



## SPONSORSHIP/ADVERTISING/LIST

### TERMS AND CONDITIONS

1. APPLICATION. These Terms and Conditions are made a part of the Agreement entered into by MGMA-ACMPE and the Sponsor identified therein.
2. LIMITATIONS ON SPONSOR RIGHTS. The rights granted to Sponsor are subject to the following conditions:
  - (a) Sponsor is granted no rights hereunder to use the names, slogans, service marks, trademarks, trade names, or logos of MGMA-ACMPE for any purpose, in connection with the Promotion or otherwise, unless approved by MGMA-ACMPE. The sponsorship rights granted to Sponsor do not constitute and may not be used to imply the endorsement of Sponsor's products or services.
  - (b) The rights granted hereby are personal to Sponsor, and may not be assigned or otherwise transferred by Sponsor.
  - (c) Sponsor will comply with all laws, rules, regulations and licensing requirements of governmental authorities applicable to Sponsor or its activities, including but not limited to antitrust laws.
  - (d) Unless specified herein, no promotions or recognition to which Sponsor is entitled under this Agreement, including without limitation, any content, logos, products, or other materials provided by Sponsor hereunder to be displayed or distributed by MGMA-ACMPE or Sponsor in connection with Sponsor's sponsorship of the Promotion (such Sponsor-provided materials shall be referred to as the "**Promotional Materials**") may contain comparative or qualitative language, price information or other indications of savings or value, an endorsement of Sponsor, or an inducement to purchase, sell or use Sponsor's products or services, or to take any action with respect to Sponsor.
3. POSTPONEMENT, CANCELLATION, RESCHEDULING OF PROMOTION. In the event that the Promotion, or any portion thereof, is postponed, cancelled, or rescheduled by MGMA-ACMPE for any reason, including but not limited to force majeure, then:
  - (a) in the case of the cancellation of all or a portion of the Promotion, (i) with respect to the portion which is held, this Agreement shall continue in full force and effect; and (ii) with respect to the portion which is cancelled, as Sponsor's exclusive remedy, MGMA-ACMPE will refund to Sponsor a pro rata portion of any fee received prior to such cancellation, based upon the portion of the Benefits specified in Exhibit B that were not received, but also taking into consideration funds expended that are not recoverable by MGMA-ACMPE.
  - (b) in the case of postponement or rescheduling of all or a portion of the Promotion, the obligations of the parties to perform hereunder shall be delayed to take into account such postponement or rescheduling.
4. SUBSTITUTION FOR UNAVAILABLE BENEFITS. Notwithstanding anything contained in this Agreement to the contrary, the parties agree that, due to circumstances beyond the reasonable control of MGMA-ACMPE, it may become impossible or impracticable to provide one or more Benefits called for hereunder. MGMA-ACMPE may provide, in lieu of any such unavailable Benefit, a substitute Benefit materially equivalent to the unavailable Benefit, and shall notify Sponsor of such substitution.
5. LICENSE TO MGMA-ACMPE. Sponsor hereby grants MGMA-ACMPE a limited, revocable, non-exclusive license during the Term of this Agreement to: (a) use, reproduce, prepare derivative works based upon, distribute, perform and display the Promotional Materials and Sponsor's name, trademarks, acronyms, and logo (collectively, the "**Sponsor Marks**") in connection with Sponsor's sponsorship of the Promotion; and, if applicable, (b) create a link to Sponsor's website as described herein. The Sponsor Marks and Promotional Materials shall remain at all times the sole and exclusive property of Sponsor, and except for any use thereof by MGMA-ACMPE pursuant to these terms shall create no rights for MGMA-ACMPE therein. Notwithstanding the foregoing, if this Agreement terminates prior to the conclusion of the Promotion, MGMA-ACMPE may, unless Sponsor terminates this Agreement for cause or MGMA-ACMPE terminates other than for cause or in connection with a force majeure event, distribute any printed media produced in connection with the Promotion that use or include the Sponsor Marks or Promotional Materials.
6. WARRANTIES. Sponsor represents and warrants that (a) it has the full right and authority to enter into this Agreement and to grant the licenses provided herein; (b) it has not previously granted any rights adverse to or inconsistent with the rights granted to MGMA-ACMPE herein; (c) the Sponsor Marks, any materials provided by Sponsor in connection with the Benefits, or Promotional Materials do not and will not violate or infringe upon any patent, copyright, literary, privacy, publicity, trademark, service mark, or any other personal or property right of any third party; (d) at the time any Promotional Materials are to run or be placed in any MGMA-ACMPE publication or displayed on the MGMA-ACMPE Website, (i) all required consents or releases will have been obtained, and (ii) Sponsor will have the right and authority to place the Promotional Materials, Sponsor Marks or any material provided by Sponsor to MGMA-ACMPE in such publications or media, and (e) all materials delivered by Sponsor to MGMA-ACMPE, all Sponsor Marks and Promotional Materials shall not contain any virus, embedded device or undocumented

