

This Agreement was in effect from 22/09/2017 until 20/12/2017.

Developer Subscription Agreement for PSMA Predictive Address Verification Service

This Agreement is between you (referred to as 'You', 'Your', 'Yourself' or 'Developer') and PSMA Distribution Pty Ltd ACN 131 984 800 of Unit 6, 113 Canberra Avenue, Griffith in the Australian Capital Territory, Australia (referred to as 'Us', 'Our', 'We' or 'PSMA').

Please read this Agreement carefully before You click 'I Accept'. By clicking 'I Accept' You agree to be bound by the terms of this Agreement, either as an individual or on behalf of the entity You represent. If You do not agree to the terms of this Agreement, do not click 'I Accept' or use the PSMA Predictive Address Verification Service.

Background:

- A. This Agreement sets out the terms on which:
 - (1) You, the person or entity entering into this Agreement, agree to subscribe to the PSMA Predictive Address Verification Service (or 'Service'); and
 - (2) PSMA agrees to make the Service available to You.
- B. The PSMA Predictive Address Verification Service is a service provided by PSMA which allows You to build Applications using the PSMA Predictive Address Verification API to search PSMA Address Data to find candidate addresses based on progressive user input and return fully parsed data associated with a selected address.
- C. You may use Your Applications and also make them available to third party End Users in accordance with the terms of this Agreement.

Agreed Terms:

1. Definitions and Interpretation

- 1.1 Schedule 1 provides for the definition and interpretation of words used in this Agreement.

2. Variation of this Agreement

- 2.1 We may vary the terms of this Agreement and any free or paid plans at any time on 20 Business Days' notice to You, unless the change is required by any of Our third party licensors on less than 20 Business Days' notice, in which case We will give You such notice as is reasonably practicable in the circumstances.
- 2.2 If You continue to use the Service after such notice period, You shall be deemed to have accepted the varied terms. If You do not wish to accept the varied terms, You may cancel Your subscription, terminate this Agreement and receive a pro-rata refund by giving Us notice in accordance with clause 14.6.
- 2.3 Additionally, variations to this Agreement may take effect if agreed to in writing by both You and Us.

3. PSMA Developer Portal Account

- 3.1 To subscribe to the Service, You must register for a PSMA Developer Portal account.
- 3.2 You must not register for an account with fake details or with the intent of impersonating another person or entity. If PSMA reasonably suspects that Your registration information

may be fake or fraudulent, it may decline to arrange an account for You. If PSMA later reasonably suspects that Your account profile information is fake or fraudulent, it may immediately suspend Your account or terminate this Agreement. You also must not (nor permit others to) register for multiple PSMA Developer Portal accounts to benefit from multiple free plans for the Service. PSMA may decline to arrange account facilities, immediately suspend Your account or terminate this Agreement if We reasonably suspect that this has occurred.

3.3 Subject to clause 3.2, following Your registration, We will contact to You to set up Your PSMA Developer Portal account. Once Your account has been set up, You will be automatically subscribed to a free plan for the Service (subject to clause 4.2) and will be able to access Your PSMA Developer Portal account to:

- (1) obtain Your API Key;
- (2) request additional API Keys from PSMA;
- (3) subscribe to a paid plan for the Service; and
- (4) otherwise manage Your use of the Service.

3.4 You must:

- (1) maintain the confidentiality of the username and password for Your PSMA Developer Portal account and Your API Keys;
- (2) not authorise any other persons to use Your PSMA Developer Portal account or API Keys; and
- (3) keep Your PSMA Developer Portal account profile information accurate and current.

3.5 You are responsible for all use of the Service through Your PSMA Developer Portal account or using Your API Keys and for payment of Fees for such use (including any use of Your account or API Key details by any person with or without Your authorisation or who has access to any computer on which Your account or API Key details reside or are accessible).

3.6 If You know of or suspect any unauthorised use of Your PSMA Developer Portal account username or password or API Keys, You must immediately:

- (1) take all reasonable steps available to You to cause the unauthorised use to stop; and
- (2) notify PSMA.

4. **Subscription to Free Plan**

4.1 Subject to clause 4.2, You will be automatically subscribed to a free plan for the Service when Your PSMA Developer Portal account is set up.

4.2 Free plan information is located at the Subscription Information Page and eligibility is determined by PSMA in its sole discretion. PSMA may limit eligibility to prevent free plan abuse. Persons or representatives of an entity with an existing PSMA Developer Portal account are not eligible. We may use information such as device ID, method of payment or an account email address used with an existing or recent PSMA Developer Portal account to determine eligibility.

