possible give AMD Communications full particulars in writing thereof and shall make no comment or admission to any third party in respect thereof.
- 6.12 AMD Communications shall have the conduct of all proceedings relating to the Intellectual Property and shall in its sole discretion decide what action it may take in respect of any infringement or alleged infringement of the Intellectual Property or passing off or any other claim or counterclaim brought or threatened in respect of the use or registration of the Intellectual Property. The Client shall not be entitled to bring any action relating to the Intellectual Property in its own name.
- 6.13 The Client undertakes to indemnify and keep indemnified AMD Communications against all losses, claims, fines, damages and expenses (including reasonable legal and professional expenses) of whatsoever nature (whether direct, indirect or consequential) arising as a result of or in connection with any infringement by the Client of AMD Communications' rights in respect of any Intellectual Property.

## 7. Confidentiality

- 7.1 Subject to clause 7.2, neither party shall disclose at any time to any third party any information relating to the other party including information relating to: (a) Intellectual Property, software (including the Software), materials (including the Materials), products, systems, operations, processes, plans or intentions, product information, know-how and market opportunities; and (b) business, identity and affairs and the business, identity and affairs of its directors, officers, employees, customers and potential customers, suppliers, agents, or subcontractors and the like, which comes into the possession of the other party as a result of or in connection with the performance of this Agreement. Any bespoke amendments to these Terms agreed separately with the Client are also confidential.
- 7.2 The provisions of clause 7.1 shall not apply to any information which (a) is in or enters the public domain other than by a breach of clause 7.1; or (b) is in the possession of the receiving party without restriction in relation to disclosure before the date of its receipt in connection with this Agreement; or (c) is obtained from a third party who is lawfully authorised to disclose such information and is provided to the receiving party without any obligation of confidentiality; or (d) is authorised in advance for release by the disclosing party.
- 7.3 The foregoing obligations as to confidentiality shall remain in full force and effect notwithstanding any termination of this Agreement.

## 8. AMD Communication's Warranties and Liability

- 8.1 AMD Communications warrants to the Client that the Services will be provided using reasonable care and skill.
- 8.2 Nothing in this Agreement shall limit or exclude either party's liability for death or personal injury howsoever caused or for fraud.
- 8.3 AMD Communications shall have no liability to the Client for any loss, damage, costs, expenses or other claims for compensation arising from any Material which is incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form.
- 8.4 Without prejudice to clause 8.2 and save as expressly provided in these Terms, AMD Communications shall not be liable to the Client by reason of any representation (unless fraudulent), or any duty at common law (including negligence), or under the express terms of this Agreement, for: (a) loss of profit; (b) loss of revenue; (c) loss of savings or anticipated savings; (d) loss of data; (e) loss of use of software or data; (f) loss or waste of management or staff time; and/or (g) any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of AMD Communications, its servants or agents or otherwise) in each case which arise out of or in connection with the provision of the Services or their use by the Client.
- 8.5 Without prejudice to clause 8.2, the entire liability of AMD Communications under or in connection with this Agreement shall not exceed the amount of the Charges received by AMD Communications from the Client in the 12 month period immediately preceding the act or omission in respect of which any claim by the Client is brought under this Agreement.
- 8.6 The entire risk as to use and performance of the Services and Materials or the information therein or derived there from is with the Client. Accordingly, AMD Communications does not warrant that the Services or Materials will meet the Client's requirements. Except as expressly stated in this Agreement, the Services and Materials are provided on an "AS IS" basis only. Accordingly and to the maximum extent permitted by applicable law, AMD Communications hereby disclaims all warranties and conditions, whether express, implied or statutory, regarding the Services and Materials, including, but not limited to, any warranty of merchantability, satisfactory quality or fitness for a particular purpose.
- 8.7 Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of certain liability. Accordingly, some of the exclusions of warranties and/or the limitations and exclusions of liability may not apply to the Client.

## 9. Force Majeure

Neither party shall be responsible to the other in circumstances where some or all of the obligations (except for the obligation for the payment of Charges) under this Agreement cannot be performed due to circumstances outside the reasonable control of the defaulting party including, without limitation, an Act of God, change in legislation, fire, explosion, flood, accident, strike, lockout or other industrial dispute, war, terrorist act, riot, civil commotion, failure of public power supplies, failure of communication facilities, default of suppliers or sub-contractors, or the inability to secure computer processing facilities (including those of the necessary quality or security), obtain materials or supplies and, in all cases, the inability to do so except at increased prices (whether or not due to such causes). However, if such circumstances persist for more than 28 days, the non-defaulting party may terminate this Agreement and all Charges due to AMD Communications up to the date of termination shall become due.

