

# Terms & Conditions

PLEASE READ THIS AGREEMENT CAREFULLY. THIS SMS USER AGREEMENT ("SMS AGREEMENT") DESCRIBES THE TERMS AND CONDITIONS UNDER WHICH ADIKAT MOBILE MARKETING, trading as ADIKAT ("ADIKAT"), OFFERS YOU (THE "USER" OR "YOU" OR "YOUR") AN ACCOUNT (THE "ACCOUNT") FOR USE OF THE ADIKAT SMS SERVICE (THE "SMS SERVICE")

BY ACCESSING OR USING THE SERVICE, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS SET FORTH BELOW AS WELL AS THE TERMS AND CONDITIONS PUBLISHED ON THE ADIKAT SITE AT WWW.ADIKAT.IE (THE "SITE"). IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS, YOU MAY NOT ACCESS OR USE THE SERVICE. ADIKAT MAY MODIFY THIS AGREEMENT AT ANY TIME, AND SUCH MODIFICATIONS SHALL BE EFFECTIVE IMMEDIATELY UPON POSTING OF THE MODIFIED AGREEMENT AT THE SITE. YOU AGREE TO REVIEW THE AGREEMENT PERIODICALLY TO BE AWARE OF SUCH MODIFICATIONS AND YOUR CONTINUED ACCESS OR USE OF THE SERVICE SHALL BE DEEMED YOUR CONCLUSIVE ACCEPTANCE OF THE MODIFIED AGREEMENT.

## 1. The Service

ADIKAT provides the SMS Service with the capability to send SMS to mobile phones via the World Wide Web on the ADIKAT system. ADIKAT may terminate, change, suspend or discontinue the SMS Service, including the availability of any features of the Site, at any time. ADIKAT may from time to time provide additional services subject to charges according to the sole discretion of ADIKAT.

## 2. MEMBER ACCOUNT

(A) Accounts are not available to minors or any person who cannot legally agree to the terms of this SMS Agreement. By accepting these terms, you confirm that you are capable of entering into a binding agreement. You must accurately complete any subscriber information requested by ADIKAT. The SMS Service is intended to appeal to a broad audience, and therefore it is the responsibility of the parent or guardian to determine whether any use of the ADIKAT Services are appropriate for your child.

(B) To open an account for usage of the SMS Service, the User must provide true and accurate information as labeled by the Registration Form and shall labelly update such information to keep it true and accurate. The User shall choose provide a valid email address belonging to them and choose a password will be sent to the email address or by sms text message as indicated in his registration form. The User is entirely responsible for the privacy, confidentiality and storage of email address and password used to access the sytem. All website activities that can be traced to the email address and password of the User are deemed as having performed by the User. ADIKAT does not assume any liability for content of messages sent and is exempt from any claim that may arise from third parties as a result of

message sent. You are fully responsible for any charges and liabilities incurred through the use of the SMS Service or Your Account and for any activities conducted through Your Account. In addition, ADIKAT may temporarily disable access to Your Account if You report unauthorized use or if usage of the Account dramatically exceeds normal usage patterns within a short time period. The User agrees to notify ADIKAT immediately of any unauthorized use of the account at [abuse@ADIKAT.ie](mailto:abuse@ADIKAT.ie).

### **3. BILLING AND PAYMENT**

You agree to pay all charges that may be required for use of the SMS Service. All charges will be exclusive of value added tax ("VAT"), sales or other taxes, except as required by law. ADIKAT reserves the right to modify its prices, charges or fees, provided that any changes shall be posted on the Site. You are therefore responsible for reviewing regularly the Site for information regarding fees and charges as well as changes to pricing. Continued use of or non-termination of the SMS service shall be deemed to be acceptance of any posted changes in the prices for your use of the SMS Service.

To the extent applicable, you agree that ADIKAT may accumulate charges incurred during your monthly billing cycle and submit them as one or more aggregate charges during or at the end of each cycle and that ADIKAT may delay obtaining authorization from your card issuer until submission of the accumulated charge(s). As a result, you understand that accumulated charges may appear on your credit or debit card statement. Alternatively ADIKAT may provide all services on a prepaid basis with charges to your credit card at time of purchase, alternatively ADIKAT may require payment by bank transfer from you.