4.3 As specified in clause 3.2 above, We may immediately suspend Your account or terminate this Agreement if We reasonably suspect that You have (or have permitted others to) register for multiple PSMA Developer Portal accounts to benefit from multiple free plans for the Service.

4.4 If You are subscribed to a free plan, Your Transaction limits are set out in Your PSMA Predictive Address Verification Usage Plan.

4.5 If You reach Your monthly Transaction limit for Your free plan, You will receive notice from PSMA and Your access to the Service will be suspended until the beginning of the next month of Your subscription.

5. **Subscription to Paid Plan**

- 5.1 Paid plan information is found at the Subscription Information Page.
- 5.2 The terms of this clause 5 are subject to any other terms set out in Your PSMA Predictive Address Verification Usage Plan.
- 5.3 You must provide a current, valid, accepted method of payment (which You may then update from time to time) to subscribe to a paid plan for the Service. PSMA's payment services providers will use this information to allow Us to charge You Your monthly subscription Fees.
- 5.4 You acknowledge and accept that PSMA's payment services providers may disclose Your Personal Information to their related entities or third parties located in countries where the laws on the collection, use and disclosure of Personal Information are less stringent or protective than Australia. If You provide a method of payment in order to subscribe to a paid plan for the Service, You consent to this disclosure of Your Personal Information overseas and Australia Privacy Principle 8.1 (as set out in the *Privacy Act 1988 (Cth)*) will not apply to this disclosure.
- 5.5 If You subscribe to a paid plan, Your Fees, Transaction limits and the thresholds at which You will be given notice about Your Transaction use are set out in Your PSMA Predictive Address Verification Usage Plan.
- 5.6 If You reach the Transaction use thresholds set out in Your PMSA Predictive Address Verification Usage Plan, You will receive a notice from PSMA. If You then reach Your monthly Transaction limit, You will receive another notice from PSMA and Your access to the Service will be suspended until the date on which You are next charged Your monthly subscription Fees.
- 5.7 Fees are payable monthly in advance from the date on which You commenced Your subscription and are based on the paid plan You have subscribed to, not actual usage. If You commenced Your subscription to on the 29th or 30th of the month, You will be charged Your monthly subscription Fees on the 29th or 30th (as applicable) of each month, except for February, when You will be charged on the last day of the month. If You commenced Your subscription on the 31st of the month, You will be charged on the last day of the month.
- 5.8 Your paid plan subscription will continue month to month until You cancel it. Unless You cancel Your subscription prior to the monthly date on which You are charged, You authorise Us to charge You for Your next month's subscription Fees.
- 5.9 If payment of Your monthly subscription Fees is not successful because of expiration of a credit card, insufficient funds or otherwise and You do not update Your payment method or cancel Your subscription, We may immediately suspend Your access to the Service until We have obtained a valid method of payment. If You update Your method of payment, You authorise Us to continue charging the updated payment method and You remain responsible for any uncollected amounts. This may result in a change to the monthly date on which You are charged.
- 5.10 Unless expressly stated otherwise, all Fees are GST inclusive.
- 5.11 To the extent permitted by law, any fees correctly paid by You to PSMA are non-refundable, unless otherwise expressly stated in this Agreement.

6. **Grant of Licence and Intellectual Property Rights**

- 6.1 Subject to the terms of this Agreement, for the sole purpose of creating, maintaining and delivering Applications, PSMA grants You a world-wide, non-exclusive, non-transferable licence to:

- (1) install, run and use API Keys in Your Applications to facilitate access to PSMA Address Data using the PSMA Predictive Address Verification API during the term of this Agreement;
 - (2) use, print off copies and download extracts of the Developer Documentation to help You explore, understand and experiment with the PSMA Predictive Address Verification API and PSMA Address Data and develop Your Applications during the term of this Agreement;
 - (3) subject to clause 6.6, view and use PSMA Address Data obtained via Your Applications for personal or internal business use (as applicable) in perpetuity and grant perpetual sublicences to End Users to view and use PSMA Address Data obtained via Your Applications for personal or internal business use (as applicable).
- 6.2 There is no transfer of ownership of any Intellectual Property Rights to You under this Agreement and any Intellectual Property Rights not expressly granted to You in this clause 6 are reserved to PSMA (and, where applicable, its licensors).
- 6.3 To the extent that any new Intellectual Property Rights arise in any material created by copying, thinning or otherwise editing or manipulating PSMA Address Data, those new Intellectual Property rights vest on their creation in PSMA Australia. You must not assert an interest in any such rights and must take all reasonable steps to ensure that no End Users assert an interest in any such rights, except as required by PSMA for PSMA Australia to exercise its rights. PSMA will pay all reasonable costs incurred by You or an End User in assisting PSMA Australia to exercise its rights.
- 6.4 Subject to clause 6.6, PSMA warrants that:
- (1) it is entitled to grant You the licence set out in clause 6.1; and
 - (2) the grant of such rights does not infringe the Intellectual Property Rights of any third parties.
- 6.5 You may incorporate and display Your Data on or as part of Your Applications and permit End Users to submit, post and display End User's Data in Your Applications. In respect of Your Data, You (or where applicable Your suppliers) retain the Intellectual Property Rights in such Data and in respect of End User's Data, PSMA does not claim any ownership in such Data. However, for the period during which You incorporate or display Your Data on an Application or an End User submits, posts or displays the End User's Data on Your Application, You (or where relevant the End User) grant to Us an irrevocable, world-wide, royalty-free, non-exclusive licence to use, display and distribute Your Data or the End User's Data as applicable on Your, or where relevant the End User's behalf, solely for the purpose of allowing Us to deliver the Service to You and Your End Users. Such licence will terminate immediately when You and Your End User ceases to use the Service to submit, post or display Your Data or End User's Data.
- 6.6 PSMA Address Data may be derived from or based upon open data licensed to You under a separate open licence. Notwithstanding any other provision of this Agreement, to the extent that any such open data subsists in PSMA Address Data, it is licensed directly to You and Your End Users and any other person with access to PSMA Address Data pursuant to this Agreement under its open licence and is not licensed or sublicensable under this Agreement. Information about any such open data and the terms under which it is licensed can be found at <http://www.psm.com.au/psma-data-copyright-and-disclaimer>. In the event of a conflict between this Agreement and any separate open licence, the separate open licence will prevail with respect to the open data.

7. **Infringement of Intellectual Property Rights**

7.1 You must notify Us as soon as practicable if You know:

- (1) of an infringement of Intellectual Property Rights in PSMA Address Data, Developer Documentation or the Service that has occurred or is likely to occur; or
- (2) that Your use or any End User's use of PSMA Address Data, Developer Documentation or the Service infringes, is likely to infringe or has been alleged to infringe the Intellectual Property Rights of any third party.

7.2 You must comply (and must take all reasonable steps to ensure that End Users comply) with all reasonable directions from PSMA in relation to any infringement that has occurred or is likely to occur or any alleged infringement referred to in clause 7.1 and must render all reasonable assistance (and must take all reasonable steps to ensure that End Users render all reasonable assistance) to PSMA in relation to any such infringement, including:

- (1) ceasing use of any allegedly infringing material; and
- (2) allowing PSMA (or a nominee of PSMA) the right to control any related litigation or settlement negotiations.

7.3 If PSMA requires You or any End Users to cease using any allegedly infringing material under clause 7.2, PSMA will procure a licence for You or the End Users to use equivalent data at PSMA's cost.

8. **Conditions of Use**

8.1 You must take all reasonable steps to ensure that Your Applications and any copy of PSMA Address Data made available pursuant to this Agreement bears or appropriately references the copyright and disclaimer information set out at <http://www.pdma.com.au/psma-data-copyright-and-disclaimer>. References to this information must be no less prominent than any similar reference to other copyright information included by You or an End User. For the avoidance of doubt, referencing that information by including a notice in the following manner is appropriate:

- (1) for Your Applications:
 - (a) "Uses PSMA Address Data ©[insert year in which Your Application is being used] Copyright and Disclaimer Notice", where the words 'Copyright and Disclaimer Notice' are hyperlinked to <http://www.pdma.com.au/psma-data-copyright-and-disclaimer>; or
 - (b) "Uses PSMA Address Data ©[insert year in which Your Application is being used] for Copyright and Disclaimer Notice see <http://www.pdma.com.au/psma-data-copyright-and-disclaimer>"; and
- (2) for PSMA Address Data obtained via Your Applications:
 - (a) "PSMA Address Data ©[insert year PSMA Address Data is obtained] Copyright and Disclaimer Notice", where the words 'Copyright and Disclaimer Notice' are hyperlinked to <http://www.pdma.com.au/psma-data-copyright-and-disclaimer>; or
 - (b) "PSMA Address Data ©[insert year PSMA Address Data is obtained] for Copyright and Disclaimer Notice see <http://www.pdma.com.au/psma-data-copyright-and-disclaimer>".

