

# PC Synergy Website Terms of Use

**To report a copyright violation, please click [here](#).**

Changes were made to these Terms of Use, effective 4/20/2020.

PC Synergy, Inc. ("PCS," "us," "we," or "our") PCS has updated the terms and conditions that apply to the use of our website [www.pcsynergy.com](http://www.pcsynergy.com) and any other websites operated by PCS, including their Interactive Features (defined below) which link to these Terms of Use (collectively, the "Site").

**THESE PCS WEBSITE TERMS OF USE ("TERMS OF USE") FORM A LEGALLY BINDING AGREEMENT BETWEEN YOU, THE INDIVIDUAL OR ENTITY ACCESSING OR USING THIS SITE ("YOU") AND PCS. BY ACCESSING OR USING THIS SITE, EITHER IN CONJUNCTION WITH OR INDEPENDENT OF ACCESSING OR USING PCS'S POSTALMATE® OR OTHER COMPUTER SOFTWARE PRODUCTS (PREMISES-BASED OR SAAS) OR RELATED ONLINE SERVICES (COLLECTIVELY, THE "SERVICES"), OR BY ACCESSING OR USING THE INTERACTIVE FEATURES DESCRIBED BELOW, OR BY ESTABLISHING AN ACCOUNT OR SUBMITTING ANY PERSONAL INFORMATION (AS DEFINED IN OUR [PRIVACY POLICY](#)) TO PCS THROUGH THIS SITE, YOU AGREE TO THESE TERMS OF USE, AND CONSENT AND AGREE TO OUR [PRIVACY POLICY](#). IF YOU DO NOT AGREE, ACCESS TO AND USE OF THIS SITE IS NOT PERMITTED AND YOU MUST NAVIGATE AWAY FROM THIS SITE. YOU MAY NEVERTHELESS LEARN MORE ABOUT PCS'S SERVICES BY CONTACTING US AT [SALES@PCSYNERGY.COM](mailto:SALES@PCSYNERGY.COM) OR AS OTHERWISE DESCRIBED IN THE "CONTACT PCS" SECTION BELOW.**

NOTWITHSTANDING THE PRECEDING PARAGRAPH, IF YOU ARE AN INDIVIDUAL ACCESSING OR USING THIS SITE ON BEHALF OF AN ENTITY WHICH IS A CUSTOMER OF PCS ("CUSTOMER") AS THE RESULT OF ENTERING INTO A WRITTEN AGREEMENT WITH PCS RELATED TO PCS PRODUCTS AND/OR SERVICES, I.E., THE SERVICES ("POSTALMATE AGREEMENT"), YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ACT ON BEHALF OF OUR CUSTOMER, AND YOU AND OUR CUSTOMER AGREE THAT IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE POSTALMATE AGREEMENT AND THESE TERMS OF USE REGARDING THE SERVICES OR OTHERWISE, INCLUDING PCS'S LIABILITY, OBLIGATIONS, LIABILITIES AND RESPONSIBILITIES, THE POSTALMATE AGREEMENT SHALL GOVERN.

VARIOUS ADDITIONAL RULES, GUIDELINES, REQUIREMENTS AND OTHER TERMS ("ADDITIONAL TERMS") MAY APPLY. IF SO, THESE WILL BE POSTED, AND WE MAY MODIFY THEM FROM TIME TO TIME. ALL SUCH ADDITIONAL TERMS ARE HEREBY INCORPORATED INTO AND MADE PART OF THESE TERMS OF USE.

IF YOU ARE A COMPETITOR OF PCS, OR ARE ACTING ON BEHALF OF A COMPETITOR OF PCS, YOU ARE PROHIBITED FROM ACCESSING OR USING THE SERVICES OR ANY INTERACTIVE FEATURES OF THIS SITE FOR ANY REASON, INCLUDING WHETHER TO MONITOR THEIR PERFORMANCE, FUNCTIONALITY OR AVAILABILITY, OR FOR OTHER BENCHMARKING OR COMPETITIVE PURPOSES, ABSENT THE EXPRESS WRITTEN CONSENT OF PCS.

**1. Modifications to Terms of Use and Site.** PCS may update and modify these Terms of Use from time to time for any reason and in any manner by posting a modified or replacement version on the Site. The modified Terms of Use will become effective and binding immediately upon posting. Your use of the Site after such posting shall be deemed to constitute acceptance by you of such modifications and you agree that such posting constitutes sufficient notice of the modification. We may also change or discontinue any aspect, service or feature of the Site at any time.