code that is intended to obstruct, prevent or disable MGMA-ACMPE's or any agent or representative of MGMA-ACMPE use thereof or otherwise contain any other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, or data.

MGMA-ACMPE represents and warrants to Sponsor that (a) all materials produced for Sponsor under this Agreement (“**Work**”) does not and will not infringe upon or violate any applicable laws or regulations or any rights of third parties, including, but not limited to, privacy or intellectual property rights, or contain any libelous, defamatory, obscene or unlawful material; (b) all Work delivered in electronic form shall contain no feature intended to deactivate it after a certain period of time, unless expressly agreed to by the parties; and (c) all Work delivered in electronic form shall not contain any virus, embedded device or undocumented code that is intended to obstruct, prevent or disable Sponsor's use thereof or otherwise contain any other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, or data. Notwithstanding the foregoing, any list of members or aggregated list of third parties provided by MGMA-ACMPE to Sponsor shall not constitute Work and shall be owed and controlled by MGMA-ACMPE and Sponsor shall only have access to such list(s) for internal business purposes and shall adhere to all instructions provided by MGMA-ACMPE regarding such list.

7. APPROVALS AND FORMATTING.

(a) The form, content and presentation of each Benefit which is not produced by MGMA-ACMPE (e.g. printed materials, videos, electronic displays) are subject to advance written approval by MGMA-ACMPE. For each Benefit that includes Promotional Materials or other material to be broadcast, published, distributed, displayed or made public, or any materials related to the marketing of the Promotion, including without limitation any electronic communication or display, publications, printed materials, videos, telecast, broadcast, or any other communication or promotional item whatsoever that references the Promotion or MGMA-ACMPE, Sponsor shall prepare and produce, at Sponsor's expense, and deliver such materials in final form (or samples or mock-ups) to MGMA-ACMPE for its prior written approval, such approval not to be unreasonably withheld or delayed, in each case as instructed by MGMA-ACMPE in order to provide reasonable notice and adequate opportunity to review (and revise if necessary) prior to the first date on which such material is to be made public. MGMA-ACMPE shall have the right to withdraw its approval if any such uses depart materially from previously approved submissions. MGMA-ACMPE shall have the right to approve and request alterations of all such materials, at any time, whether prior to or following any use thereof by MGMA-ACMPE.

(b) If a Benefit includes any web links, e-mail messages or electronic newsletters to be sent by MGMA-ACMPE hereunder, Sponsor agrees to provide MGMA-ACMPE a graphical file image of Sponsor's logo, with hyperlinks to Sponsor's Website Home Page specified in Exhibit B, in the format requested by MGMA-ACMPE and otherwise according to MGMA-ACMPE's specifications.

