

## **AGENCY AGREEMENT**

This LeadsOnline, LLC AGENCY AGREEMENT ("Agreement"), dated September 1, 2015 ("Effective Date") is made between the City of Glendale, an Arizona municipal corporation acting through the Glendale Police Department ("Agency") and LeadsOnline LLC ("Leads").

### **SCOPE OF AGREEMENT**

Leads operates and maintains an electronic reporting and criminal investigation system for receiving Data for the use of Law Enforcement Officials in their official duties. Leads acts in the capacity of an agent for such Law Enforcement Agencies for the purpose of collecting, maintaining and disseminating Data.

Agency desires to utilize Leads' System to support its investigations.

Subject to the terms of this Agreement and in consideration of the mutual covenants stated below, the parties agree as follows:

#### **1. Definitions**

- 1.1 "Data" means all information provided by Reporting Business and Law Enforcement Agencies about transactions, including (but not limited to) the transaction number, item number, product UPC code, quantity and ingredients, make, model, property description, serial number, name, address, identification number, telephone number, date of birth and any images recorded during the course of a transaction according to official request, statutory requirement or otherwise.
- 1.2 "GLBA" means the Gramm-Leach-Bliley Act of 1999, together with the Privacy Rule and Safeguards Rule promulgated by the U.S. Federal financial institution regulators and the Federal Trade Commission.
- 1.3 "Law Enforcement Agency" means any agency duly authorized by municipal, state, county or federal government to enforce laws or investigate crimes.
- 1.4 "Law Enforcement Official" means a person employed and authorized by a Law Enforcement Agency to, in their official duties, access Data and/or submit Data for official use by Law Enforcement Agencies.
- 1.5 "Leads' System" is Leads' *electronic reporting and criminal investigations system* for receiving Data for access by Law Enforcement Officials.
- 1.6 "Reporting Business" shall mean any entity that records Data regarding (a) the receipt or sale of products regulated by law, including but not limited to the Combat Methamphetamine Act of 2005 and (b) the receipt or other disposition of merchandise or materials, and reports such Data for access by Law Enforcement Officials according to official request, statutory requirement or otherwise.

#### **2. Responsibilities of Agency**

- 2.1 Agency agrees that the protection of usernames and passwords used to access Leads services and any Data accessed via Leads by its Law Enforcement Official is the

responsibility of Agency. Agency agrees to maintain such information in a secure manner and to not provide login credentials to any other person.

- 2.2 Agency is responsible for the accuracy of information submitted by Agency's Law Enforcement Officials in registration for Law Enforcement Agency's accounts.
- 2.3 Agency agrees that accounts will be used only by the Law Enforcement Official to whom the account is registered.
- 2.4 Agency represents and warrants that it shall only access, use and disclose Data for use in Agency's official Law Enforcement Agency duties.
- 2.5 Agency agrees to not divulge Data or information obtained through Leads' System to anyone other than Law Enforcement Officials within Agency's Law Enforcement Agency, with the exception of disclosure necessary for the purpose of prosecution of crimes within Agency's jurisdiction investigated by Agency.
- 2.6 Agency is responsible for securing Data accessed from Leads' System, and agrees to comply with all applicable statutes, laws and regulations for use and disclosure of non-public personal information, including federal and state data security breach laws and the GLBA.
- 2.7 Agency is responsible for using devices and browsers capable of connecting via an encrypted internet connection.
- 2.8 Agency is responsible for promptly notifying Leads when a user is no longer employed by Agency or is otherwise no longer authorized to access Leads' System.
- 2.9 Agency agrees to promptly notify Leads of any conditions that Agency believes may represent or result from a security incident or vulnerability, including the possible compromise of a user's password. Please send any notifications to [privacy@leadsonline.com](mailto:privacy@leadsonline.com).
- 2.10 Agency will pay subscription fees according to the schedule set forth in Attachment 'A' which by this reference is incorporated herein.

### **3. Responsibilities of Leads**

- 3.1 Leads agrees to operate and maintain the Leads System for the purpose of receiving Data for access only by Law Enforcement Officials.
- 3.2 Leads agrees to secure Data using administrative, technical and physical safeguards as set forth in applicable law, including the GLBA.
- 3.3 Leads agrees to provide use of Leads' System with the capabilities specified in Attachment 'A'.

### **4. Conditions for use of Leads' System**

- 4.1 Leads' System and website, including but not limited to written materials, text, graphics, logos, software, functionality, icons and images are the exclusive proprietary property of Leads and are protected under the United States Copyright Act (17 U.S.C.) , as well as by all applicable state and international copyright laws, and by the Lanham Act (15 U.S.C. §§1051-1141n). Agency Agrees to abide by any additional copyright notices, trademarks, information, or restrictions contained in any content on Leads' System and

website. Leads' System and website may be used solely for the purposes expressly provided for herein, and no aspect of the Leads' System or website may be used for any other purpose whatsoever. Any other use is unauthorized and will constitute an infringement upon the proprietary rights of Leads. No authority to use any content on Leads' System, website, or any other intellectual or other property of Leads not expressly granted by this Agreement shall be implied.

- 4.2 Agency agrees to not decompile or otherwise copy or use content on the Leads' System or website or other proprietary information of Leads for purposes of reverse-engineering or reconstruction, and to not remove, overprint or deface any notice of copyright, trademark, logo, legend, or other notices from any materials Agency obtains from Leads' System or website.
- 4.3 Agency represents it is a Law Enforcement Agency.
- 4.4 Leads may modify or upgrade any aspect of Leads' System at any time without notice. Leads agrees to make commercially reasonable efforts to perform such modifications in a manner that is not disruptive to Agency.
- 4.5 Subject to the terms of this Agreement, Agency hereby appoints Leads as its agent for the sole purpose of collecting, maintaining and disseminating Data from Reporting Businesses. This agency appointment is effective as of the registration date of Agency's initial user.
- 4.6 Leads uses a number of checks to identify inaccurate or incomplete Data, but cannot and does not represent or endorse the accuracy or reliability of Data or other information submitted by Reporting Business and Law Enforcement Agencies. Data is provided by Reporting Businesses and Law Enforcement Agencies according to the laws and practices enforced in Reporting Businesses' jurisdiction using their proprietary operational software.
- 4.7 Leads will provide reasonable instructions to Reporting Businesses regarding uploading Data to the Leads' System, but is not responsible for ensuring their compliance with their Data reporting obligations.
- 4.8 Agency will not discourage Reporting Businesses from submitting Data via Leads.

## 5. Term

- 5.1 This Agreement will become effective as of the date first set forth above and remain in effect for five (5) years plus any initial partial year (the "Initial Term") or until termination by Leads or Agency as described below.
- 5.2 Neither party is obligated to renew this Agreement. Upon expiration of the Initial Term and any renewal term, Agency may renew this Agreement for an additional one-year term. Mutual agreement to be evidenced by Leads' submission of a valid invoice for the renewal year, and Agency's payment of such invoice within 30 days of renewal.
- 5.3 Following reasonable notice and cure period(s), either party may without further notice, terminate this Agreement if the other party (a) fails to perform any material obligation required under this Agreement or (b) violates any laws, rules or regulations related to this Agreement.

5.4 Agency may terminate this Agreement by providing 60 days' written notice to Leads prior to the next contract year if funding to make the next scheduled payment is not appropriated to the Agency for this Agreement.

## **6. Disclaimer and Indemnification**

**6.1 EXCEPT FOR THE REPRESENTATIONS SET FORTH IN SECTION III OF THIS AGREEMENT, LEADS SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS, CONDITIONS, AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARISING BY STATUTE, OPERATION OF LAW, USAGE OF TRADE, CUSTOM, COURSE OF DEALING, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, MERCHANTABILITY, SATISFACTORY QUALITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND/OR ANY AND ALL OTHER IMPLIED WARRANTIES AND EXPRESS WARRANTIES (OTHER THAN THOSE SET FORTH HEREIN, IF ANY) WITH RESPECT TO LEADS' SYSTEM. LEADS' SYSTEM, INCLUDING ALL DATA, CONTENT, SOFTWARE, FUNCTIONS, MATERIALS AND INFORMATION MADE AVAILABLE ON OR ACCESSED THROUGH LEADS' WEBSITE IS PROVIDED, AND ACCEPTED AND/OR USED, "AS IS" WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND.**

**6.2 IN NO EVENT SHALL LEADS BE LIABLE FOR OTHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, DOWNTIME COSTS, LABOR COST, OVERHEAD COSTS OR CLAIMS OF THE REPORTING BUSINESS, ITS AFFILIATES OR ANY OTHER THIRD PARTY, EVEN IF LEADS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, AT AN ABSOLUTE MAXIMUM, LEADS LIABILITY SHALL BE LIMITED TO THE AMOUNT OF MONEY IT IS PAID BY AGENCY TO LEADS.**

6.3 Leads shall indemnify, hold harmless, protect and defend Agency and its officials, officers, employees, agents and authorized volunteers (the "Indemnified Parties") from and against all losses, liabilities, judgments, costs, expenses, damages (including damages to the Leads' System), attorney's fees, and other costs, including all costs of defense, arising from all suits of law or actions of every nature for or on account of the infringement of any trade secrets, patents, trademarks, copyrights or other proprietary right of any other party by reason of the use or integration of any proprietary materials, equipment, devices or processes, originally incorporated, or provided and used, by Leads in the performance of the services provided under this Agreement. Notwithstanding the foregoing, if the foregoing described losses, liabilities, judgments, costs, expenses, damages and the like arise due to the misuse of the Data or any other breach of this Agreement by Agency, Leads' liability under this paragraph shall be reduced proportionately by the amount of loss, liability, judgment, cost, expense, damage and the like arising due to such misuse or breach by Agency.

## **7. Miscellaneous**

7.1 Neither party will be liable for any failure or delay in performing an obligation under this Agreement that is due to causes beyond its reasonable control, including any act that would be considered force majeure.

7.2 If any provision of this Agreement is held to be unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of this Agreement, unless Leads

- deems the unenforceable provision to be essential to this Agreement, in which case Leads may terminate this Agreement, effective immediately upon notice to Agency.
- 7.3 Leads reserves the right to disclose any information in response to an official government request or duly authorized subpoena.
- 7.4 Any waiver by Leads of a breach of any provision of this Agreement by Agency or delay in enforcing any rights shall not operate or be construed as a waiver of any other or subsequent breach by Agency.
- 7.5 This Agreement constitutes the entire agreement between the parties, and supersedes all prior agreements and understandings, written or oral, between the parties relating to the subject matter hereof. This Agreement may not be modified, changed or discharged, in whole or in part, except by an agreement in writing signed by both parties. The mere acceptance of any work order, purchase order or other document containing provisions purported to modify or enlarge the obligations or liabilities of either party shall not be construed as acceptance of such provisions.
- 7.6 Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto, any benefits, rights, or remedies under or by reason of this Agreement. There are no third-party beneficiaries to this Agreement. The only persons who may enforce or benefit from this Agreement and any rights under this Agreement are Agency and Leads.
- 7.7 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of laws provisions. Sole and exclusive jurisdiction and venue for any action or proceeding arising out of or related to this Agreement shall be an appropriate state or federal court located either in Dallas County or Collin County, Texas.
- 7.8 Neither party will assign its rights or duties under this Agreement without first providing written notice to the other party with at least 30 days to object to such assignment and in doing so, immediately terminate the Agreement without penalty.

**LEADS**

**LeadsOnline LLC**

**Signature:** 

**Print Name:** David K. Finley

**Title:** President & CEO

**Date:** 9/10/15

**Address:** 6900 Dallas Parkway, Suite 825  
Plano, Texas 75024

**Tax ID:** 42-1720332

**AGENCY**

**City of Glendale, Arizona**

**Signature:** \_\_\_\_\_

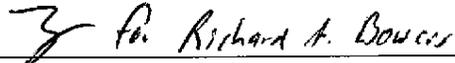
**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

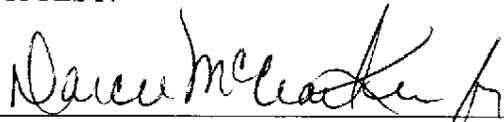
**Date:** \_\_\_\_\_

**Address:** 5850 West Glendale Avenue  
Glendale, Arizona 75301

CITY OF GLENDALE, an Arizona  
municipal corporation

  
\_\_\_\_\_  
Richard A. Bowers,  
Acting City Manager

ATTEST:

  
\_\_\_\_\_  
Pamela Hanna,  
City Clerk (SEAL)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael D. Bailey,  
City Attorney

## AGENCY AGREEMENT – Attachment 'A'

### SCOPE OF WORK AND ANNUAL SUBSCRIPTION FEE

LeadsOnline System Capability	PowerPlus
Online reporting system for all pawn/secondhand stores	✓
Unlimited accounts/searches for your personnel working your cases	✓
Images of property, sellers, vehicles, thumbprints, etc. as reported	✓
Legacy data import (from existing in-house database)	✓
Updates, training and support for agency personnel and businesses	✓
Transaction Monitor – Audit system for reporting compliance	✓
ReportIt citizen property inventory system	✓
Automated NCIC/stolen property hits	✓
Message Inbox (alerts and communication to and from businesses)	✓
Daily Stats (hits and statistics for each investigator)	✓
Property Hold Management System	✓
Nationwide search access	✓
Saved (continuous) searches/Email hit alerts	✓ 405
eBay First Responder Service	✓
Persons of interest inter-agency suspect information system	✓
Suspect variations and associations reports	✓
Submit lists of known suspects (file upload) 2,000 entries	✓
Submit lists of stolen property (file upload) 2,000 entries	✓
Online reporting System for scrap metal dealers	✓
Statement Analyzer	✓
CompStat mapping System	✓
Total Fixed Annual subscription fee due on September 1, 2015 and on or before each anniversary thereof during the Initial Term	<b>\$20,722</b>

# LeadsOnline

Catching crooks and cooks since 2000

Glendale Police Department  
6835 N 57th Drive  
Glendale, AZ 85301

Attn: Denise Krause

Invoice #: 232613  
Invoice Date: 7/1/2015  
Customer #: GDAZPD  
Terms: Due 09/1/15  
Our Tax ID #: 42-1720332

## INVOICE

Status:		P.O. Number:	
CSCS09...			
Months	Description	Total	
12	LeadsOnline PowerPlus Investigation System Service Package - Renewal	20,722.00	
<p><b>Contract Dates:</b> 09/1/15 - 08/31/16</p> <p><i>Update Your Billing Contact Info Online:</i> <a href="http://www.leadsonline.com/main/billing/">http://www.leadsonline.com/main/billing/</a></p>			
<p>Thank you for your subscription. Please remit payment to: LeadsOnline, 6900 Dallas Parkway, Suite 825, Plano, TX 75024</p> <p>To pay by credit card, please call 972-331-7748 We accept American Express, Visa, MasterCard, and Discover Card We also accept Direct Deposit   Electronic Funds Transfer   ACH</p> <p>Purchase Orders should be emailed to <a href="mailto:accounting@leadsonline.com">accounting@leadsonline.com</a></p>		<p><b>Total Due: \$20,722.00</b></p>	

Please call 972-331-7748 or email [accounting@leadsonline.com](mailto:accounting@leadsonline.com) should you have any questions about this invoice.

LeadsOnline's Tax ID #: 42-1720332 (LLC-P)