**2. Account Creation/Registration.**

**2.1** You may be given the opportunity by PCS to register to create an account with PCS (your "Account") via an online registration form or otherwise in order to participate in or use the Site's interactive features, including our Support function, our Support or other discussion forums, blogs, comments sections, or other interactive features or areas in which you interact with PCS or other users through the Site (collectively, "Interactive Features"). A user ID and password ("User Credentials") are required to establish an Account and use any Interactive Features. You agree that all elements and aspects of the Site and Services for which User Credentials are required for use or access, including the User Credentials themselves, comprise Confidential Information of PCS. You agree to protect such Confidential Information in accordance with Section 6 (Confidentiality). Your Account and User Credentials are for your use only and cannot be shared or used by anyone else, as they will be associated and displayed with your name and the name of our Customer. You agree to notify PCS immediately of any unauthorized use or any other breach of security involving your User Credentials. PCS will not be liable for any loss or damages incurred as a result of unauthorized use of your Account or User Credentials. You are solely responsible for maintaining the confidentiality of your User Credentials, and are responsible for all activities occurring under your Account and/or User Credentials.

**2.2** We will use the information you provide in accordance with the PCS [Privacy Policy](#). By registering to create your Account, you represent and warrant that all information that you provide on the registration form is current, complete and accurate to the best of your knowledge, including any payment information you provide. You agree to maintain and promptly update your registration information on the Site so that it remains current, complete and accurate. You are responsible for obtaining and maintaining all connectivity, computer software, hardware and other equipment needed for access to and use of the Site and all charges related to the same. If you elect not to create an Account through our Site or prefer not to use a credit card to make a purchase, you may always order from PCS by calling our Orders department at 800-485-6901, from 9am to 5 pm Pacific time, Monday through Friday.

**3. User Content; PCS Right to Use.** The following terms apply to the use of Interactive Features and the submission and use of User Content (as defined below) submitted by you or other users when using Interactive Features:

**3.1** You acknowledge and agree that the use of the Interactive Features and your participation in them creates no expectation of privacy, and that anything you communicate in them may be seen by other users, as well as members of PCS. *If you choose to make any of your Personal Information or other User Content (as defined below) viewable to other users by using an Interactive Feature such as a forum or blog, you do so at your own risk.* Notwithstanding the foregoing, communications directed exclusively to PCS using our Support function related to your use of our Services, and PCS's responses, will not be made accessible to other users by PCS and will constitute Confidential Information of PCS.

**3.2** You and other users of our Site may post or upload data, information, content, comments, video, photos, messages, or other materials or items, including ideas, concepts, know-how, or techniques related to PCS's Services, including suggestions or feedback related to their features or functions or suggestions for improvements or enhancements (collectively, "User Content") using the Site's Interactive Features or otherwise. All such User Content – whether supplied by you or others – consisting of non-publicly available information related to the Services, constitute Confidential Information of PCS subject to the requirements and protections of Section 6 (Confidentiality) below. You are solely responsible for your use of any Interactive Features and for any User Content you post or upload, and you use these Interactive Features at your own risk. Interactive Features are available for individuals aged 13 years or older. By submitting User Content to an Interactive Feature, you represent that you are 13 years of age or older and, if you are under

the age of 18, you either are an emancipated minor or have obtained the legal consent of your parent or legal guardian to enter into these Terms of Use, submit content, and participate on the Site.

**3.3** By submitting any User Content to the Site, whether through Interactive Features or otherwise communicating it to PCS, you automatically grant PCS a transferable, royalty-free, perpetual, irrevocable, non-exclusive, worldwide right and license to use, publish, reproduce, modify, adapt, edit, translate, create derivative works from, incorporate into other works, i.e., the Services, distribute, sublicense (through multiple tiers) and otherwise transfer and exploit such User Content (in whole or in part) in any form, media or technology now known or hereafter developed, without payment to you or to any third parties. PCS shall be free to such User Content, and all ideas, concepts, know-how, or techniques contained in User Content or otherwise submitted to us by any means, for any purpose whatsoever including, but not limited to, developing, manufacturing, or marketing products and services, i.e., the Services, incorporating or reflecting such User Content and information. Additionally, to the fullest extent permitted under applicable law, you waive your moral rights in the User Content and agree not to assert such rights against us. PCS shall have no obligations of confidentiality with respect to any such User Content, notwithstanding any confidentiality statements or markings you have included with it. You represent and warrant that you have the full legal right, power and authority to grant to us the license provided for herein, that you own or control the complete exhibition and other rights to the User Content you submitted for the purposes contemplated in this license and that neither the User Content nor the exercise of the rights granted herein shall violate these Terms of Use, or infringe upon any rights, including the right of privacy or right of publicity, or constitute a libel or slander against, or violate any common law or any other right of, or cause injury to, any person or entity. You further grant to us the right, but not the obligation, to pursue our legal rights against any person or entity that violates your or our rights in the User Content by a breach of these Terms of Use.