(c) The specific placement, appearance, and operation of any Promotional Materials and any links, including the loading of an intermediate URL before the user is connected to Sponsor's website, shall be determined by MGMA-ACMPE in its sole discretion. Sponsor shall be responsible for any additional costs incurred by MGMA-ACMPE resulting from the failure of any materials or inserts furnished to MGMA-ACMPE to meet MGMA-ACMPE's specifications or the failure to deliver the Promotional Materials in a timely manner. Promotional Materials or samples provided by Sponsor to MGMA-ACMPE will not be returned unless expressly requested by Sponsor. Returns will be made at Sponsor's expense. Sponsor assumes all risk of loss and costs in connection with all submissions.

(d) MGMA-ACMPE shall use commercially reasonable efforts to include Sponsor's Promotional Materials in such publications as are designated in Exhibit B, but is not responsible for any non-material, inadvertent failure to include Sponsor's Promotional Materials in a non-material portion of such publications or for the content of any Promotional Materials, including any errors or omissions contained therein or the production quality thereof.

8. ADDITIONAL INTERNET PROVISIONS.

(a) Sponsor acknowledges that the Internet is not an error-free network, that transmissions made thereon may not be completed or may contain errors or omissions, and that the Internet, or portions thereof, including the link to Sponsor's website, may become inaccessible or inoperable, in whole or in part, at any time, and that MGMA-ACMPE shall not be responsible for any loss or damage to Sponsor resulting from any such failure.

(b) Notwithstanding anything in this Agreement to the contrary, MGMA-ACMPE shall have the right to immediately terminate the display of any link between the MGMA-ACMPE website and Sponsor's website or cease the operation of the MGMA-ACMPE website or the transmission of the electronic communications specified in Exhibit B, if such link or transmission could reasonably be deemed to expose MGMA-ACMPE to a risk of liability from any third party.

9. DISCLAIMER. While MGMA-ACMPE desires that the Promotion be successful for it, its members and Sponsor, it disclaims any express or implied warranty, including but not limited to the implied warranties of merchantability and fitness for a particular purpose, and all warranties arising from course of dealing, usage, trade practice and any warranty with respect to success or results for Sponsor.

10. LIMITATION OF LIABILITY. THE PARTIES AGREE THAT IN NO EVENT SHALL EITHER PARTY'S LIABILITY HEREUNDER EXCEED THE AMOUNT OF THE SPONSORSHIP FEE ACTUALLY PAID BY SPONSOR. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOSS OF INCOME, PROFIT, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE.

11. RELEASE AND INDEMNIFICATION.

(a) Sponsor Indemnification of MGMA-ACMPE. Sponsor shall indemnify MGMA-ACMPE, and its officers, directors, employees and agents, and hold such parties harmless from and against any and all liabilities, lawsuits, damages, claims, payments, judgements, costs and expenses (including reasonable attorney's fees) as a result of any third party claim or cause of action arising out of or relating to: (a) Sponsor's performance of or failure to perform its obligations under this Agreement; (b) any breach of the covenants, representations and warranties given to MGMA-ACMPE by Sponsor under this Agreement; or (c) any claim or cause of action against MGMA-ACMPE alleging that the content or any materials provided by Sponsor pursuant to the terms of this Agreement infringes or violates, or otherwise harms, the rights of any third party, or arising out of any of Sponsor's products, services, promotions, marketing, Sponsor's Marks, or its website.

(b) MGMA-ACMPE Indemnification of Sponsor. MGMA-ACMPE shall indemnify Sponsor and hold Sponsor harmless from and against any and all liabilities, lawsuits, damages, claims, payments, judgements, costs and expenses (including reasonable attorney's fees) suffered by or incurred by Sponsor as a result of any third party claim or cause of action arising out of or relating to: (a) MGMA-ACMPE performance of or failure to perform its obligations under this Agreement; (b) any breach of the covenants, representations and warranties given to Sponsor by MGMA-ACMPE under this Agreement; or (c) any claim or cause of action against Sponsor alleging that the content or any materials provided by MGMA-ACMPE pursuant to the terms of this Agreement infringes or violates the rights of any third party.

