



## Terms and Conditions

**PLEASE NOTE:** Upon ATTAIN sending the CLIENT their acceptance of the Order for the ATTAIN SYSTEM the Agreement is concluded between the ATTAIN and the CLIENT and these terms and conditions duly regulate their relationship together with any terms set out in the Order .

### 1. ATTAIN Order Form Descriptions

1. **"System Level"** refers to the level of system and services **set out on the ATTAIN Rate Card** at [www.atainim.co.uk](http://www.atainim.co.uk)
2. **"One off set up fee"** ATTAIN will within one month of the date hereof, carry out an initial assessment of the Client's database(s) in accordance with the agreed fee and the requirements of the Client set out in the ATTAIN Order Form inspecting the Clients terms and conditions and privacy statement (or equivalent) to give a non-legally binding assessment that any data transfer, sharing and/or swapping appears to be, from the face of the terms and conditions and statement, permissible and ensuring that the Client can comply with the pre-requisite set out in clause 3 and report to the Client with any legal obligations or data processes that will need to be adhered to in order to implement ATTAIN.
3. **"Contact database records"** are the database records the Client can store within the ATTAIN SYSTEM
4. **"Selection variables"** are the database fields the Client can use to select from their databases within the ATTAIN SYSTEM.
5. **"User Licenses"** are the number of concurrent users able to be nominated in writing by the Client to be then licensed by ATTAIN to use ATTAIN SYSTEM at any one time, by being registered on the ATTAIN SYSTEM to use it
6. **"Live data connections"** Relates to external databases connected to the ATTAIN SYSTEM from the Client's systems
7. **"Customised Count Engine"** Relates to the addition of extra search functionality tailored to the Clients' exact specification
8. **"Automated date merge"** Relates to the process of merging Client data from external sources to create one database for use in the ATTAIN SYSTEM
9. **"e-mail broadcast volumes"** is the number of Emails that can be sent from the ATTAIN SYSTEM
10. **"Email templates – generic"** are standard HTML Email templates part of the ATTAIN SYSTEM
11. **"Email templates – bespoke"** are customised HTML Email templates provided to client specification allowing the Client to select the appropriate format for the images and copy within the HTML email or PDF letter creator.
12. **"TranSend Digital"** is a hybrid mailing solution provided by TNT Post UK Ltd of 1 Globeside Business Park Fieldhouse Lane Marlow Buckinghamshire FL7 1HY ("TNT Post")
13. **"TranSend Digital PDF Letter Templates"** are customised PDF letter generators for the use a TranSend Digital provided to client specification
14. **"SMS messages"** SMS (short message service) messages are small messages that can be delivered to mobile phone handsets
15. **"Telephone technical helpline"** a dedicated technical telephone helpline during usual business hours to assist the client in installation of and familiarisation with the ATTAIN SYSTEM and its features up to two hour per week.
16. **"Dedicated account manager"** an ATTAIN SYSTEM Account Manager to work with the Client in developing marketing campaigns at all reasonable times during usual business hours via telephone, email and in meetings. The campaign, in email, SMS text or direct mailing format, will be discussed and agreed; at all times using the ATTAIN SYSTEM search and profiling capabilities.
17. **"Usual business hours"** means 9am to 5.30 pm Monday to Friday bank holidays excluded
18. **"Computers"** shall include tablets and smart phones

### 2. ATTAIN will:

1. Provide the ATTAIN SYSTEM in accordance with the description set out in Appendix 1 part 1 (ATTAIN SYSTEM)
2. Provide, or where appropriate limit, the items set out in the ATTAIN Order Form in accordance with the descriptions set out in clause 1
3. Enable, through the ATTAIN SYSTEM web site, server port number, data base name, username and password, the Client to communicate securely with the ATTAIN SYSTEM
4. Import /export data in an exchange of updated data, allowing sharing of data between ATTAIN SYSTEM and the Client merging automated data where agreed to on the ATTAIN Order Form.
5. Provide technical helpline support on line or e-mail to assist the client in installation of and familiarisation with ATTAIN.
6. Where Telephone help is agreed to on the ATTAIN Order Form ATTAIN will within a period of three months of the date hereof :
  1. Link the Client's database files with the ATTAIN SYSTEM
  2. Schedule the synchronisation with delays dependent upon the software and platform the Client has in place, and upon wishes of the Client, as notified in writing to ATTAIN
  3. Compress data into optimally sized files, and import these files in a constant exchange of updated data, allowing secure sharing of data between ATTAIN SYSTEM and the Client platform.