8.2 Where a reference to <http://www.pdma.com.au/psma-data-copyright-and-disclaimer> is embedded in Service responses, You must not remove those references or allow them to be removed.

8.3 You must comply with any additional reasonable directions of PSMA regarding the form and content of the copyright and disclaimer information described in this clause 8.

- 8.4 You must take all reasonable steps to ensure that End Users comply with the terms of any sublicences to use PSMA Address Data granted pursuant to this Agreement.
- 8.5 You must (and must take all reasonable steps to ensure that Your End Users must):
- (1) comply with all laws, rules and regulations applicable to Your use of the Service and PSMA Address Data;
 - (2) use appropriate technological and security measures to ensure that all access and use of the Service through Your Applications is secure from unauthorised use or access;
 - (3) not access, store, distribute or transmit any viruses or any material during the course of Your use of the Service that is unlawful or detrimental to Our interests or reputation;
 - (4) not allow the Service or any PSMA Address Data to be used for anything that, in Our reasonable opinion, may be illegal, deceptive, misleading, unethical, incorrect, offensive, defamatory or otherwise inappropriate or may infringe any third party rights;
 - (5) not use the Service in any way that threatens its integrity, performance or reliability (including by conducting performance or stress tests on the Service) or in any manner that works around any of its technical limitations;
 - (6) provide Us with all necessary co-operation in relation to this Agreement and all necessary access to information relating to this Agreement and Your use or Your End Users' of the Service as We may reasonably require;
 - (7) ensure that Your network and systems comply with any relevant specifications provided by Us from time to time, including promptly complying with any reasonable requests from Us in connection with the same; and
 - (8) take sole responsibility for procuring and maintaining Your network connections and telecommunications links from Your systems to Our data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Your network connections or telecommunications links or caused by the internet.

9. **Exclusion of Warranties and Limitation of Liability**

- 9.1 PSMA endeavours to ensure that:
- (1) the Service is reliable; and
 - (2) the PSMA Address Data is accurate and complete by using source data primarily from Australia's federal, state and territory governments and other reputable sources.
- 9.2 Notwithstanding clause 9.1, to the extent permitted by law, all statutory or implied conditions and warranties are excluded and the Service and PSMA Address Data are provided 'as is' and without any warranties (express or implied) about:
- (1) the performance, fitness for any particular purpose or security of the Service and whether the Service will be fault or virus free; and
 - (2) the accuracy, completeness or fitness for any particular purpose of PSMA Address Data.
- 9.3 PSMA, PSMA Australia, Australia's federal, state and territory governments and any other providers of source data for PSMA Address Data have no liability to You or any End Users (including liability in negligence) for any losses suffered (including any consequential loss, indirect loss or loss of profits or data) or expenses incurred by You or any End Users arising from:

- (1) use of the Service or PSMA Address Data for any particular purpose;
 - (2) PSMA Address Data being inaccurate or incomplete in any way for any reason;
 - (3) the performance or security of the Service (excluding the Availability of the Service);
 - (4) any faults or viruses in the Service; or
 - (5) any information or advice referred to in clause 10.1,
- even if PSMA, PSMA Australia, Australia's federal, state and territory governments or any other providers of source data for PSMA Address Data have been advised of the possibility of such losses or expenses.

9.4 To the extent permitted by law, liability under any condition or warranty which cannot legally be excluded is limited to PSMA, at its option, replacing the relevant data or services (or supplying equivalent data or services) or refunding You any Fees paid under this Agreement for the deficient data or services.

10. Representations Not Relied On

10.1 You acknowledge that You have made Your own assessment of the Service and PSMA Address Data and You have not relied on any information or advice given by PSMA, PSMA Australia, Australia's federal, state and territory governments or any other providers of source data for PSMA Address Data (or any person purporting to represent them) regarding the Service or PSMA Address Data and whether they are reasonably fit for any purpose for which they will be used by You or any End User.

