



APPENDIX B

# Telephone Services

Third party licensors and end user terms (“conditions”)

## **APPENDIX B- TELEPHONE SERVICES**

### **THIRD PARTY LICENSORS AND END USER TERMS ("Conditions")**

Content	all messages, information, text, audio, graphics;
Data	account information, Personal Data (as defined by Data Protection Laws), and Content;
Data Protection Laws	the statutes, regulations, codes, guidance and common law as applicable to the parties (or any of them) relating to the collection, use, storage or disclosure of information about an identifiable individual;
Losses	all losses, damages, liabilities, costs, expenses, fines and penalties (including without limitation legal fees and costs);
We/us/our	the relevant third party provider or licensor (and not PCA);
You/your	the end user who has entered into a contract with PCA for the provision of certain telephone services.

#### **1 Licence**

1.1 You will have a limited, non-exclusive, non-transferable, non-sublicenseable right to use the applicable services and any of our proprietary software only in conjunction with receipt of the telephone services ("Services").

1.2 You will not (and will not allow others) to: (i) copy, reverse engineer, decompile, or disassemble the Services; (ii) market, sell, sublicense, rent, lease, or otherwise distribute the Services, in whole or in part; (iii) modify, upgrade, improve, enhance or create derivative works of any portion of the Services for any purpose; or (iv) remove, obscure, or alter any identification, proprietary, copyright or other notices in the Services.

#### **2 Fair Use & Conduct**

2.1 You agree that you will not (or allow others to) use the Services: (a) other than as expressly permitted by written agreement; (b) for any purpose that in our sole and absolute discretion is improper, immoral or undesirable including (i) in violation of applicable laws; (ii) to send spam or unsolicited messages or other communications; (iii) in any manner that is infringing, obscene, threatening/distressing, libelous, unlawful, or in violation of any third party rights; (iv) to breach, interfere or attempt to interfere with any requirements, procedures, policies, or regulations of any mobile industry association or industry regulator; (v) to facilitate the transmission or use of any malicious code or other code with a latent ability to disable or cripple software or services or code that would allow any third party to interfere with or access any information comprising the Services; (vi) to circumvent, disable, violate, or otherwise interfere with the security or integrity of the Services (vii) to gather, store, upload or otherwise transmit any information comprising the Services for which you do not have a right to do so; or (viii) to impersonate any person or entity.

2.2 We reserve the right to refuse to transmit or remove, any Content, or to restrict, suspend or terminate your access to the Services at any time, acting in our sole good faith discretion. Additionally, you agree to promptly comply with all requests for documentation and information we make relating to your use of the Services.

#### **3 Responsibilities and acknowledgements**

3.1 You are solely responsible for: (a) updating your account information if it changes; (b) all activities conducted in connection with your account; (c) your Content. We shall not be responsible or liable for any Content transmitted, however we may (but have no obligation to) monitor Content or your use of the Services at any time with or without notice; (d) ensuring awareness of and compliance with all applicable laws (including Data Protection Laws) to which you may be subject.

3.2 By submitting Content or Data, you grant us a non-exclusive, royalty-free, worldwide, irrevocable and perpetual licence to retain, store, use, and disclose the Content or Data solely: (a) in connection with our provision of the Services; (b) for our internal purposes; (c) to protect the operation of the Services; (d) to create aggregated, anonymised data, including for usage statistics; and (e) to satisfy applicable legal, accounting or regulatory requirements.

3.3 You acknowledge that performance of the Services requires use of other third party providers (e.g. telecommunications carriers, aggregators) and we may sub-license our rights in connection with performance of the Services.

3.4 Each party shall comply with its obligations under applicable Data Protection Laws in respect of any Personal Data (as defined by Data Protection Laws) processed. You warrant, represent and undertake to us that you have all necessary

rights, licenses and consents to provide us with Data for these purposes.

3.5 Each party agrees to maintain the confidentiality of the other party's confidential information.

3.6 You retain all rights and ownership in your Data. We do not claim any ownership rights in your Data. You acknowledge that we retain sole and exclusive ownership of all right, title and interest in and to the Services and our confidential information, including all intellectual property rights thereto. Your use of telephone numbers that we provide does not grant you any rights in the numbers and you do not have the right to use those numbers indefinitely.