4. Personalise and format the Client's database within the ATTAIN SYSTEM, and store it on the ATTAIN SYSTEM secure server, with password and username and VPN/otherwise encrypted access, and ensure that all website links are active.
7. Interrogate data capture channels from the Clients business direct to the ATTAIN SYSTEM platform, develop the agreed data fields into the database, convert the Client's data into an acceptable format and import it into the ATTAIN SYSTEM platform
8. Make secure backup copies of the Client's data, which is located on ATTAIN SYSTEM servers and the primary purpose of which is for the restoration of the Client's data in the event of system or systems failure. ATTAIN gives no warranties to the accuracy of backup data should restoration of such data be required.
9. Facilitate the sending of SMS messages on the terms agreeable to both parties above the number of free SMS messages outline on the ATTAIN Order Form
10. When instructed by TNT Post activate the TranSend Digital functionality within the ATTAIN SYSTEM
11. Comply with all the terms of conditions hereof

### 3. The Client will carry out the following pre-requisite requirements:

1. Check the quality and the quantity and ensure the data is fully compliant and opted in by the recipients on the database or flagged correctly where not. This includes checking all fields are complete, no significant gaps in data exist and that the data fields are relevant and fit for purpose
2. Make allowance in the data fields for the capture of email addresses and mobile phone numbers by each data entry as ATTAIN SYSTEM is designed to offer this facility.
3. Develop a marketing or promotional plan that helps to build the new data captured into a commercially valuable and usable asset ongoing. This plan should include thought around key marketing or promotional messages that will create a response from the client and permit a strategic timeline for ongoing data capture and possibly more detailed data with time.
4. Need to initially provide sufficient computer memory to use and set up ATTAIN SYSTEM after the installation of ATTAIN SYSTEM the ongoing storage will not be a limited due to the ATTAIN SYSTEM server capacity.
5. Need sufficient bandwidth to use ATTAIN SYSTEM.
6. Need to format their database into CSV format or ASCII file.
7. Ensure punctual availability of data from any third party system providers
8. Ability to transmit and receive encrypted data and use VPN

### 4. ATTAIN will ensure that the Client's hosting and platform is compatible with the ATTAIN SYSTEM which then:

1. Is hosted in a secure data centre with a robust infrastructure, meeting at all times the requirements of the Seventh Data Protection Principle within the Data Protection Act 1998 (as amended), allowing the ATTAIN SYSTEM software to fulfil all facilities set out in of Appendix 1 in accordance with the Client's own hosting and platform compatibility with the ATTAIN SYSTEM
2. Uses dedicated secure servers to store all data.
3. Securely backs up all the data which is stored on servers daily
4. Gives the Client complete access to their data remotely, at all times through secure password and login functions and be by means of VPN/other form of encrypted transmission and their own broadband connection. The number of individuals who are contracted to use ATTAIN SYSTEM concurrently with unique usernames and passwords ("Users") is dependent upon the number of user Licenses set out in the ATTAIN Order Form
5. Allows data to be captured from a client's website/server using its ATTAIN SYSTEM data tracking code. This allows online web registrations and other relevant data to automatically update the master data for each client. The tracking code is included in the ATTAIN SYSTEM download and can be activated by the Client when the download is complete. For the avoidance of doubt, neither ATTAIN SYSTEM nor any other ATTAIN SYSTEM tracking method is downloaded by the ATTAIN SYSTEM to the computer of a Client's own client or potential client.
6. Allows clients to up load data from alternative sources. It is compatible with most commercially available software and cross platform operating systems and can import and export data from text documents and spreadsheet documents with equal ease at the clients own discretion, as and when required. ATTAIN SYSTEM functionality is pre designed with easy to use controls to this end.
7. Provides for both automatic and manual input of data. This allows the client to manually enter data and update records as required without affecting the integrity or accuracy of the ATTAIN SYSTEM data. This functionality is accessed via the ATTAIN SYSTEM website and the clients own secure account details.

### 5. THE CLIENT HEREBY AGREES to:

1. Comply with all the terms of conditions hereof.
2. To give and maintain full and proper Notification under the Data Protection Act 1998 as amended, abide at all times by that Act and the Privacy and Electronic Communications Regulations 2003 or any amended or successor versions thereof including the Lawful placing



## Terms and Conditions

of cookies and the like on their own client's computers under the Privacy and Electronic Communications amendment Regulations 2003 or any amended or successor version.

