



# MESSAGING SUPPLEMENTAL TERMS AND CONDITIONS

These supplemental terms and conditions (“**Supplement**”) are part of an agreement for certain SINCH services (“**Agreement**”) between SINCH and Customer and apply solely to the SINCH services referencing this Supplement, including SMS and/or MMS services (“**Service**”) and not any other SINCH product or service.

Capitalized terms are defined in the Glossary below. Capitalized terms not defined in this Supplement shall have the meanings ascribed to them in the General Terms and Conditions for SINCH Services (“**GTC**”).

## Part A – Legal Terms

### A1. Services

**A1.1. Service Provider Conditions and laws and regulations.** Notwithstanding Section 4.1 of the GTC, Customer shall comply with all Service Provider Conditions, applicable legal and regulatory requirements and conditions, and all applicable industry guidelines relating to the Customer Data, Customer Services, Messages or its use of the Service. If a Service Provider changes the Service Provider Conditions and/or the technical standards for the delivery of Service, SINCH may modify the terms and conditions governing such Service upon written notice to Customer.

**A1.2. End User opt-in/opt-out requirements.** Customer shall send Messages only to End Users who have, and continue to, knowingly consent or “opt-in” to receiving them and who have been informed of their rights to, and been given, a free, readily accessible process for cancelling receipt or “opting-out” of receiving future Messages, such as via End User text responses of STOP, QUIT, CANCEL, OPT-OUT, and/or UNSUBSCRIBE. Customer shall immediately stop sending Messages to an End User who has “opted-out” from receiving such Messages. At SINCH’s request, Customer shall provide SINCH with proof of any and all such opt-in(s) and opt-out(s), and response time to discontinue transmission of Messages after opt-out, to SINCH’s reasonable satisfaction.

**A1.3. Supply of Customer Services.** Customer shall inform End Users that it is the source and supplier of the Messages and provide appropriate contact details to End Users. Customer shall bear sole responsibility for the acts, omissions or breaches of End Users with respect to the use of the Service, Customer Services and the Messages, including but not limited to the Customer Data. Customer shall promptly inform SINCH if it becomes aware of any violation of the terms of this paragraph.

**A1.4. Restrictions.** Customer shall not use the Service or permit the Service to be used:

- a) in a manner that violates any applicable law, regulation, industry guidelines, or code of practice, or that violates, infringes or misappropriates the rights of any third party;
- b) to transmit any Message or any electronic material (including viruses or other similar destructive computer programming routines) which causes, or is likely to cause, detriment or harm or damage to the SINCH Network or any computer systems or telecommunications equipment or mobile handsets owned by SINCH or any other person, or to facilitate the transmission or use of any code that would allow any third party to interfere with or access any Customer Data;
- c) to send spam, “junk mail” or unsolicited advertising or promotional Messages or material, or to send or knowingly receive or use any Message or material which is obscene, offensive, abusive, harassing, misleading, fraudulent, violent, unethical, indecent, defamatory, discriminatory, threatening, libelous, unlawful or menacing or promotes alcohol abuse or illegal drug use; or
- d) to send any Messages that contain medical and/or life-threatening emergency information if the such Message is the sole transmission channel to the End User with respect to such emergency.

### A2. Compliance

**A2.1. Requirements.** The provisions of Sections 2.5 and 4.1(c) of the GTC shall apply equally to requests, directions and/or orders made or issued by any Service Provider.



**A2.2. Responsibility.** SINCH may, in its sole discretion, require Customer to take primary responsibility for any request or enquiry made under Section A2.1 above relating to any Customer Service, Message(s) or Customer Data or arising from Customer's use of the Service or from an alleged or actual breach of this Agreement by Customer.

Customer agrees, at its own cost, to accept full responsibility for any such request or enquiry including for any expenses, penalties, fines, sanctions or other analogous costs that may arise, and in relation to such request or enquiry, to provide all requested information to such regulator or Service Provider (with copies to SINOKCH) in a timely manner.

**A2.3. Effect of Termination.** Sections A1.2 (“**End User opt-in/opt-out requirements**”) and A1.3 (“**Supply of Customer Services**”) above shall survive termination of the Agreement.