If you are utilizing the SMS Service under any special promotion, your debit or credit card will be immediately charged for any applicable service fees or charges, without further authorization from you and absent notification from you of your desire to terminate or cancel your account or the service, upon the expiration of any free trial period, or shall be charged any applicable additional fees upon expiration of any promotion.

(A) Fees: User shall pay to ADIKAT a subscription fee according to the service chosen. The SMS account balance is non-refundable and does not bear interest. All purchases are considered final. The account is valid for 1 year from date of purchase, and any existing account balance will be reset to zero without prior notice unless User reloads the account before the expiration date. If a succeeding prepayment is made before the 1 year expiration, any unused SMS credits are carried over to the next period otherwise they are expired. ADIKAT may from time to time offer limited similar promotions during which no credits or lesser credits shall apply. The terms and conditions shall remain in full force and effect. ADIKAT reserves the right to change prices or institute new charges for access to or use of the SMS Service. Continued use of the SMS Service or non-termination of User's Account after changes are posted constitutes User's acceptance of the prices as modified by the posted changes. User's Account will automatically expire in the event the Account does not have any more credits. The Account will be re-activated upon payment for new message credits. Any message credits purchased must be used up within 1 year from the date on which it had been purchased.

(B) Non-ADIKAT Fees: Your wireless service provider or pager company may charge you (i) a fee for the ability to receive text messages, or a per message fee for the delivery (or attempted delivery) of text messages to your mobile phone or pager, (ii) airtime or other

connection fees in connection with your downloading of information or messages from or uploading of information or messages to the SMS Service, and/or (iii) roaming fees if delivery of a text message occurs outside of certain geographical areas. You are responsible for paying all such fees, and for any other hardware, service or other costs You incur to access Your Account, plus any applicable taxes. Users will be charged separately for use of the SMS Services in accordance with this Agreement and the terms set forth on the Site.

(C) Payment: Subscription fees are prepaid and are payable through credit cards. ADIKAT reserves the right to suspend or terminate Your use of the SMS Service without notice upon rejection of any credit card charges, debit card charges or if Your card issuer (or its agent or affiliate) seeks return of payments previously made to ADIKAT and as to which ADIKAT believes such payments were proper. In addition, ADIKAT has the right to seek any fees, damages, expenses or the like arising from your failure to pay ADIKAT for use of the SMS Service, including, but not limited to, fees charged to ADIKAT by any credit card issuer or its agent as a penalty for reversing any payment (i.e., a charge back fee) as well as collection fees and expenses, court costs, and attorney's fees.

(D) Auto-Recharge: If during the sign up process for an SMS account User indicates acceptance of the Auto Recharge program, User's SMS Account will automatically be recharged with additional credits in accordance with the SMS plan User initially signed up for once the number of credits in the account falls below the agreed amount. The User's credit card or debit card will be charged the subscription fee applicable to such plan.

You must labelly notify ADIKAT in the event of any changes to your account or billing information or in the event your charge card or debit card is cancelled for any reason.

(E) ADIKAT reserves the right to charge 5 euro cents for inbound messages sent to your dedicated or shared virtual mobile number in the case where the number of such messages is equal to or greater than the total number of messages sent from the same account.

**PLEASE BE ADVISED:**

(a) You expressly agree that all charges for payment of the SMS Service are final and non-refundable. You are responsible for all charges resulting from your use of the SMS Service. Once you sign up for the SMS and provide a form of payment, ADIKAT will not provide you a refund for any charge made on your credit card, debit card or any payments.

(b) If you believe that you have been improperly charged for any Service, you must notify ADIKAT within 5 days of any invoice or credit card statement, provide ADIKAT any information necessary to review the claim, and ADIKAT will attempt to resolve the claim in a timely manner.

**ADIKAT DOES NOT CONDONE FRAUD:** In the event of any unauthorized use of your account or unauthorized credit card charges or debit card charges, you must notify ADIKAT, and you will be responsible for such unauthorized use or charges until you notify ADIKAT. You must also adopt any steps necessary to prevent any further unauthorized use of your account or unauthorized charges.