- To display and/or otherwise make reasonably available at all times to the Client's own clients or customers or potential clients or customers a Data Protection and Privacy Policy (or similar policy or notice) setting out the name and contact address of their Data Controller and clearly and fairly setting out what might be done, and by whom, with any personal information that might be gathered, held, stored, transmitted or otherwise processed by them or ATTAIN. This includes the use of cookies together with an adequate opt in mechanism and statement of what the cookie does
- Pay ATTAIN the monthly a licence fee set out in the ATTAIN Order Form for the period set out in the ATTAIN Order Form from the signing of this Agreement terminable as hereinafter provided (the "Initial Period").
- In the event of wishing to upgrade the ATTAIN SYSTEM to complete an Upgrading Contract in the form of Appendix 4 subject to ATTAIN agreeing the same by signing the Upgrading Contract
- Pay ATTAIN for any Email Templates – Bespoke and any Fixed PDF letter Templates in addition to the System Limits shown on the ATTAIN Order Form a fee either shown as additional extras on the ATTAIN Order Form or approved in writing by the Client
- Pay immediately any external and/or additional expenses incurred by ATTAIN on behalf of and approved in writing by the Client.
- Be responsible for the activities of its employees or representatives or otherwise duly authorised to use the ATTAIN SYSTEM under this Agreement.
- Not use ATTAIN SYSTEM in an attempt to circumvent user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for the Client, logging into a server or account the Client is not expressly authorised to access, password cracking, probing the security of other networks in search of weakness, or violation of any other organisation's security policy. Client may not attempt to interfere or deny service to any user, host, or network. This includes, but is not limited to, flooding, mail bombing, or other deliberate attempts to overload or crash a host or network. ATTAIN will cooperate fully with investigations of violations of systems or network security at other sites, including cooperating with law enforcement authorities in the investigation of suspected criminal violations. Users who violate systems or network security may incur criminal or civil liability. For the avoidance of doubt, the Client acknowledges and agrees to indemnify ATTAIN for any damages, loss and/or costs it may suffer as a result of any breach of this sub-clause and/or Appendix 2.
- Use the service to a reasonable extent and not in ATTAIN's reasonable opinion to persistently overuse their service so that ATTAIN finds that their available bandwidth or service is restricted. ATTAIN have a fair use policy of 2 million sends per calendar month. Users in excess of this data transfer limit will be contacted by ATTAIN to discuss ways to optimize their usage.
- In the event that any links or data feeds have taken time to 'propagate' and show a tendency to lapse over a period of time these will be monitored and will be severed at the discretion of ATTAIN. This specifically relates to affiliate prior-informed relationships which may have provided sources of data from online activities, which have been enhanced by their inclusion in the ATTAIN SYSTEM
- Permit a link to the ATTAIN SYSTEM website.
- To ensure adequate width and quality of the broadband and to establish and configure a secure connection of a suitable standard using at times adequate hardware and software capable of maintaining and administering the ATTAIN SYSTEM.
- All sums payable hereunder are exclusive of Value Added Tax.

### 6. Data Protection and Intellectual Property Rights including copyright licence

#### Data Protection

- Without prejudice to clauses 5.2 and 5.3 of this Agreement, the Client agrees that it will clearly refer to the role of ATTAIN in its own Data Protection and Privacy Policy or similar policy dealing with data protection and privacy matters and that it will also clearly provide a link to the ATTAIN Data Protection and Privacy Policy as regards the ATTAIN SYSTEM (as set out in Appendix 3 herein and as available at [www.ATTAIN.co.uk](http://www.ATTAIN.co.uk)).
- The Client agrees and warrants that it will at all times abide by the Data Protection Act Principles and Guidelines, and by its own Data Protection and Privacy Policy (or similar policy), and the Privacy and Electronic Communications Regulations 2003 (including the 2011 amendments) as may be amended or any successor version thereto
- In the case of any conflict or apparent conflict between the Client's Data Protection and Privacy Policy (or similar policy) and that of ATTAIN and/or in their actual operation, ATTAIN may, exercising reasonable discretion, require the Client to clarify or modify its policy and/or actual operation to bring them into line with those of ATTAIN if the policy and/or actual operation of ATTAIN is, reasonably construed, stricter than that of the client at any given time. In defining "stricter", it is agreed that the term(s) stricter policy and/or stricter actual operation refer(s) to a policy and/or operation that objectively offered greater protection and/or rights to a data subject.

#### Intellectual Property Rights, including copyright licence

- Any and all software and firmware including any modifications, patches and fixes, as well as any signs, logos, marks, drawings, photographs, films, videos, animations, music, domain names, instructions, manuals, policies, confidential information and the like relating to, used in connection with, or forming part of any such software (together "the related works") and however stored and/or distributed, and whether supplied by ATTAIN (or under its authority) generally or individually to meet a client's specific requirements, are and shall remain the property of ATTAIN or its own suppliers. ATTAIN and/or its own suppliers retain at all times ownership of all copyrights, registered and unregistered trademarks, registered designs, patents, trade secrets, confidential information and any other intellectual property right relating to such software and related works.

