



# Quote / Service Agreement between TeleMessage and SBA Florida



**Attn: Nancy Sampson**

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## 1. About TeleMessage

TeleMessage is transforming business mobile messaging and mobile archiving with its mission-critical solutions: Managed, Secure, Reliable and IT Ready.

Our solutions portfolio includes three product lines:

**Mobile Archiver**  
Archive your organization's mobile text messages & calls



The TeleMessage Mobile Archiver allows mobile phone text, chats and call archiving for compliance, regulatory and eDiscovery requirements. Capturing mobile content from BYOD and corporate phones.

**Secure Enterprise Messaging**  
Text securely with co-workers, teams & customers



The TeleMessage Secure Enterprise Messaging, provides secure chat for co-workers and customers by using Android/iOS apps, web portal, Outlook Plug-in, and a range of APIs that connect to any operational IT system.

**Mass Messaging**  
High volume messaging across text, voice, fax & email



The TeleMessage Mass Messaging provides enterprises with tools to send and receive multi-channel bulk messaging across: SMS, MMS, Voice calls, Faxes, Email and Push Notifications to mobile apps.

TeleMessage has been providing state-of-the-art messaging solutions On-premises and in the Cloud for over 18 years. Our software has been successfully deployed and used by thousands of enterprises, trusted by dozens of telecom operators, reaching hundreds of millions of users and powering billions of messages through customers' networks. We support an ever-growing number of enterprises, including telecom carriers, government agencies and leading brands across a range of industries such as healthcare, finance, manufacturing and retail, among others.

The experience and expertise we have gained working with both enterprises and mobile operators gives us an understanding of the challenges and business needs within the messaging ecosystem, allowing us to develop mutually beneficial solutions.



## 2. Goals & Requirements:

- Archive mobile messages for compliance with SEC, FINRA, MiFID II, FOIA, FERC and other relevant regulations and policies.
- Allow employees to communicate with customers from their mobile devices.
- Store all mobile communication in the M365 platform.

## 3. Mobile Archiver Product Overview

### 3.1. Overview








The TeleMessage Mobile Archiver effectively addresses compliance, regulatory and eDiscovery response requirements and reduces risk across a variety of industries. TeleMessage captures mobile content, including SMS, MMS, voice calls and WhatsApp chats from corporate or BYOD mobile phones. Messages are securely and reliably retained within TeleMessage servers or forwarded to an archiving data storage vendor of your choice.

### 3.2. Mobile archiving methods

Our mobile archiving products securely capture content from mobile carriers and mobile devices for a variety of ownership models (BYOD, CYOD and employer-issued). With our three archiving methods, you can always find the right tools or blend for your requirements:



FEATURES	<b><u>NETWORK ARCHIVER</u></b> 	<b><u>ANDROID ARCHIVER</u></b> 	<b><u>ENTERPRISE NUMBER</u></b> 	<b><u>WHATSAPP ARCHIVER</u></b> 	<b><u>WECHAT ARCHIVER</u></b> 
<b>Brief</b>	Get a copy of messages (optionally voice calls) sent/received by a mobile number directly from the mobile network side.	Android agent that runs in the background and captures all messages (optionally records voice calls) and uploads them to the TeleMessage server to be archived.	Messaging app with a real 2nd phone associated with the app. Messages sent & received made via this 2nd virtual number are archived (optionally records voice calls).	Captures all WhatsApp chats, messages, calls including text, multimedia, deleted messages and other attachments. Can capture WhatsApp Business App chats.	Captures all WeChat chats, messages, including text, multimedia, deleted messages and other attachments. Used with the WeChat Work App
<b>App installation</b>	No	Yes	Yes	Yes	Yes
<b>Supports archiving of</b>	SMS, MMS, Calls (on selected networks)	SMS, MMS, Calls (on selected devices)	SMS, MMS, Calls, Secure chats	Text, Images, Videos, Audio clips, Files, Contacts, Deleted messages, Calls	Text, Images, Videos, Audio clips, Files, Contacts, Recalled messages, Calls
<b>Phone ownership</b>	Enterprise only	Enterprise focused	Enterprise/BYOD	Enterprise/BYOD	Enterprise/BYOD
<b>Supported Devices</b>	Any phone	Android Smartphones	iOS & Android Smartphones	iOS & Android Smartphones	iOS & Android Smartphones
<b>Supported Countries/Carriers</b>	Leading carriers in: US, Canada, UK (APAC in 2021)	All countries & All carriers	Most countries & carriers	All countries & All carriers	All countries & All carriers



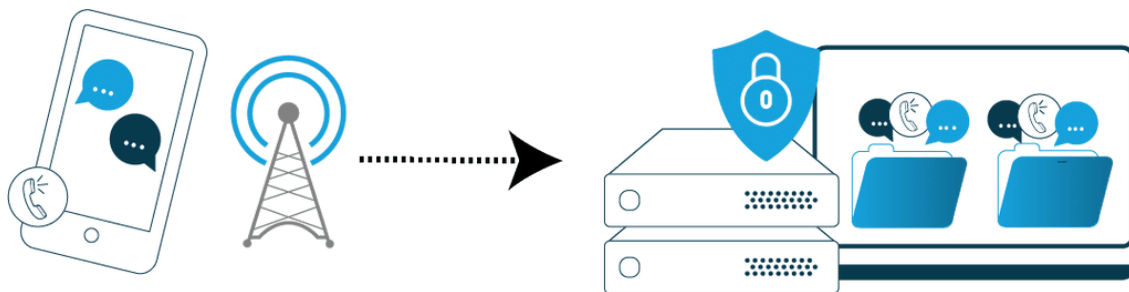
### 3.3. Key benefits

The TeleMessage archiving solutions provide flexible deployment options to address the unique needs of your environment.

- **Text Message & Voice Archiving:** TeleMessage Archives SMS, MMS, WhatsApp chats, and voice calls.
- **Industry Compliance:** Including FINRA, MiFID II, SEC, Dodd-Frank Act, Public Records and FOIA laws, HIPAA, SOX, GLPA and those put into effect by the US Federal Courts
- **Employee Productivity:** Boost employee motivation and collaboration with clear guidelines concerning text messaging in the workplace
- **Searches:** Gain fast access to electronic records in the event of records requests, audits, examinations and legal proceedings
- **Reporting:** Administrator tools allow the creation of archiving reports based on different criteria
- **Flexible Deployment:** Use any device, operating system, carrier/plan and ownership model.

Your captured text messaging/mobile content is indexed automatically and securely archived as per your configuration, with immediate availability for review/supervision, on-demand search and production with other supported electronic communication data.

### 3.4. Store your data with the archiving vendor of your choice



TeleMessage has integrated its platform with some of the leading archiving vendors allowing you more flexibility & efficiency. Store all of your data in one central location— we'll make sure it gets there safe & sound — and enjoy a seamless feature-rich full-functionality interface.



*Keep your emails, mobile text messages, call recordings and WhatsApp messages in a single archiving storage:*

- Seamless integration with existing archiving solutions for storage of mobile messages
- Search by email, phone number, device type, name, content & more
- Find, sort, verify & export information by approved personnel
- Search across SMS, MMS messages, Secure & WhatsApp chats and voice call recordings
- Centralized storage of messages & related metadata
- Leverage existing investments and simplify workflows
- Supports storage On-Premise or Cloud SaaS
- Full audit & retrieval capabilities

*Gain all the benefits of your compliance and eDiscovery for mobile messages:*

- Compliance and governance over all message types
- All messages including mobile communication are indexed and ready for search and retrieval
- Utilize existing rule triggers, policies, workflows and display
- Simplified training
- Unify report making
- Seamless integration within existing software
- End-to-End secured delivery – from mobile device to your archiving system.
- Ingestion of mobile messages as part of company email and electronic message journaling
- Segregation of messages by location, department, or individual employee





### 3.5 Administration capabilities

For all products, TeleMessage includes an Admin Station which is an advanced web browser-based interface to the TeleMessage user database.

As a company administrator, TeleMessage allows you to: add & remove users; centrally manage user capabilities; enforce policies; generate reports and statistics; and more.