12. RISK OF LOSS/INSURANCE. Sponsor acknowledges and agrees that neither MGMA-ACMPE nor, if applicable, the facility at which the promotional activities may be located carries insurance for or will be responsible for loss of or damage to Sponsor's property. Sponsor shall obtain such insurance on its property and for its liability as it elects. In addition, Sponsor shall obtain and maintain at its own expense a standard General Commercial Liability Policy. Sponsor releases, waives and discharges any claim, demand, or cause of action that it may have against MGMA-ACMPE for any loss, damage, claim or cause of action of any kind covered under Sponsor's insurance policies. Sponsor shall provide MGMA-ACMPE with such evidence of coverage as may be requested.

13. DEFAULT. If Sponsor violates any of the terms of this Agreement, MGMA-ACMPE may take such actions as it deems appropriate in its sole discretion including but not limited to terminating the Agreement and exercising any remedies it may have hereunder or under applicable law. Notwithstanding anything to the contrary contained herein, if Sponsor has defaulted in its performance under the terms of this Agreement, MGMA-ACMPE will not be liable for refunds of any fees paid by Sponsor hereunder and may seek additional remedies as appropriate hereunder.

14. RESERVATION OF PUBLICITY/MEDIA RIGHTS AND APPROVAL OF SPONSOR MARKETING. MGMA-ACMPE retains all rights of publicity in connection with the Promotion and shall direct and control all marketing efforts in connection with the Promotion. Unless approved in advance and in writing by MGMA-ACMPE (such approval not to be unreasonably withheld or delayed), Sponsor shall not initiate or direct any communication or promotion of any Promotional Materials to participants or third parties related to the marketing of the Promotion or any other communication or promotional item whatsoever that references MGMA-ACMPE.

15. ADVERTISING. If the Benefits listed in Exhibit B include advertising rights (for purposes of this Section 15, "**Advertising**"), the following terms and conditions apply:

(a) All Advertisements and the format thereof are subject to MGMA-ACMPE's prior approval, such approval not to be unreasonably withheld or delayed. MGMA-ACMPE reserves the right to reject or cancel any Advertisement prior to publication or thereafter for any reason at any time without liability. If MGMA-ACMPE exercises such right for reasons other than a breach of this Agreement by Sponsor (for purposes of this Section 15, "**Advertiser**") or any designated agency (for purposes of this Section 15, "**Agency**"), it will refund all amounts paid by Advertiser or Agency hereunder. All Advertising materials provided by Advertiser (or Sponsor) pursuant to this Agreement shall constitute Promotional Materials for purposes of this Agreement and shall comply with all obligations, warranties and restrictions related to Promotional Materials herein.

(b) Mechanical, formatting and technical specifications, as outlined by MGMA-ACMPE, must be followed. All such materials must be received by MGMA-ACMPE by the materials deadline in order to fulfill this Benefit. Advertiser/Agency shall be responsible for any additional costs incurred by MGMA-ACMPE resulting from the failure of any materials or inserts furnished to MGMA-ACMPE to meet MGMA-ACMPE's specifications or the failure to deliver the Advertisement in a timely manner and according to MGMA-ACMPE's technical specifications.

(c) If MGMA-ACMPE is unable to set any Advertisement in the type or style requested, it may set such Advertisement in such other type or styles as in its opinion most nearly corresponds thereto, and the Advertisement may be inserted without submission of proof. Where material furnished by the Advertiser or Agency occupies more space than specified in the insertion order, or this agreement, MGMA-ACMPE shall communicate with the Advertiser or Agency for definite instructions. If MGMA-ACMPE is unable to secure definite instructions from the Advertiser or Agency, it has the discretion to reduce the material to fit or omit the Advertising.