**3.4** You agree that you will not upload, post or otherwise transmit or submit to or through any Interactive Feature of the Site or by any other means, any User Content that, in PCS's sole determination:

- 3.4.1** may be harmful to minors;
- 3.4.2** violates or infringes in any way upon the rights of others, including any statements which may defame, harass, stalk or threaten others;
- 3.4.3** you know to be false, misleading or inaccurate;
- 3.4.4** contains expressions of bigotry, racism, or expressions of hatred or animus based on race, religion, ethnicity, sex or sexual orientation, or other offensive, harassing, hateful, abusive, vulgar or profane content;
- 3.4.5** contains or advocates pornography or sexually explicit content, pedophilia, incest, bestiality, or that is otherwise obscene or lewd;
- 3.4.6** violates any law or advocates or provides instruction on dangerous, illegal, or predatory acts, or discusses illegal activities with the intent to commit them;
- 3.4.7** advocates violent behavior;
- 3.4.8** poses a reasonable threat to personal or public safety;
- 3.4.9** contains violent images of killing or physical abuse that appear to have been captured solely, or principally, for exploitative, prurient, or gratuitous purposes;
- 3.4.10** advocates or provides instructions for use of illegal weapons or weapons of mass destruction;
- 3.4.11** is intended to recruit individuals to join a terrorist organization or which otherwise furthers the agenda of a terrorist organization;
- 3.4.12** advocates or provides instructions regarding computer hacking or cracking or other fraud, including mail fraud;

- 3.4.13** contains malware, viruses, ransomware, spyware or other malicious software, intended to cause damage to data and systems or to gain unauthorized access to a network or the Services, or any other harmful or disruptive component;
  - 3.4.14** is protected by copyright, trademark, trade secret, right of publicity or other proprietary right without the express permission of the owner of such right (the burden of determining whether any User Content is protected by copyright, trademark, trade secret, right of publicity or any other legal or proprietary right or law rests with solely with you; you will be solely liable for any damage resulting from any infringements or violations of copyrights, trademarks, trade secrets, rights of publicity or other proprietary or legal rights or any other harm resulting from such a submission; and any person determined by PCS, in its sole discretion, to have violated the intellectual property or other rights of others shall be barred from submitting or posting any further material on the Site);
  - 3.4.15** does not generally pertain to the designated topic or theme, if any, of any Interactive Feature;
  - 3.4.16** contains any unsolicited or unauthorized advertising or promotional materials with respect to products or services, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
  - 3.4.17** uses the name or likeness of an identifiable natural person without such person's consent;
  - 3.4.18** is related to or consists of phishing or other methods of identity theft; or
  - 3.4.19** suggests, directly or indirectly, PCS's endorsement of such User Content.
- 3.5** You agree not to use any service, technology or automated system to artificially inflate the page views that your User Content receives. This includes pay-per-click services, web "robots" and any other current or future technologies. You also agree not to direct or permit any third party to use these services, technologies or automated systems on your behalf.
- 3.6** You agree not to use any technology, service or automated system to post more User Content than an individual could upload in a given period of time. You also agree not to direct any third party to use these services, technologies or automated systems on your behalf.
- 3.7** We are not responsible for the accuracy or credibility of any User Content, and do not take any responsibility or assume any liability for any actions you may take as a result of reading User Content posted on the Site. Through your use of Interactive Features, you may be exposed to content that you may find offensive, objectionable, harmful, inaccurate or deceptive. There may also be risks of dealing with underage persons, people acting under false pretense, international trade issues and foreign nationals. By using Interactive Features, you assume all associated risks.
- 3.8** Any conduct that PCS, in its sole discretion, believe restricts or inhibits anyone else from using or enjoying the Site or Services will not be permitted. We have the right, but not the obligation, to monitor User Content posted or uploaded to the Site to determine compliance with these Terms of Use and any operating rules established by us and to satisfy any law, regulation or authorized government request. Although we have no obligation to monitor, screen, edit or remove any of the User Content posted or uploaded to the Site, we reserve the right, and have absolute discretion, to screen, edit, delete, refuse to post or remove without notice any User Content posted or uploaded to the Site at any time and for any reason, and you are solely responsible for creating backup copies of and replacing any User Content posted to the Site at your sole cost and expense. The decision by PCS to monitor and/or modify User Content does not constitute nor shall it be deemed to constitute any responsibility or liability in any manner on our part in connection with or arising from your use of Interactive Features on the Site.