Upon expiration of the subscription for the SMS Service, ADIKAT shall automatically renew your subscription and charge your credit or debit card. If you do not wish to renew, you must

notify ADIKAT at [info@ADIKAT.ie](mailto:info@ADIKAT.ie) no less than 5 days prior to the expiration of your subscription otherwise you shall be responsible for all fees and charges incurred for such renewal.

ADIKAT shall have the right to terminate your account immediately, and you shall have no right to a refund of any service fees or charges, in the event you in any manner violate these Terms and Conditions or the Privacy Policy or any other applicable ADIKAT policy, rule or conditions of use. While you may choose to terminate your account voluntarily at any time, you will not have a right to any refund of any service fees or charges.

#### **4. USE OF ACCOUNT**

(A) You and other users of Your Account must comply with all applicable laws and regulations in using the SMS Service. You may not use the SMS Service for any of the following purposes or in any of the following manners: (i) to impersonate or harass any other person; (ii) to send any information that is or the disclosure of which would libelous, abusive, threatening, false, fraudulent, misleading, or obscene; that misappropriates or infringes any person's proprietary right (including posting any links or URLs that you do not have the right to post or disclose); (iii) that violates any person's rights of privacy or publicity, (iv) to send messages that contain any sexual, racist or discriminatory content constituting harassment of any individual or organization, (v) that constitutes or that violates any law, statute, ordinance or regulation (including applicable export control, consumer protection, unfair competition, anti-discrimination or false advertising laws, and without limiting the foregoing you specifically agree to comply with all applicable laws regarding the transmission of the technical data exported from the United States or the country in which you reside; (vi) to intercept any communications not intended for you; (vii) to release, post, distribute or execute any viruses or other harmful computer code; or (viii) to upload, post, email, or otherwise transmit any content that infringes any patent, trademark, trade secret, copyright, or other proprietary rights of any party or (ix) to engage in "spamming," transmission of "junk mail" or "chain letters" or unsolicited mass distribution of sms and e-mail or any similar conduct.

(B) ADIKAT does not control the data, information or other postings provided by other users that are made available through the SMS Service. You may find other users' information to be offensive, harmful, inaccurate, or deceptive or to otherwise violate this Agreement. Please use caution and common sense when using the SMS Service or relying on any data, information or other postings provided through the SMS Service.

(C) At our option and without further notice, we may use anti-spam technologies, such as automatic word and spam filters, that may terminate messages You send without delivering them or prevent messages from reaching You. User may not use the SMS Service in a way that imposes an unreasonable or disproportionately large load (as determined by us in light of the purposes for which you are using the SMS Service and the load imposed by other users generally) on our infrastructure or that otherwise would harm or breach our arrangements with any of our service providers.

(D) You acknowledge that ADIKAT may establish general practices and limits concerning use of the SMS Service, including without limitation the maximum number of days that messages or other uploaded content will be retained by the SMS Service, the maximum number of messages that may be sent from or received by an account on the SMS Service, the maximum size of any message that may be sent from or received by an account on the SMS

Service, the maximum disk space that will be allotted on the SMS servers on Your behalf, and the maximum number of times (and the maximum duration for which) You may access the SMS Service in a given period of time. You agree that ADIKAT has no responsibility or liability for the deletion or failure to store any messages and other communications or other content maintained or transmitted by the SMS Service. You acknowledge that ADIKAT reserves the right to log off accounts that are inactive for an extended period of time. You further acknowledge that ADIKAT reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

(E) After a successful registration, you may receive advertisements, promotions or similar messages on your mobile phone, personal computer or other similar device from ADIKAT.

(F) User agrees that ADIKAT may terminate User's Account and use of the SMS Service (and other ADIKAT services) if ADIKAT believes User has in any manner (i) violated the terms and conditions of this Section 4, (ii) violated the SMS Service Terms and Conditions or the Terms and Conditions of the Site or any other service offered by ADIKAT, (iii) violated this Agreement, (iv) provided ADIKAT false, inaccurate or incomplete not current information, or (v) violates any applicable law, regulation or rule of any state or country.

