



Standard Contract Clauses

SCC1. Confidentiality.

During the process of coming to agreement and after signing an agreement each Party may disclose to the other certain confidential technical and business information which the Disclosing Party desires the Receiving Party, and all in attendance, to treat as confidential. Any information disclosed by either Party to the other Party, either directly or indirectly, in writing, orally or by inspection of tangible objects, for the purpose of this agreement is considered to be "Confidential". Each Party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other Party, or relevant third party. Each Party agrees not to use any Confidential Information of the other Party for any purpose except to evaluate and engage in discussions concerning the future use of Services or Platforms. Each Party agrees not to disclose any Confidential Information of the other Party to third parties other than Customer's Client(s) or a party essential for the provision of the services utilized by the Platform. Parties to this Agreement agree to follow reasonable procedures for protecting all content and to treat such content as Confidential Information as documented elsewhere within this Agreement or in the Non-Disclosure Agreement between the Parties.

Relevant to agreements, "*Confidential Information*" means any information disclosed by either Party to the other Party, either directly or indirectly, in writing, orally or by inspection of tangible objects, which is designated as "Confidential," "Proprietary" or some similar designation or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information may also include information disclosed to a Disclosing Party by third parties.

Each Party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other Party, or any other Party in attendance. Without limiting the foregoing, each Party shall take at least those measures that it takes to protect its own most highly confidential information. Neither Party shall make any copies of the Confidential Information of the other Party unless the same are previously approved in writing by the other Party. The obligations of this paragraph shall not apply to any Confidential Information which the recipient can demonstrate: (a) is or becomes available to the public through no breach of this Agreement; (b) was previously known by the recipient without any obligation to hold it in confidence; (c) is received from a third party free to disclose such information without restriction; (d) is independently developed by the recipient without the use of Confidential Information of the Disclosing Party; (e) is approved for release by written authorization of the Disclosing Party, but only to the extent of and subject to such conditions as may be imposed in such written authorization; (f) is required by law or regulation to be disclosed, but only to the extent and for the purposes of such required disclosure; or (g) is disclosed in response to a valid order of a court or other governmental body of the United States or any political subdivisions thereof, but only to the extent of and for the purposes of such order; provided, however, that the recipient shall first notify the Disclosing Party of the order and permit the Disclosing Party to seek an appropriate protective order.

SCC2. Acceptable Use Policy.

2.1 Customer agrees, and Customer shall cause all Clients to agree, that they shall not use PacificEast Licensed Data or Services to:

- (i) engage in any activities that are illegal, abusive, false, fraudulent, deceptive, or misleading or likely to deceive or mislead;
- (ii) engage in any unlawful activities, including, without limitation, unlawful unsolicited advertising or marketing, or any other activities that violate laws applicable to advertising, electronic communications, and telemarketing, including, but not limited to, the Telephone Consumer Protection Act, 47 U.S.C. § 227, and implementing regulations, 47 C.F.R. §§ 64.1200 et seq.;

- (iii) attempt to mislead others as to the identity of the origin of a phone call, including failing to comply with the Truth in Caller ID Act, 47 U.S.C. § 227, and implementing regulations, 47 C.F.R. §§ 64.1600-1605; or
- (iv) transmit any material or content that:
 - is obscene, libelous, defamatory, discriminatory, offensive, unsuitable for minors, or otherwise malicious or harmful to any person or entity;
 - contains hate speech, excessive violence, or profanity;
 - promotes or glamorizes alcohol abuse, illegal drug use, or use of tobacco products;
 - contains strong sexual, explicit, or erotic themes;
 - violates or infringes the intellectual property rights or other personal or proprietary rights of any third party (including any Carrier or Subscriber);
 - violates any applicable industry standards, policies, or guidelines published by the Cellular Telecommunications Industry Association (CTIA) or Mobile Marketing Association.