**3.9** Any violation of this Section 3 will constitute a material breach of the Agreement and may result in termination of these Terms of Use and/or termination or suspension of your Account.

#### **4. User Conduct.**

**4.1** You agree that you will not upload, post or otherwise transmit or submit to or through any Interactive Feature of the Site or by any other means, any User Content that, in PCS's sole determination:

- 4.1.1** may be harmful to minors;
- 4.1.2** violates or infringes in any way upon the rights of others, including any statements which may defame, harass, stalk or threaten others;
- 4.1.3** you know to be false, misleading or inaccurate;
- 4.1.4** contains expressions of bigotry, racism, or expressions of hatred or animus based on race, religion, ethnicity, sex or sexual orientation, or other offensive, harassing, hateful, abusive, vulgar or profane content;
- 4.1.5** contains or advocates pornography or sexually explicit content, pedophilia, incest, bestiality, or that is otherwise obscene or lewd;
- 4.1.6** violates any law or advocates or provides instruction on dangerous, illegal, or predatory acts, or discusses illegal activities with the intent to commit them;
- 4.1.7** advocates violent behavior;
- 4.1.8** poses a reasonable threat to personal or public safety;
- 4.1.9** contains violent images of killing or physical abuse that appear to have been captured solely, or principally, for exploitative, prurient, or gratuitous purposes;
- 4.1.10** advocates or provides instructions for use of illegal weapons or weapons of mass destruction;
- 4.1.11** is intended to recruit individuals to join a terrorist organization or which otherwise furthers the agenda of a terrorist organization;
- 4.1.12** advocates or provides instructions regarding computer hacking or cracking or other fraud, including mail fraud;
- 4.1.13** contains malware, viruses, ransomware, spyware or other malicious software, intended to cause damage to data and systems or to gain unauthorized access to a network or the Services, or any other harmful or disruptive component;
- 4.1.14** is protected by copyright, trademark, trade secret, right of publicity or other proprietary right without the express permission of the owner of such right (the burden of determining whether any User Content is protected by copyright, trademark, trade secret, right of publicity or any other legal or proprietary right or law rests with solely with you; you will be solely liable for any damages resulting from any infringements or violations of copyrights, trademarks, trade secrets, rights of publicity or other proprietary or legal rights or any other harm resulting from such a submission; and any person determined by PCS, in its sole discretion, to have violated the intellectual property or other rights of others shall be barred from submitting or posting any further material on the Site);
- 4.1.15** does not generally pertain to the designated topic or theme, if any, of any Interactive Feature;
- 4.1.16** contains any unsolicited or unauthorized advertising or promotional materials with respect to products or services, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- 4.1.17** uses the name or likeness of an identifiable natural person without such person's consent;
- 4.1.18** is related to or consists of phishing or other methods of identity theft; or
- 4.1.19** suggests, directly or indirectly, PCS's endorsement of such User Content.

**4.2** You agree not to use any service, technology or automated system to artificially inflate the page views that your User Content receives. This includes pay-per-click services, web “robots” and any other current or future technologies. You also agree not to direct or permit any third party to use these services, technologies or automated systems on your behalf.

**4.3** You agree not to use any technology, service or automated system to post more User Content than an individual could upload in a given period of time. You also agree not to direct any third party to use these services, technologies or automated systems on your behalf.

**4.4** We are not responsible for the accuracy or credibility of any User Content, and do not take any responsibility or assume any liability for any actions you may take as a result of reading User Content posted on the Site. Through your use of Interactive Features, you may be exposed to content that you may find offensive, objectionable, harmful, inaccurate or deceptive. There may also be risks of dealing with underage persons, people acting under false pretense, international trade issues and foreign nationals. By using Interactive Features, you assume all associated risks.