## 10. Suspension and Termination

- 10.1 AMD Communications may suspend the provision of Services in accordance with the provisions of clause 3.9 and 3.10 above.
- 10.2 AMD Communications may suspend the provision of Services to the Client if its account remains inactive for a period of 13 months or more.
- 10.3 AMD Communications may suspend the Services (or any part thereof) at any time without notice if in the reasonable opinion of AMD Communications the use of the Services by the Client damages, or threatens, to damage the security or stability of the Site, Software, and/or services provided by AMD Communications to other clients, or damages the reputation and goodwill of AMD Communications due to the actions of the Client, and this shall include any use of the email services by the Client.
- 10.4 AMD Communications may suspend or terminate (at AMD Communications' reasonable discretion) this Agreement (and Services) forthwith on giving written notice if: (a) notwithstanding sub-clause (b) below, the Client breaches its obligations under clauses 4.3, 4.4 or 5.1 to 5.4 inclusive; or (b) if the Client commits any breach of these Terms and (if capable of remedy) fails to remedy the breach within 14 days after being required by written notice so to do; or (c) if the Client becomes insolvent or bankrupt, enters into an arrangement with creditors, has a receiver or administrator appointed or its directors or shareholders pass a resolution to suspend trading, wind up or dissolve the Client other than for the purposes of amalgamation or reconstruction or it ceases, or threatens to cease, trading.
- 10.5 The period during which we may suspend the Services will continue until the circumstances giving rise to our right to suspend the Services ceases to subsist or until this Agreement is terminated in accordance with these terms.
- 10.6 In the event we take action under this section, you will continue to be obliged to pay any Charges owing or that arise during the period when the Service is suspended.

- 10.7 Where the provision of Services to the Client has been suspended AMD Communications reserves the right to charge a £50.00 (fifty pounds) administration fee for reconnection or any resumption of the provision of the Services.

## 11. Effects of termination

Upon termination of this Agreement for whatever reason: (a) there shall be no refund of any element of the Charges; (b) all unpaid Charges shall become immediately due (including on a pro rata basis where part of a periodic charge which is charged in arrears is due); (c) AMD Communications will be under no obligation to retain any data (including personal data); and (d) the Client shall cease using the Trade Marks, any AMD Communications branding and the Materials.

## 12. Disputes

- 12.1 In the event of any dispute arising between the parties in connection with this Agreement, senior representatives of the parties shall, within 10 days of written notice being given by either party to the other, meet in good faith at a reasonable venue within 15 miles of Central Birmingham in an effort to resolve the dispute.
- 12.2 Any proceedings relating to any dispute shall take place in England and shall be conducted in the English language.

## 13. Transfer and Sub-contracting

- 13.1 AMD Communications may at its reasonable discretion and upon reasonable prior notice to the Client assign, transfer, sub-contract or deal in any other manner with all or any of its rights under this Agreement or any part thereof to a third party. If after two months the Client can demonstrate with specific examples that the standard of the Services is materially and consistently worse than prior to such assignment the Client may terminate this Agreement on providing one month's written notice.
- 13.2 The Client may not assign, sub-contract, sub-licence or otherwise transfer any rights or obligations under this Agreement or any part thereof without the prior consent in writing of AMD Communications.

## 14. Communication & Notices

- 14.1 Valid notices may be sent by email by either Party. The Client hereby undertakes to have, and keep AMD Communications informed of, a valid and regularly monitored contact email address for the duration of this Agreement. The Client will be deemed to have accepted notices sent to this contact email address and AMD Communications may act on that basis. Unless otherwise notified to the Client AMD Communications' contact email address is hello@amdcommunications.co.uk
- 14.2 Notices or proceedings relating to a dispute shall be given by post addressed to the other party at its registered office or principal place of business as may at the relevant time have been notified. Other notices required to be given by either party to the other under the terms of this agreement may be given in writing by post or by email.
- 14.3 Any such notice shall be deemed to have been received: (a) if delivered personally, at the time of delivery; (b) if sent by post within the United Kingdom, 2 Business Days after posting; and (c) if sent by airmail 5 Business Days after posting; Providing that if deemed receipt occurs before 9am or after 5pm on a Business Day then the notice shall be deemed to have been given on the next Business Day. For the purposes of this clause on a "Business Day" means any day which is not a Saturday, Sunday or a public holiday in England and/or the place to which the notice is sent