## 4. Compliance and SLA

### 4.1. Meet Compliance Standards

Whether it's, FINRA, SEC, MiFID2, FCA, Public Records, FOIA or any other industry regulation or law, we help organizations become compliant by providing the highest standards of data protection and message archiving. TeleMessage is a Verified & Certified vendor: passing annual audits and maintaining ISO 9001, 27001 and 27799 certifications - you can rely on us!



## 5. Pricing:

### 5.1. TeleMessage service

The offered Service and Products are listed at our website <https://www.telemessage.com> (the "Site") and include the TeleMessage Mobile Applications, the TeleMessage Web Interface, TeleMessage Mass Messaging and automation APIs, administration tools and such other products and services provided on and via the Site (jointly and separately, the "Service")

### 5.2. Service purchased by the State Board of Administration of Florida

- The customer is purchasing the TeleMessage [Mobile Archiver](#) product.
- The customer will use the [Network Archiver](#), methods.
- All mobile messages of customer will be routed and stored with M365



### 5.3. Service Fees:

Type of service	Cost User/year	# Users	Government Discount	Subtotal
Network Archiver <i>Text - Verizon</i>	\$10 * 12 months	30	\$8.50	\$3060
One-time set up fee	\$50	30	\$25	\$750
<b>Total:</b>				<b>\$3,810</b>

#### Notes:

1. All contracts will be for 3 years paid annually.
2. One-time set-up fees: \$50 per user. Qualifies for Government discount of \$25 per user.
3. Prices do not include additional setup and monthly charges which may be imposed by mobile carrier, external archive vendor or Tencent, VAT or taxes
4. 24x7 support, operations, maintenance and version upgrades are included without any additional cost.
5. Clarification on product definition: Verizon Network Archiver – Direct capture of text messages from the Verizon mobile network and routes messages to archive destinations.



## Exhibit A

### SERVICE AND MAINTENANCE AGREEMENT

**TeleMessage**, a company incorporated and registered in Delaware whose registered office is at 468 Great Road, Acton, MA 01720 ("**TeleMessage**") and State Board of Administration of Florida, whose registered office is at 1801 Hermitage Blvd, Suite 100, Tallahassee, Florida 32317 (the "User").

**WHEREAS**, TeleMessage manufactures, sells, and hosts messaging products and services;

**WHEREAS**, The User desires to utilize the TeleMessage service, as detailed in **Section 5.2 of the Services Agreement** (the "**Service**") in accordance with the terms and conditions set forth in this Agreement; and

**WHEREAS**, the terms and conditions found at <http://www.telemessage.com/terms-conditions/>, and the privacy statement related to the Service, found at <http://www.telemessage.com/privacy-policy/> (respectively, the "**Terms and Conditions**" and the "**Privacy Statement**"), form an integral part of this Agreement; and

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

1. Scope of Engagement

Nothing in this Agreement shall be construed to grant the User any rights or license to manufacture, modify, duplicate, or otherwise copy or reproduce any of the products in the **Service** provided by TeleMessage. Further, nothing herein shall be construed to grant the User any title, rights, or other interest, whether express or implied, in any of the Products, except as may be expressly provided herein. Please see more details in relation to license and other intellectual property provisions in the Terms and Conditions.

2. Order and Supply of Products

- a) Subject to Section 2(b) below, the User will pay TeleMessage for the provision of the Service to the User in accordance with the agreed upon prices listed and attached hereto as **Section 5.3 of the Services Agreement ("Pricing")**. The User shall make payments within 30 days of receipt of an invoice.
- b) If the User does not pay an invoice when due, TeleMessage reserves the right to suspend the Service, provided however in all cases, that TeleMessage provides the User with at least five (5) business days' notice of proposed suspension indicating in reasonable detail the basis for the proposed suspension.

3. Term and Termination

This Agreement shall be valid for a period of three (3) years (the "Initial Term"), unless otherwise terminated in accordance with the terms of this Agreement. Following such Initial Term, this Agreement shall be automatically renewed for additional successive three-year terms ("Additional Terms" and, together with the Initial Term, the "Term"), unless either party notifies the other in writing of an intention not to renew the Agreement within sixty (60) days of the end of the Term. The User has the right to cancel the contract within the first 30 days and receive a prorated refund if TeleMessage is unable to provide the Services as stated.

4. TeleMessage's Obligations

TeleMessage shall:

- a) Allow the User to use the Service pursuant to the terms of this Agreement and the Terms and Conditions;



- b) Provide the User with such technical information and advice relating to the Service ("**Technical Materials**") as the User shall reasonably require to achieve the benefit of the Service.
- c) Give the User reasonable notice of any change, addition, deletion, or otherwise in the Service covered by this Agreement.
- d) It is of the essence of this Agreement that the Services be efficient and function to the User's reasonable satisfaction in full-time commercial operation in accordance with the terms of this Agreement.
- e) In performing the Service, TeleMessage agrees to provide the necessary related interfaces, tools, and data for the User to provide fully functional and reliable Service in accordance with all applicable law TeleMessage shall provide The User technical assistance as may be necessary for the User to use the Service.

## 5. Confidentiality

- a) The term "Confidential Information" shall mean and include the terms and conditions of this Agreement and any and all proprietary information and data furnished at any time by TeleMessage to the User, whether in oral, written, graphic, machine-readable or other tangible or intangible form and whether or not protected by patents or other trade secret protection laws, including, but not limited to, the Products, documents, system descriptions and manuals, algorithms, source codes, designs, flow-charts and source and object media and listings, technical and other data, prototypes, models, drawings, know-how, and manufacturing processes and specifications, business, financial and marketing data, plans and forecasts, and customer lists and information. All Confidential Information transmitted by TeleMessage to the User shall be treated by the User with the same care as such User would exercise in the handling of its own confidential and/or proprietary information, but not less than reasonable care. Such User shall not disclose such Confidential Information to any person, employee, consultant and/or contractor unless it receives the prior written consent of TeleMessage. Upon termination or cancellation of this Agreement for any reason, all such Confidential Information of TeleMessage shall be immediately returned to TeleMessage and the limitations and undertakings specified in this Section shall continue and remain in effect from the date of termination or expiration of this Agreement.
- b) Confidential Information shall not include information or matter that
  - i. was already known to the User prior to its disclosure by TeleMessage or is independently developed by the User, as demonstrated by reasonable and tangible evidence reasonably satisfactory to TeleMessage;
  - ii. has appeared in any printed publication or patent or shall become a part of the public knowledge except as a result of breach of this Agreement by the User;
  - iii. has been received by the User from another person or entity having no obligation to TeleMessage or its affiliates; or iv. is approved in writing by TeleMessage for release by the recipient.
- c) Notwithstanding anything to the contrary, the User acknowledges and confirms that any disclosure or use of Confidential Information in a manner inconsistent herewith may give rise to irreparable injury, which may not be adequately compensated by damages and, therefore, without derogating from or limiting any right, remedy or relief to which TeleMessage may be entitled to under this Agreement, by law or otherwise, in the event of a breach or threatened breach of this Agreement, TeleMessage shall be entitled to an injunction restraining the User from using or disclosing the Confidential Information and to that extent may initiate proceedings in any jurisdiction whatsoever

## 6. Limited Warranty



- a) TeleMessage warrants to the User that the Products shall be free of defects. TeleMessage shall provide technical support to the User in relation to the Products as set out in **Exhibit B**, provided that the User notifies TeleMessage within thirty (30) days of discovery of any non-conforming Product.
- b) THE WARRANTIES PROVIDED IN THIS SECTION CONSTITUTE TELEMESAGE'S SOLE AND EXCLUSIVE LIABILITY FOR NON-CONFORMING PRODUCTS AND SERVICES AND SHALL CONSTITUTE THE USER'S SOLE AND EXCLUSIVE REMEDY FOR NON-CONFORMING PRODUCTS AND SERVICES. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. Miscellaneous Provisions

- a) The governing law of the Agreement and settlement of disputes relating to this Agreement shall be as set out in the Terms and Conditions.
- b) The User is expressly prohibited from assigning or transferring this Agreement and any of the rights and obligations granted hereunder without the express advance written authorization of TeleMessage.
- c) This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by each of the parties, their respective successors, and permitted assigns.
- d) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**IN WITNESS HEREOF**, the parties hereto have executed this Agreement the day and year first above written.