(d) In no event shall MGMA-ACMPE be held liable as the result of any error, delay or omission beyond MGMA-

ACMPE's reasonable control, including, without limitation, any strike, fire, accident, or other acts of God. MGMA-ACMPE shall not be liable or responsible for the content of the Advertisement, including any errors or omissions contained in the Advertisement submitted to it or for the production quality of the Advertisement. Advertisement in MGMA-ACMPE's publications or on MGMA-ACMPE's Website shall not constitute or be used to imply an endorsement by MGMA-ACMPE of Advertiser's product or services. MGMA-ACMPE makes no representations or warranties with respect to the quality or the appearance of the Advertisement, and in no event shall MGMA-ACMPE be responsible for the production quality of any materials or inserts provided to MGMA-ACMPE.

(e) Advertiser and Agency represent and warrant that (i) all talent consents or releases have been obtained, to the extent required, and all necessary consents and permissions have been obtained for the Advertisement to be used and, if applicable, displayed on the Website and for the URL link to be made, (ii) they have the right and authority to place the Advertisement contracted for herein and, if applicable, to permit the URL link to be made and the content of the linked site to be used and displayed, (iii) nothing contained in the Advertisement or, if applicable, the URL link or the linked site, or use of the Advertisement or, if applicable, display of the Advertisement, the URL link or the linked site by MGMA-ACMPE under this Contract, will violate or infringe upon the rights of any person or entity, including, without limitation, any copyright, trademark, or right of publicity or privacy, or libel, defame or disparage any person or entity, or violate any law, rule or regulation, including, without limitation, any U.S. Postal regulations and (iv) the Advertisement and, if applicable, the URL link and the content of the linked site, do not contain any instructions, information or recommendations that, if followed or relied on, would result in injury to any person, property or thing.

16. **TERM AND TERMINATION.** Except as otherwise provided herein, the term of this Agreement shall extend through the completion of the Promotion. If a Beginning Date and Ending Date for any Benefits are specified in Exhibit A, the applicable Benefits shall commence on the specified Beginning Date, and continue until the specified Ending Date. To the extent that this Agreement contemplates (whether or not specified) that a party shall perform an obligation after expiration or termination of this Agreement, such obligation and all provisions of this Agreement relating thereto shall survive the termination of this Agreement. In the event that MGMA-ACMPE determines, in its sole discretion, for any reason and at any time, that Sponsor should not be a sponsor of the Promotion, MGMA-ACMPE may terminate this Agreement unilaterally by giving Sponsor notice of such termination and a pro-rata refund of fees paid by Sponsor based upon the portion of the Benefits described in Exhibit B that were not received or will not be provided (except in the case of termination pursuant to Section 14 hereof) and MGMA-ACMPE shall have no further liability hereunder.

17. **DISPUTE RESOLUTION.** The parties shall endeavor in good faith to resolve any disputes that may arise regarding this Agreement. If the parties cannot so agree among themselves, in addition to their respective rights hereunder, either party may initially submit their dispute to confidential mediation by a mutually acceptable third party in the Denver, Colorado metropolitan business community. If they cannot agree on such a person within five (5) business days after the written request for mediation is given by an allegedly aggrieved party to the other party, or, within thirty (30) business days following engagement of a mediator, then any party may submit all disputes arising from this Agreement to confidential binding arbitration in Englewood, Colorado pursuant to the commercial arbitration rules of the CPR Institute for Dispute Resolution then in force, or pursuant to such other rules or procedures to which the parties may agree. Each party shall bear its own costs with respect to any mediation or arbitration proceedings. In the event of any such arbitration proceedings between the parties hereto, the prevailing party in such proceeding shall be awarded, in addition to the amount of any judgment or other award entered therein, the costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in such arbitration proceedings. This provision shall survive termination of the Agreement.