**4.5** Any conduct that PCS, in its sole discretion, believe restricts or inhibits anyone else from using or enjoying the Site or Services will not be permitted. We have the right, but not the obligation, to monitor User Content posted or uploaded to the Site to determine compliance with these Terms of Use and any operating rules established by us and to satisfy any law, regulation or authorized government request. Although we have no obligation to monitor, screen, edit or remove any of the User Content posted or uploaded to the Site, we reserve the right, and have absolute discretion, to screen, edit, delete, refuse to post or remove without notice any User Content posted or uploaded to the Site at any time and for any reason, without liability to us, and you are solely responsible for creating backup copies of and replacing any User Content posted to the Site at your sole cost and expense. The decision by PCS to take any of the actions, or refrain from taking any of the actions, described in the preceding sentence with regard to User Content does not constitute nor shall it be deemed to constitute any responsibility or liability in any manner on our part in connection with or arising from your use of Interactive Features on the Site.

**4.6** The following additional terms apply to your conduct when accessing or using the Site and of its content: (a) you agree not to interfere with or disrupt the Site or the servers or networks connected to the Site, or disobey any requirements, procedures, policies or regulations of networks connected to the Site; (b) you agree not to reproduce, duplicate, copy, sell, resell, distribute, mirror, frame, publicly display, publicly perform, translate, create derivative works of, re-publish or transmit or exploit, any portion of the Site or any of its content, nor any use of or access to the Site (in whole or in part) in any way or through any medium for distribution, publication or any commercial purpose, except with PCS’s express written permission or as permitted by applicable laws; (c) you agree not to engage in any activity that would constitute a criminal offense or give rise to a civil liability; (d) you agree not to impersonate any person or entity, including, but not limited to, PCS or any PCS employee, or falsely state or otherwise misrepresent your affiliation with any person or entity; and (e) you agree not to interfere with any other user’s right to privacy, including by harvesting or collecting personal information about users of the Site or posting private information about a third party.

**4.7** Any violation of this Section 4 will constitute a material breach of the Agreement and may result in termination of these Terms of Use and/or termination or suspension of your Account.

**5. Intellectual Property Rights.** The Site and all computer software in source code, object code or other form, databases, indexing, search, and retrieval methods and routines, hypertext markup language code, active server

pages, intranet pages, text, graphics, photographs, trademarks, logos, icons, user interfaces, sounds, music, videos, artwork, and similar materials, including but not limited to the “look and feel”, layout, design, structure, color scheme, selection, combination and arrangement of the content present on the Site and all intellectual property and other rights, title, and interest therein, including copyrights, trade secrets, rights in trademarks and trade dress, patents, compilations, inventions, modifications, updates, extensions, enhancements, configurations, derivative works, discoveries, improvements, processes, methods, designs and know-how, whether or not copyrightable or patentable, pertaining to any of the foregoing, whether conceived by PCS alone or in conjunction with others (collectively, “PCS IP”), are owned by PCS and/or its licensors, protected by applicable intellectual property laws of the United States and other countries, including but not limited to copyrights, and the non-public-facing elements thereof constitute trade secrets and confidential information of PCS. Except for the rights expressly granted to You in these Terms of Use, all rights in the Sites and all PCS IP (including all rights in the Services) and any other proprietary rights thereto, are and shall remain solely owned by PCS and its licensors. No element of the Site may be copied or posted on any networked computer or published in any medium, and no modifications may be made to any aspect of the Site. Notwithstanding the foregoing, you may display, copy and download content from the Site solely to assist you in determining whether to purchase the Services. PCS reserves all rights not expressly granted to You in these Terms of Use.

- 6. Confidentiality.** You agree that all non-publicly accessible features, functions, elements, content and aspects of (a) the Services, (b) the Site requiring User Credentials (and the User Credentials themselves), (c) any PCS-supplied documentation, (d) User Content, and (e) all non-publicly available ideas, concepts, know-how, or techniques reflected or contained in (a)-(d), as they relate to the Services or the Site, including all modifications, configurations, enhancements and updates thereto, constitute confidential and proprietary trade secret information of PCS (“Confidential Information”). You agree to take reasonable steps to protect Confidential Information from unauthorized use or disclosure, including not using it for any purpose other than to assist you, and our Customer with which you are associated, in the legitimate and authorized use of the Site and/or Services, and not disclosing it to anyone except other persons within our Customer’s organization who are authorized to have such access. Confidential Information also includes inventions, processes, designs, methods, discoveries and improvements reflected or embodied in the Services, which also constitute trade secrets of PCS. Except with respect to the Services, which shall remain Confidential Information of PCS, Confidential Information shall not include information you can establish by documentary evidence: (i) is or has become a part of the public domain without your fault, (ii) was in your lawful possession prior to the disclosure and was not obtained by you either directly or indirectly from PCS, (iii) was lawfully disclosed to you by a third party without restriction on disclosure or violation of an obligation owed to PCS, or (iv) was independently developed by you without reference to the PCS Confidential Information. You acknowledge that any use or disclosure of PCS Confidential Information in a manner inconsistent with the provisions of this Agreement may cause PCS irreparable damage to PCS for which remedies other than injunctive relief may be inadequate, and you agree that PCS shall be entitled to receive from a court of competent jurisdiction injunctive or other equitable relief to restrain such use or disclosure in addition to other appropriate remedies.
- 7. Linked Sites.** For your convenience, some hyperlinks may be posted on the Site that link to other websites not under the control of PCS. You agree that PCS is not responsible for these other websites, any content on these websites, nor the acts or omissions of their owners or operators. If you initiate a transaction or otherwise interact with a website that our Site links to, even if you reached that website through our Site, the information you submit to complete that transaction becomes subject to the privacy practices and terms of use of the owner or operator of that linked website. You should read the privacy policies and terms of use of such other websites to understand how they use and protect personal information and other issues related to your interaction with them. PCS is not responsible for the privacy, security or other information practices or any acts or omissions of its suppliers or any third parties or their websites.

