



## End User License Agreement

### Locate

- 1 These terms and conditions govern the terms on which the Customer may access Acceleon's products ("**Products**") as per the selection above.

### Access and Use

- 2 The Customer acknowledges that from time to time, certain data and information may not be available to the Products (for example, if there is a technical failure of the servers utilised by a data provider, or maintenance issues, or investigations of breaches of security). The Customer will have no claim of any kind upon Acceleon for the failure of any data or information including Acceleon's telephone directory to be available at any particular time or at all whether temporarily or permanently.

### Use

- 3 The Customer must access and use the Products only as incidental to its bona fide and lawful business being a business where any failure of the Products could not lead to death, personal injury or environmental damage (such as nuclear facilities, air traffic control or life support systems). In particular without limiting the generality of the foregoing the Customer shall not use any data or information from the Products:
  - (a) for resale or provision to any third party
  - (b) for the production of any kind of telephone directory other than incidental to its business (such as for debt collection or client information records), nor:
  - (c) data mine or conduct automated searches or attempt to reverse engineer any elements of the Acceleon website or the data accessible through it, nor attempt to create a substitute similar service.
- 4 The Customer will not use PND data for the purpose of using a telephone number to find a name and/or address, or using an address or part thereof to find a name and/or telephone number.
- 5 The Customer agrees to indemnify Acceleon against any claims arising against Acceleon as a result of any unlawful use of the Products by the Customer, its servants or agents, or otherwise through use of the Customer's user identity and/or password.
- 6 The Customer hereby grants to Acceleon and to its suppliers of data the right to use any content provided by the Customer for the purposes of the searches carried out through the Products. The Customer warrants that any use by Acceleon or others involved in the provision of services for the Products does not violate the rights of any third party, whether by way of privacy, intellectual property or otherwise.

### Ownership of data / information

- 7 The Customer acknowledges that the suppliers to Acceleon of data and information used in the Products hold or claim ownership and/or copyright in that data and information, and the Customer shall respect, observe and not dispute any such rights and claims.



### **Termination/Suspension of License - Default by Customer**

- 8 In addition to any other rights it may have at law or in equity, Acceleon may, without notice, suspend access to the Products and/or terminate this agreement should the Customer:
- (a) fail to perform or observe any of the provisions of this agreement;
  - (b) or any other person using the Customer's user identity or password use the Products or any information contained therein for any unlawful or improper purpose or in a manner that may jeopardise security, contravene any Federal or State law, or may interfere in or impede the proper functioning of the Products,

### **Variations**

- 9 Acceleon may from time to time change the terms and conditions of this licence to such extent as Acceleon reasonably considers appropriate to meet legal requirements or restrictions or any Code that applies to any participant in the telecommunications industry, the laws of any relevant foreign country, or of international law, or to meet the reasonable requests or requirements of officials such as the Privacy Commissioner, or may terminate this licence by written notice to that effect to the Customer should anything done or to be done hereunder or in connection herewith be or become unlawful.
- 10 Where notice of such changes is practicable before they take effect, Acceleon shall give such notice in writing. Acceleon shall otherwise give such notice of the changes as soon as is practicable, and shall include up-to-date licence information in the on-screen licence information acknowledged by users accessing the Products from time to time.
- 11 Acceleon shall be entitled from time to time to modify or substitute some or all of the databases upon which the Products are based, provided that where a database is removed a substitute database is provided that contains information of a type similar to that contained in the database whose use has ceased.

### **Data quality**

- 12 Acceleon discloses that the Products contain omissions and errors and none of Acceleon, its related companies, employees and agents, nor the suppliers to Acceleon of data used in the Products, warrants or represents that the Products are complete or free from errors or omissions, nor that they are of any particular quality or suitable for any particular purpose.

### **Withdrawal / return of information**

- 13 If a supplier of data or information to Acceleon requires that data or information supplied to the Customer be withdrawn or returned or deleted from all records, for example if confidential information has been inadvertently supplied, the Customer agrees to use its best endeavours to comply with any such request made by Acceleon to the extent that it is practicable to do so.

### **Reports, Audit**

- 14 The Customer acknowledges that some Data Suppliers may be entitled to call for reports and/or audit the use of their data by Acceleon, and the Customer consents to Acceleon performing its obligations in respect of any such reporting or audit process including in relation to use by the Customer of the Products.