18. **MISCELLANEOUS.** Except as expressly set forth herein, this Agreement, together with all exhibits, constitutes the entire agreement between Sponsor and MGMA-ACMPE and supersedes all prior agreements and understandings relating thereto, including but not limited to the Sponsorship Brochure. This Agreement may be amended only by a writing signed by Sponsor and MGMA-ACMPE. This Agreement shall be governed by the laws of the State of Colorado, without giving effect to principles of conflict of laws. The relationship of Sponsor and MGMA-ACMPE hereunder shall be solely that of independent contractors. All notices and other communications provided for hereunder shall be in writing and shall be deemed effective only if and when sent via telefacsimile (with a completed confirmation), delivered by hand, sent by mail, postage prepaid, or delivered by overnight courier service, addressed to the parties at the addresses set forth in this Agreement. No failure of any party to give notice of or seek a remedy for any violation of this Agreement or to insist on strict performance hereunder shall reduce, impair, or affect such party's rights to later seek such remedy or insist on such performance with respect to the same or other violations or failure, regardless of such party's knowledge or lack of knowledge thereof. This Agreement may be executed by facsimile signature and in counterparts. The person executing the Agreement on behalf of Sponsor represents and warrants that such person has all necessary power and authority to execute this Agreement on behalf of Sponsor and that Sponsor shall be legally bound by the terms of this Agreement.

19. **FACILITY RULES AND REGULATIONS.** Any rules and regulations of the facility where the Promotional activities are held are incorporated into this Agreement to the extent applicable and Sponsor agrees to be bound by such rules and regulations. MGMA-ACMPE will provide Sponsor with a copy of such rules and regulations. Such rules and

regulations will not be incorporated into this Agreement until such rules and regulations are sent to Sponsor.

20. LIST RENTAL TERMS AND CONDITIONS. If the Benefits in Exhibit B contain list rentals, the following terms and conditions also apply.

(a) **PURPOSE.** This Agreement sets forth the terms and conditions on which the “**List Renter**” (for purposes of this Agreement, also known as the Sponsor) shall be allowed to carry out one or more activities whereby List Renter may communicate certain messages or communications about the List Renter (“**List Rentals**” or “**List Rental Activities**”) to MGMA-ACMPE’s proprietary list of members (collectively, the “**MGMA-ACMPE List**”). E-mail addresses, phone numbers, and facsimile numbers of MGMA-ACMPE Members/Customers are NOT included in the MGMA-ACMPE List and each List Renter acknowledges and agrees that it is required to use a MGMA-ACMPE approved vendor for all email communications to the MGMA-ACMPE List and shall adhere to any further restrictions or requirements of MGMA-ACMPE or such vendor in connection with any List Rental Activity.

(b) **GRANT OF LICENSE.** MGMA-ACMPE grants List Renter a limited, non-exclusive, non-transferable license to distribute mail pieces and/or an email message to MGMA-ACMPE Members/Customers included in the MGMA-ACMPE List only in connection with the approved pieces and/or messages. In no event shall List Renter use the MGMA-ACMPE List, or any portion thereof, more than once for each contracted List Rental Activity or communication. List Renter acknowledges that this Agreement shall not be deemed to limit MGMA-ACMPE from otherwise promoting, marketing, publishing, distributing or renting the MGMA-ACMPE List to other third parties. List Renter’s mail pieces and/or email message to MGMA-ACMPE Members/Customers in the MGMA-ACMPE List shall not constitute or be used to imply an endorsement by MGMA-ACMPE of List Renter’s products or services. Auto response messages to List Renter’s email do not represent the intent of the MGMA-ACMPE Member/Customer to receive additional information from the List Renter and harvesting of contact information from auto-response messages for future contact by the List Renter shall constitute a breach of contract and contract shall immediately be terminated. List Renter (Sponsor) shall adhere to all applicable privacy laws, CAN-SPAM, and other laws and regulations regarding email solicitations and shall be solely responsible for compliance with such laws or regulations. List Renter (Sponsor) shall indemnify and hold harmless MGMA-ACMPE, its affiliates, officers, directors, employees, agents and any third party vendor supporting the List Rental Activities as authorized by MGMA-ACMPE to distribute to the MGMA-ACMPE List, for any liabilities, lawsuits, damages, claims, payments, judgements, costs and expenses (including reasonable attorney’s fees) suffered by or incurred by MGMA-ACMPE related any actions by List Renter in connection with the MGMA-ACMPE List, including any such liabilities, damages, claims, costs or expenses incurred in connection with any violation of these terms and conditions or any applicable law by List Renter.

