

Terms and Conditions

These Terms and Conditions are deemed to be incorporated in every contract entered into with Caspian List and Data Management Ltd.

Definitions

1. Caspian List and Data Management Limited means the company registered at 41a Bell Street, Reigate, Surrey, RH2 7AQ and trading from Caspian House, 42 South Approach, Moor Park, Northwood, Middlesex, HA6 2ET.
2. Caspian LDM means Caspian List and Data Management Limited as registered at the address mentioned above.
3. The Conditions means the standard Terms and Conditions set out in this document and (unless the context otherwise requires) includes the agreed Conditions.
4. Agreed Conditions means the agreed Terms and Conditions/list rental orders or contracts agreed in writing between Caspian LDM and the Client.
5. Contract means the agreement between the Client and Caspian LDM for the right to use the goods, which is made subject to these Conditions.
6. The Client means the individual firm, limited company or other party specified in the Contract that is acquiring the right to use the goods direct from Caspian LDM either for its own use or by the user.
7. The user means the individual firm, limited company or other party specified in the Contract that is using the goods other than the Client.
8. The goods means any products, materials or services supplied by Caspian LDM including information and lists.
9. Information means any printed or data material supplied as goods including printed lists, computer tapes or any other form of transferring or recording data.
10. Lists are any information which is made up of names, postal addresses, email addresses and telephone numbers of individuals or businesses.
11. Processor means any third party specified in the Contract responsible to the Client or user to assist the Client or user in the use of the goods.
12. The List Owner means the Data Controller (as defined in the Data Protection Act 1998) of the goods that are supplied as part of the Contract.
13. Force Majeur means in relation to either party to the Contract any circumstances beyond the reasonable control of that party including without limitation any strike lockout or other industrial action.

Terms

14. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
15. These Conditions shall govern the Contract to the exclusion of any other Terms and Conditions subject to which any quotation is accepted or purported to be accepted or any order is made or purported to be made by the Client.
16. No variation to these Conditions shall be binding unless agreed in writing between Caspian LDM and the Client.
17. Any typographical, clerical or other error or omission in any literature, quotation, price list, acceptance of offer, invoice or other document or information issued by Caspian LDM shall be subject to correction without any liability on the part of Caspian LDM.
18. A failure by either party to the Contract to exercise or enforce any rights conferred upon it by the Contract or these Conditions shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.
19. No order submitted by the Client shall be deemed to be accepted by Caspian LDM unless confirmed in writing by a duly authorised representative of Caspian LDM.
20. The Client shall be responsible to Caspian LDM for ensuring the accuracy of the Terms of any order (including any applicable specification) submitted by the Client and for giving Caspian LDM any necessary information relating to the goods within a sufficient time to enable Caspian LDM to perform the Contract in accordance with its Terms.
21. No order which has been accepted by Caspian LDM may be cancelled by the Client except with the agreement in writing of Caspian LDM and on Terms that the Client shall indemnify Caspian LDM in full against all loss (including total profit) costs, damages, charges and expenses incurred by Caspian LDM as a result of cancellation and in all cases shall be subject to a minimum charge to the Client by Caspian LDM of £100.00.
22. The price of goods shall be as stated in the agreed Conditions set as set by Caspian LDM. All prices quoted are valid for 30 days only or until earlier acceptance by the Client after which time they may be altered by Caspian LDM without giving notice to the Client.
23. All prices quoted are exclusive of any applicable value added tax (VAT) which the Client shall be additionally liable to pay on the rendering of an invoice.
24. The Client is liable to pay all charges for handling and carriage.
25. Subject to any special Terms agreed in writing between Caspian LDM and the Client, Caspian LDM shall be entitled to invoice the Client for the price of the goods on or at any time after delivery of the goods unless the goods are to be collected by the Client or the Client wrongfully fails to take delivery of the goods. In such an event, Caspian LDM shall be entitled to invoice the Client for the price at any time after Caspian LDM has notified the Client that the goods are ready for collection.
26. The Client shall pay the price of the goods within 30 days of the date of the Caspian LDM invoice. Caspian LDM shall be entitled to recover the price notwithstanding that delivery may not have taken place.
27. The time of payment of the price shall be the essence of the Contract. Receipts for payment will be issued only upon request.
28. If the Client fails to make any payments on the due date then without prejudice to any other right or remedy available to Caspian LDM, Caspian LDM shall be entitled to terminate the contract. Alternatively, Caspian LDM can require the immediate return of the information/goods. Otherwise Caspian LDM can charge the Client interest (both before and after any judgement) on the amount unpaid at the rate of 2% per month until payment in full is made (a part of a month will be treated as a full month for the purpose of calculating interest).
29. Any dates quoted for delivery of the goods are approximate only. Time for delivery shall not be of the essence unless previously agreed by Caspian LDM in writing.
30. The Client must inspect the goods within 7 days of receipt and must notify Caspian LDM of any damage or shortage to the goods supplied. If no such notification is given it shall be conclusively presumed that the goods are complete and in good order and condition and fit for the purpose for which they are required and in every way satisfactory to the Client.

