



## MARKETING AUTOMATION ADDENDUM

Subscriber has ordered products or services from iCIMS, Inc. (“iCIMS”) under one or more Order Forms signed by iCIMS and Subscriber (each an “Order Form”). Each Order Form is subject to and governed by the Subscription Agreement entered into by iCIMS and Subscriber (the “Subscription Agreement”). Certain of the products or services ordered by Subscriber are Marketing Automation Services (as defined below). Subscriber and iCIMS hereby enter into this Marketing Automation Addendum (the “Automation Addendum”) to the Subscription Agreement for the purpose of incorporating certain terms and conditions into the Subscription Agreement solely with respect to the applicable products found on an executed Order Form, as follows:

**1. EFFECT OF ADDENDUM.** Solely with respect to the Marketing Automation Service identified in an Order Form, this Automation Addendum is incorporated into and made part of the Subscription Agreement. Except as applicable to the specific product or service listed on an Order Form, this Automation Addendum does not modify or amend the Subscription Agreement. Subscriber acknowledges and agrees that this Automation Addendum may be updated from time to time as iCIMS develops new products or services for the Subscription, and that any new terms and/or conditions that relate to such new products shall be applicable to Subscriber, to the extent Subscriber purchases such new products.

**2. DEFINITIONS.** The capitalized terms defined in the Subscription Agreement shall have the same meanings in this Automation Addendum, except as set forth expressly in this Automation Addendum. Notwithstanding anything to the contrary in the Subscription Agreement, the capitalized terms below shall have the following meanings solely as applicable to the Marketing Automation Services.

**2.1. “Affiliate”** of a Party means an entity that directly or indirectly controls, is controlled by, or is under common control with that Party, in each case through majority voting power.

**2.2. “Agreement”** means the Subscription Agreement as modified by this Automation Addendum in accordance with Section 1 of this Automation Addendum.

**2.3. “Candidate”** means (i) any person who directly or indirectly enters into the Subscription, a job application or other information related to a job or job opportunity with Subscriber or its Affiliate; or (ii) any person whose information is imported, uploaded, or in any way entered by a User for the purposes of building a candidate talent pool.

**2.4. “Documentation”** means any written Marketing Automation Service product specifications and training materials provided by iCIMS to Subscriber.

**2.5. “Implementation Service”** means the Implementation Services related to a Marketing Automation Service identified in an Order Form.

**2.6. “Marketing Automation Service”** means any marketing automation product or service identified as such in an Order Form, and any other product or service that an Order Form identifies as being governed by the Automation Addendum.

**2.7. “Message Recipient”** means any person who, by means of the Marketing Automation Service, receives a message from Subscriber or sends a message to Subscriber (whether such messages are by text or other form).

**2.8. “Subscriber Data”** means the messages, contact information and other electronic data and files entered, imported, uploaded or transferred into the Marketing Automation Service by Subscriber, its Affiliate, a User or a Message Recipient.

**2.9. “Subscription”** means the specific Marketing Automation Service and Implementation Service set forth in an Order Form.

**2.10. “User”** means Subscriber’s employee, contractor or agent authorized by Subscriber to use any product or service, or the Subscription.

**2.11.** To the extent the following terms are defined in the Subscription Agreement:

(a) “Application” and “Program” each mean the Marketing Automation Service and software embedded therein, together with the Documentation.

(b) “Information Service” means the hosting and provision of the Application.

(c) “Services” means the Information Service and the Implementation Services.

### 3. SUBSCRIPTION AND OTHER PRODUCTS AND SERVICES.

**3.1. THIRD-PARTY PRODUCTS AND SERVICES.** Subscriber may use, or iCIMS may enable or allow access to products, services, communication channels, and web sites provided by other persons or entities (each, a “Third-Party Product”). Subscriber is solely responsible for entering into and/or complying with any contractual agreement or other terms and conditions that are required by the provider of any Third-Party Product. iCIMS does not make any representation regarding or endorse any Third-Party Product.

**4. SUBSCRIBER RESPONSIBILITIES.** In addition to its other responsibilities set forth in the Subscription Agreement, Subscriber agrees as follows:

**4.1. Configuration and Use.** Subscriber is solely responsible for any use of the Marketing Automation Services by Subscriber, its Affiliates, or its User, and any Subscriber Data, including any recruiting, hiring or employment-related process, action or decision, and shall ensure that any process, action or decision does not violate any law or regulation. Subscriber acknowledges and agrees that any output, recommendation, suggestion, explanation, or analysis provided by the Marketing Automation Service is for informational purposes only. In the event the Marketing Automation Services uses any artificial intelligence or machine learning, such uses are for the purposes of candidate and recruitment marketing, and not to substantially assist or replace discretionary decision-making for making any employment decisions. Subject to iCIMS’ compliance with Section 5 of this Automation Addendum, Subscriber is solely responsible for, and shall ensure that use or disclosure of any Subscriber Data in accordance with the Subscription Agreement complies with applicable laws and regulations, including any required notices or consents. Subscriber shall obtain any consent, permission, license, and/or other Intellectual Property Right that may be required for uploading, importing, or using any Subscriber Data in the Marketing Automation Service.



**4.2. Messaging.** Subscriber is solely responsible for any message or other communication sent or received using the Marketing Automation Service, and shall ensure that any message or other communication does not violate any law or regulation. Without waiving the generality of the foregoing, Subscriber agrees as follows:

(a) Subscriber must comply with all laws and regulations governing communications to or from Message Recipients, including the U.S. CAN-SPAM Act, U.S. Telephone Consumer Protection Act (“TCPA”), Canadian Anti-Spam Legislation, S.C. 2010, c. 23, and any other applicable federal, state, local or foreign laws.

(b) Subscriber shall provide all notices and obtain all consents and approvals required to communicate with a Message Recipient. Subscriber may not use the Marketing Automation Service to send unsolicited text messages or other messages (sometimes called “spam”). Subscriber shall ensure that use of the Marketing Automation Service does not generate a number of spam-related or other complaints in excess of industry norms, as determined in iCIMS’ good faith judgment. Subscriber and its Users may not import, access, or use any contact lists for which all consents and permissions required by law or regulation have not been obtained, and Subscriber is solely responsible for any importation of, access to, or use of such lists.

(c) Subscriber shall not, and shall not permit any User to: (i) use the Marketing Automation Service to harvest, collect, gather or assemble information or data regarding any job candidate or other person without his or her consent; (ii) impersonate any other person or entity, or communicate in any deceptive manner; (iii) access or copy any data or information of a job candidate or other person without his or her consent; (iv) knowingly interfere with or disrupt the integrity or performance of the Marketing Automation Service or the data contained therein; (v) harass or interfere with another subscriber’s use and enjoyment of the Marketing Automation Service; (vi) knowingly interfere in any manner with the operation of the Marketing Automation Service, or the hardware and network used to operate the Marketing Automation Service; or (vii) send any message that is slanderous, libelous, defamatory, obscene or offensive.

(d) Both during and after the Term, Subscriber shall maintain a list of and comply with any request by a Message Recipient or any other person or entity not to receive communications from Subscriber (an “Unsubscribe Request”). iCIMS will make a reasonable effort to identify Unsubscribe Requests from text or SMS Message Recipients, block messages by means of the Marketing Automation Service from Subscriber to those Message Recipients, and communicate those Unsubscribe Requests periodically to Subscriber; provided nothing in the foregoing shall be deemed to relieve Subscriber from its sole responsibility for complying with all Unsubscribe Requests. Further, Subscriber shall ensure that no commercial messages or communications are delivered in violation of any law or regulation.

**4.3 Compliance Measures.** iCIMS may implement technical or other measures in its discretion to limit or prevent any use of the Marketing Automation Service in violation of Subscriber’s responsibilities under this Section 4 as determined in iCIMS’ good faith judgment.

**4.4. Taxes and Surcharges.** In addition to Subscriber’s responsibilities under the Subscription Agreement, Subscriber is solely responsible for paying all taxes, fees, charges, carrier surcharges, or other similar exactions in any applicable jurisdiction (collectively “Taxes”) imposed on or associated with Subscriber’s use of the Marketing Automation Service, exclusive of iCIMS’ income taxes. iCIMS may invoice Taxes as a direct pass-through and/or using an approximation based on volume and information provided by the party(s) imposing the applicable Tax. The fees listed in an Order Form are exclusive of any Taxes, and iCIMS shall have the right to invoice Taxes together with or separately from the other fees payable by Subscriber. If Subscriber is exempt from any such Taxes, iCIMS will exempt Subscriber from such Taxes on a going-forward basis if Subscriber provides iCIMS with a valid exemption certificate, provided such certificate is approved by iCIMS in its sole discretion.

**4.5 Indemnification.** In addition to any indemnification obligation set forth in the Subscription Agreement, Subscriber shall defend iCIMS and its direct and indirect parents, subsidiaries and affiliates, and their respective officers, directors, shareholders and agents (each, an “iCIMS Indemnitee”) from and against any third party claim, demand, lawsuit or legal action arising from any matter for which Subscriber is responsible under this Section 4 (a “Subscriber Indemnified Claim”), and indemnify each iCIMS Indemnitee against any damages, attorneys’ fees, and other costs or expenses awarded against it or incurred by it in connection with a Subscriber Indemnified Claim. This Section 4.5 shall survive the expiration or termination of the Agreement.

## 5. SUBSCRIBER DATA.

**5.1 Data Protection.** Notwithstanding anything to the contrary in the Subscription Agreement, iCIMS shall maintain administrative, physical and technical safeguards intended to protect the security, privacy and integrity of Subscriber Data as set forth in the Subscriber Data Security Addendum (available at <https://www.icims.com/gc>). iCIMS in its discretion also may maintain supplemental or additional safeguards. Notwithstanding the foregoing, Subscriber acknowledges that solely with respect to the Marketing Automation Service, iCIMS’ safeguards currently deviate from the following sections of the Subscriber Data Security Addendum, provided those deviations will be resolved no later than January 31, 2023: Section(s) 1.c., 1.d., 2.d.ii., and 5.a.ii. Further, Sections 12.a.i-iii. shall be resolved as soon as commercially reasonable, but in no event later than the 2023 audit cycle. Notwithstanding those deviations, iCIMS’ safeguards with respect to the Marketing Automation Service comply with industry best practices as of the date of this Automation Addendum.

**5.2. Data Access and Storage.** Notwithstanding anything to the contrary in the Subscription Agreement:

(a) The long-term storage and hosting of data with respect to the Marketing Automation Service, shall be in the United States or the European Union;

(b) During the Subscription Period for the Marketing Automation Service as set forth in an applicable Order Form, Subscriber may access and download the Subscriber Data in the manner enabled by the Marketing Automation Service or Documentation. iCIMS is not required to maintain any Subscriber Data after the applicable Subscription Period. iCIMS shall dispose of Subscriber Data in accordance with the Subscriber Data Security Addendum.

**6. WARRANTIES AND LIMITATIONS.** As applicable to the Marketing Automation Service, any warranty provided by iCIMS under the Subscription Agreement shall be limited to use of the Marketing Automation Service in accordance with the applicable Documentation and the specific terms set forth in this Automation Addendum, including Section 4 above. ALL WARRANTY EXCLUSIONS, DAMAGE THEORY EXCLUSIONS, AND LIABILITY LIMITATIONS SET FORTH IN THE SUBSCRIPTION AGREEMENT APPLY FULLY TO ALL PRODUCTS AND SERVICES AND ANY MATTER RELATED THERETO OR ARISING UNDER THIS AUTOMATION ADDENDUM. TO THE EXTENT PERMITTED BY LAW, iCIMS DOES NOT MAKE AND EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A



PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, AND ANY WARRANTY REGARDING SUBSCRIBER'S USE OF THE MARKETING AUTOMATION SERVICE, DATA OR INFORMATION ACCESSIBLE THEREFROM, AND ANY ACTION OR DECISION MADE RELATED TO SUBSCRIBER'S USE OF THE MARKETING AUTOMATION SERVICE.

7. **SUPPORT AND MAINTENANCE.** Notwithstanding anything to the contrary in the Subscription Agreement or the Support & Maintenance Policy, Subscriber acknowledges and agrees that with respect to the Marketing Automation Service only, (a) the "Uptime Percentage" shall be 99.5%; (b) the Severity Definitions and Response Times with respect to the Marketing Automation Service only shall be replaced by the table provided in Attachment 1 of this Automation Addendum; and (c) the Data Security section, and references to Hosted Environment, in the Support & Maintenance Policy shall not apply to the Marketing Automation Service. These deviations will be resolved no later than January 31, 2023.

8. **CONFIDENTIAL INFORMATION.** The Documentation is deemed part of the Confidential Information of iCIMS as defined in the Agreement.

9. **GENERAL TERMS.**

9.1. **iCIMS Subsidiaries and Affiliates.** Subscriber acknowledges and agrees that the Marketing Automation Service may be provided directly by iCIMS, or on behalf of iCIMS by iCIMS' subsidiary or affiliate, and iCIMS may delegate or subcontract its rights and obligations to that entity in whole or in part; provided that such subcontracting or delegation shall not relieve iCIMS of its obligations or liabilities under this Automation Addendum.

9.2. **Documentation and Policy Changes.** Subject to iCIMS' obligations with respect to Documentation and policy changes in the Subscription Agreement, iCIMS may make changes to the Documentation or any policy referenced in this Automation Addendum, or the hyperlink or other means of access to the Documentation or any policy.

9.3. **Counterparts.** This Automation Addendum may be executed by reference in an applicable Order Form, or facsimile or other electronic means, and in one or more counterparts, each of which is deemed to be an original but all of which together constitute one and the same Automation Addendum.

**Attachment 1**  
**Severity Definitions and Response Times**

Issue Severity	Definition	Initial Response	Issue Resolution
Severity 1	Service is completely unavailable and not accessible.	Four (4) hours	One (1) Day
Severity 2	A bug that is causing noticeable detrimental business impact, for example, very poor performance, data being corrupted, essential features not available etc. and there is no work around possible.	Twenty-Four (24) Hours	One (1) Week
Severity 3	A bug that reduces operational effectiveness, but workarounds are possible.	Five (5) Business Days	Next Update (1)
Severity 4	Request for enhancement. Not a bug, but a wish for new functionality that customer believes will improve service.	Ten (10) Business Days	As Deemed Practical

1. "Next Update" may include, but does not require, minor updates, enhancements, revisions, fixes, patches or other changes to the Subscription that iCIMS makes generally available to all Subscribers with an active Subscription. For clarity, minor updates will be designated through changes in the decimal of the previous version.