(c) **SUBMISSION OF SAMPLES TO MGMA-ACMPE FOR APPROVAL.** MGMA-ACMPE will not distribute the direct mail MGMA-ACMPE List to List Renter until MGMA-ACMPE receives from List Renter a copy or sample of all email message and/or printed materials, literature, advertisement, or any other materials or information (collectively, “**Samples**”) to be distributed by List Renter to MGMA-ACMPE Members/Customers included in the MGMA-ACMPE List. For email list rental, List Renter will work through a third-party list processing company and not receive a copy of the email list. All Samples are subject to MGMA-ACMPE’s prior approval, such approval not to be unreasonably withheld or delayed. MGMA-ACMPE reserves the right to reject the Samples for any reason at any time without liability. List Renter shall not be entitled to any such refund in the event of a breach of the Terms and Conditions. List Renter shall not distribute to, or communicate with, any MGMA-ACMPE Members/Customers on the MGMA-ACMPE List any materials or information that deviate from Samples approved by MGMA-ACMPE. If List Renter’s email or mail pieces deviate from the Samples approved by MGMA-ACMPE, List Renter must submit new Samples for approval by MGMA-ACMPE prior to distributing such materials to any MGMA-ACMPE Members or Customers on the MGMA-ACMPE List. In addition to the Samples and requirements above, List Renter shall ensure it complies with the following requirements in connection with all List Rental Activities:

- Email creative must be received within reasonable amount of time prior to the intended email transmission date.
- This email creative must include
  - 1) HTML files/emails (file extension ".html" or ".htm") with images embedded or hosted within the HTML by the Customer's organization.
  - 2) Text files/emails must be in a Notepad format (file extension ".txt").
  - 3) Each HTML/Text file must include a working opt-out mechanism.
    - a) Opt-out notices must be clear and conspicuous explaining how email recipients may opt-out of receiving email from you in the future.
    - b) The opt-out mechanism shall include an email address or other Internet-based way to allow email recipients to communicate their opt-out choice.

- c) Any opt-out mechanism must be able to process opt-out requests for at least 30 days after the transmission of your email.
- d) You cannot charge a fee, require the recipient to give you any personally identifying information beyond an email address, or make the recipient take any step other than sending a reply email or visiting a single page on an Internet website as a condition for honoring an opt-out request.
- e) You must honor a recipient's opt-out request within 10 business days.
- 4) Each HTML/Text file must have working URL's/links.
- 5) Each HTML/Text file must include Customer's valid physical postal address.
- 6) Each HTML/Text file must identify the message as an advertisement

- *Subject Line*

- (1) The subject line must reflect the content of the message.
- (2) The subject line cannot be deceptive or mislead the email recipient about the contents or subject matter of the message.
- (3) INFOCUS Marketing recommends a subject line no longer than 50 characters

- *"From Line" Name and Email Address*

- (1) Customer must supply company or individual name that is clearly representative of their organization. The "From" address will contain the domain "[mmessage.infocuslists.com](mailto:mmessage.infocuslists.com)". The supplied company or individual name will appear in the first part of the email address.

- *"Reply-To" Email Address*

- (1) Must have a working reply-to email address for email recipients to reply to and contact the Customer

- List Renter shall not include or use attachments in any email transmission.

(d) **PROPRIETARY RIGHTS.** The MGMA-ACMPE List is, and shall remain, the sole and exclusive property of MGMA- ACMPE, and all title and interest in it remains in MGMA-ACMPE. All applicable common law and statutory rights in the MGMA-ACMPE List, including, but not limited to, rights in any confidential and trade secret material, trademarks, service marks, company names, company logos, other proprietary marks, product names, patents and copyrights, are, and shall remain, the sole and exclusive property of MGMA-ACMPE and are not conveyed under this Agreement. List Renter will not disclose, publish, transfer, duplicate, tag, download, manipulate, reproduce, resell, distribute, sublicense or use for any unlawful purpose, in any form or manner whatsoever, all or any portion of the MGMA-ACMPE List, nor permit any third party to do so. List Renter is prohibited further from making any modifications, adaptations, enhancements, changes, or derivative works of the MGMA-ACMPE List.