11. Publicity

11.1 If You publicise Your use of the Service, You must do so in a manner that:

- (1) acknowledges PSMA Australia as the source of PSMA Address Data;
- (2) does not, in Our reasonable opinion, adversely affect the reputation of either PSMA or PSMA Australia; and
- (3) otherwise in accordance with PSMA's reasonable directions, which will include a direction to discontinue publicising Your use of the Service if You are in breach of this Agreement.

12. Privacy

12.1 PSMA will collect, store, use and disclose Personal Information in accordance with [Our Privacy Policy](#).

12.2 By creating a PSMA Developer Portal account, You consent to Us collecting, storing, using and disclosing Your Personal Information in accordance with [Our Privacy Policy](#), including for the purposes of telling You about other PSMA products and services that may be of interest to You (please notify the PSMA Service Desk if you do not want to be contacted about other PSMA products and services or opt-out via the unsubscribe link that PSMA includes in all marketing emails).

12.3 You must not use PSMA Address Data or the Service in any way that would breach the *Privacy Act 1988* (Cth). Further, You must comply with any direction of PSMA to observe any recommendation of the Privacy Commissioner relating to use of PSMA Address Data or the Service.

13. Availability and Support Services

13.1 PSMA will use reasonable endeavours to ensure that the Availability of the Service is 99% of the time over each month.

13.2 Any Downtime that is caused by matters:

- (1) arising from Your use or Your End Users' use of the Service other than in accordance with this Agreement;
 - (2) beyond the reasonable control of PSMA, including general telecommunications failures, forces of nature, acts of God, civil disorder and industrial action; or
 - (3) within Your reasonable control or the reasonable control of Your End Users, will not be included in the calculations of Availability.
- 13.3 From time to time, PSMA performs maintenance which may require Planned Downtime.
- 13.4 PSMA will use reasonable endeavours to ensure that Planned Downtime is minimised and occurs at times that will cause the least disruption to the business of PSMA's customers. Typically, Planned Downtime will not occur in Business Hours and will not exceed 2 hours in duration.
- 13.5 PSMA will use reasonable endeavours to provide You with five Business Days' notice of Planned Downtime, but will always provide You with at least 24 hours' notice of Planned Downtime. PSMA's notice will describe the estimated period of the Planned Downtime and the parts of the Service that will be affected.
- 13.6 From time to time, events unrelated to maintenance may occur that result in unexpected Downtime. Where practicable, PSMA will provide You with notice of this Downtime. PSMA's notice will describe the estimated period of the Downtime and the parts of the Service that are affected.
- 13.7 PSMA will provide You with Support Services during Business Hours via the PSMA Service Desk. The PSMA Service Desk is based in Canberra and only operates during Business Hours. PSMA will respond to any communication received outside Business Hours at the commencement of the next Business Day. PSMA encourages You to review the support resources that have been made available to You prior to contacting the PSMA Service Desk.
- 13.8 PSMA will use reasonable endeavours to provide Support Services in a timely manner, taking into account any urgency expressed by You. You must cooperate with PSMA in relation to the provision of Support Services and must provide any related information reasonably requested by PSMA.
- 13.9 PSMA will not provide any Support Services to Your End Users.
- 13.10 Support Services may, in PSMA's complete discretion, be limited to four hours per calendar month.

14. **Duration, Cancellation and Associated Terms**

- 14.1 This Agreement commences when You have accepted its terms by clicking 'I Accept' (or are deemed to have accepted its terms by using the Service) and will remain in force until it is terminated or expires in accordance with this clause 14.
- 14.2 You may cancel Your subscription to the Service at any time via Your PSMA Developer Portal account or by notifying PSMA. Cancelling Your subscription will also terminate this Agreement.
- 14.3 If You have subscribed to a free plan, Your cancellation is effective immediately and Your PSMA Developer Portal account will be closed and Your access to the Service will be disconnected from the date You cancel.
- 14.4 If You have subscribed to a paid plan, Your cancellation is effective at the end of the current monthly subscription period and Your PSMA Developer Portal account will be closed and Your access to the Service will be disconnected from that date.
- 14.5 Subject to clause 14.6, You will not receive a refund of any Fees or other amounts already paid to Us when You cancel Your subscription.