- The Client acknowledges and agrees that it has no right, title, or any other interest in or relating to any such software or related works, other than the grant of a non-exclusive licence to use the software or related works for the purposes and the number of Users. This means that the software and related works may not be used by more concurrent Users than the Client has agreed to on the ATTAIN Order Form. The ATTAIN SYSTEM(s) continuously monitor all logged users and attempted log-ins. If more Users than are allowed log or attempt to log in concurrently, ATTAIN will immediately notify the Client, requiring a prompt explanation. The Client acknowledges and agrees that persistent attempts to log in, or actually to log in, more Users than paid for under this Agreement after receipt by the Client of warnings/requests for explanations from ATTAIN may at the sole discretion of ATTAIN result in the Client being held to be in fundamental breach of this Agreement.
- To the fullest extent permitted by law, the Client may not decompile or reverse-engineer any supplied software (including any firmware, patches or fixes) unless already approved in writing by ATTAIN. Further, the Client may not modify any part of the software (including any firmware, patches or fixes) or related works that are not clearly intended to be user-modifiable.
- ATTAIN shall be under no obligation to supply any new versions of any supplied software that came into existence after the date of this Agreement.
- On the termination of this Agreement for whatever reason, unless otherwise already agreed in writing by ATTAIN, the Client shall promptly return all software (including firmware, patches or fixes) and related works supplied to it by ATTAIN or under its authority, and shall confirm such return by a signed witness statement. If any such copies are not reasonably capable of being returned, the Client shall cause them to be securely deleted or destroyed and shall make a signed witness statement confirming such deletion and/or destruction.

### 7. Termination

- The Agreement for the Initial Period can be terminated by one months notice in writing given by either party to the other terminating at the end of the Initial Period.
- In the event of the Agreement for the Initial period not being terminated at the end of the Initial Period this Agreement will continue until terminated by three months notice in writing given by either party to the other. This Agreement may be terminated by ATTAIN immediately in the event of a sum of moneys equal to three months licence fees being outstanding from the Client.
- This Agreement may be terminated immediately by either party if the other commits any fundamental or material breach of this Agreement, and in the case of a breach reasonably capable of being remedied, shall not have been remedied within 30 days of a written request from the party not in default requiring the other party to remedy that breach, immediately upon the expiration of the 30 day period.
- In the event of the Client engaging or alleged to be engaging in any of the activities set out in Appendix 2, ATTAIN reserves the right to remove such illegal or allegedly illegal material or links to such material forthwith from its servers. Further, ATTAIN may terminate this agreement upon the Client continuing to engage in such activity or further or similar activity after the expiration of a reasonable notice, not exceeding 30 days in any event, in writing, requiring the Client to cease such activity. If the Client is alleged by a third party to be engaging in such activities, ATTAIN will promptly contact the Client at the e-mail address supplied by the Client for contact purposes, setting out the general nature of the allegation, stating whether the material or links complained about have already been removed by ATTAIN, and if not already removed, setting out a time when they will be removed if the Client cannot rapidly justify their remaining on ATTAIN's servers. ATTAIN will consider any reply from the Client in deciding whether to restore any material or links already removed by ATTAIN, or whether to remove any material or links still on ATTAIN's servers.
- Either party shall be entitled to terminate this Agreement at any time prior to the termination of this agreement, forthwith if any of the following events or similar events in jurisdictions outside England and Wales occurs in respect of the other party:
  - A proposal is made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 for any other composition, scheme or arrangement with or assignment for the benefit of its creditors;
  - It becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
  - A moratorium come into force pursuant to Schedule A1 of the Insolvency Act 1986;
  - A shareholders' meeting is convened to consider a resolution for its winding up or such a resolution is passed (other than for a genuine reconstruction or amalgamation);
  - A petition is presented for its winding up which is not dismissed within 14 days of its service;
  - An application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
  - A receiver, manager or administrative receiver is appointed by any or all of its undertaking or assets;
  - An application is made for the appointment of an administrator or the making of an administration order, or an administrator is appointed, or notice is given of the intention to appoint an administrator.
- Either party may terminate this Agreement if performance of the Agreement is prevented or hindered by act of God, war, strikes, lock-outs, fire, flood, tempest or any cause beyond the control of the other party or by the inability of the other party to procure articles or components required for the performance of the Agreement.
- Upon termination hereof ATTAIN will:
  - Copy the database within the ATTAIN SYSTEM secure server in its enhanced and secure format including all new customers recruited and securely delivers it to the Client on disk.
  - Where applicable copy the encrypted data files within the ATTAIN SYSTEM and securely delivers it to the Client on disk.