## **5. PRIVACY**

ADIKAT recognises that our users have legitimate concerns about privacy. By accepting this Agreement, you expressly consent to uses and disclosures of your personal information as enumerated in ADIKAT's then-current privacy policies, which are incorporated herein by reference. Our current privacy policy is available at [ADIKAT Privacy Policy](#). User will own any personal user information or other registration information that User has given us as part of the registration process (your "Registration Information"). With respect to User's Registration Information, User agrees to grant ADIKAT a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sublicensable (through multiple tiers) right to exercise the copyright and publicity rights you have in your Registration Information and any information You provide to ADIKAT or other users within the publicly accessible areas of the SMS Service or the Site, in any media now known or not currently known. ADIKAT will only use your Registration Information in accordance with our Privacy Policy. ADIKAT will not use, sell, contact, license or giveaway Your contacts list.

## **6. CONTENT**

You understand that ADIKAT has no editorial control over any third party content and that ADIKAT does not guarantee the accuracy or completeness of any third party content. You agree that ADIKAT will have no liability to You, or anyone else who uses Your Account, with regard to any third party content. Under no circumstances will ADIKAT be liable in any way for any Content, including but not limited to, any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the user of any Content posted, emailed, or otherwise transmitted via the Service. You also understand that the third party content is the proprietary material of ADIKAT and/or the third party that supplies it, is protected by copyright and other applicable laws, and may not be reproduced, published, broadcasted, rewritten, or redistributed without the written permission of the third party that supplied it, except to the extent allowed under the "fair use" provisions of the Irish copyright laws or comparable provisions of foreign laws.

## **7. MODIFICATION TO THE SERVICE**

(A) User acknowledges that ADIKAT is dependent on various telecommunications networks and institutions for the delivery of its messages and that ADIKAT may adjust its prices and offering, should the prices be adjusted due to reasons that are not in ADIKAT's control. User will be notified of any such changes through publication on the Site or through e-mail describing the change.

(B) You understand that ADIKAT may, in its discretion, from time to time change, add, or remove certain features of the SMS Service or change the terms of this Agreement by informing you through publication on the ADIKAT website or through an email describing the changes. If you are dissatisfied with any such changes to the SMS Service or this Agreement, you may immediately cancel your Account as provided in Section 11 of this Agreement. In addition, ADIKAT reserves the right to discontinue the SMS Service altogether for all users at any time in its discretion.

## **8. DISCLAIMERS AND WARRANTIES**

YOU UNDERSTAND AND AGREE THAT THE SMS SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. ADIKAT AND ITS SUPPLIERS MAKE NO WARRANTY THAT THE SERVICE WILL MEET YOUR REQUIREMENTS OR THAT USE OF THE SMS SERVICE OR THE SITE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; NOR DO ADIKAT OR ITS SUPPLIERS MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SMS SERVICE OR THE ACCURACY, RELIABILITY OR TIMELINESS OF ANY INFORMATION OBTAINED THROUGH THE SMS SERVICE (INCLUDING THIRD PARTY CONTENT), OR THAT ANY DEFECTS IN THE SMS SERVICE WILL BE CORRECTED. SIMPLY PUT, ADIKAT MAKES NO REPRESENTATION OF DELIVERY, RECEIPT OR TERMINATION OF AN SMS MESSAGE. USER ALSO ACKNOWLEDGES THAT, DEPENDING ON THE RECIPIENT'S MOBILE SERVICE PROVIDER, IT MAY NOT BE POSSIBLE TO TRANSMIT THE SMS MESSAGE TO THE RECIPIENT SUCCESSFULLY, PARTICULARLY IF THE PROVIDER DOES NOT SUPPORT SMS DELIVERY AT ALL. ADIKAT AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE SMS SERVICE, INCLUDING ANY IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL OR DATA OBTAINED THROUGH USE OF THE SMS SERVICE IS AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR RESULTS OBTAINED USING ANY SUCH MATERIAL OR DATA OR ANY RESULTING DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES. THEREFORE, THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU TO THAT EXTENT, AND NOTHING IN THIS SECTION SHOULD BE CONSTRUED AS EXCLUDING OR LIMITING ANY WARRANTY BEYOND WHAT IS PERMISSIBLE UNDER APPLICABLE LAW.