- 14.6 If You wish to cancel Your subscription as a result of Us varying this Agreement, You must notify Us within 20 Business Days of Our notice to You about that change. Your cancellation will be effective as of the date of the change to this Agreement and You will receive a pro-rata refund for any amount already paid to Us in respect of any period after that date.
- 14.7 We may immediately suspend Your PSMA Developer Portal account and access to the Service (in whole or in part) if:
- (1) We reasonably suspect that You or Your End Users are using the Service, PSMA Address Data or Developer Documentation other than in accordance with this Agreement;
 - (2) where reasonably necessary for security, technical or operational reasons;
 - (3) as specified in clause 5.9, payment of Your monthly subscription Fees is not successfully settled due to expiration, insufficient funds, or otherwise and You do not update Your payment method or cancel Your subscription; and
 - (4) as specified in clause 3.2 above, We reasonably suspect Your PSMA Developer Portal account profile information is false or fraudulent or You have registered for multiple accounts to gain access to additional free plans for the Service.
- 14.8 PSMA may cancel Your subscription and terminate this Agreement by giving You not less than 30 days' notice. If We cancel Your subscription and terminate this Agreement under this clause 14.8, You will be able to access Your PSMA Developer Portal account and the Service for the remainder of the monthly subscription period following the expiry of Our notice period.
- 14.9 Either party may cancel Your subscription and terminate this Agreement with immediate effect by written notice if the other party:
- (1) is in material breach of any term and such breach is either incapable of being remedied or is not remedied within 10 Business Days of receipt of a written request to do so;
 - (2) commits any repeated or persistent breaches of this Agreement;
 - (3) becomes, threatens or resolves to become subject to any form of insolvency administration; or
 - (4) ceases or threatens to cease conducting its business in the normal manner.
- 14.10 This Agreement will expire automatically without notice if You or Your End Users do not use the Service for a period of 12 consecutive months.
- 14.11 Upon expiry or termination of this Agreement:
- (1) Your PSMA Developer Portal account will be closed and Your access to the Service will be disconnected;
 - (2) subject to clause 14.12, the terms of this Agreement cease to have force or effect;
 - (3) PSMA will deactivate Your PSMA Developer Portal account and Your right (and Your End Users' right) to use the Service will cease;
 - (4) You must immediately pay any Fees or other amounts due to be paid to PSMA under this Agreement;
 - (5) You irrevocably appoint PSMA Your agent for the purposes of enforcing the terms of any perpetual sublicense for PSMA Address Data granted to an End User pursuant to this Agreement (and You must take all reasonable steps to ensure that such End Users do not challenge the validity of that appointment);
 - (6) You must not identify Yourself in any way as a user of the Service and You must take all reasonable steps to ensure that Your End Users do not identify themselves as users of the Service;

- (7) each party retains the rights it had against the other party in respect of any past breach, in addition to any other rights, powers or remedies provided by law; and
 - (8) You must comply with any reasonable directions from PSMA regarding the expiration or termination.
- 14.12 The terms of this Agreement which are capable of having effect after the expiration or termination of this Agreement will remain in full force and effect following the expiration or termination of this Agreement for a period of 7 years.

15. Indemnity

- 15.1 You indemnify PSMA and PSMA Australia and their officers, employees and agents (“those indemnified”) against any losses suffered (including any consequential loss, indirect loss or loss of profits or data) and expenses incurred (including legal expenses on a solicitor and own client basis) by any of those indemnified arising from:
- (1) Your use and Your End Users’ use of the Service, PSMA Address Data or Developer Documentation other than in accordance with this Agreement;
 - (2) Your and Your End Users’ negligence or unlawful act or omission;
 - (3) the development and use of Your Applications (except as they relate to the Service, PSMA Address Data or Developer Documentation incorporated in or used to develop Your Applications); or
 - (4) the use of the Service or PSMA Address Data in combination with other data or Intellectual Property Rights not supplied by PSMA.
- 15.2 Your liability to those indemnified under clause 15.1 will be reduced proportionately to the extent that the losses suffered and expenses incurred are caused or contributed to by the negligence or unlawful act or omission or breach of this Agreement by one of those indemnified.

16. Third Party Beneficiaries

- 16.1 PSMA Australia, Australia’s federal, state and territory governments and any other providers of source data for PSMA Address Data are, to the extent permitted by law, intended third party beneficiaries of this Agreement and are entitled to rely on and enforce this Agreement in their own right.
- 16.2 Should clause 16.1 be unenforceable, illegal or void, PSMA holds the benefit of the clauses concerning PSMA Australia, Australia’s federal, state and territory governments and any other providers of source data for PSMA Address Data on trust for PSMA Australia, Australia’s federal, state and territory governments and any other providers of source data for PSMA Address Data.