## Terms and Conditions

- Cancel all secure passwords and usernames, any affiliate or other data links will be eradicated with immediate effect.
- To the fullest extent possible, facilitate an orderly and timely handover.

### 8. Notices

All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address as the provisions of this clause. Any such notice may be delivered personally or by first class pre-paid letter or facsimile transmission and shall be deemed to have been served if by personal delivery when delivered if by first class post 48 hours after posting and if by facsimile transmission when dispatched (provided that a valid facsimile transmission confirmation sheet can be provided).

### 9. Successors Bound

This Agreement shall be binding on and shall endure for the benefit of and be exercisable against successors and assigns and personal representatives (as the case may be) of each of the Parties hereto.

### 10. Assignment

The Client may not assign his rights or obligations in whole or in part hereunder without the prior written consent of ATTAIN which shall not be unreasonably withheld.

### 11. Good Faith

Each of the parties hereto undertakes with each of the others to do all things reasonably within his power which are necessary or desirable to give effect to the spirit and intent of this Agreement.

### 12. Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto with respect to the matters dealt with herein and supersedes any previous agreement between the Parties hereto in relation to such matters. Each of the Parties hereto hereby acknowledges that entering into this Agreement it has not relied on any representation save as expressly set out herein or in any document referred to herein. No variation of this Agreement shall be valid or effective unless made by one or more instruments in writing signed by such of the Parties hereto which would be affected by such variation.

### 13. No Partnership

Nothing in this Agreement shall constitute or be deemed to constitute a partnership between the Parties hereto and none of them shall have authority to bind the others in any way.

### 14. Severability

In the event that any part of this Agreement is held by any Court or Arbitrator of competent jurisdiction to be invalid unenforceable or unlawful such part shall be severed from this Agreement and the remainder of this Agreement shall continue nevertheless in full force and effect.

### 15. Arbitration and Law

Any dispute which may arise between the parties concerning this Agreement shall be determined by a person who in default of agreement between the parties hereto shall be a practising solicitor nominated at the request of any party hereto by the President for the time being of The Law Society and such solicitor shall act as an arbitrator within the meaning of the said Arbitration Act 1996 and 1979 or any statutory modification or re-enactment thereof for the time being in force, and shall apply English law, practice and procedure. Arbitration to be held in England in any event.

### 16. Forbearance

Any relaxation of forbearance delay or indulgence by any of the parties hereto in enforcing any rights under this Agreement shall not prejudice or affect their rights respectively hereunder and any waiver by any of them shall not operate as a waiver of any subsequent or continuing breach.

### 17. Confidentiality

This Agreement is private and confidential to and shall be kept secret by the Parties and none of them shall disclose directly or indirectly the contents hereof to any other person or body unless required by Order of a Court having competent jurisdiction or by a body or person duly empowered by Act, Statutory Instrument or similar provision to require such disclosure.

### 18. Limitation of Liability

- Nothing in this agreement excludes or limits the liability of either party for the death or personal injury caused by that party's negligence or fraudulent misrepresentation. The Client acknowledges and warrants that it will not use any services provided by ATTAIN in connection with any application or service or the like involving healthcare or safety matters where a failure (including unexpected functioning or operation) of any such provided service could reasonably result in death or personal injury.
- ATTAIN will not be liable for any direct or indirect or consequential loss or damage which may be suffered by the Client as a result of any breach of this Agreement or any representation or tortious act or omission (including negligence and breach of statutory duty) arising under or in connection with this Agreement. For the avoidance of doubt, such limitation of liability extends to any loss or damage which may be suffered howsoever as a result of any unavailability of ATTAIN SYSTEM and, any and all malfunctioning, malfunctioning or unexpected functioning or operation of ATTAIN SYSTEM and/or any software made available by ATTAIN or with the consent of ATTAIN.

- Indirect or consequential loss or damage includes loss of data, loss of profit, loss of business, loss of goodwill, and/or loss of reputation.

- If, however, ATTAIN were to be found liable for any loss or damage suffered by the Client for which it would not otherwise have been held liable, the total liability (other than the liability in sub-clause 1 immediately above) in respect of all losses, damages, claims costs and expenses during the term of this Agreement and thereafter shall not exceed three months licence fees.

