

Terms & Conditions – Insert Bookings

These are the terms and conditions for insert bookings of Lloyd James Data Consultancy. Lloyd James Data Consultancy is a trading name of Tele Prospects Limited, a company registered in England and Wales, company registration number 05091787, head office address 84 Salop Street, Wolverhampton, WV3 0SR, registered address Swinford House, Albion Street, Brierley Hill, West Midlands, DY5 3EE.

Definitions

- 1.1 In these conditions the following words have the following meanings:-
 - “the Carrier” means the organisation distributing certain items to individuals and organisations by post;
 - “the Customer” means the organisation requesting inclusion of Inserts in the Carrier’s mailing;
 - “Inserts” means advertising and promotional material which the Customer wishes to be sent out by the Carrier;
 - “Order Confirmation” means Lloyd James Data Consultancy’s confirmation of the order received from the Customer for Inserts to be distributed by the Carrier specifying the price to be paid by the Customer;
 - “Lloyd James Data Consultancy” means Lloyd James Data Consultancy of 84 Salop Street, Wolverhampton, WV3 0SR

2. Application of Terms

- 2.1 Contract for the dispatch of Inserts between the Customer and Lloyd James Data Consultancy is on these Terms and Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2 No terms or conditions endorsed upon, delivered with or contained in the Customer’s purchase order, confirmation of order, specification or other document will form part of the Contract.
- 2.3 These conditions apply to all Inserts negotiated by Lloyd James Data Consultancy and any variation to these Conditions shall have no effect unless expressly agreed in writing.

3. Inserts

- 3.1 No orders submitted by the Customer shall be deemed to be accepted by the Lloyd James Data Consultancy unless and until the relevant paperwork supplied by Lloyd James Data Consultancy is signed by the Customer and returned to Lloyd James Data Consultancy.
- 3.2 The Customer shall supply to Lloyd James Data Consultancy one representative example of the items intended to be the Inserts and Lloyd James Data Consultancy shall submit the representative example to the Carrier for approval.
- 3.3 The Carrier and Lloyd James Data Consultancy shall have absolute discretion in deciding whether or not to accept the proposed Inserts for mailing and the Carrier and Lloyd James Data Consultancy shall not be under any obligation to give any reason for refusal.
- 3.4 The Customer shall be responsible for the costs and expenses of delivering the Inserts to the Carrier’s warehouse.
- 3.5 The Customer will make every effort to ensure that only those Inserts are delivered to the Carrier’s warehouse that can be inserted during the current and next inserting cycle.
- 3.6 The Customer will ensure that the Inserts are packaged in accordance with the Carrier’s instructions.
- 3.7 Any extra costs incurred at the Carrier’s warehouse in order to enable the Carrier’s warehouse to insert the Inserts will be borne by the Customer.
- 3.8 Lloyd James Data Consultancy will procure that the Carrier uses its reasonable endeavours to ensure that all Inserts are dispatched on the agreed dates.

4. Delivery of Advertising Inserts

- 4.1 The Customer should ensure that the Insert conforms to the specification outlined in the delivery specification provided by Lloyd James Data Consultancy to the Customer (‘delivery Specification’).
- 4.2 The Customer should ensure that all Inserts in sufficient quantity are delivered by the date specified in the Insert Order Confirmation, and that they are delivered and packed in accordance with the delivery instructions outlined in the delivery Specification.
- 4.3 Lloyd James Data Consultancy and/or the Carrier reserves the right at its sole discretion to reject any Inserts delivered which are not in accordance with the Contract and delivery Specification.

5. Warranty and Indemnity

The Customer hereby warrants and represents to Lloyd James Data Consultancy and the Carrier that;

- 5.1 The Insert will not be defamatory, offensive, obscene, racist or in breach of any person’s rights, including a breach of confidence, privacy or any other rights.

- 5.2 Neither the Insert nor its distribution under this Contract will infringe any copyright, trademark or other intellectual property or similar right of any third party or infringe the moral rights of any person.
- 5.3 The Insert will comply with all applicable laws, regulations and codes of practice including, without limitation, the "British Code of Advertising Practice" as published by the Committee of Advertising Practice, the Data Protection Act 1988 and the current code of practice of the Direct Marketing Association (UK).
- 5.4 The Inserts provided by the Customer for distribution shall conform to the Delivery specification and match the samples supplied and approved by the Carrier.
- 5.5 The Customer agrees to indemnify Lloyd James Data Consultancy and the Carrier against any losses, costs, charges, and expenses of whatsoever nature incurred or paid by Lloyd James Data Consultancy and/or the Carrier as a result of or in connection with any breach of the warranties in this clause 5.

6. Price and Payment

- 6.1 The Customer will pay to Lloyd James Data Consultancy, as Lloyd James Data Consultancy may direct from time to time, the price for dispatch of the Inserts in accordance with Lloyd James Data Consultancy's Insert rates as applying at the time of acceptance of the Order Confirmation.
- 6.2 Unless otherwise agreed in writing prior to dispatch of the Inserts, if the Customer delivers to Lloyd James Data Consultancy or the Carrier more than the number of Inserts specified in the Order Confirmation and the Carrier distributes such additional Inserts as part of the distribution programme the Customer agrees that it will pay for the distribution of those additional Inserts at the same gross rate per thousand as agreed in the Order Confirmation. The Carrier's dispatch count will be conclusive evidence of the number of Inserts completed.
- 6.3 Prices are subject to increase at any time. In the event of a price increase within one month of notice of such price increase from Lloyd James Data Consultancy the Customer may either cancel the Contract and pay for the number of Inserts completed by Lloyd James Data Consultancy at the date they receive notice of cancellation or the Contract will continue at the revised increased rates.
- 6.4 The Customer shall pay to Lloyd James Data Consultancy, as Lloyd James Data Consultancy may direct from time to time, any VAT properly chargeable.
- 6.5 No payment shall be deemed to have been received until Lloyd James Data Consultancy, or Lloyd James Data Consultancy may direct from time to time, has received cleared funds.
- 6.6 If any payment is overdue the Customer shall pay to Lloyd James Data Consultancy, or Lloyd James Data Consultancy may direct from time to time, interest on the overdue amount at the rate of 8% above Barclays Bank plc's base rate from time to time from the due date until the date of payment. Such interest shall accrue on a daily basis and the Customer will not be entitled to have any further Inserts dispatched until full payment has been received.