**8. Disclaimer of Warranty; Limitation of Liability.** The following provisions apply without prejudice to or diminution of your rights under a PostalMate Agreement if you are a Customer of PCS:

**7.1** YOU AGREE THAT USE OF THE SITE, SERVICES, AND ALL FEATURES AND FUNCTIONS THEREOF, IS AT YOUR SOLE RISK. NEITHER PCS, ITS AFFILIATES NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, THIRD PARTY CONTENT PROVIDERS, THIRD PARTY SERVICE PROVIDERS OR LICENSORS WARRANT UNDER THIS AGREEMENT THAT USE OF THE SITE OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DO THEY MAKE ANY WARRANTIES UNDER THIS AGREEMENT AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SITE OR SERVICES, NOR WITH RESPECT TO THE ACCURACY, RELIABILITY, PERFORMANCE OR CONTENT OF THE SITE, THE SERVICES OR ANY INFORMATION OTHERWISE PROVIDED THROUGH THE SITE OR SERVICES.

**7.2** THE SITE, SERVICES, AND ALL INFORMATION CONTAINED HEREIN ARE PROVIDED UNDER THIS AGREEMENT "AS IS," WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, EXCEPT TO THE EXTENT ANY SUCH WARRANTY IS INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER THE LAWS APPLICABLE TO THESE TERMS OF USE.

**7.3** TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, IN NO EVENT SHALL PCS BE LIABLE TO YOU OR ANY THIRD PARTY UNDER THIS AGREEMENT FOR ANY BODILY OR PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF OR DAMAGE TO DATA, UNAUTHORIZED ACCESS TO DATA OR PERSONAL INFORMATION, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER AND/OR DEVICE OR TECHNOLOGY FAILURE OR MALFUNCTION NOR FOR ANY OTHER FORM OF DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES BASED ON ANY CAUSES OF ACTION ARISING OUT OF USE OF THE SITE OR SERVICES OR ANY ALLEGED FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, OR DELAY IN SERVICE, OPERATION, OR TRANSMISSION OF THE SITE OR SERVICES, OR ANY ALLEGED COMPUTER VIRUS OR OTHER MALWARE, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OF PROPERTY, AND/OR ANY UNAUTHORIZED ACCESS TO, DELETION, ALTERATION OF, OR USE OF OR POSTING OF ANY RECORD, CONTENT, DATA OR TECHNOLOGY, PERTAINING TO, OR ON THE SITE OR PROCESSED VIA THE SERVICES. YOU AGREE THAT THIS LIMITATION OF LIABILITY APPLIES WHETHER SUCH ALLEGATIONS ARE BASED IN CONTRACT, TORT, NEGLIGENCE, OR ANY OTHER THEORY OR CAUSE OF ACTION, EVEN IF PCS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, YOU ALSO SPECIFICALLY ACKNOWLEDGE THAT PCS IS NOT LIABLE FOR ANY ACTUAL OR ALLEGED DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF OTHER USERS OF THE SITE OR ANY OTHER THIRD PARTIES.

**7.4** IF APPLICABLE LAW DOES NOT PERMIT ALL OR ANY PART OF THE ABOVE LIMITATION OF LIABILITY TO APPLY TO YOU, THE LIMITATIONS WILL APPLY TO YOU ONLY TO THE EXTENT PERMITTED BY APPLICABLE LAW.