17. General Terms

- 17.1 **Confidentiality:** Each party must take all reasonable steps to maintain and safeguard the confidentiality of any Confidential Information disclosed to it pursuant to this Agreement. The parties must not (and must not permit their officers, employees, agents or contractors to) disclose any Confidential Information to any person, other than:
- (1) that party’s professional advisers;
 - (2) to enforce this Agreement;
 - (3) with the prior written consent of the other party; or
 - (4) in the case of PSMA, PSMA Australia, provided that PSMA Australia agrees to maintain its confidentiality.

- 17.2 **Severability:** If anything in this Agreement is unenforceable, illegal or void then it is severed and the rest of the Agreement remains in force.
- 17.3 **Assignment:** You must not assign or novate this Agreement or any rights or obligations hereunder except with the prior written consent of PSMA. You must consent to the assignment or novation of this Agreement as required by PSMA and must promptly document Your agreement to any relevant documentation to achieve such assignment or novation.
- 17.4 **Waiver:** A party's failure or delay to exercise a right does not operate as a waiver of that right. The exercise of a right does not preclude either its exercise in the future or the exercise of any other right. A waiver is not effective unless it is in writing. A waiver is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.
- 17.5 **Electronic Signature:** Accepting the terms of this Agreement by clicking 'I Accept' or by using the Service constitutes Your electronic signature of this Agreement. Your electronic signature of this Agreement has the same legal effect as a physical signature.
- 17.6 **Electronic Notice:** All notices given in connection with this Agreement must be in writing, but may be provided electronically. PSMA may email Notices to the email address identified in Your PSMA Developer Portal account. Electronic delivery of a notice has the same legal effect as if We provided You with a physical copy. We will consider a notice to have been received by You 24 hours after the time the notice is emailed to You. If You have problems viewing or accessing any notice, please [contact Us](#) so We can find another means of delivery.
- 17.7 **Entire Understanding:** This Agreement is the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement and supersedes any prior agreement or understanding on anything connected with that subject matter.
- 17.8 **Costs:** Each party must pay its own costs connected with the formation of this Agreement and (unless otherwise explicitly stated) performance of any obligations or exercise of any rights under this Agreement.
- 17.9 **Further Assurance:** Each party must promptly at its own cost do all things (including executing and if necessary delivering all documents) necessary or desirable to give full effect to this Agreement.
- 17.10 **Governing Law and Jurisdiction:** The law of the Australian Capital Territory governs this Agreement and the parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and of the Commonwealth of Australia.

Schedule 1 Definitions and Interpretation

1. In this Agreement:
- (1) **Agreed Service Time** means the amount of time that the Service is available to You each month, which is 24 hours every day less Planned Downtime and any other time that this Agreement states will not be included in the calculations of Availability;
 - (2) **Agreement** means this Developer Subscription Agreement for PSMA Predictive Address Verification Service, its Schedules and any other documentation referenced in this Agreement;
 - (3) **API Key** means a unique alphanumeric identifier for use by You in any Application which facilitates access to the PSMA Predictive Address Verification API;

- (4) **Application** means mean web or other software services or applications developed by You that utilise or interact with the PSMA Predictive Address Verification API, which must comply with the restrictions set out in Clause 8;
- (5) **Availability** means the percentage of Agreed Service Time when the Service is fully available to You, calculated as follows:
 $100 \times (\text{Agreed Service Time minus Downtime}) / \text{Agreed Service Time}$;
- (6) **Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made;
- (7) **Business Hours** means between 8.30am and 5pm AEST (or, when daylight saving time is observed in the Australian Capital Territory, 8.30am and 6pm AEDT) on days that are Business Days;
- (8) **Confidential Information** includes the commercial terms of this Agreement and information which:
- (a) is specifically designated as confidential by a party;
 - (b) by its nature may reasonably be understood to be confidential;
 - (c) relates to the financial, business affairs or management decisions of a party or their related companies;
 - (d) relates in any way to a party's or their related company's Intellectual Property Rights,
- but does not include the fact of the existence of this Agreement or the identity of the parties to it or information that:
- (e) was rightfully in the other party's possession (as evidenced by written records), and not subject to an obligation of confidentiality on the part of that party before the commencement of this Agreement;
 - (f) is or comes into the public domain (other than as a result of a breach of this Agreement by a party); or
 - (g) is required to be disclosed by any law;
- (9) **Data** means any text, graphics, audio, visual (including still visual images) and/or audio visual material, software, applications, data, database content, or other multimedia content, information and material;
- (10) **Developer Documentation** means any look up tables, class and method documentation, code snippets and other developer guide documentation relating to the PSMA Predictive Address Verification API or PSMA Address Data which We may supply or make available to You through Your PSMA Developer Portal account;
- (11) **Downtime** means time when the Service is unavailable;
- (12) **End User(s)** means any third party user(s) of Your Applications;
- (13) **Fees** means the fees set out Your PSMA Predictive Address Verification Usage Plan for use of the Service;
- (14) **Intellectual Property Rights** means rights contained within copyright, design, patent, trademark, semiconductor, trade, business, company or domain name know-how, inventions, processes, confidential information (whether in writing or recorded in any form), any other proprietary, licence or personal rights arising from intellectual activity in the business, industrial, scientific/artistic fields and databases;
- (15) **Personal Information** means personal information as that term is defined in the *Privacy Act 1988* (Cth);