7. Cancellation and the Customers Responsibility

The Customer shall only be entitled to terminate the Contract with the agreement in writing of Lloyd James Data Consultancy and on the following terms:

- 7.1 The Customer shall be liable for 50% of the price of the services specified in the Contract if notice of its request to terminate the Contract is received and accepted by Lloyd James Data Consultancy within 60- 90 days prior to the Mailing Date (as outlined in the Insert Order Confirmation), but if the cancellation is received within 60 days of the Mailing Date the Customer shall be liable for the full price of the services.
- 7.2 If the Customer delivers less than the quantity of Inserts specified as agreed in the Contract, Lloyd James Data Consultancy reserves the right to charge the full insertion and dispatch fee agreed for the quantity of Inserts specified in the Contract.
- 7.3 The Customer (or their printer or agent) will be required to sign a delivery specification. If the Customer delivers Inserts that do not conform to the Delivery Specification or do not match the samples supplied and approved by the Carrier, Lloyd James Data Consultancy reserves the right to charge the full insertion and dispatch fee specified in the Contract.

8. Limitation of Liability

- 8.1 Lloyd James Data Consultancy and the Carrier shall not be responsible:-
 - 8.1.1 for any loss arising from any error in the insertion of or any omission to insert any Insert;
 - 8.1.2 for any damage to or loss of the materials supplied by the Customer or any third party;
 - 8.1.3 shall not be liable for any loss or circulation or ineffectiveness of any advertising programme or
 - 8.1.4 any other loss (save for death or personal injury caused by the Carrier's negligence or Lloyd James Data Consultancy's negligence) howsoever arising.
- 8.2 The Customer acknowledges that it should maintain suitable insurance cover in respect of such risks.
- 8.3 Lloyd James Data Consultancy and the Carrier reserve the right to withdraw any of their proposed mailings without notice and no liability shall attach itself to the Carrier or Lloyd James Data Consultancy in respect of any costs, losses, damages or other liabilities arising out of such withdrawal.

- 8.4 The entire liability of the Carrier and Lloyd James Data Consultancy to the Customer in respect of all claims arising out of or in connection with the acceptance and dispatch of the Inserts (whether for breach of contract, negligence under statute or otherwise or at all) shall be limited to an amount equal to the price paid for the dispatch of the Inserts.
- 8.5 Neither Lloyd James Data Consultancy nor the Carrier limits or excludes liability for death or personal injury arising from its negligence.
- 8.6 Except as expressly provided in these Terms and Conditions all representations, conditions and warranties, whether expressed or implied (by statute or otherwise) are hereby excluded to the fullest extent permitted by law.
- 8.7 If any provision of this condition 6.7 is or becomes invalid or unenforceable it shall be severed from the rest of these Terms and Conditions. No other provision in these Terms and Conditions shall be rendered invalid or unenforceable or be otherwise affected.

9. Miscellaneous

- 9.1 Force majeure – Lloyd James Data Consultancy shall not be liable to the Customer for any delay in or failure of performance of its obligations under these Terms and Conditions arising from any cause beyond its reasonable control including, without limitation: act of God, governmental act, war, fire, flood, explosion, civil commotion, failure of the Lloyd James Data Consultancy's information technology or telecommunications services, failure of a third party (including, without limitation, failure to supply information) and industrial action.
- 9.2 Assignment – The Customer may not transfer or in any other way make over to any third party the benefit of these Terms and Conditions without Lloyd James Data Consultancy's express prior written consent.
- 9.3 Waiver – Failure by either party to exercise or enforce any rights, or the giving of any forbearance, delay or indulgence, will not be construed as a waiver of those rights.
- 9.4 Entire agreement – These Terms and Conditions constitute the entire agreement between the parties and supersedes all oral or written agreements, representations, understandings or arrangements, relating to its subject matter. The Customer agrees that Lloyd James Data Consultancy shall not be liable in respect of any warranty or misrepresentation and the Customer waives any right it may have to rescind these Terms and Conditions by virtue of any misrepresentation, unless in either case Lloyd James Data Consultancy made it fraudulently.
- 9.5 Variation – These Terms and Conditions may not be amended, modified, varied or supplemented except in writing signed by both parties.
- 9.6 Notices – Notices under these Terms and Conditions shall be in writing and sent to Lloyd James Media Ltd's registered office from time to time or to the Customer's address (or such other address in the United Kingdom as the intended recipient may notify to the other in accordance with this clause) and may be sent by first class mail. Correctly addressed notices sent by first class mail shall be deemed to be delivered 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting. Notices may also be issued by email.
- 9.7 Governing law – These Terms and Conditions shall be governed by English law. The parties hereby submit to the exclusive jurisdiction of the English Courts.