k-matrix

Unit 311B, 3/F, Enterprise Centre (Bldg 9),
No. 5 Science Park West Avenue,
Hong Kong Science Park, Shatin, N.T.
香港新界沙田香港科學園科技大道西5號
企業廣場（9座）3樓311B室

t. 852. 3526 0290 f. 852. 3011 5281

K-Matrix eMarketing Terms of Use

1. Intellectual Property Notices

All content on K-Matrix eMarketing, including the logo, articles, other text and graphics are the intellectual property of K-Matrix Limited and protected trademark, trade dress, patent, copyright and other laws. You may not reverse engineer, decompile, or disassemble any software except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.

2. General Terms and Conditions

We may modify the terms and conditions of this Agreement at any time without notice to you. Your further use of K-Matrix eMarketing or any tool or service that we provide to you subsequent to a change or modification of this Agreement is your express indication to us that you agree to be bound by any change or modification in this Agreement.

You must provide correct and complete personal and business information as requested by us in the K-Matrix eMarketing registration process.

You are responsible for the security of your password and user ID.

You are responsible for all fees required for your license to use K-Matrix eMarketing and any and all other products, services and tools that we offer which you subscribe to.

Your email campaigns may not generate abuse complaints that, in our sole discretion, exceed industry norms. If so instructed by a posted guideline or rule, you may not issue more email per day than our per diem limitation.

We will cancel your account without prior notice if we determine that you are in violation of any of the terms and conditions of this Agreement.

You may not transfer this Agreement to any third party nor use our software to benefit any third party.

3. General Email Rules and Guidelines

The K-Matrix eMarketing system has been developed to enable you to communicate with email subscribers that have opted-in (i.e. expressly given their permission) to receive information from your company. You may not use any K-Matrix eMarketing product or service for the purpose of sending unsolicited email, or “Spam.” K-Matrix eMarketing respects anti-Spam laws and asks you to act accordingly. You may not use any K-Matrix eMarketing product, service or tool for purposes of breaking any law. You must follow any posted guidelines regarding content and commercial activity limitations. All email addresses that you use must be solely derived from permission based lists. – K-Matrix eMarketing may not be used to send emails to individuals that have not opted-in to receive information via email from your company.
All e-mail messages sent out must comply with all relevant Hong Kong laws and all content must not violate any generally accepted code of practice.

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All e-mail messages must comply with the following:

a. Message must originate from a valid from address (Stream Send product takes steps to verify this).
b. Your company name must be clearly included.
c. Unsubscribe must be clearly visible (K-Matrix eMarketing product will place an unsubscribe link in the e-mail).
d. Customer must comply with unsubscribe requests within 10 calendar days. An unsubscribed e-mail address should not receive any further e-mails. You must maintain a record of all unsubscribe requests, including the day you removed the address from the subscription list. You must provide us with a copy of such records upon our request.

You must follow the terms and conditions of our Usage Guide. The Usage Guide is incorporated by reference into this document as if fully set forth herein. Please review the Usage Guide frequently as we may update the contents of the Usage Guide at any time. By accepting this contract, you agree to follow the terms and conditions of the Usage Guide and you agree to regularly review the Usage Guide to see if the Usage Guide has been modified, changed or updated. We will not contact you if we modify or change the Usage Guide.

You agree to keep K-Matrix eMarketing informed of your valid email address at all times. In the event that K-Matrix eMarketing should make any modification of this agreement, K-Matrix eMarketing will send you an email addressed to the email address that you have provided us. Once we send an email notifying you of a change or modification to this agreement, you agree to be bound by any such change or modification, regardless of whether you have changed your email address or actually received the email notification.

The K-Matrix eMarketing service gives its users all the tools necessary to build and maintain an opt-in email list. K-Matrix eMarketing also allows you to import existing lists of email addresses. The email addresses that are imported must have opt-ed in to receive messages from your company. These features make it easy for users to build and use lists of opt-in subscribers and eliminate the need to send unsolicited emails. Therefore, in the event that a complaint is received or an instance reported of an unsolicited email message sent by your company using K-Matrix eMarketing, K-Matrix eMarketing will investigate claims of unsolicited email messages sent using the service. If K-Matrix eMarketing determines that a user is employing the service to send emails to recipients who have not opted in or recipients that have unsubscribed on a prior occasion, the account will be immediately terminated. By using our product you guarantee payment of this amount.

4. Special Email Provisions

Adding New Members: You will use a "double opt-in" (signup plus confirmation) subscription method for all new list members. For the purpose of this Agreement, a "double opt-in" method shall mean that when you add a new member's email address to the list, that email address shall not be activated unless and until the new member receives a single confirmation e-mail from you requesting the member's consent to be added to the list, and K-Matrix eMarketing receives from the new member a confirmation action (such as a confirming e-mail from the new member's email address) approving such action. The confirmation e-mail sent by the Customer to new members may not include advertising or calls-to-action other than an appeal to confirm the member's subscription.