## **9. LIMITATIONS ON LIABILITY**

(A) ADIKAT AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES OF ANY NATURE, INCLUDING BUT NOT LIMITED TO, BUSINESS INTERRUPTION, LOSS OF PROFITS, BUSINESS INTERRUPTION LOSS OF DATA, INJURY TO GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF ADIKAT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM USE OF THE SMS SERVICE BY YOU, OR ANYONE USING YOUR ACCOUNT, INCLUDING, BUT NOT LIMITED TO: (i) THE USE OR THE INABILITY TO USE THE SERVICE; (ii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iii) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SMS SERVICE OR THE SITE; OR (iv) ANY DAMAGES OR LOSS OF ANY NATURE ARISING FROM OR RELATING TO YOUR USE OF THE SMS SERVICE OR USE OF THE SMS SERVICE THROUGH YOUR ACCOUNT BY ANYONE ELSE.

(B) ADIKAT SHALL IN NO EVENT BE LIABLE TO THE USER OR ANYONE ELSE FOR ANY INACCURACY, ERROR OR OMISSION IN, OR LOSS, INJURY OR DAMAGE CAUSED IN WHOLE OR IN PART BY FAILURES, DELAYS OR INTERRUPTIONS OF THE SMS SERVICE GENERALLY, THE SITE, ANY OTHER ADIKAT SERVICE AND ANY ASPECT ANCILLARY THERETO;

(C) ADIKAT SHALL IN NO EVENT BE RESPONSIBLE FOR THE SECURITY OF THE DATA TRANSMISSIONS BETWEEN ADIKAT AND THE USER, INCLUDING BUT NOT LIMITED TO THE TRANSMISSION OF THE PAYMENT INFORMATION SUCH AS CREDIT CARD NUMBERS. ADIKAT EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESSED, OR IMPLIED, FOR THE SECURITY OF THE DATA TRANSMISSION BETWEEN ADIKAT AND THE USER.

(D) ADIKAT'S TOTAL CUMULATIVE LIABILITY TO YOU AND ANYONE WHO USES THE SMS SERVICE THROUGH YOUR ACCOUNT, FOR ANY AND ALL CLAIMS UNDER ANY THEORY OF LAW (INCLUDING NEGLIGENCE), WILL NOT EXCEED THE AGGREGATE AMOUNT YOU PAID TO ADIKAT IN THE PRECEDING TWELVE MONTHS. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN TYPES OF LIABILITY. THEREFORE, THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU TO THAT EXTENT, AND NOTHING IN THIS SECTION SHOULD BE CONSTRUED AS EXCLUDING OR LIMITING ADIKAT'S LIABILITY BEYOND WHAT IS PERMISSIBLE UNDER APPLICABLE LAW.

## **10. RELEASE AND INDEMNIFICATION**

(A) In the event that you have a dispute with one or more users, you release ADIKAT (and our officers, directors, agents, subsidiaries and employees) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes and you waive any rights under any state or local law limiting the extent of such release.

(B) User agrees to defend, indemnify and hold harmless ADIKAT and its subsidiaries, affiliates, officers, directors, agents, attorneys and employees from and against any claim or

demand, including reasonable attorneys' fees, made by any third party due to or arising out of User's breach of this Agreement, User violation of any law or the rights of a third party, the content User submits, posts or transmits through the SMS Service, or Your use of the SMS Service.

## **11. TERMINATION OF ACCOUNT**

You may terminate Your Account, at any time and for any reason or no reason, by contacting ADIKAT's customer service at [info@adikat.ie](mailto:info@adikat.ie). Notifying ADIKAT in any other way of your desire to terminate your Account may result in delays in processing your request. ADIKAT, in its sole discretion, may immediately terminate or suspend Your password, account (or any part thereof) or use of the SMS Service, for any reason, including, without limitation, for lack of use or if ADIKAT believes that You have violated, acted inconsistently with this Agreement or if the charges to Your credit card or debit card for the fees are refused for any reason. ADIKAT reserves the right to terminate Your Account and this Agreement for any other reason if ADIKAT gives You at least ten (10) days advance notice. Upon any such termination of Your Account, You will remain obligated to pay all outstanding fees and charges relating to Your use of the SMS Service before termination. You agree that any termination of Your access to the Service under any provision of this Agreement may be effected without prior notice, and acknowledge and agree that ADIKAT may immediately deactivate or delete Your account and all related information and files in Your account and/or bar any further access to such files or the Service. Further, you agree that ADIKAT shall not be liable to You or any third-party for any termination of Your Account.