### 19. Due Diligence, Due Care and Client dealing as a business

The Client acknowledges and warrants that it has employed all reasonable due diligence in choosing the selected services offered by ATTAIN under this Agreement and had considered other potential suppliers. The Client acknowledges and warrants that it is acting, and has entered into this Agreement, as a business and not as a consumer. The Client further acknowledges and warrants that it has taken and will continue to take reasonable due care in the supply to ATTAIN of any and all technical requirements and/or information or request to ATTAIN for the same. The Client yet further acknowledges that a higher price would have been payable under this Agreement but for the inclusion of the liability limitations referred to clause 18 above, and that such limitation were taken into account when it employed due diligence.

### 20. General Clauses

The following General Clauses apply to this Agreement:

- Reference to any statute or statutory provision includes reference to that statute or statutory provision as from time to time amended, extended, re-enacted or duly replaced.
- Words importing the singular number shall include the plural and vice versa words importing the masculine shall include the feminine and neuter and vice versa and words importing persons shall include bodies' corporate unincorporated associations and partnership,
- Reference to clauses schedules and recitals are references to clauses schedules and recitals of this Agreement and references to sub-clauses paragraphs and sub-paragraphs are unless otherwise stated references to sub-clauses of the clause or paragraphs of the sub-clause (or as the case may be schedule) or sub-paragraph of the paragraph in which the reference appears.
- The headings of clauses and paragraphs are inserted for ease of reference only and shall not affect the interpretation or construction of this Agreement.
- Formal Company name: Parker Sandford Limited

Company Registration Number: 3810856

Place of Registration: England

Address of Registered Office: Pier House, Wallgate, Wigan, Greater Manchester, WN3 4AL

VAT No: GB 000565 741 1690 48

Information Commissioner's Notification Number: Z8244039.

### Appendix 1

#### ATTAIN SYSTEM:

- An online web application supplying complete programming code, applications and Graphical User Interfaces (GUI)/screen designs for a data capture, management and marketing application.
- Is hosted on its own secure server and uses MySQL databases to store and update all data. ATTAIN SYSTEM has been developed on a Linux platform.
- Is designed to be equally operable on a Microsoft based PC or Apple Mac the software collects or imports new data and automatically filters and sorts the data into pre determined data fields in a database. The resulting databases can be clearly reported on screens within ATTAIN SYSTEM and the exact information captured can be viewed in extreme detail or as a summary management report.
- Enables the Client to manipulate and format the data into meaningful data sets that allow data to be input into the ATTAIN. However, ATTAIN specifically gives no warranties or guarantees as to the availability, in whole or part, of the ATTAIN SYSTEM over any given period. For the avoidance of doubt ATTAIN offers no agreement on explicit or implicit service levels. ATTAIN will endeavour to give advance notification by e-mail of any scheduled system "downtime" period(s) of system unavailability, either in part or in whole, and will further endeavour to schedule such downtime between the hours of 01.00.am and 05.00.
- Allows data to be imported into one main database through programmed data channels that automatically update. The data can be captured from multiple sources including existing lists, websites, online data logs, CRM systems, Epos systems and call centres and the data will be labelled by its origin and commercial value and stored.
- Will allow data to be imported for one off campaigns and managed outside of the main database to ensure that any licensed information can be list managed.
- Will permit the Client to view individual clients or prospects as a single record, clearly presented on screen so that specifics can be analysed and important decision made from an informed standpoint. Gives the user the ability to create and deploy marketing campaigns using Email, SMS, Direct Mail and Label merging and printing solutions or hybrid mailing solution by Transend where the Client has an entered in an agreement with TNT Post and have duly instructed TNT Post to authorise ATTAIN to activate Transend.
- Will allow the data to be segmented using the count engine facility and key selection criteria applied to the data to give detailed and precise search results. These searches are very flexible and can be as detailed, specific and exact as required, or the searches can be broad and more general.
- Allows the Client to create specific marketing and promotional campaigns using the inbuilt tools provided and send them to the selected audience and at each stage of communication, capture and record the results into the existing data sets.



## Terms and Conditions

- Will automatically manage the bounce and unsubscribe data and ensure that this information is quarantined and excluded from future campaigns.

### Appendix 2

#### Prohibited Uses of ATTAIN SYSTEM and Services:

- transmission, distribution or storage, or any attempt thereof, of any material in violation of any applicable law or regulation is prohibited. This includes, without limitation, material protected by copyright, trademark, trade secret or other intellectual property right used without proper authorization, and material that is obscene, defamatory, liable to cause a breach of the peace or similar offence, constitutes an illegal threat or illegal discrimination, or violates export control laws.
- sending or attempted sending of Unsolicited Bulk Email ("UBE", "spam"). The sending of any form of Unsolicited Bulk Email through ATTAIN's servers is prohibited.
- running Unconfirmed Mailing Lists (including Unsolicited Commercial e-mail ("UCE", also known as "spam"). Subscribing email addresses and mobile telephone numbers for the reception of SMS messages to any mailing list without the express and verifiable permission of the email address or mobile telephone owner or other legal justification is prohibited.
- operating an account on behalf of, or in connection with, or reselling its service to, any third party or persons or firms.
- unauthorised attempts by any user to gain access to any account or computer resource not belonging to that user (e.g., "cracking").
- unauthorised access, alteration, destruction, or any attempt thereof, of any information of any ATTAIN SYSTEM customers or end-users by any means or device.
- persistent heavy use in breach of clause 5.10.