- 15 The Customer agrees to Acceleon disclosing such information as may reasonably be requested pursuant to law by any government, semi-government or statutory authority concerning the provision of data information generally by Acceleon, and concerning provision of that information to the Customer specifically, if such information is apparently lawfully requested.

### **Limitations on Liability**

- 16 Acceleon and the suppliers to it of data used in the products shall not be liable for any damages, injury or loss arising or resulting, directly or indirectly, from the Company's use of the Products, nor for any loss or damage arising or resulting directly or indirectly, from any statement information or advice made or given, whether negligently or otherwise, in relation to the Products or their compilation or production or the use to which any data in them is intended to be put.
- 17 Acceleon does not exclude or limit the applicability of any statute (such as the Competition and Consumer Act, 2010) where to do so would contravene that statute, or cause any part hereof to be void. Subject to that, Acceleon, its related companies and their officers employees and agents will have no liability (including liability for negligence) to the Customer for any loss, damage, cost or expense (including but not limited to lost profits or data) incurred or arising by reason of any person relying on any material published in any of the Products, nor by reason of any error, omission or misrepresentation, nor in respect of any difficulties that the Customer may have from time to time or at any time in accessing or otherwise using any of the Products, or in accessing or securing assistance from any telephone or other support service that Acceleon provides from time to time. Acceleon's liability for breach of any obligation or for a condition or warranty that by law cannot be excluded is limited (at Acceleon's option) to the supplying of the services again, or the payment of the cost of having the services supplied again.

### **Force majeure**

- 18 Acceleon shall not be liable for any delay or failure in the performance of its obligations under this Agreement if such delay or failure is due to any act of government or state, civil commotion, epidemic, fire, flood, industrial action or organised protests by third parties, natural disaster, war, failure of payment systems..

### **Telephone information - unlisted numbers, suppressed addresses**

- 19 Acceleon is not to provide the Customer with any unlisted number or suppressed address. Should any such information come into the possession of the Customer (for example, due to errors in data supplied to Acceleon), after being informed by Acceleon of the status of that information the Customer will not publish it or use it in any way and will, immediately after being informed by Acceleon of the status of that information, permanently delete it from any record it holds to the extent that it is practicable to do so.

### **Privacy**

- 20 The provisions of the following provisions in relation to privacy apply despite anything else in this Agreement.



- 21 **“Personal Information”** means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion contained in the Products.
- “Privacy Laws”** means:
- (a) the Privacy Act, the Telecommunications Act 1997 (Cth); and
  - (b) any other legislation, principles, industry codes and policies relating to the collection, use, disclosure, storage or granting of access rights to Personal Information, applicable to a party, or which Acceleon notifies the Customer is a Privacy Law for the purposes of this agreement.
- 22 The Customer must comply with all Privacy Laws in relation to the Personal Information, whether or not the Customer is an organisation bound by the Privacy Act.
- 23 The Customer must:
- (a) ensure that any person to whom Personal Information is disclosed does not do or omit to do anything which, if done or omitted to be done by the Customer would constitute a breach by the Customer of any obligation of the Customer hereunder;
  - (b) obtain from any contractor of the Customer to whom information is disclosed written agreement to comply with Privacy Laws and provisions having the same effect as this Agreement;
  - (c) not do anything or omit to do anything with the Personal Information that will cause Acceleon to breach its obligations under a Privacy Law.
- 24 The Customer must:
- (a) collect, store, use, disclose or otherwise deal with the Personal Information as directed by Acceleon, except to the extent that compliance with the direction would cause the Customer to breach a Privacy Law;
  - (b) give Acceleon all information necessary to enable it to assess or audit the Customer’s compliance with this clause;
  - (c) provide all assistance as required by Acceleon to assist Acceleon in complying with its obligations under any Privacy Law;
  - (d) notify Acceleon if it becomes aware of any breach or alleged breach of its obligations under this clause and comply with any reasonable direction from Acceleon with respect to remedying that breach; and
  - (e) take all reasonable steps to ensure that the Personal Information is protected against misuse and loss, or unauthorised access, modification or disclosure, including without limitation undertaking any staff training as may be required.
- 25 The Customer must not transfer Personal Information to a person or entity (including itself) in a foreign country without Acceleon’s prior written consent.
- 26 The Customer acknowledges that it has not relied on any information from Acceleon to the Customer as advice regarding the Customer’s obligations under Privacy Laws.