**A2.4. Indemnity.** Customer will indemnify and, at SINCH's election, defend SINCH, its Affiliates and subcontractors against:

- (a) any claims (including, but not limited to, any claims, fines, penalties, or losses) or other liabilities brought against SINCH, its Affiliates and subcontractors by any third party (including, but not limited to, any other SINCH customer, Service Provider or governmental or regulatory authority) relating to Customer Data, Customer Services, Messages or Customer's use of the Service (including, but not limited to, any such claim which relates to infringement or misappropriation of any intellectual property rights of any third party or any breach or violation of laws or regulations); and
- (b) all damages finally awarded against SINCH, its Affiliates and subcontractors with respect to these claims.

**A2.5. Disclaimer.** Customer agrees that, with respect to its supply of the Service, neither SINCH nor any SINCH supplier shall be liable whether in contract, tort, or strict liability to Customer or to any End User or any other customer of Customer for (i) any Messages deleted or not delivered regardless of the reason for deletion or non-delivery, including, without limitation, message processing errors, transmission errors, or messaging network and/or service failures; or (ii) the accuracy of information provided through the Service.

## Part B – Business Terms

### B1. Customer Responsibilities

#### B1.1. Access and Connectivity

- a) **SINCH Network connection.** Customer is solely responsible, at its own expense, for establishing and maintaining its equipment, software, facilities, and its connection to the SINCH Network.
- b) **SINCH Dashboard.** SINCH may, in its sole discretion, provide Customer with access to SINCH's world wide web extranet interface (“**SINCH Dashboard**”) which access will enable Customer to obtain statistical reports detailing Service activity. Access to the SINCH Dashboard is provided to Customer for informational purposes only, and the data and information displayed are provided without warranties of any kind regarding completeness or accuracy. Customer agrees not to use or rely on such data and information in accounting for monies due between the parties or for billing purposes.
- c) **Access Numbers.** Customer acknowledges that the Access Numbers used to deliver Customer Services remain at all times the property of and are subject to the applicable terms and conditions imposed by the entity authorized to administer such Access Numbers. Access Numbers to be used to deliver Service for a Customer Service may at SINCH's sole discretion be obtained by SINCH for Customer, if requested by Customer pursuant to the applicable Order Form and subject to availability. The Customer may not use the Access Numbers except for in relation to the providing of the Service by SINCH.
- d) **Traffic Forecasts.** Customer shall provide to SINCH timely and accurate forecasts of proposed maximum Message volumes, including peak hour, monthly and quarterly volumes. Where the actual Message traffic exceeds one hundred and twenty percent (120%) of the forecasted volume (“**Burst**”) SINCH may without any liability to Customer immediately suspend the Service. Where Customer does not submit such forecasts SINCH may, at its sole discretion, determine the volume of Messages that constitutes a Burst.

**B1.2. Commercial Messages.** Customer acknowledges that the Service is intended solely for Commercial Messages and shall not be used for mobile to mobile peer to peer messaging purposes. For the purpose of this Section, “Commercial Messages” means Messages designed to promote or facilitate, directly or indirectly, the goods, services or image of any person or entity pursuing a commercial activity.



## B2. Commercial Terms

**B2.1. Price Changes.** Unless otherwise agreed in an Order Form, SINCH may modify any fees in its sole discretion upon written notice.

### Glossary

- 1.1 “**Access Number**” means a set of digits used to enable Customer to send and/or receive Messages or calls as part of a Customer Service. Access Numbers shall include ‘short-codes’ and ‘long-codes’ as applicable.
- 1.2 “**Customer Service**” means a marketing, advertising, promotional or informational program or initiative, or other project, conducted by Customer utilizing the Service.
- 1.3 “**End User**” means a person or entity that is a user and/or recipient of a Customer Service.
- 1.4 “**Message**” means a digital message containing Customer Data in a form for delivery via Short Message Service (SMS), Multi-Media Messaging Service (MMS) technology, Internet Protocol (IP) or other technology, protocols or standards used to transmit mobile digital content or information.
- 1.5 “**Service Provider**” means any entity, including, but not limited to, mobile network operators and mobile messaging aggregators, that is used in relation to the supply of the Service.
- 1.6 “**Service Provider Conditions**” means the rates, terms and conditions and “codes of conduct” or message content rule and restrictions imposed by the applicable Service Providers on the provision of the Service and conduct of Customer Services as a condition of permitting SINCH to provide the Service and Customer to conduct Customer Services, whether such Service Provider Conditions are incorporated in the terms of this Agreement or provided by SINCH to Customer in writing or by email from time to time.