**9. Indemnification.** You agree to defend, indemnify and hold harmless PCS, its affiliates and their respective directors, officers, employees and agents from and against all claims and expenses, including attorneys' fees, arising out of your use of the Site. PCS reserves the right to take over the exclusive defense of any claim for which we are entitled to indemnification under this section. In such event, you shall provide PCS with such cooperation as is reasonably requested by PCS.



- 10. Termination.** PCS may terminate or suspend these Terms of Use at any time without notice to you. Without limiting the foregoing, we shall have the right to immediately terminate your access to the Site in the event of any conduct by you which we, in our sole discretion, consider to be unacceptable, or in the event of any breach by you of these Terms of Use.
- 11. Survival.** All limitations and disclaimers of liability and warranties, provisions protecting PCS IP, provisions granting rights and licenses to PCS, and confidentiality obligations and indemnity obligations, in addition to those provisions which by their nature should reasonably continue to apply after termination of these Terms of Use, shall survive termination of these Terms of Use, or cessation of your use of the Site or Services.
- 12. Governing Law; Disputes.** Any and all disputes, claims and controversies arising out of or in connection with your access to, and/or use of the Site, and/or the provision of content, services, products and/or technology on or through the Site shall be governed by and construed exclusively in accordance with the laws and decisions of the State of California applicable to contracts made, entered into and performed entirely therein, without giving effect to its conflict of laws provisions. Venue with respect to any dispute arising out of these Terms of Use shall be in the state or federal courts located in closest proximity to San Marcos, California.
- 13. Contact PCS; Notices.** Please direct any questions or comments or inquiries regarding the Services to PCS's Sales Department at [sales@pcsynergy.com](mailto:sales@pcsynergy.com); Tel.: 800.485.6901; or Fax: 760-410-1696. All notices to PCS required under these Terms of Use shall be sent via email to the preceding email address, except as noted in the Reporting Copyright Violations section below. By using the Site or sending communications to us through the Site, you are communicating with us electronically. You consent to receive from us electronically any communications related to your use of the Site. We may communicate with you by email or by posting notices on the Site. You agree that all communications agreements, notices, disclosures and other that are provided to you electronically satisfy any legal requirement that such communications be in writing. When you create an Account, post User Content or provide us with your email address or other contact information, you agree that we may contact you using that information. All notices from us intended for receipt by you shall be deemed delivered and effective when sent to the email address you provide to us.
- 14. Terms Generally.** The defined terms in these Terms of Use shall apply equally to both the singular and the plural forms of the terms defined. The term "person" includes individuals, corporations, partnerships, trusts, other legal entities, organizations and associations, and any government or governmental agency or authority. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The words "approval," "consent" and "notice" shall be deemed to be preceded by the word "written." The word "term" shall be deemed to refer to any term, condition or other type of provision under these Terms of Use. The word "will" shall be deemed synonymous with "shall" when referring to the acts or obligations of a party. References to these Terms of Use in the context of any requirement of either party to perform in accordance with these Terms of Use shall be interpreted to refer to the terms of this document, and such other terms as are contained in any Exhibit. The section headings used herein are for convenience only and shall not be given any legal import.
- 15. Entire Agreement.** This Agreement sets forth the entire agreement of the parties with respect to your use of the Site and the subject matter addressed herein, and supersedes all previous written or oral agreements between the parties with respect to the foregoing.