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Importing Members: You may only import members previously obtained directly by you using the "double opt-in" procedures described above. You may not import unconfirmed (single opt-in or opt-out) members directly into your list under any circumstances. **You MAY NOT import members from co-registered or purchased sources, regardless of the confirmation status of said members.**

Failure to comply with any provision of the K-Matrix eMarketing Terms of Use or Usage Guide will result in an immediate termination of service, and no monies paid to K-Matrix eMarketing will be returned.
You agree to hold K-Matrix eMarketing, its parent corporation, any assigns or partners, officers and staff, harmless and defend from any and all civil actions relating to your use or abuse of any K-Matrix eMarketing product or service.

5. User Guide Elements

K-Matrix eMarketing is an opt-in email marketing system.
When using K-Matrix eMarketing you must ensure that the following criteria are met for outgoing messages:

a. The from address is a valid email address
b. Your full contact information including company name is included in the message.
c. An unsubscribe link is clearly viewable in your message.
d. You will review and abide by all Can-Spam requirements.

You must also agree to follow standard Internet etiquette for email which offers the following usage provisions:

1. You must not harvest email addresses.
2. You may only send out to those individuals that have given you explicit permission to email them.
3. You must fully comply with unsubscribe requests. Full compliance means that you do not ever email this the address unless the email address owner provides permission and rescinds the unsubscribe request.

6. Regarding Functionality

All content, tools, functions and services provided via us are provided on an “as is” basis and we disclaim any and all warranties, express or implied, including those warranties of merchantability, fitness for a particular purpose, title and non-infringement. Such disclaimers may be limited by the laws of your country, and if so limited, may not apply to you. No warranties of validity regarding any of the content provided by us are made.

7. Nondisclosure

Each party shall retain in confidence all proprietary and confidential information transmitted to the other that the disclosing party has identified in writing, or orally and then subsequently identified in writing, as being proprietary and/or confidential, and will make no use of such information except under the terms and during the Term of this Agreement. You agree to use all reasonable precautions

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and take all necessary steps to prevent our confidential information, data, scripts, object code, source code, programs, business plans, business models, business concepts, communications and any and all further confidential information from being acquired by unauthorized persons, and to take appropriate action, by instruction, agreement, or otherwise, with regard to all persons permitted access to our owned confidential information and data, in order to ensure our confidential information and data are protected. Client shall not disclose any of our confidential information to any person for any purpose other than as provided in this Agreement. However, neither party shall have an obligation to maintain the confidentiality of information that (a) it has rightfully received from another party prior to its receipt from the disclosing party; (b) the disclosing party has disclosed to a third party without any obligation to maintain such information in confidence, (c) enters the public domain or becomes generally known to the public by some action other than breach of this Agreement by the receiving party; or (d) is independently developed by the receiving party. Each party shall safeguard proprietary and confidential information disclosed by the other using the same degree of care it uses to safeguard its own proprietary and confidential information but, in no event, shall use less than a reasonable degree of care. Each party's obligation under this paragraph shall extend for a period of three (3) years following termination or expiration of this Agreement.

8. Waiver and Amendments

No waiver, amendment, or modification of any provision of this Agreement shall be effective unless agreed to by both parties in writing. No failure or delay by either party in exercising any rights, power, or remedy under this Agreement shall operate as a waiver of any such right, power, or remedy.

9. Severability

Should any term of this Agreement be finally determined by a court of competent jurisdiction to be invalid, unenforceable or otherwise contrary to law and equity, the parties agree that such provision shall be construed, limited, modified or, if necessary, severed, to the extent necessary to eliminate its invalidity or unenforceability, and that the other provisions of this Agreement shall remain unaffected.

10. Force Majeure

Neither party shall be liable for any delay or failure in performance due to Force Majeure, which shall mean acts of God, earthquake, labor disputes, changes in law, regulation or government policy, riots, war, fire, flood, insurrection, sabotage, embargo, epidemics, acts or omissions of vendors or suppliers, transportation difficulties, unavailability of interruption or delay in telecommunications or third party services (including DNS propagation), failure of third party software or hardware or inability to obtain raw materials, supplies, or power used in or equipment needed or other occurrences which are beyond either party's reasonable control.

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11. Entire Agreement

This Agreement contains the full understanding between the parties and supersedes all prior representations or agreements, whether oral or written, with respect to such matters.

This agreement shall be governed by and construed in accordance with the laws of Hong Kong.