- (16) **Planned Downtime** means any period when the Service is not available to You to allow for maintenance, upgrades or testing, which is scheduled in accordance with clauses 13.4 and 13.5;
- (17) **PSMA Address Data** means Australian address Data held by PSMA, which includes the most up-to-date geocoded addresses received by PSMA Australia from the state and territory governments of Australia;
- (18) **PSMA Australia** means PSMA Australia Limited ACN 089 912 710 of Unit 6, 113 Canberra Avenue, Griffith in the Australian Capital Territory, Australia;
- (19) **PSMA Developer Portal** means the portal through which You can manage Your use of the Service, which is available via developer.pdma.com.au;
- (20) **PSMA Predictive Address Verification API** means the application programming interface created by PSMA to allow developers to build applications which search PSMA Address Data to find candidate addresses based on progressive user input and return fully parsed data associated with a selected address;
- (21) **PSMA Predictive Address Verification Service** or **Service** means all the services provided by PSMA which allow You (and Your End Users) to access the PSMA Predictive Address Verification API;
- (22) **PSMA Predictive Address Verification Usage Plan** meaning the Transaction usage and pricing plan for the Service made available through PSMA's website or provided directly to You by PSMA, which will be emailed to You when You subscribe to a new plan for the Service and which PSMA will provide to You on request;
- (23) **PSMA Service Desk** means the service desk operated by PSMA, which is contactable by email at support@pdma.com.au and by telephone on (02) 6260 9099;
- (24) **Subscription Information Page** means the webpage found at developer.pdma.com.au/support;
- (25) **Support Services** means support services to:
 - (a) receive information about any faults or errors in the Service and manage and, where reasonably possible, resolve any such faults or errors in the Service; and
 - (b) support Your use of the Service and improve Your understanding of the data contained within it;
- (26) **Transaction** means each display, in response to a request made via the Service, of fully parsed address details from PSMA Address Data associated with a selected address.

2. Reference to:

- (1) one gender includes the others;
- (2) the singular includes the plural and the plural includes the singular;
- (3) a person includes a body corporate;
- (4) a party or a person includes the party's or person's executors, administrators, successors and permitted assigns;
- (5) a thing includes the whole and each part of it separately;
- (6) a statute, regulation, code or other law or a provision of any of them includes:
 - (a) any amendment or replacement of it; and
 - (b) another regulation or other statutory instrument made under it, or made under it as amended or replaced; and
- (7) dollars means Australian dollars unless otherwise explicitly stated.

3. "Including" and similar expressions are not words of limitation.
4. Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
5. Headings and any table of contents or index are for convenience only and do not form part of this Agreement or affect its interpretation.
6. A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement.
7. If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
8. If a party consists of more than one person, this Agreement binds each of them separately and any two or more of them jointly.
9. An obligation, representation or warranty in favour of more than one person is for the benefit of them separately and jointly.
10. A party which is a trustee is bound both personally and in its capacity as a trustee.
11. Unless this Agreement expressly provides otherwise, in the event of any inconsistency between the terms of the documents comprising this Agreement, they must be read in the following order of precedence:
 - (1) the paragraphs in the body of Your PSMA Predictive Address Verification Usage Plan;
 - (2) the clauses in the body of this Agreement;
 - (3) the paragraphs in the body of the Schedules to this Agreement; and then
 - (4) the paragraphs in the body of any other documentation referenced in this Agreement.