SCC3. Marketing and Consent

- 3.1** Customer agrees that PacificEast may use Customer's name and logo as a reference in its marketing materials or general listings of users of its products or services, including on its website, subject to Customer's prior approval which will not be unreasonably withheld. The Parties further agree to provide reasonable cooperation and approvals with respect to (i) any press release or other announcement identifying that the Parties have entered into an agreement and (ii) any use of Customer's name and logo in PacificEast sales materials that demonstrate the quantifiable improvements that Customer realizes as a result of the Services (i.e., case studies or testimonials).
- 3.2** All announcements concerning the parties or their relationship shall be subject to the parties' written mutual consent. Any publicized announcements that include PacificEast logos or trademarks will use logo and trademark specifications provided by PacificEast for this purpose.

SCC4. General Disclaimer

Except for the express warranties set forth in this Agreement each Party disclaims all warranties, whether express or implied, including the implied warranties of merchantability, and fitness for a particular purpose, title, and non-infringement, and all implied warranties arising from a course of dealing, usage, or trade practice. Neither Party assumes any responsibility and accepts no liability for any failure in telecommunication lines or electric power sources necessary to display Customer's or Customer's Client's submitted branding information to the device associate to a Terminating Number. PacificEast does not warrant that access to, or operation of, the Services or Platform will be uninterrupted or error-free or that any errors will be corrected. Unless otherwise expressly set forth in an Agreement, PacificEast provides no performance warranties to Customer or to Customer Clients. PacificEast is not responsible for: (i) the accuracy, completeness or unavailability of Information; (ii) abandoned calls; or (iii) any fraud or uncollectibles experienced by Customer or Customer's Clients.

SCC5. Limitation of liability

- 5.1 Indemnification Obligations.** In no event shall PacificEast be liable to Customer or any third party for any damages (including, without limitation, lost profits, business interruption, or lost information) arising out of the use of or inability to use the Platform or its associated services by Customer even if PacificEast has been advised of the possibility of such damages. PacificEast shall have no liability with respect to any of the information transmitted from, downloaded from, or otherwise accessed through the Platform or any part thereof, including but not limited to errors or omissions contained therein, violations of public policy, infringements of rights of publicity or privacy, business interruption, personal injury, loss of privacy, or the disclosure of confidential information.
- 5.2 Aggregate Liability.** The aggregate liability of each Party for all damages, injuries, and liability incurred by the other, the other's Customers or Clients, and all other parties in connection with this Agreement shall be limited to an amount equal to the total fees paid to PacificEast hereunder by Customer for the current

event giving rise to such loss, cost, claim, or damages. In no event, regardless of the number of claims made or asserted shall the total aggregate liability of a Party hereunder be greater than \$100,000. To the extent permitted by law and except with respect to willful and fraudulent conduct, in no event shall either Party be liable to the other Party or to any third party, whether under theory of contract, tort or otherwise, for any indirect, punitive, consequential, or special damages (including any damage to business reputation), whether foreseeable or not and whether either Party is advised of the possibility of such damages.

- 5.3 Indemnity.** Each Party ("Indemnifying Party") will indemnify and hold the other ("Indemnified Party"), its parent companies and subsidiaries (and its employees, officers, directors, agents and customers) harmless from all claims, damages, liabilities, losses, costs and expenses (including without limitation reasonable attorneys' fees) arising out of or resulting from any third-party claim, action or other proceeding. Additionally, the Indemnifying Party will hold the other Party harmless against any allegation of the Indemnifying Party's own infringement or misappropriation of any U.S. patent, copyright, trade secret, trademark or other intellectual property right pursuant to this Agreement, or the Indemnifying Party's own violation of any applicable law, rule or regulation including but not limited to, any and all federal, State, & Local "Do Not Call", "Do Not Mail" or "Consumer Protection" legislation applicable to the data.
- 5.4 Indemnity Procedures.** In indemnified Party under this Agreement shall give to the Indemnifying Party (i) written notice of any legal action as promptly as possible and, in any case, not later than twenty (20) days from its first knowledge thereof; (ii) sole control of the defense of any legal action; and (iii) such assistance, at the Indemnifying Party's expense, as it may reasonably request to defend or settle such claim. The Indemnified Party shall not settle or compromise any legal action without the Indemnifying Party's express written consent, not unreasonably withheld or delayed. The Indemnified Party's material failure to comply with this section or any delay in notice to the Indemnifying Party that materially prejudices its ability to defend a legal action shall relieve the Indemnifying Party of its indemnification obligation under this Section.