### Appendix 3

#### 1. Privacy Statement of ATTAIN

ATTAIN, which runs and owns the ATTAIN SYSTEM, adheres to the Data Protection Act Principles and Guidelines and the Privacy and Electronic Communications Regulations 2002 as amended in its processing, handling, transmission, sharing, storage, use and transfer of personal data. More information about the ATTAIN SYSTEM can be found at [www.ATTAIN.im](http://www.ATTAIN.im) or by writing to The Data Controller, Parker Sandford Limited, Pier House, Wallgate, Wigan, WN3 4AL, who will send a hard copy printout from the relevant page(s) of that website. A shortened version also appears below.

In particular, when dealing with the protection of personal data, ATTAIN abides by the eight Data Protection Principles of the Data Protection Act 1998:

- Personal data shall be processed fairly and lawfully, and, in particular, shall not be processed unless:
  - at least one of the conditions in Schedule 2 of the Data Protection Act 1998 is met; and,
  - in the case of sensitive personal data, at least one of the conditions is also met.
- Personal Data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
- Personal Data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- Personal Data shall be accurate and, where necessary, kept up to date.
- Personal Data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
- Personal Data shall be processed in accordance with the rights of data subjects under the Data Protection Act 1998.
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.
- Personal Data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects.

#### 2. Important data gathering Role of ATTAIN 's own clients

ATTAIN does not itself directly collect personal data of its clients' clients (e.g. its clients' end users and/or consumers) or its clients' clients potential clients (e.g. its clients' potential end users and/or consumers), but only collects such personal data from its own clients who, in turn, will have a ready collected that personal data from their own clients or potential clients. ATTAIN respects the rights of any individual to privacy and security of their personal data. This means that any personal data collected, held or otherwise processed by ATTAIN must already have been collected by one or more of ATTAIN's own clients under the terms of their own privacy policy and only then transferred (possibly rapidly) to ATTAIN. See paragraph 7 of this Policy as to why you should consider making a request to a client for information about personal data being processed by ATTAIN. For the avoidance of any doubt, ATTAIN does not sell the ATTAIN SYSTEM to consumers or provide any direct goods or services to consumers

#### 3. The ATTAIN SYSTEM

ATTAIN's own clients use the ATTAIN SYSTEM to capture and process in a more efficient way data relevant to their businesses that they have already collected. This data might include personal data.

The system(s) assists ATTAIN's clients to maintain and use lists of their own clients' orders, inquiries, complaints, interests, age if under 18, sex, physical addresses and delivery addresses, telephone, mobile numbers and e-mail addresses, and other details, such as previous purchases, viewing history, sporting activities, hobbies and interests and social categorisation and also analytical and statistical reporting highlighting online behaviour and trends. Such capture and processing of data also assists ATTAIN's clients to optimise any marketing campaigns they might make, both to their own clients and potential clients as well as to other persons who have opted-in to receive such marketing information, which includes marketing by e-mail as well as SMS messaging.

#### 4. Law Enforcement and the supply of Personal Data

ATTAIN will supply personal data to any relevant law enforcement agency if duly requested. Such agencies include but are not limited to the Police and Her Majesty's Revenue and Customs. ATTAIN may at times not be allowed by law to disclose to an individual that such a request has been made and/or identify any data so supplied.

#### 5. Role of ATTAIN's clients as regards Personal Data

As a requirement of using the ATTAIN SYSTEM, ATTAIN's own clients have agreed to set out in detail in their own openly available privacy policies or similar statements or notices what might happen to data, including personal data, that they collect, store and process about their own clients or potential clients. This includes setting out in their own Privacy Policies that personal data will be transferred to ATTAIN for use in the ATTAIN SYSTEM and what might happen to the information once in the ATTAIN SYSTEM (for which, see paragraph 3 just above). It also includes a requirement that ATTAIN's own clients can demonstrate that they can satisfy any and all relevant legally required requirements to collect, store or otherwise process or use personal data and send commercial messages by electronic means were already present before that personal data is processed/used by the ATTAIN SYSTEM as well as setting out in their policy how they comply with the Privacy and Electronic Communications Regulations 2003 as amended

#### 6. Checking and Correcting Your Personal Data

If you feel that ATTAIN may be processing incorrect or out-of-date data about yourself, or that ATTAIN should not be processing your personal data (either at all or in part), or that processing may be causing you harm or distress, or you are simply interested in knowing what might be being processed by ATTAIN about yourself - you can request in writing a description of your personal data that ATTAIN is processing about you, the purposes for which they are being or are to be processed, the source(s) of the personal data (if known) and the classes of recipients to whom the personal data may be disclosed. This is sometimes referred to as a "Subject Access Request".