## **12. NO RESALE OF SERVICE**

User agrees not to reproduce, duplicate, copy, sell, resell or exploit for any commercial purposes, any portion of the SMS Service, use of the SMS Service, or access to the SMS Service without the prior written approval of ADIKAT.

## **13. LINKS**

The SMS Service may provide, or third parties may provide, links to other World Wide Web sites or resources. User agrees that ADIKAT is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that ADIKAT shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

## **14. INTELLECTUAL PROPERTY RIGHTS**

You acknowledge and agree that the SMS Service contains proprietary and confidential information that is protected by applicable intellectual property and other laws. You further acknowledge and agree that as a result of use of the SMS Service, you may have access to or receive information or content protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws ("intellectual property rights"). Except as expressly authorized, You agree not to violate the intellectual property rights of ADIKAT or any third party.



## **15. GOVERNING LAW; ARBITRATION**

The laws of Republic of Ireland, shall govern all matters relating to this Agreement and use of ADIKAT Services. The United Nations Convention on contracts for the international sale of goods is expressly disclaimed. Any controversy or dispute arising out of this Agreement, the interpretation of any provision hereof, or the action or inaction of any party hereto shall be submitted to arbitration in the Republic of Ireland, SAR, in accordance with the International Arbitration Rules of the American Arbitration Association (the "AAA International Rules") then in effect, conducted by one arbitrator either mutually agreed upon by the parties to this Agreement or chosen in accordance with the AAA International Rules. Each party shall have no longer than three (3) days to present its position. Either party may apply to the arbitrator seeking injunctive relief until the arbitration award is rendered or the controversy is resolved. Either party also may, without waiving any remedy under this Agreement, seek any interim or provisional relief that is necessary to protect the rights or property of that party pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the controversy) and for the purposes of seeking such interim relief User shall consent to the exclusive jurisdiction of the courts of Republic of Ireland. The successful party to the arbitration or any litigation relating to this Agreement or the ADIKAT Services shall be entitled to an award for reasonable costs and attorney's fees, as determined by the arbitrators. Any award or decision obtained from any such arbitration proceeding shall be final and binding on the parties, and judgment upon any award thus obtained may be entered in any court having jurisdiction thereof. The parties agree that the arbitrator shall have the power to award damages and injunctive relief.

## **16. REGULATIONS**

You shall fully comply with the applicable guidance, recommendations, regulations, sanctions and codes of practice issued by COMREG ("Regulator or Premium Rate Telecommunication Services Limited") from time to time throughout the duration of this Agreement. COMREG information, guidelines and codes of practice may be found at the public website <http://www.comreg.ie/> You shall also comply with all other prevailing regulations, codes of practice, legislation and applicable laws. You shall incorporate into any Agreements with any third party in connection with the provision of the Services provisions imposing substantially the same obligations on that third party as are imposed by COMREG or other regulatory bodies. COMREG regulations and codes of practice that you must comply with include (but are not limited to) ensuring that the Your marketing and advertising always informs the Your customers clearly and precisely how much any premium rate sms text services will cost to use.

## **17. MISCELLANEOUS**

If any provision of this Agreement is invalid or unenforceable under applicable law, such provision will be deemed modified to the extent necessary to render such provision valid and enforceable and the other provisions of this Agreement will remain in full force and effect. This document and the pages referred to herein represent the entire agreement governing use of the SMS Service and supersede any prior or contemporaneous written or oral statements by ADIKAT or its representatives or resellers. The failure of ADIKAT to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. The section titles in this Agreement are for convenience only and have no legal or

contractual effect. This Agreement may not be amended except as provided in Section 7.

ADIKAT may assign this Agreement in accordance with the sale of all or substantially all of its stock or membership interest or all or substantially all of its assets to a third party.