31. The Client (and all its employees who have access to any information)) agrees to maintain secret and confidential all information obtained from Caspian LDM pursuant to the provisions of the Contract and all other information that it may acquire from Caspian LDM in relation to Caspian LDM in the course of the Contract. The obligations as to confidentiality in this clause shall remain in full force and effect notwithstanding any termination of the Contract.
32. The Client shall not be entitled to assign or sub-licence its rights in the Contract to any third party without the prior written consent of a duly authorised representative of Caspian LDM.
33. The Client shall ensure before supplying any goods hereunder that any user or processor firstly is supplied with a copy of these Terms and Conditions and that they undertake by way of a written agreement to act or not (as the case may be) in such ways as shall be consistent with the Clients obligations in the Contract. In addition, the user or processor shall acknowledge in writing that the List Owner shall have the right under the Contracts (Rights of Third Parties) Act 1999 to enforce the terms of such agreement against the user or processor.
34. The Client shall indemnify Caspian LDM and the List Owner against any breach of the Contract by the Client or due to any act or omission of the user and or the processor which if it were an act or omission of the Client would constitute a breach of the Contract.
35. The Client agrees to conform and to procure that any user conforms at all times with the British Code of Advertising Practice, the Direct Marketing Association Best Practice Guidelines and the Data Protection Act 1998.

Data Supply

36. All lists supplied will contain a small quantity of seeds in order to monitor the usage of the goods.
37. Unless otherwise agreed in writing and duly authorised by the Client and Caspian LDM, the Client shall use the information once only and as specified in the agreed Conditions and in any event within 6 months of the delivery of the information to the Client.
38. All mailing pieces and emails must be approved in advance as must all telephone scripts for data supplied for telemarketing campaigns. No good shall be delivered until such prior approval has been given in writing by Caspian LDM.
39. If net names are agreed between Caspian LDM and the Client then these will be highlighted accordingly on the initial order. Invoices will be charged gross and the relevant evidence must be supplied to substantiate the discount within 3 months of supply of the data in order to qualify for the net names credit.
40. Caspian LDM may terminate any Contract by giving written or verbal notice to the Client.
41. Caspian LDM may terminate the contract immediately upon breach by the Client of any of these Terms and Conditions of this contract.
42. Unless otherwise agreed with Caspian LDM, lists are supplied for one time use only. Within one month after the date of use (or final use if applicable) of any list, the Client shall return or procure the return of all copies of the list to Caspian LDM within seven days of the date of termination unless Caspian LDM directs otherwise in writing.
43. Upon termination of the Contract, the Client shall cease to use the information and return or procure the return of any information still in its possession or in the possession of a user or processor to Caspian LDM within seven days of the date of termination unless Caspian LDM directs otherwise in writing.
44. Upon termination, the Client will confirm in writing to Caspian LDM that point 43 has been complied with by them.
45. If either party to the Contract is affected by Force Majeur it shall promptly notify the other party of the nature and extent of the circumstances in question.
46. Unless otherwise provided in these Conditions, any notice required to be given by either party to the Contract to the other shall be in writing and shall be served by sending the same by registered or recorded delivery post to the address of the other party as notified by that party as being its address for service.
47. All intellectual property rights in all and any information supplied to the Client shall remain with the List Owner.
48. The client agrees that Caspian LDM has the right, subject to reasonable prior notice, to audit for compliance with the terms and conditions of the Contract. Such right of audit shall include (without limitation) the right to audit any relevant database or computer files maintained by the Client to ensure that the use of the data by the Client complies with the provisions of the Contract. The Client shall allow Caspian LDM and/or the List Owner access during normal working hours to allow for such an audit to be completed and shall provide the auditing party with access to all relevant records associated with the Contract.
49. Caspian LDM warrants that it has the right to license the data and that the data will be supplied using reasonable care and skill but other than as specifically set out herein, the data is licensed on an 'as-is' basis without warranty of any kind, express or implied, oral or written.
50. Caspian LDM shall not be liable for any claim arising out of the performance, non-performance, delay in delivery of or defect in the goods, nor for any special, indirect, economic or consequential loss or damage howsoever arising or howsoever caused (including loss of profit, loss of revenue or loss of goodwill) whether from negligence or otherwise in connection with the supply, functioning or the use of the goods or any breach of the Contract. Any liability of Caspian LDM shall in any event be limited to the maximum extent permitted under the law to the fees paid by the Client in respect of the goods which give rise to a claim.

Governing Law

51. The construction, validity and performance of the Contract shall be governed in all respects by English Law.
52. If any term or provision in the Contract shall be held to be illegal or unenforceable in whole or part under any enactment or rule of law such term or provision or part shall to that extent be deemed not to form part of the Contract but validity and enforceability of the remainder of the Contract shall not be affected.
53. Save for the List Owner who may enforce the terms of this Agreement against the Client and/or any user and/or processor and rely upon any limitation of liability set forth herein, a person who is not party to this Agreement does not have any rights under the Contract (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of the Agreement.

By signing below we agree to these Terms and Conditions

Name:

Signature:

Company:

Position:

Date: