



MARDEV-DM2

2000 Clearwater Drive – Oak Brook, IL 60523  
Toll Free: (800) 323-4958 Fax: (630) 288-8390

**List Rental Contract**

After execution of this Contract and upon receipt of order(s) from List End-user or their list broker that is acceptable to MARDEV-DM2 (MARDEV-DM2) and contractual affiliates (“List Owners”), MARDEV-DM2 will grant the List End-user the limited non-exclusive, non-transferable licensed rights stated below to use the furnished names, addresses and any other data including demographics (collectively known as the “LIST”). List End-user agrees that the LIST is a very valuable proprietary asset of the List Owners and remains at all times the exclusive property of the List Owners and protected under copyright and other intellectual property laws, as a trade secret and by this Contract. The Data/Lists are proprietary to MARDEV-DM2 and/or its affiliates, suppliers, and licensors and where MARDEV-DM2 retains exclusive title to and ownership of all rights in the Data/Lists.

List End-user agrees that this Contract grants only limited non-exclusive, non-transferable licensed usage of the LIST for one mailing or telephone solicitation, of a specifically and expressly pre-approved mailing piece or script, within 30 days of the mail or project date as expressed on an accepted order. Additional uses must be stated in the order and approved in writing by MARDEV-DM2. List End-user agrees that unauthorized use, reuse or conveyance of the LIST (especially making the LIST available to a competitor of the List Owners), in whole or in part, infringes on List Owners’ copyrights and trade secrets, breaches this Contract and can cause irreparable damage to the List Owners. List End-user agrees that the LIST will not be used as an identified source of circulation nor made available to audit agencies. Use of demographic data, if furnished, is limited to response tracking for a period of no more than 90 days from the mail or project date as provided above. List End-user agrees that LIST in its entirety is restricted to activities directly related to the above-described mailing or project and will not be used to enhance, add data or in any way alter any other list, file or database.

List End-user is responsible for safeguarding the LIST at all times and it will not be reproduced in any way contrary to the limited licensed rights stated above. List End-user may use competent agents, vendors or other service providers to process the authorized mailing or project but List End-user remains solely responsible for their compliance with this Contract.

List End-user agrees that the source of the LIST will be held in strict confidence and List End-user will not announce or identify MARDEV-DM2, the List Owners, its brands, publications, directories or tradeshows as the source of the LIST at any time. The decoys that have been placed in the LIST by MARDEV-DM2 to help detect unauthorized usage will not be altered, eliminated or otherwise made ineffective by List End-user or its agents, vendors or other service providers.

List End-user’s mailing or telephone project will be conducted in accordance with all applicable laws and accepted industry practices. Use of telephone numbers, if furnished, will be in accordance with applicable laws, regulations and accepted industry practices.

List End-user agrees to one of the following restrictions regarding recording the identity of survey responders. 1. List-end User will not record the name or address of the survey responder at any time, or 2. Name and addresses will be recorded only with the expressed permission of the survey responder and for the sole purpose of supplying a copy of the survey results or awarding incentives. Upon completion the names will be completely destroyed.

IMMEDIATELY AFTER LIST END-USER’S LIMITED LICENSED USE, LIST END-USER WILL CAUSE THE LIST TO BE COMPLETELY DESTROYED, SCRATCHED AND PURGED FROM ALL MEDIUMS, INCLUDING ELECTRONIC STORAGE, DISK, TAPE, AND PRINTED DOCUMENTS. LIST END-USER AGREES THAT CONTINUED USE OF ANY OF THE DATA THAT COMPRISE THE LIST BEYOND THE ABOVE AUTHORIZED USAGE IS IN VIOLATION OF THIS CONTRACT.

List End-user has read, understands and agrees to be bound to the above provisions and to MARDEV-DM2’s currently published **Terms and Conditions**, which addresses Disclaimer of Warranties and Limitations of Liabilities, and other issues.

Agencies executing this Contract represent and warrant to MARDEV-DM2 that it has the authority to execute this Contract on behalf of the List User and the List User will be bound by the terms and condition of this Contract upon the execution hereof by Agent. Agent further represents and warrants that it has reviewed all of the terms and conditions of this Contract with the List User prior to the execution hereof.

<b>List-End User Company Name:</b>		
<b>Authorized Representative Name:</b>		
<b>Authorized Agency Name:</b>		
<b>Title:</b>		
<b>List-End User Address:</b>		
<b>City:</b>	<b>State:</b>	<b>Zip:</b>
<b>Phone:</b>	<b>Fax:</b>	<b>E-Mail:</b>
<b>Date:</b>	<b>Signature:</b>	

## TERMS & CONDITIONS

### **List Rental Contract and Terms and Conditions:**

Any use of the names, addresses and/or any other data including demographics (collectively known as the "List") furnished by **MARDEV-DM2** is prohibited unless a List Rental Contract is executed and accepted by **MARDEV-DM2**. The List Rental Contract is bound to the Terms and Conditions and collectively, form the legal basis for List Rental and cannot be modified or superseded by any other form, unless authorized in writing by **MARDEV-DM2**.

### **Limited Licensed Rights versus Physical Possession:**

Mere physical possession of the **LIST** does not imply any rights that are not specifically licensed by the List Rental Contract.

### **Duplication of Names, Merge/ Purge policy:**

Individual source lists are substantially free of duplication, but it is not unusual for some duplication between source files. **MARDEV-DM2** will, upon request, remove most inter-file duplications prior to shipment. **MARDEV-DM2**, therefore, will not allow billing adjustments for duplication between **MARDEV-DM2** lists. List End-user is permitted to use the list in a merge/ purge process only for the purpose of eliminating duplicate names with non-**MARDEV-DM2** lists. List End-user agrees that such processing will not be used to enhance, add data or in any way alter any other list, file or database. Billing adjustments for net names must be pre-approved and supported by proper computer verification, and received within 30 days of the mail or project date. Computer verification must be supplied within 30 days of mail or project date for credits resulting from DMA pander or edit fails. Minimum credit honored is \$25.

### **List End-user Responsibility:**

In the event the List End-user uses the **LIST** contrary to the provisions of the List Rental Contract and/or Terms and Conditions, the List End-user shall be held unconditionally responsible. Any and all costs/expenses incurred by **MARDEV-DM2** in enforcing the List Rental Contract and/or Terms and Conditions, including attorney's fees, will be the List End-user's responsibility.

### **Cancellation by List End-user:**

Canceled orders will be billed at \$150.00. Post-shipped, canceled orders will be billed at \$150.00 plus any applicable running fees, shipping and format charges. All orders, post-merge or non-post merge cancelled after the mail date require payment as invoiced, within the billing terms. Post-merge quantity changes resulting in quantity reductions are not allowed and full payment of invoice is required.

### **Cancellation by MARDEV-DM2:**

**MARDEV-DM2** may cancel the rights of the List End-user to use the **LIST** if the mail or project date is delayed more than 30 days from the stated mail or project date. Orders canceled, by **MARDEV-DM2** will be subject to \$10.00/M running charges (\$150.00 minimum charge), plus format and shipping. Any violation of the List Rental Contract or the Terms and Conditions by the List End-user (especially discovery of Unauthorized Use or Conveyance) will cause the rental license to be automatically rescinded and all subsequent usage of the **LIST** is immediately canceled and subject to legal action by **MARDEV-DM2**.

### **Commission, Agency and Brokers:**

Commission will be paid on the base list rental price and selection charges, as invoiced, to qualified list brokers or agencies. Qualified brokers or agencies must have an approved qualification form on file with **MARDEV-DM2**. List End-users, who choose to use brokers or agencies to transact the rental order, remain bound to the List Rental Contract and Terms and Conditions.

### **Billing Terms:**

Upon credit approval, terms are net 30 days from the original mail or project date or authorized cancellation date. Payment with order is required, unless credit is established and maintained in accordance with **MARDEV-DM2** policies. Sales or use taxes are the responsibility of the Invoiced Customer. **MARDEV-DM2** may provide for tax collection where **MARDEV-DM2** has such arrangements established with respective taxing agencies.

### **Disclaimer of Warranties; Limitations of Liability:**

ALTHOUGH **MARDEV-DM2** USES COMMERCIALY REASONABLE EFFORTS TO ENSURE ACCURACY OF THE **LIST** DELIVERED, **MARDEV-DM2** MAKES NO REPRESENTATION OR WARRANTY THAT ITS LISTS AND DATABASES ARE COMPLETE OR FREE FROM ERROR. ALL REPRESENTATIONS AND WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE LIST, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT SOLELY **MARDEV-DM2** WARRANTY OF TITLE, ARE HEREBY DISCLAIMED BY **MARDEV-DM2** AND THE LIST OWNERS. **MARDEV-DM2**'S SOLE LIABILITY FOR ANY SUBSTANTIAL DEFECT IN THE LIST WILL BE LIMITED TO REMISSION, ON A PRO-RATA BASIS, THE FEE PAID FOR THE PORTION OF THE LIST WHICH CONTAINS DEFECTIVE DATA. IN NO EVENT WILL **MARDEV-DM2** OR THE LIST OWNERS BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, IRRESPECTIVE OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR UNFORESEEABLE.

Any use of the Lists provided by **MARDEV-DM2** is prohibited unless a List Rental Contract is executed. The List Rental Contract is bound to the Terms and Conditions and collectively, form the legal basis for List Rental and cannot be modified or superseded by any other form, unless authorized by **MARDEV-DM2**.