**TeleMessage Inc.**

**The User:**

Name: Mark Carlin

Title: VP of Sales America

Signature: \_\_\_\_\_

Date: 6/16/2021

Name: Lamar Taylor

Title: Chief Operating Officer/Chief Financial Officer

Signature: \_\_\_\_\_

Date: June 15, 2021



### Exhibit B

Support consists of handling of difficult technical questions, bugs and service outages. All issues usually fall into the definition of Severity 1 through 3 on the Severity Code Chart.

*Table 1. "Severity Codes"*

Trouble Severity Code	Description	Restoral Expectations	Status Update Intervals	Initial Response Time
Sev1	A <b>"Catastrophic Error"</b> means an error in the Products, which causes a complete (100%) loss of Service for 25% or more of Users.	4.0 hours	60 mins (Continual support through to resolution via conference bridge w/ 30 min updates on bridge)	60 mins for notification and initial acknowledgement.
Sev2	A Non-Catastrophic Error in the Products that causes Users to be unable to send messages through the Service for 25% or more of the users.  <b>"Non-Catastrophic Error"</b> means any unplanned outage that is not specifically classified as a Catastrophic Error	6.0 hours	2 hours	60 mins
Sev3	A Non-Catastrophic Error in the Products that: (i) has an impact on operational support or administrative tools / availability to Service or provision node but not considered to impact the Products; or (ii) causes less than 50% degradation of TeleMessage controlled response time.	12.0 hours	2 hours	60 mins

**Disclosures  
to TeleMessage Inc.**

1. The State Board of Administration of Florida (SBA), as an entity of the State of Florida, is prohibited from entering into indemnification agreements. See Florida Attorney General Opinion 99-56, dated September 17, 1999. The SBA is also prohibited from entering into a limitation of remedies agreement. (For the avoidance of doubt the SBA does not agree to arbitration.) See Florida Attorney General Opinion 85-66, dated August 23, 1985. The SBA agrees to **Section 6 Limited Warranty** to the fullest extent allowable and enforceable under Florida law.

2. Notwithstanding any provision in this agreement between the parties, **TeleMessage Inc.** acknowledges and agrees that the SBA is bound by the provisions of Chapter 119 (Public Records), Florida Statutes, and in the event of any conflict between Chapter 119, Florida Statutes, and the terms of this Agreement between the parties, the provisions and procedures of Chapter 119, Florida Statutes will prevail.

3. **IF TELEMESAGE INC. HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS REQUIREMENT TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF THE PUBLIC RECORDS AT:**

**STATE BOARD OF ADMINISTRATION OF FLORIDA  
POST OFFICE BOX 13300  
TALLAHASSEE, FLORIDA 32317-3300  
(850) 488-4406  
SBAContracts\_DL@sbafla.com**

4. Consistent with the Florida Transparency in Contracting Initiative, the SBA posts certain operational contracts on its website, and this Agreement will be one of the agreements posted. **TeleMessage Inc.** hereby agrees that the SBA is authorized to post this Agreement (including any amendments or addenda hereto) and a description of the content of the Agreement (including any amendments or addenda hereto) on the SBA's website.

5. The SBA requires its vendors to comply with and use the E-Verify system to verify the employment eligibility of newly hired employees performing services within the United States in accordance with Section 448.095, Florida Statutes. **TeleMessage Inc.** acknowledges that SBA is subject to and **TeleMessage Inc.** agrees to comply with Section 448.095, Florida Statutes, as amended from time to time, to the extent applicable.

6. Notwithstanding any provision to contrary, this Agreement shall not be construed as a waiver (i) of the sovereign immunity of the State of Florida; (ii) a waiver of the State of Florida's rights under the 11th Amendment to the United States Constitution; or (iii) to a jury trial.

Signature Page Follows

TELETYPE  
[Redacted]

Title: VP of Sales America's

June 15, 2021

[Redacted]

Officer

June 15, 2021

# Terms & Conditions

## TeleMessage Terms of Service

For Mobile Archiver Terms and Conditions, see [here](#). For Network Archiver Terms and Conditions, see [here](#).

### Welcome to TeleMessage

IMPORTANT: BY CLICKING THE 'SUBMIT' BUTTON BELOW, CREATING AN ACCOUNT, PURCHASING OR USING ANY TELEMESAGE SERVICES OR INSTALLING THE TELEMESAGE MAIL PLUG-IN SOFTWARE OR MOBILE AND TABLET APPS, YOU AFFIRM THAT YOU AGREE TO ALL THE TERMS AND CONDITIONS HEREIN ("TERMS"), ON BEHALF OF THE ENTITY FOR WHICH YOU ARE SETTING THE SERVICE ACCOUNT (JOINTLY AND SEPARATELY "YOU" OR THE "COMPANY") INCLUDING TELEMESAGE'S PRIVACY POLICY (THE "PRIVACY POLICY") AND DATA PROCESSING AGREEMENT (THE "DATA PROCESSING AGREEMENT") AND CONSTITUTES AN INTEGRAL PART OF THESE TERMS, SO PLEASE READ THESE TERMS CAREFULLY. YOUR AGREEMENT TO THESE TERMS WILL BE DEEMED TO BE A BINDING AGREEMENT BETWEEN TELEMESAGE AND YOU, AND SHALL GOVERN YOUR USE OF ANY TELEMESAGE PRODUCT.

YOU HEREBY WARRANT THAT YOU ARE OVER 18 AND ARE LEGALLY AUTHORISED TO ENTER THESE TERMS ON BEHALF OF THE COMPANY. YOU FURTHER REPRESENT AND WARRANT THAT YOU ARE NOT LOCATED IN A COUNTRY THAT IS SUBJECT TO A U.S. GOVERNMENT EMBARGO, OR THAT HAS BEEN DESIGNATED BY THE U.S. GOVERNMENT AS A "TERRORIST-SUPPORTING" COUNTRY, AND THAT YOU ARE NOT LISTED ON ANY U.S. GOVERNMENT LIST OF PROHIBITED OR RESTRICTED PARTIES.

IF YOU DO NOT AGREE TO ALL THE TERMS AND CONDITIONS HEREIN, OR CANNOT COMPLY WITH THESE TERMS OR ANY PART THEREOF, YOU MAY NOT USE THE SERVICE.

RESTRICTIONS ON USE: SOME COUNTRIES MAY RESTRICT THE USE OF THE SERVICE. IT IS YOUR RESPONSIBILITY TO ENSURE THAT YOU ARE LEGALLY ALLOWED TO USE THE SERVICE WHERE YOU ARE LOCATED.

### 1. The Service

Our Services consist of the TeleMessage website <https://www.telemessage.com> (the "Site"), the TeleMessage Mobile App, the TeleMessage web interface, Outlook Plug-In, automation APIs, administration tools and such other products and services provided on and via the Site (jointly and separately, the "Service"). You will be able to send and receive push notifications (messages transmitted via the Internet), SMS messages (messages transmitted via your mobile carrier), messages to phones (landline and mobile, pre-recorded voice and text-to-speech), faxes and email messages. You will be able to send and receive messages to anyone in your address book via any combination of media that you and your recipients prefer. Administrators can add, manage and delete other users within the organization via the web interface.

TeleMessage makes no guarantees as to the continuous availability of the Service or of any specific features of the Service. TeleMessage reserves the right to change, modify, improve or abort the Service or these Terms, any part thereof, at any time without notice. Please revisit this page to stay aware of any revisions to the Terms or the [Privacy Policy](#) or the [Data Processing Agreement](#).

### 2. License and Restrictions

Subject to these Terms, TeleMessage grants you an individual, personal, non-sublicensable, non-exclusive and non-transferable license (the "License") to use the Service on any personal computer or mobile device that you own or control, in conjunction with these Terms. You will

not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Service; modify, translate, or create derivative works based on the Service; or copy (except for archival purposes), rent, lease, distribute, assign, or otherwise transfer rights to the Service or any part thereof; or otherwise for the benefit of a third party; or remove any proprietary notices or labels from the Service or any part thereof. As between the parties, you acknowledge that TeleMessage retains ownership of the Service, any portions or copies thereof, and all rights therein. Any commercial copying or distribution, publication or exploitation of the Service, or any content, software, code, data or materials on or from the Service, are strictly prohibited unless you have received express prior written permission from TeleMessage or the applicable rights holder. Unless explicitly stated otherwise, the terms of the License will govern any upgrades provided by TeleMessage that replace or supplement the Service.

Upon termination of these Terms for any reason, this License will terminate and you hereby agree to cease using the Service.

*THE SERVICE IS PROVIDED "AS IS" AND SUBJECT TO THE WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY FOUND IN THESE TERMS.*

### **3. Ownership Rights**

The Service, including the Site and any other part thereof and any content or information contained therein and all copies thereof are the sole property of TeleMessage. TeleMessage owns all title, copyright, and other intellectual property rights to the Service and to the Site, and to all copies, derivative works thereof and the underlying software ("TeleMessage IP"). your use of the Service does not grant you any ownership rights in the TeleMessage IP.

### **4. Content of Communications**

The content of the communication via the Service is beyond the control of TeleMessage and is the sole responsibility of the person from whom such content originated. You understand, therefore, that by using the Service you, may be exposed to content that is offensive, harmful to minors, indecent or otherwise objectionable, and that you use the Service at your own risk. You hereby acknowledge and agree that you are solely responsible for any content that you and any of your users upload, submit, post, transmit or display through the Service or the Site ("Use" or "Used") and that TeleMessage is not responsible to you or any third party for any Content that is Used by you or any other user of the Service.

Third Party IP Rights. You agree not to Use (and to ensure that your administrators and users shall not Use) any Content that is subject to any third party IP Rights, unless you have a license or specific permission to Use such third party content, and to grant TeleMessage the license set out below.

License. You hereby grant to TeleMessage a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sub-licensable and transferable license to distribute and/or display through the Service any content that you provide or make available using the Service for the sole purposes of making the Service available to you.

Notice and Takedown Procedures. TeleMessage reserves the right (but shall have no obligation) to decide whether any content that you Use complies with these Terms. If you believe that any materials posted via the Service violate your intellectual property rights or are offensive to you in any other manner, please contact us and provide a detailed description of the offending materials.

### **5. Accounts, Passwords and Security**

5.1 To open an account to use the Service (an "Account"), you must complete the registration process by providing us with current, complete and accurate information as prompted by the registration form. You will also receive a password and a unique member identity. You are

entirely responsible for maintaining the confidentiality of your password and Account. Furthermore, you are entirely responsible for any and all activities that occur under your Account. You agree to notify TeleMessage immediately of any unauthorized use of your Account or any other breach of security.

## 5.2. User Account

The Service allows you to create and manage administrator accounts, through which you can purchase and allocate various TeleMessage products and services to various end-users ("Users"). You will be responsible for the administration and management of all such User Accounts. The creation of a Service User Account, the purchase of and allocation to a User Account of any TeleMessage products by you, and the use of any TeleMessage products by your Users shall be governed by these Terms.

You may set up and use two types of Accounts: (i) an Account for the individual use of a specific designated User ("Individual Accounts"); and (ii) a Shared account for the use of several Users sharing the same credentials or other shared identifiers ("Shared Accounts"). You may purchase pre-paid message credit or monthly subscription services from TeleMessage to use with, and pay for, the Service ("TeleMessage Credit"). If you purchase TeleMessage Credit and allocate it to an Account, then any use of such TeleMessage Credit for messaging and/or subsequent purchases within the Service made by the User of such Account shall be governed by these Terms. A User may also purchase TeleMessage Credit on their own behalf in accordance with these Terms.

## 5.3. Administrators

You may appoint Account administrators ("Administrators") to your Service Account. You shall procure that all Administrators you appoint read, agree to and comply with these Terms, and you shall be responsible for any breach of the Terms by such Administrators. Such Administrators will also be liable for actions done in User account they manage.

## 5.4. Reallocation and Deletion of Accounts

After an Account has been allocated to a specific User, you may request that such Account be allocated to another User, or deleted entirely. The traffic data (including text message history and messaging history) in connection with any Account is only visible whilst that Account exists. If you choose to delete an Account, such traffic data will no longer be accessible to you once that Account has been deleted. It is therefore your responsibility to back up the traffic data records (if you so wish) before deleting the relevant Account. Any TeleMessage Numbers and TeleMessage Credit that you have allocated to a deleted Account may be reallocated before the Account is deleted. You may take the TeleMessage Numbers back by manually removing them from the Account. If You have purchased a Subscription for use with that Account, such Subscription may not be taken back to the TeleMessage Administrator but will no longer be available once the Account has been deleted.

## 5.5. Password & Email

You shall allocate a Password to each Account that you create, or you may invite a User to set up their own Password. You shall allocate an email address and/or mobile number to each Account that You create. The email address may only be changed by an Administrator.

It is prohibited for you and your Users to: (i) share Individual Accounts and (ii) share passwords that are being used either for Individual Accounts or Shared Accounts. You shall ensure that neither you, your Administrators or Users shall share an Individual Account, or share passwords.

You shall (and shall ensure that your Users shall) take all necessary steps to ensure the security of the User ID, password and email address of Accounts at all times. If You suspect that any password has been shared in breach of these Terms or has become known to anyone other

than a User to whom the Password has been allocated, then you shall ensure that such password is immediately changed in order to protect your Accounts. It is your responsibility to ensure that your Users refrain from responding to any unsolicited requests for credit card details, passwords or other data. Neither TeleMessage nor its officers, employees or Affiliates may be held liable whether in contract, warranty, tort (including negligence), or any other form of liability for any claim, damage, or loss arising from or relating to any failure by You or your Users to comply with this paragraph 5.5.

#### 5.6. TeleMessage Numbers

TeleMessage can provide you with a unique phone number, which will be allocated to your account and allow you to send or receive text messages and other data on that number ("TeleMessage Number"). Provision of TeleMessage Numbers is subject to applicable numbering rules and regulatory practices, which may change or be amended from time to time. TeleMessage reserves the right to change the terms related to TeleMessage Numbers accordingly, including without limitation to impose or amend local residency requirements and/or to require the provision of further user information for continued access to defined TeleMessage Numbers.

You may purchase and allocate TeleMessage Numbers to Accounts subject to compliance with the allocation requirements displayed upon subscription to receive a TeleMessage Number. In particular, You are responsible for compliance with any requirements related to the residence and/or the location of the Company and the Users.

You are responsible for notifying any applicable Terms to Administrators and Users who are allocated a TeleMessage Number, and for ensuring that the Administrators and Users comply with such Terms. TeleMessage reserves the right to cancel the subscribed TeleMessage Numbers in case of breach by you, your Administrators or Users of the applicable Terms, including the allocation requirements, without compensation.

#### 5.7. Personal and Traffic Data

You shall inform each User that you and your Administrators may obtain and use their personal and traffic data. You acknowledge and agree that you shall process (and shall ensure that your Administrators shall process) such personal data in accordance with all applicable data protection laws. You represent and warrant to keep all such personal and traffic data confidential and use and protect it strictly in compliance with applicable data protection laws. You should acknowledge to Users that the TeleMessage Mobile Archiving products such as the *Android Archiver* and *WhatsApp Archiver* will utilize the phone's cellular data package for uploading mobile messages and calls to the archive. Similarly, the *Enterprise Number Archiver* might utilize the phone's cellular data package for delivering messages and calls to the phone. And the *Voice Call Archiver* might consume phone call minutes in case of forwarding calls.

#### 5.8. No Unsolicited Communications

Under no circumstances shall you send (or allow your Administrators and/or Users to send) unsolicited commercial communications with respect to your Service Account. You shall not (and you shall ensure that your Administrators and/or Users shall not) send or procure the sending of any communications, including email messages on behalf of, or purporting to originate on behalf of, TeleMessage.

### 6. Users Privacy

TeleMessage cares deeply about the privacy of our users. Please find further details in the [Privacy Policy](#) and the [Data Processing Agreement](#).

### 7. Message and Address Book Storage, Outbound Messages and Other Limitations

TeleMessage may set an upper limit on the number of messages a user may store or send

through the Service. TeleMessage may automatically delete messages from accounts that reached their storage quota. However, TeleMessage retains the right to determine, in its sole discretion, whether or not a user's conduct is consistent with the letter and spirit of these Terms and may terminate the Service if a user's conduct is found to be inconsistent with these Terms. TeleMessage may, in the future, change its pricing, usage limitations and the limit and amount of storage space available to each user. From time to time, TeleMessage may require users to update the Service software and may send service and marketing updates, planned disruptions or other information related to the Service to some or all of its users.

#### **8. Users Conduct**

Any client, user, customer and company using the TeleMessage Mobile Archiving products must be permitted to archive mobile communication of the company's employees he activates for the service. The archiving should be done only to meet compliance, regulation terms, and corporate governance policies. The client is not permitted to actively archive mobile communication for any individual who is not a Client employee. Client agrees to (a) notify TeleMessage immediately when an employee's employment contract with the company is terminated, and (b) Disable any mobile archiving services from employees who left the company within 24 hours of their termination (c) provide each employee with clear and conspicuous notice of policies regarding the receipt, transmission, storage and use of the employee's mobile communication. (d) The client is responsible for ensuring that each employee has agreed to such policies and that each employee has been made aware that such an employee has no reasonable expectation of privacy in such an employee's mobile communication.

Any unauthorized commercial use of the Service, or the resale of the Service, is expressly prohibited. You agree to abide by all applicable local, state, national and international laws and regulations and shall be solely responsible for all acts or omissions that occur under any and all of your accounts or passwords, including the content of any of your transmissions via the Service. TeleMessage may disconnect a user immediately, without warning, if, in its sole discretion, there is reasonable suspicion of any violation of these Terms. By way of example, and not as a limitation, you agree not to:

- a) Use the Service in connection with chain letters, junk email, junk phone messages, junk text messages, junk faxes, spamming or any duplicative or unsolicited messages (commercial or otherwise).
- b) Harvest or otherwise collect information about others, including email addresses, without their consent.
- c) Create a false identity or forged email, SMS text message, phone or fax address or header, or otherwise attempt to mislead others as to the identity of the sender or the origin of the message.
- d) Transmit through the Service unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature.
- e) Transmit any material that may infringe the intellectual property rights or other rights of third parties, including trademark, copyright or right of publicity.
- f) Libel, defame or slander any person, or infringe upon any person's privacy rights.
- g) Transmit any material that contains viruses, Trojan horses, worms, time bombs, cancelbots, or any other harmful or deleterious programs.
- h) Violate any applicable law regarding the transmission of technical data or software through the Service.
- i) Violate any applicable law with respect to child pornography or solicitation of minors for sex via the Internet.

- j) Interfere with or disrupt networks connected to the Service or violate the regulations, policies or procedures of such networks.
- k) Attempt to gain unauthorized access to the Service, other accounts, computer systems or networks connected to the Service, through password mining or any other means.
- l) Interfere with another user's use and enjoyment of the Service or another entity's use and enjoyment of similar services.
- m) Telephone solicit funds utilizing computer automated voice.
- n) Attempt to impersonate another mobile number, user, person, company, or deliver content intended to impersonate other entities.
- o) Engage in any other activity that TeleMessage believes, in its sole discretion, could subject it to criminal liability or civil penalty or judgment.

## **9. Fees**

- a) In consideration for the use of the Service, you shall pay to TeleMessage a subscription for various subscription packages, and/or usage fees for messages delivered or partially delivered using any available delivery method and additional user accounts at the applicable rate then in effect. The current fees are posted on the site or on your contract or as otherwise agreed between TeleMessage and you. TeleMessage may from time to time offer a limited-time free trial or similar promotions during which no transaction fees or reduced transaction fees shall apply. Such promotions are intended for users to test the capabilities of the Service and/or for casual, personal use only. During such promotions, all provisions of these Terms shall remain in full force and effect.
- b) Payment. Transaction fees are due and payable at the time of or before TeleMessage delivers a message to your recipients via every method of delivery, based upon the billing plan you select. The various payment plans are described in on the site or on your contract or as otherwise agreed between TeleMessage and you.
- c) Credit Card Payment. If you have elected to pay for the Service by credit card, and TeleMessage does not receive payment from the credit card issuer, you agree to pay all amounts due TeleMessage immediately upon demand by TeleMessage. Each time you use the Service, you agree that TeleMessage is authorized to charge your designated credit card account (or other means of payment) for the applicable rate for the Service then in effect. Please note that your agreement with your credit card issuer or bank governs your use of your credit card, and you must refer to that agreement to ascertain your rights and liabilities as a cardholder.
- d) Other Payment Plans (if available). If TeleMessage does not receive full payment of your TeleMessage messaging account balance within thirty (30) days of the date your account statement is made available to you, an additional 1.5% (or the highest amount permitted by law, whichever is lower) per month late charge may be added to your bill and will be immediately due and payable. You also agree to be liable for all attorneys' fees, costs and/or disbursements incurred by TeleMessage relating to the collection of your unpaid account. The charges contained on your account statement will be deemed acceptable by you unless you notify TeleMessage of any billing discrepancy within thirty (30) days after they first appear on your account statement. You also agree to timely pay for any purchases made or facilitated through the Service.
- e) Additional Service Plans. Special service plan levels may require you to have a minimum paid usage per month or may incur additional costs to be entitled to receive higher levels of service.
- f) Termination or Cancellation. You are free to terminate or cancel your engagement with TeleMessage at any time, and for any reason; provided, however, for such termination or cancellation to be effective you must carry out such termination in accordance with the policies

and procedures established by TeleMessage, which are posted on the site or on your contract or as otherwise agreed between TeleMessage and you. If you have any questions concerning the appropriate method by which to cancel your engagement with TeleMessage, you should contact a TeleMessage Customer Support representative at the telephone number provided at [www.TeleMessage.com](http://www.TeleMessage.com).

g) Refunds. We do not provide refunds. Our customers are free to send messages until their accounts are empty and we can keep your account open and active if you would like to continue to send messages until the account is empty. The company may consider compensating customers in case there is any fault or problem related to the TeleMessage service.

h) Monthly Recurring messaging packages include a fixed amount of message buckets which should be consumed within the given month. Message credits left at the end of the billing cycle do not roll over to the following month.

i) Fair Usage Policy for TeleMessage unlimited SMS, MMS and Call plans:

Subscribers under unlimited plans will still have fair usage caps imposed. The usage cap will be 3,000 call minutes or SMS/MMS texts sent/received per user month. And 10,000 IP messages per user per month between apps. TeleMessage may block delivery of phone calls and message for users exceeding our usage caps.

Subscribers are also restricted from sending messages and making calls to premium-rate numbers.

When using the TeleMessage mobile archiving products in your organization, a user license is required per each company employee. Using the same license for archiving multiple employees is a violation of our Terms of Service.

#### **10. Modification of Terms; Termination, Cancellation, and Suspension**

a) Modification of Terms. TeleMessage frequently updates, modifies, and otherwise continually seeks to improve the Service. Such changes often dictate that we simultaneously modify the terms of these Terms. As such, TeleMessage shall have the right to modify the Terms and to change or discontinue any aspect or feature of the Service, in either case as it deems reasonably necessary. Such changes shall be effective immediately upon posting of such addition, change, or deletion. Any use by you of the Service after any such change has been posted shall constitute your acceptance of any such changes. If you do not agree with any such changes, you may cancel the Service in accordance with the procedures for cancellation set forth in these Terms. You acknowledge and agree that it is your responsibility to review these Terms from time to time and to be aware of any such changes.

b) Termination, Cancellation and/or Suspension by TeleMessage; Disclosure of Information.

These Terms and the License granted hereunder may be terminated, canceled and/or suspended by TeleMessage at any time if, in TeleMessage's determination, you breach any of these Terms. Such termination, cancellation and/or suspension by TeleMessage shall be effective immediately upon notification by TeleMessage to you in any reasonable manner, including but not limited to, notification by e-mail. Upon, during, and/or after any such breach, TeleMessage may elect to suspend, terminate and/or cancel its engagement with you and/or recover any and all damages from you arising from or relating to the event(s) giving rise to the suspension, termination or cancellation.

c) Obligations Upon Termination and/or Cancellation. Upon any termination, cancellation and/or suspension of TeleMessage's engagement with you, you are responsible for any obligations then accrued including, but not limited to, payment of any costs or charges that may arise in connection with such termination, cancellation and/or suspension, and payment of all outstanding transaction fees for use prior to said termination, cancellation and/or suspension occurs. your payment and other obligations under these Terms are not suspended, stayed, or

otherwise affected by a suspension of your access to or use of Service (in whole or in part) where said suspension arises from your failure to comply with, or your violation of, these Terms or of any law or legal obligation. Upon termination and/or cancellation, for any reason, you agree to immediately cease using the Service and remove all TeleMessage messaging software installed on any computer in your possession or under your control. TeleMessage shall have no obligation to you after any termination or cancellation of your engagement with TeleMessage.

#### **11. No Warranties or Liabilities**

a) GENERAL. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE SERVICE AND THE INTERNET GENERALLY IS AT YOUR OWN RISK AND THAT THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTIES OR CONDITIONS WHATSOEVER, EXPRESS OR IMPLIED. TELEMESAGE WILL USE COMMERCIALY REASONABLE EFFORTS TO MAKE ACCESS TO THE SERVICE AVAILABLE TO YOU THROUGH THE REQUIRED ACCESS PROTOCOLS, BUT MAKES NO WARRANTY OR GUARANTEE THAT YOU WILL BE ABLE TO ACCESS THE SERVICE OR ANY PART THEREOF AT ANY PARTICULAR TIME OR ANY PARTICULAR LOCATION.

b) ADDITIONAL LIMITATIONS. WITHOUT LIMITING THE GENERALITY OF THE TERMS SET FORTH IN SECTION 11(a), TELEMESAGE AND ITS AFFILIATES, AGENTS, CONTENT PROVIDERS, SERVICE PROVIDERS, AND LICENSORS:

(I) HEREBY DISCLAIM ALL EXPRESS AND IMPLIED WARRANTIES AS TO THE ACCURACY, COMPLETENESS, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OF THE SERVICE GENERALLY, AND ANY CONTENT OR SERVICES CONTAINED THEREIN, AS WELL AS ALL EXPRESS AND IMPLIED WARRANTIES THAT THE OPERATION OF THE SERVICE GENERALLY AND ANY CONTENT OR SERVICES CONTAINED THEREIN WILL BE UNINTERRUPTED OR ERROR-FREE;

(II) SHALL IN NO EVENT BE LIABLE TO YOU 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 IN THE SERVICE, OR INSTALLATION AND COMPUTER, MOBILE PHONE OR TABLET DISRUPTIONS RELATED TO THE SERVICE, AND ANY CONTENT OR SERVICES CONTAINED THEREIN; YOU HEREBY AGREE TO INDEMNIFY TELEMESAGE PURSUANT TO THIS SECTION 11 FOR ANY AND ALL THIRD PARTY CLAIMS ARISING FROM SUCH FAILURES, DELAYS OR INTERRUPTIONS IN CONNECTION WITH YOUR USE OF THE SERVICE);

(III) SHALL IN NO EVENT BE LIABLE TO YOU OR ANYONE ELSE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES ARISING OUT OF, RESULTING FROM, OR RELATING IN ANY MANNER TO THE USE OR INABILITY TO USE THE SERVICE GENERALLY, AND ANY CONTENT OR SERVICES CONTAINED THEREIN. WITHOUT IN ANY WAY LIMITING THE FOREGOING, TELEMESAGE SHALL IN NO EVENT HAVE (IN THE AGGREGATE) ANY LIABILITY WHATSOEVER IN CONNECTION WITH THIS AGREEMENT IN EXCESS OF AN AMOUNT EQUAL TO TWO TIMES THE LOWEST MONTHLY TRANSACTION FEES FOR YOUR THE SERVICE ACCOUNT IN EFFECT FOR THE MONTHLY PERIOD IMMEDIATELY PRECEDING THE DATE OF THE FIRST CLAIM MADE BY YOU ALLEGING LIABILITY.

(IV) DELIVERY METHODS OF MESSAGES TO VARIOUS COMMUNICATION DEVICES IS SUBJECT TO A COMBINATION OF NETWORK PROVIDERS AND SERVICE PROVIDERS TERMS AND CONDITIONS AND NETWORK STATUS OVER WHICH TELEMESAGE HAS NO CONTROL. TELEMESAGE SHALL IN NO EVENT BE LIABLE TO REIMBURSE MESSAGE CREDITS, REIMBURSE PAYMENTS OR HAVE ANY OTHER LIABILITY FOR MESSAGES THAT WHERE SENT

VIA THE SERVICE BUT NOT DELIVERED, NOT RECEIVED OR NOT ACCURATELY DISPLAYED, HEARD OR REPRESENTED ON ANY SUCH COMMUNICATION DEVICE.

(V) TELEMESAGE ALSO SPECIFICALLY DISCLAIMS ANY LIABILITY OF ANY KIND FOR COSTS OR DAMAGES ARISING OUT OF PRIVATE OR GOVERNMENTAL LEGAL ACTIONS RELATED TO YOUR USE OF ANY OF THE TELEMESAGE SERVICES IN ANY COUNTRY.

c) HIGH RISK ACTIVITIES. THE SERVICE IS NOT FAULT-TOLERANT AND IS NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE OR RESALE AS ONLINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING BUT NOT LIMITED TO USE IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF SERVICE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE ("HIGH RISK ACTIVITIES"). IN ADDITION TO THE OTHER DISCLAIMERS AND LIMITATIONS CONTAINED WITHIN THESE TERMS, TELEMESAGE AND ITS AFFILIATES, AGENTS, CONTENT PROVIDERS, SERVICE PROVIDERS AND LICENSORS SPECIFICALLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES INCLUDING EMERGENCY NOTIFICATION SERVICES.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF WARRANTIES OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. IN SUCH JURISDICTIONS, TELEMESAGE'S LIABILITY (AND THE LIABILITY OF ITS AFFILIATES, AGENTS, CONTENT PROVIDERS AND SERVICE PROVIDERS) SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW.

d) THE SITE MAY CONTAIN, AND USERS MAY POST VIA THE SERVICE, LINKS TO THIRD PARTY WEBSITES, WHICH ARE NOT UNDER TELEMESAGE'S CONTROL. TELEMESAGE SHALL NOT BE RESPONSIBLE FOR THE CONTENT OF ANY SUCH THIRD PARTY WEBSITES, AND THE USE OF WHICH IS AT YOUR JUDGMENT AND RESPONSIBILITY. ALSO NOTE THAT CARRIER ANTI-SPAM ENGINES MIGHT BLOCK MESSAGES WHICH INCLUDE URL SHORTENING LINKS.

e) THE TELEMESAGE SERVICE AND PURCHASED NUMBERS OR SHORT CODES DO NOT SUPPORT ANY TYPE OF EMERGENCY CALLING.

NOR DOES IT SUPPORT ACTIVATION OF SMS.

f) YOU CAN NOT USE NUMBERS ALLOCATED TO YOU BY TELEMESAGE TO RECEIVE MESSAGES FOR THE PURPOSE OF IDENTITY VERIFICATION SUCH AS ACTIVATION SMS OR ACTIVATION CALLS, AND THE LIKE.

## **12. Third Party Beneficiaries**

Notwithstanding anything to the contrary contained herein, the provisions for "No Warranties and Liabilities" set forth in Section 11 herein are for the benefit of TeleMessage and its affiliates, agents, content providers and service providers and each shall have the right to assert and enforce such provisions directly on its own behalf.

## **13. Indemnification**

You agree to indemnify, hold harmless, and defend TeleMessage, and its affiliates, agents, content providers and service providers, against any and all claims, liabilities, damages, costs and expenses (including, but not limited to, consequential damages, incidental damages, special damages, attorneys' fees and disbursements) arising from or relating to (i) the use of the Service in any manner which violates these Terms or otherwise violates any law, rule, or regulation and (ii) any claims made by third parties arising from your use of the Service, including without limitation any and regulation all third party claims arising from or related to any failure, delay or interruption to the Service. You agree to cooperate as fully as reasonably required in the defense of any claim. TeleMessage reserves the right, at its own expense, to

assume the exclusive defense and control of any matter otherwise subject to indemnification by you.

#### **14. Application Duplication or Enhancement (“Reverse Engineering”)**

You must not (or assist others to) access, use, copy, adapt, modify, prepare derivative works based upon, distribute, license, sublicense, transfer, display, perform, or otherwise exploit our Services in impermissible or unauthorized manners, or in ways that burden, impair, or harm us, our Services, systems, our users, or others, including that you must not directly or through automated means: (a) reverse engineer, alter, modify, create derivative works from, decompile, or extract code from our Services; (b) send, store, or transmit viruses or other harmful computer code through or onto our Services; (c) gain or attempt to gain unauthorized access to our Services or systems; (d) interfere with or disrupt the integrity or performance of our Services; (e) create accounts for our Services through unauthorized or automated means; (f) collect the information of or about our users in any impermissible or unauthorized manner; (g) sell, resell, rent, or charge for our Services; or (h) distribute or make our Services available over a network where they could be used by multiple devices at the same time.

#### **15. Misc.**

The failure of either party to exercise in any respect any right provided for herein will not be deemed a waiver of any further rights hereunder. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Term will otherwise remain in full force and effect and enforceable. These Terms are not assignable, transferable or sub-licensable by you except with TeleMessage’s prior written consent. These Terms will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and the United States of America without regard to the conflict of laws provisions thereof. You and TeleMessage agree to submit to the exclusive jurisdiction of the courts located in the county of Middlesex in the Commonwealth of Massachusetts. The Service shall be deemed a passive server that does not give rise to personal jurisdiction over TeleMessage, whether specific or general, in jurisdictions other than Massachusetts, USA. Both parties agree that these Terms are the complete and exclusive statement of the mutual understanding of the parties and supersede and cancel all previous written and oral agreements, communications and other understandings relating to the subject matter of these Terms. No agency, partnership, joint venture, or employment is created as a result of these Terms and you do not have any authority of any kind to bind TeleMessage in any respect whatsoever. In any action or proceeding to enforce rights under these Terms, the prevailing party will be entitled to recover costs and attorneys’ fees. All notices under these Terms will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. You and TeleMessage agree that any cause of action arising out of or relating to the Service must commence within 1 year after the cause of action occurs, Otherwise, such cause of action is permanently barred.

## TELEMESSAGE PRIVACY POLICY 06-01-2021

For Mobile Archiving Privacy Policy, see [here](#).

TeleMessage ("TeleMessage," "we" or "us" or "our" ) is committed to protecting the privacy and security of your personally identifying information. We have prepared this Privacy Policy to explain how we collect, use, protect, and disclose your Personal Information (as defined below), usage data and message data when you use our marketing website located at TeleMessage.com (the "Site"), as well as when you use the TeleMessage Service which includes the TeleMessage mobile app, TeleMessage web interface, TeleMessage Outlook plug-in, TeleMessage APIs, TeleMessage administrator tools and other products and services provided on the TeleMessage.com website (all of the foregoing, collectively, the "Service"). By using the Service you consent to this Privacy Policy.

By visiting the Site or using the Service, you accept the policies and practices described in this Policy, as such Policy may be amended from time to time. Each time you visit the Site or use the Service, you agree and expressly consent to our collection, use and disclosure of the information that you provide as described in this Policy. In any case, and with respect to any Google Account information, we will only use that information to access your Google Account when, and for the limited purposes for which, you have given us permission to do so.

To be clear about the terminology we are using, when we use the phrase "Personal Information" in this Policy, we mean information about you that is personally identifiable, like your name, address, e-mail address, billing information, or phone number, as well as other non-public information that is associated with this personal information. When we use the phrase "Anonymous Information" in this Policy, we mean information that is not personally identifiable, or linked to your Personal Information such as aggregated information, general demographic information and IP addresses. Anonymous Information does not necessarily enable identification of individual persons.

### 1. Collection and Use of Information

When you register for the TeleMessage Site and Service (web interface, outlook plug-in, mobile app, APIs and administration tools), we collect information that personally identifies you, such as your full name, mobile telephone number, e-mail address and other information that you provide to us or that you include in any TeleMessage profile or account ("Personal Information"). We also collect your contact lists and/or address book data that will be stored on our servers and will only be used to:

- (a) notify you when your contacts become active on TeleMessage,
- (b) indicate which of your contacts is already a TeleMessage user,
- (c) correctly display the name of each contact as it appears in your address book when a message is received.
- (d) to allow you to communicate with other users, we might share your contact information with other users.

In addition, we utilize a function that uses this data to synchronize your address book across your multiple devices.

When you send or receive messages using our Service, As part of message delivery process, we temporarily process and store your messages, logging information, the recipients your contact data and other message related information. Note that we may share your Personal Information (e.g., name, e-mail address, telephone number) with other message recipients. Such sharing is done for message authentication and identity sharing with message recipients.

After message is processed, and transmitted, we strive to delete message data. However we do not guarantee that all message data will be completely deleted and therefore any message data that you send is sent at your own risk. If your setting is configured to keep message data, we may keep it for display and management when you access our Service through the different components of the Service.

We may also sync contact and application information with our server, to verify your ability to chat with other users of the application, the security level or other application settings.

The copy of your address book (names and phones) is stored on a live database. Data that is deleted from your mobile device and/or the Service may still be stored in our servers for regulatory compliance or audit purposes. Data may have a “historical backup” which can be deleted at any time upon request by the user. Please note that only administrators can request and implement data deletion for company accounts.

Your phone number, which will be verified via a text message that will be sent to you, will be used for identification purposes as your TeleMessage username.

TeleMessage may interact with your phone’s SMS inbox, placing incoming messages in your inbox or reading the contents of the activation SMS sent to you by TeleMessage.

If you choose to sync TeleMessage with your SMS/MMS messages, TeleMessage may also access other SMS/MMS information for encryption or server archiving purposes. We may even delete messages from your regular SMS/MMS message store.

#### **Other Usage Data**

We collect other usage data regarding how you access and use our Services, like the type of device you are using, and a device identifier, type of web browser, operating system, IP address used for access, ISP used for access, pages you viewed, duration of using our products, crash logs, and other information related to the use of our Services. We use this information to analyze trends, manage and administer the Service, troubleshoot problems, and to plan future enhancements and Service updates.

#### **Company Accounts & Administration Authorization and Responsibilities**

For some customers, as well as enterprise organizations, users’ message data and other personal information may be archived or stored in a retrievable format, as well as exported from our servers.

In case your app is used as part of a company account, the company administrator may have access to messages on your phone. He can also control and configure settings related to the application on your device, as well as change SMS/MMS and other phone settings, and have rights and access to messages, settings and contacts including: the ability to delete messages from your phone after a certain time, ability to wipe messages from your device, PIN enforcement for app usage, archiving of your phone messages on a remote server, access to your phone contacts and the ability to add and view contact on your device, setting other phone and message settings on your device and other Service components such as our web interface and Outlook plug-in.

Your administrator may keep data, messages, and contacts that is deleted from your mobile device and/or the Service for regulatory compliance or audit purposes. Any client, user, customer and company using the TeleMessage Mobile Archiving products must be permitted to archive mobile communication of the company’s employees he activates for the service.

If you are part of a company, we may sync and share your contact information with other members of the organization.