- 16. Third Party Beneficiaries.** The provisions of these Terms of Use are for the benefit of PCS, its affiliates, successors, assigns, third party content providers and licensors, and each shall have the right to assert and enforce such provisions directly or on its own behalf as third party beneficiaries.
- 17. Non-Waiver.** No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default.
- 18. Severability.** If any part of these Terms of Use is found by a court of competent jurisdiction to be invalid or unenforceable, it will be replaced with language reflecting the original purpose in a valid and enforceable manner. The enforceable sections and language of these Terms of Use will remain binding on the parties.
- 19. Force Majeure.** PCS shall not be responsible for any delay or failure to perform or for any resulting damages under these Terms of Use resulting from causes beyond its reasonable control, including acts of God or public enemies, public health emergencies, pandemics, earthquake, storms or other elements of nature, labor disputes, blockages, embargoes, riots or other industrial disturbances, mechanical, electrical, electronic, telecommunications, Internet or other third party supplier delay or failure, acts or orders of any governmental authority, criminal acts, war or terrorism, including cyberattack or other malicious intrusion into or breach of security with respect to data or computer systems.
- 20. Assignment.** You shall not assign, delegate, or otherwise transfer these Terms of Use or any of your rights or obligations hereunder, either voluntarily or by operation of law.
- 21. Compliance with Laws.** You are responsible for complying with all laws and regulations applicable to your use of this Site. You agree not to use or export (electronically or otherwise) the Site or any component thereof outside of the U.S. other than in compliance with all applicable U.S. export laws, rules, and regulations. You shall be solely responsible for such compliance.
- 22. Relationship of the Parties.** For purposes of these Terms of Use, neither party is an agent of the other, and neither party has any express or implied authority to act on behalf of, or make any representations whatsoever on behalf of, the other. Each party is an independent contractor with respect to the other and neither party shall have the power or authority to bind the other party to any contract or obligation.
- 23. Construction.** The rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of these Terms of Use or any other document executed and delivered by either party in connection with the transactions contemplated by these Terms of Use.
- 24. Reporting Copyright Violations – Copyright Agent – Notice and Procedure for Notification of Claimed Copyright Infringement Pursuant to 17 U.S.C. Sec. 512 of the U.S. Copyright Law (<http://www.copyright.gov/title17/92chap5.html>).**
- 24.1** If you believe that your copyrighted work has been copied and is accessible on any network, service or product provided by PCS in a way that constitutes copyright infringement, you may notify us as described below. This procedure and the following information is provided exclusively for this purpose. Any other inquiries will not receive a response through this process.
- 24.2** Please note that your notification must be in writing and contain substantially the following information to be effective:

- 24.2.1** A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- 24.2.2** Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- 24.2.3** Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit PCS to locate the material;
- 24.2.4** Information reasonably sufficient to permit PCS to contact you, such as an address, telephone number, and, if available, an electronic mail address at which you may be contacted;
- 24.2.5** A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
- 24.2.6** A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

**24.3 Copyright Agent.** Written notification must be submitted to PCS's Designated Copyright Agent: Alex Ruiz, PCS, Inc., 356 E Germann Road Ste 220, Gilbert, AZ 85297; Email: [legal@pcsynergy.com](mailto:legal@pcsynergy.com); Phone: 800-485-6901. *Note:* By submitting your notification to PCS's Designated Agent, you represent, under penalty of perjury, that the above information is accurate, that you are the copyright owner or are authorized to act on such person's behalf, and that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law. In addition, be advised that under U.S. Copyright law, 17 U.S.C. Sec. 512(f) [Misrepresentations], any person who knowingly materially misrepresents in the notification described above that material or activity is infringing shall be liable for any damages, including costs and attorneys' fees, incurred by the alleged infringer, by any copyright owner or copyright owner's authorized licensee, or by a service provider, e.g., PCS, who is injured by such misrepresentation, as the result of the service provider relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material.

**24.4** Upon receipt by PCS's Designated Agent of the required notification containing the information as stated above, PCS shall take reasonable steps to:

- 24.4.1** Remove or disable access to the material that is alleged to be infringing;
- 24.4.2** Forward the written notification to the alleged infringer (e.g., another Site user); and
- 24.4.3** Promptly notify the complaining party that PCS has removed or disabled access to the material.

**24.5 Counter Notification.** If you are affected by the aforementioned notification of claimed infringement (the "Respondent"), you may provide a counter notification to PCS. To be effective, a Counter Notification must be a written communication provided to PCS's Designated Agent that includes substantially the following:

- 24.5.1** A physical or electronic signature of the Respondent.
- 24.5.2** Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.
- 24.5.3** A statement under penalty of perjury that the Respondent has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.
- 24.5.4** The Respondent's name, address, and telephone number, and a statement that the Respondent consents to the jurisdiction of Federal District Court for the judicial district in which the address is located, or if the Respondent's address is outside of the United States, for any judicial district in

which the service provider may be found, and that the Respondent will accept service of process from the person who provided notification or an agent of such person.

**24.6** Upon receipt of a Counter Notification from the affected Respondent containing the information as outlined immediately above, PCS shall:

- 24.6.1** Promptly provide you (the complaining party) with a copy of the Counter Notification;
- 24.6.2** Inform you that it will replace the removed material or cease disabling access to it within ten (10) business days;
- 24.6.3** Replace the removed material and cease disabling access to it not less than ten (10), nor more than fourteen (14), business days following receipt of the Counter Notification, unless PCS's Designated Agent first receives notice from you, the complaining party who initially submitted the notification described above, that an action has been filed by you or on your behalf seeking a court order to restrain the Respondent from engaging in infringing activity relating to the material on PCS's system or network.

End of Agreement.