ATTAIN may make a charge not exceeding £10 to issue reply to a Subject Access Request. The reply must be sent within 40 days of a proper written request and any required payment being received.

You should be aware that the Data Protection Act 1998 sets out a number of potentially important exclusions as to what might be disclosed in reply to a Subject Access Request.

If you wish to make a Subject Access Request or have a general inquiry regarding your own personal data, please contact in writing the Data Controller, Parker Sandford Limited, at Pier House, Wallgate, Wigan, WN3 4AL

#### 7. Should you consider making a Subject Access Request of an ATTAIN Client.

Any personal data we may process about you is most likely to have been collected in the first instance by one of our clients with whom you may have had dealings or to whom you might make an inquiry or the like. If you know the identity of our client, it might well worth be considering making a subject request to them, or at least contacting them with you concerns, especially if you are worried about the initial collection of your personal information and/or any specific usage that that client continues to make which concerns you, including sending messages by e-mail or text messaging.

Please note that you can usually only make subject access requests or general inquiries about yourself. You can only make a request or inquiry about another person if you have a relevant legal right to make such inquiries on their behalf.

#### 8. For your further information

##### Electronic Communications to and from ATTAIN

E-mails, faxes and telephone calls made to - and by - ATTAIN may be monitored and/or recorded:

- To prevent or detect crime, including fraud; and/or
- To investigate or detect unauthorised use of the electronic communication system(s); and/or,
- To establish facts relevant to ATTAIN 's business; and/or,
- To ascertain compliance with regulatory and self-regulatory practices or procedures that are relevant to ATTAIN 's business; and/or,
- To ascertain or demonstrate standards that ATTAIN employees or representatives achieve or ought to achieve when using ATTAIN 's systems of communications (i.e. quality control and training); and/or
- To ensure effective operation of the system including effective protection against virus and hacker attacks

### Appendix 4

#### Upgraded Agreement Attached

## Upgrade Agreement

### 1 CLIENT DETAILS

Company Name

Address

Postcode

Tel Number  Fax Number

E-mail

Registration Number  VAT Number

Data Protection Reg. Number

Industry Sector

Client Representative  Direct Dial

**(“CLIENT”)**

### 2 CONTRACT

As an amendment to a Contract dated

**(“CONTRACT”)**

### 3 WITH

**PARKER SANDFORD LIMITED** of Pier House, Wallgate, Wigan, Greater Manchester; WN3 4AL t 01942 247884 f 01942 493690 Company registration No. 3810856 VAT No. GB 000565 741 1690 48

**(“ATTAIN”)**

### 4 UPGRADE ORDER

The CLIENT hereby orders an upgrade of the CONTRACT for a revised Licence Fee of £  per month and for a revised term of  months in accordance with the revised ATTAIN ORDER FORM, attached, and subject to the terms and conditions of the CONTRACT which will remain in full force other than for the substitution of this/these upgrade (s) and the ATTAIN ORDER FORM. I confirm that this order is irrevocable and that the CLIENT agrees to be bound by the CONTRACT as hereby upgraded.

### 5 SIGNING

Signed by  Job Title

who confirms that he is duly authorised on behalf of the CLIENT to place this upgraded order to the value shown and the CLIENT fully understands ATTAIN will respond with the acceptance of their agreement

Signature  Date

### 6 ATTAIN agrees to the Upgraded ORDER and the Terms and Conditions of the CONTRACT.

Signature  Date

## ATTAIN ORDER FORM - Software Pricing

	System Limits	Additional Extras	Monthly Fee	One Off Set-Up Fee
System level				
Initial Compatibility Test / Set-Up				
Limited to Contact Database Records				
Number of Selection Variables				
Number of User Licenses				
Number of Live Data Connections				
Customised Count Engine				
Automated Data Merge				
Monthly Email Broadcast Volumes				
Email Templates - Generic				
Email Templates - Bespoke				
Fixed PDF Letter Template				
Number of Free SMS Messages per Month				
Telephone Technical Helpline				
Dedicated Account Manager				
<b>TOTAL COSTS</b>				