3.7 You may not include or make reference to our name or trademarks in connection with use of our Services.

3.8 We reserve the right in our sole discretion and with or without notice from time to time to change, suspend or terminate the Services and/or alter these Conditions at any time. You acknowledge that temporary suspension may be necessary to undertake maintenance upgrades.

#### **4 Liability**

4.1 EXCEPT AS EXPRESSLY STATED THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TO THE FULLEST EXTENT PERMITTED BY LAW, WE DISCLAIM ANY EXPRESS, IMPLIED OR STATUTORY WARRANTY AND WE MAKE NO REPRESENTATIONS OR WARRANTIES (EXPRESS, IMPLIED OR STATUTORY) WITH RESPECT TO THE SERVICES AND DATA, AND WE DO NOT WARRANT THAT THE SERVICES WILL BE SECURE, UNINTERRUPTED, TIMELY, OR ERROR-FREE OR THAT CONTENT WILL BE DELIVERED. YOU ACKNOWLEDGE THAT THERE ARE RISKS INHERENT IN NETWORK CONNECTIVITY THAT COULD RESULT IN THE LOSS OF YOUR PRIVACY, DATA, CONFIDENTIAL INFORMATION AND PROPERTY. WE ARE NOT RESPONSIBLE FOR ANY DELAYS OR FAILURES IN THE USE OF THE SERVICES IN THE EVENT OF ANY ACT OR OCCURRENCE BEYOND OUR REASONABLE CONTROL.

4.2 You will indemnify, keep indemnified, hold harmless and defend us from and against any and all Losses arising out of or relating to any and all (a) claims arising from or relating to your Content; and (b) claims arising from or relating to use of the Services (whether by you or your affiliates, customers, agents, contractors or employees); and (c) any violation these Conditions, or violation or infringement of any intellectual property, privacy or other right of any person or organisation.

4.3 EXCEPT AS SET FORTH IN THIS SECTION WE WILL NOT BE LIABLE (WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, MISREPRESENTATION, STATUTORY DUTY OR OTHERWISE) AND REGARDLESS OF THE NATURE OF THE CLAIM, ACTION OR DEMAND, FOR (I) ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL LOSSES OF ANY KIND, (II) LOSS OF PROFITS, DATA OR OTHER INTANGIBLES, BUSINESS OPPORTUNITIES, CONTRACTS, REVENUE, GOODWILL, ANTICIPATED SAVINGS, OR FINANCIAL LOSS OF ANY KIND (WHETHER ANY OF THE TYPES OF LOSS REFERRED TO IN THIS SECTION ARE DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL LOSSES). PCA MAY USE SEVERAL THIRD PARTIES TO PROVIDE THE SERVICES. DEPENDING ON WHICH THIRD PARTY WE ARE, WE MAY ACCEPT LIMITED LIABILITY FOR CERTAIN DIRECT LOSSES AS FOLLOWS, ALL AMOUNTS SPECIFIED BEING IN AGGREGATE. WHERE YOUR AGREEMENT IS WITH:

- (a) (I) THIRD PARTY 1A: LIABILITY FOR AMOUNTS UP TO FIFTY THOUSAND US DOLLARS (\$50,000) OR (II) THIRD PARTY 1B. LIABILITY FOR AMOUNTS UP TO FIFTY THOUSAND EUROS (€50,000);
- (b) THIRD PARTY 2: LIABILITY FOR AMOUNTS UP TO TEN THOUSAND EUROS (€10,000);
- (c) THIRD PARTY 3: WE ACCEPT NO LIABILITY, YOU ARE FULLY AND EXCLUSIVELY LIABLE FOR ANY AND ALL RISK RESULTING FROM USE OF THE SERVICES.

NOTHING IN THIS APPENDIX IS INTENDED TO HAVE THE EFFECT OF LIMITING OR EXCLUDING LIABILITY IN ANY WAY OR TO AN EXTENT THAT IS PROHIBITED BY RELEVANT LAW. YOU ACKNOWLEDGE THAT THESE CONDITIONS MAY BE GOVERNED BY THE LAWS OF A FEDERAL STATE OF THE UNITED STATES OF AMERICA AND DISPUTES MAY BE SETTLED BY WAY OF ARBITRATION, DEPENDING ON THE ENTITY WHICH IS THE THIRD PARTY LICENSOR.