## 15. General

- 15.1 The Agreement constitutes the entire agreement between the parties and encompasses AMD Communications General Terms and Conditions as detailed on our web site, relating to the subject matter of this Agreement and, supersedes any previous agreement or understanding whatsoever whether oral or written relating to the subject matter of this Agreement. Nothing in this clause 15.1 or any other provision in this Agreement shall operate to exclude or limit either party's liability for fraud.
- 15.2 AMD Communications may at its reasonable discretion, change or modify the Terms or Services upon giving the Client 30 days' notice of the same either by email or notification on the website. Within 14 days of receiving such notice the Client may notify AMD Communications in writing that it wishes to terminate this Agreement with effect from the date of any proposed change to the Terms or Services and AMD Communications may then choose to alter the Terms or Service or withdraw the notice. If no such notice is received, the Client shall be deemed to have accepted the changes made by AMD Communications.
- 15.3 Each party warrants to the other that they have the power and authority to enter into this Agreement and perform its obligations under this Agreement.
- 15.4 The Agreement shall not be deemed to create any partnership or employment relationship between the parties.
- 15.5 Save for any holding company, subsidiary or associated company of AMD Communications and any proprietor of the Intellectual Property, a person who is not party to this Agreement shall have no rights (under the Contracts (Rights of Third Parties) Act 1999) or otherwise to enforce any term of this Agreement and the provisions of that Act are hereby expressly excluded. For the purposes of this clause, the words "subsidiary" and "holding company" have the meanings given to them by section 736 of the Companies Act 1985 (as amended).
- 15.6 No act, failure or delay to act, or acquiescence by AMD Communications or the client in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right or in any way prejudice any right of AMD Communications or the client under this Agreement, and no waiver by AMD Communications of any breach of this Agreement by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision. Any waiver or relaxation whether partly or wholly of any of the terms or conditions of this Agreement shall be valid only if in writing and signed by or on behalf of AMD Communications and shall apply only to a particular occasion and shall not be continuing and further shall not constitute a waiver or relaxation of any other terms or conditions of this Agreement.
- 15.7 If any provision of this Agreement is held by any court or other competent authority to be unlawful, invalid or unenforceable in whole or in part, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.
- 15.8 This Agreement and these terms are subject to the laws of England and the parties submit to the exclusive jurisdiction of the Courts of England and Wales.

# PRIVACY POLICY

At AMD Communications, we respect the privacy needs of our valued clients customers and members.

This Privacy Policy outlines what specific information is gathered on the AMD Communications site and how that information is used. If you have any specific questions about the AMD Communications Privacy Statement, please contact us via email at [hello@amdcommunications.co.uk](mailto:hello@amdcommunications.co.uk)

## **The data we hold about you**

AMD Communications ('we') provides only technical services to our client base. Our individual clients are responsible for the origination of their mailing lists, which they then upload into our software. We strictly forbid our clients to collect personal data in any way that contravenes relevant UK legislation and recognised best practise; we specifically require our clients to use 'opt in' emails only.

We keep our clients' data completely separate in unique accounts. It is never passed between clients or sold or rented to third parties.

Where a client purchases a third-party list, they are responsible for determining that it meets all legal and regulatory requirements.

## **Viewing or changing your personal data**

If you want to see the data we hold about you then please ask and we will be happy to oblige. All mailings sent via AMD Communications should contain an opt-out mechanism, alternatively you can contact us direct and we will immediately remove you from all client databases.

## **Data Protection Act 1998 and the Data Protection Registrar**

We adhere strictly to the data protection act.

## **Data Security**

Data held is accessed via accounts requiring usernames and passwords, by authorised clients only. We maintain best practice in terms of website security. Our data centre in London UK is fully-secured and backed up.

## **Tracking - your privacy**

Emails sent via AMD Communications contain unique codes to help our clients understand who has opened them and who has clicked on links within them. You should therefore opt-out of AMD Communications emails if you are concerned about this.