(e) **ASSIGNMENT.** List Renter shall not assign or otherwise transfer any of its rights or obligations under the List Rental Agreement, without the prior written consent of MGMA-ACMPE.

(f) **INJUNCTION.** List Renter agrees and acknowledges that any use or disclosure of the MGMA-ACMPE List by List Renter in violation of this Agreement, or any breach by List Renter of the license provisions of this Agreement, shall cause MGMA- ACMPE irreparable harm for which monetary damages or other remedies will be inadequate. List Renter agrees that, in such event, MGMA-ACMPE shall be entitled to seek injunctive or other equitable relief without the necessity of posting a bond, in addition to seeking any other remedies available to MGMA-ACMPE hereunder or under applicable law.

(g) **COMPLIANCE WITH APPLICABLE LAWS.** In connection with this Agreement and with its rights and obligations hereunder, List Renter agrees to comply with all applicable laws, rules, and regulations.

(h) **FORCE MAJEURE.** MGMA-ACMPE is not liable under the List Rental Agreement for non-performance caused by events or conditions beyond MGMA-ACMPE's control, including, without limitation, any strike, fire, accident, or other acts of God.

(i) **WARRANTY.** Without limiting the generality of the terms of Section 11, MGMA-ACMPE represents, warrants and covenants that its collection, storage, use, transmission and disclosure of personal information included in List Rental to Sponsor hereunder has been and shall be in accordance with all applicable laws related to data privacy and/or data security; provided such transmission and disclosure is only intended to be directly to Sponsor for its internal confidential use. At or prior to the point of collection of such personal information contained on the MGMA-ACMPE List, MGMA-ACMPE shall provide to all individuals whose personal information is transmitted to Sponsor under this Agreement an up-to-date, complete, accurate and reasonably accessible privacy notice regarding the proposed uses and disclosures of the personal information, including those contemplated by this Agreement ("**Privacy Notice**"). MGMA-ACMPE shall be responsible for obtaining all necessary consents and opt-ins by individuals whose personal information is disclosed to Sponsor under this Agreement; if MGMA-ACMPE receives a notification by an individual that such individual does not wish his or her information to be shared with, or used by, Sponsor, MGMA-ACMPE shall promptly notify Sponsor of that fact. MGMA-ACMPE will maintain and enforce an information security program for the protection

of personal information, including commercially reasonable administrative, physical, and technical measures to protect the confidentiality, availability and integrity of the personal information and ensure the proper disposal and destruction of personal information. MGMA-ACMPE will notify Sponsor of any actual or reasonably suspected breach of security known to MGMA-ACMPE that has resulted in, or creates a reasonable risk of, unauthorized access to personal information without undue delay, and in any event before the expiration of any deadline for such disclosure imposed by law. Sponsor/List Renter shall be solely responsible for compliance with the restrictions and obligations herein related to the use of the any MGMA-ACMPE List and any contact of individuals on such list. MGMA-ACMPE does not represent and warrant that Sponsor/List Renter shall have the right to contact such member in connection with Sponsor/List Renter's products or services and shall not have any responsibility to Sponsor/List Renter in connection with such entity's actions.

- (j) No Guarantee. List Renter acknowledges and agrees:
- Transmission dates for all List Rental Activities are subject to availability and not guaranteed.
  - All email transmissions include a test email for MGMA-ACMPE approval before actual email transmission.
  - The actual email transmission will only be transmitted upon the final approval received via email from MGMA-ACMPE
  - Neither MGMA-ACMPE nor its third-party vendors guarantee the results or success of the List Renter's campaign.