SCC6. General

- 6.1 Assignment.** Neither Party may assign this Agreement, in whole or in part, without the other Party's written consent (which shall not be unreasonably withheld), except that no such consent will be required in connection with the assignment to a legal successor in interest that assumes all obligations hereunder as part of (i) a merger, reorganization, or sale of all, or substantially all, of such Party's assets or (ii) either Party's assignment or delegation of its rights and responsibilities hereunder to a wholly owned subsidiary or joint venture in which the assigning Party holds an interest. The assigning Party in any authorized assignment without consent shall be required to provide reasonable notice to the other Party, and in all events not less than five (5) business days' notice. Any attempt to assign this Agreement other than as permitted above will be null and void.
- 6.2 Compliance with Laws.** Each Party shall comply with all applicable federal, state, county, and local laws, regulations, government agency orders or decisions and codes. In the event that any legislative, regulatory, other legal action or changes in laws invalidate a material term, or adversely affects a Party's ability to perform a material term, the Parties shall attempt to renegotiate a new term as may be required to allow the affected service to continue. In the event that such new term cannot be renegotiated, and the ability of one or both Parties to perform this Agreement with respect to a specific service has been materially adversely affected, then, the Parties shall commence activities immediately for termination of the affected service or agreement.
- 6.3 Notices.** Any notice under this Agreement will be in writing and delivered by personal delivery, express courier, email or by certified or registered mail, return receipt requested, and will be deemed received upon personal delivery, one (1) day after deposit with express courier, or five (5) days after deposit in the mail. Notices will be sent to a Party at its contact address set forth below or such other address as that Party may specify in writing pursuant to this Section. All modifications to or waivers of any terms of this Agreement must be in writing and signed by the Parties hereto and expressly referenced in this Agreement.

6.3.1 Notices sent to PacificEast should be sent to the address noted on our website to the attention of General Counsel or via email to GeneralCounsel@PacificEast.com

6.3.2 Notices sent to Customer should be sent to the address customer supplied during the contracting and onboarding process.

6.4 Independent Contractors; No Agency. The Parties are independent contractors and will have no power or authority to assume or create any obligation or responsibility on behalf of each other. Notwithstanding any public references to a “partnership”, this Agreement does not, and shall not be construed, to create or imply any partnership, agency, or joint venture.

6.5 Force Majeure. Any delay in or failure of performance by either Party under this Agreement will not be considered a breach of this Agreement and will be excused to the extent caused by any occurrence beyond the reasonable control of such Party, including, but not limited to, acts of God, power outages, telecommunication system failures, terrorist acts and governmental restrictions.

6.6 Counterparts. This Agreement may be executed in counterparts, which together constitute a single agreement and each of which will serve as evidence of the Parties’ binding agreement.

6.7 Severability; No Waiver. The Parties agree that if any provision of this Agreement is held by a court to be unenforceable, then the court shall have the power to reform the unenforceable provision to be in compliance and reflect the reasonable intentions of the Parties, if possible. In any event, the Parties agree that the invalidity of any provision shall not prejudice or affect the enforceability of this Agreement or any other provision in it. No waiver of any breach or default shall constitute a waiver of any other or subsequent breach or default. In the event that any provision of this Agreement conflicts with governing law or if any provision is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction, (a) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and (b) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect.

6.8 Governing Law. The Parties hereby waive all objections to such venues based on personal jurisdiction. This Agreement shall be governed by the laws of the State of Oregon, without regard to its conflict of laws rules. The exclusive venue and jurisdiction for any and all disputes, claims and controversies arising from or relating to this Agreement shall be the state or federal courts located in the County and State of the principal place of business of the Defendant.

6.9 Entire Agreement. This Agreement, including all related Appendices attached hereto, is the complete and exclusive agreement between the Parties with respect to a specific Service and/or Platform superseding any prior agreements and communications (both written and oral) regarding such subject matter. All modifications to or waivers of any terms of this Agreement must be in a writing that is signed by the Parties hereto and expressly references this Agreement.

6.10 No Third-Party Beneficiaries. The provisions of this Agreement are intended solely for the benefit of PacificEast and Customer and shall create no rights or obligations enforceable by any other Party unless such beneficiaries are expressly set forth in an amendment hereto.

6.11 No Other License or Intellectual Property Rights. Except for the licenses granted elsewhere herein, PacificEast grants no other license rights to Customer and/or Customer’s Clients. Except as expressly provided in this Agreement, nothing in this Agreement will be deemed to grant a Party any license, sublicense, copyright interest, proprietary right, or other claim against or interest in the other Party’s copyrights, patents, trade secrets, or other intellectual property. Customer acknowledges and agrees that PacificEast own all rights to the Platform.

SCC7. Mediation and Arbitration

In the event of any dispute or controversy arising out of or relating to this Agreement, the Parties agree to exercise

their best efforts to resolve the dispute as soon as possible. The Parties shall, without delay, continue to perform their respective obligations under this Agreement, which are not affected by the dispute. If PacificEast and Customer cannot resolve their dispute after reasonable effort and a reasonable period of time, the Parties agree to resolve the dispute using one of the following methods in lieu of litigation.

- 7.1 Mediation.** PacificEast and Customer may submit their dispute to a neutral, non-binding mediation prior to the commencement of arbitration, litigation, or any other proceeding before a trier of fact. The Parties to the dispute or claim agree to act in good faith to participate in mediation, and to identify a mutually acceptable mediator. (If a mediator cannot be agreed upon by the parties, each Party shall designate a mediator and those mediators shall select a third mediator who shall act as the neutral mediator, assisting the Parties in attempting to reach a resolution.) PacificEast and Customer will share equally in the cost of the mediator(s), and commit to completing at least four hours of mediation before seeking any other dispute resolution method, legal remedy, or equitable remedy. If the mediation is successful, its resolution will be documented by a written agreement executed by all Parties. If the mediation does not successfully resolve the dispute or claim, the mediator shall provide written notice to both Parties. At this point, PacificEast and Customer may seek another alternative form of resolution of the dispute or claim, consistent with the remaining terms of this agreement and other legal rights and remedies, or commence litigation.
- 7.2 Arbitration.** If mediation does not resolve a controversy or dispute between the PacificEast and Customer, the Parties shall resolve the dispute by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The Parties shall select a mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Agreement. (In the event the Parties are unable to agree to such a selection, each Party will select an arbitrator and the arbitrators in turn shall select a third arbitrator.) The arbitration shall take place at a location that is reasonably centrally located between the Parties, or otherwise mutually agreed upon by the Parties. All documents, materials, and information in the possession of each Party that are in any way relevant to the claim(s) or dispute(s) shall be made available to the other Party for review and copying no later than 30 days after the notice of arbitration is served. The arbitrator(s) shall not have the authority, power, or right to alter, change, amend, modify, add, or subtract from any provision of this Agreement or to award punitive damages. The award rendered by the arbitrator shall be final and binding on the Parties, and judgment may be entered thereon in any court having jurisdiction. The agreement to arbitration shall be specifically enforceable under prevailing arbitration law. During the continuance of any arbitration proceeding, the Parties shall continue to perform their respective obligations under this Agreement.