#### **Archived Mobile Communication**

In case you are using the TeleMessage Enterprise Number Archiver, only messages and calls

done via our app may be monitored and archived – however, TeleMessage will not monitor nor upload any user information done over the phone’s native texting app or the phone native dialer.

In case you are using the TeleMessage Android Archiver, it can monitor all texts and calls done using the phone’s native texting app and the phone native dialer – however, TeleMessage will not monitor nor upload any user information done over other chat and messaging apps that are not displayed or using in the phone’s native texting and native dialing apps.

In case you are using the TeleMessage WhatsApp Archiver and WeChat Archiver, it can monitor all texts, chats and calls done using the WhatsApp and WeChat Number monitored by TeleMessage – TeleMessage will not monitor nor upload any user information done over other chat and messaging apps. However note that Facebook/WhatsApp and WeChat might be getting additional data from your mobile device.

In case you are using the TeleMessage Network Archiver, it can monitor all texts and calls done over the phone number provisioned and activated with your mobile network provider (i.e. your SIM number) – TeleMessage will not monitor nor upload any user information done over other chat and messaging apps on your phone.” The additional details about the WeChat Archiver are as below:

- The WeChat Archiver is using the Microsoft Azure services in China.
- This is related to Tencent and Chinese regulations which require the messages to be stored in China before being sent outside using an official Chinese ICP (Internet Content Provider).
- TeleMessage archiving is done by a local TeleMessage.cn Chinese entity that has an official local ICP (Internet Content provider) in China to allow firms outside of China to gain access to their messages.

Make sure you are activating and installing only the mobile archiving product you need and require.

Client is not permitted to actively archive mobile communication for any individual who is not a Client employee.

Client agrees to (a) notify TeleMessage immediately when an employee’s employment contract with the company is terminated, and (b) Disable any mobile archiving services from employees who left the company within 24 hours of their termination (c) provide each employee with clear and conspicuous notice of policies regarding the receipt, transmission, storage and use of the employee’s mobile communication. (d) The client is responsible for ensuring that each employee has agreed to such policies and that each employee has been made aware that such an employee has no reasonable expectation of privacy in such an employee’s mobile communication.

### **Other Services**

In the event we make message boards and forums available to you (collectively, “Forums”), you will be solely responsible for the information and any other content you post on and through these Forums and should be aware that when you voluntarily disclose Personal Information (e.g., name, e-mail address, telephone number) on or through these Forums, such information is generally accessible to, and may be collected and used by, other users. This may result in unsolicited messages from third parties, and such messages are beyond our control. We do not exercise control over any users or Site visitors, and in no way are we responsible, nor do we have any liability whatsoever, for any collection or use of information you may disclose through the Forums. This Policy does not cover such disclosure of information. You are encouraged to exercise discretion when providing personal information about yourself in and through Forums. Please do not post any Personal Information on this Site that you expect to keep private.

### **Cookies, Clear GIFs and Other Automatically Collected Data**

If you have permitted your computer to accept cookies, we may use cookies on the Site and the Service. Cookies are pieces of information that a website transfers to an individual's hard drive for record-keeping purposes. Cookies make web-surfing easier by saving preferences and browsing patterns while you are at the Site. Cookies may be used to analyze the Site usage, improve content, customize the Site's content and layout and for other customer service purposes. A cookie may enable us to relate your use of our Site to other information about you, including your Personal Information. All of these purposes serve to improve and personalize your experience on our Site. Most Web browsers can be set to inform you when a cookie has been sent to you and provide you with the opportunity to refuse that cookie. Additionally, if you have a Flash player installed on your computer, your Flash player can be set to reject or delete Flash cookies. However, refusing a cookie may, in some cases, preclude you from using, or negatively impact the display or function of, the Site or certain areas or features of the Site. We may use "clear GIFs" (aka "Web beacons" or "pixel tags") or similar technologies, in the Site and/or in our communications with you to enable us to evaluate Site usage information about visitors to the Site, target campaigns, upgrade visitor information, and know whether you have visited a Web page or received a message. A clear GIF is typically a one-pixel, transparent image (although it can be a visible image as well), located on a web page or in an e-mail or other type of message, which is retrieved from a remote site on the Internet enabling the verification of an individual's viewing or receipt of a Web page or message. A clear gif may enable us to relate your viewing or receipt of a Web page or message to other information about you, including your Personal Information.

Our servers may automatically collect data about your Internet address when you visit the Site. This information, known as an Internet Protocol address, or IP Address, is a number that is automatically assigned to your computer by your Internet service provider whenever you are on the Internet. When you request pages from our Site, our servers may log your IP Address and, if applicable, your domain name. Your IP Address is used to help identify you and to gather demographic information about our members and users as a whole, but does not include personally identifiable information. Our server may also record the referring page that linked you to us (e.g., another web site or a search engine); the pages you visit on this Site; the web site you visit after this Site; the ads you see and/or click on; other information about the type of Web browser, computer, platform, related software and settings you are using; any search terms you have entered on this Site or a referral site; and other Web usage activity and data logged by our servers. We use this information for internal system administration, to help diagnose problems with our servers, and to administer our Service. Such information may also be used to gather demographic information, such as country of origin and Internet Service Provider.

We will not link any Personal Information, including e-mail addresses, with aggregate data of our users.

Any or all of these activities with regard to Site usage information may be performed on our behalf by our service providers, including, for example, our analytics vendor(s) and our e-mail management partner(s).

### **Tell-A-Friend**

If you choose to use our referral service to tell a friend about our site, or app, we will ask you for your friend's name, email address and/or mobile number. We will automatically send your friend a one-time message inviting him or her to visit the site or download our app.

TeleMessage does not store this information. The information is only used for the sole purpose of sending this one-time email/text message.

### **Third-Party Sites and Privacy Practices**

You may arrive at our Site and/or download the TeleMessage App from another website. Users who wish to register for our service may register on-line or contact TeleMessage or one of our partners. All users' information (including users who registered via a partner) is stored with TeleMessage.com and governed by our privacy policy. However, please understand that if you register with a partner they will have their own privacy policy and may use your information differently. Our Policy applies solely to Personal Information that is acquired on the Site or through your use of our Service, and/or your relationship with TeleMessage. We urge you to be careful when you enter any Personal Information online. We accept no responsibility or liability for these other websites.

### **Analytics Collection**

TeleMessage uses Google Analytics and other analytics tools to help us anonymously track and report user/visitor behavior information and users' standard log information to the Site and the TeleMessage App. This information (including but not limited to: IP address, data storage, maintenance services, database management, web analytics and information processing) helps us analyze and evaluate how the TeleMessage App and Site are used as part of our ongoing efforts to improve the Site and TeleMessage App's features and services. No personally identifying data is included in this type of reporting. Google Analytics, and other analytics tools may have access to your information only for the purposes of performing these tasks and on behalf of TeleMessage and under obligation similar in those in this Privacy Policy.

We will never (and will not allow any third party to) use the statistical analytics tool to track or to collect any Personal Information of visitors or users. Google will not associate your IP address with any other data held by Google. Neither we nor Google will link, or seek to link, an IP address with the identity of a device user. We will not associate any data gathered from this site with any Personally Identifiable Information from any source, unless you explicitly submit that information via a fill-in form on our website.

If you do not want your information to be part of this statistical information gathering, you can disable Google Analytics using the application settings; visit the 'More' screen, tap settings, then disable Google Analytics Collect Data option.

### **Log Management**

We may store log information for debugging or regulatory and compliances purposes.

## **2. Sharing and Disclosure of Information**

We do not rent, sell, or share any information about the user with any third-parties, except as specifically described herein. We may disclose your Personal Information if we believe such action is necessary to:

- (a) comply with the law, or legal process served on us;
- (b) protect and defend our rights or property (including the enforcement of our agreements);
- or
- (c) act in urgent circumstances to protect the personal safety of users of our Service or members of the public.

In order to provide you with TeleMessage products you have requested, TeleMessage may sometimes, if necessary, share your Personal Information (excluding your address book and related information) and traffic data with trusted partner service providers and/or agents, for example: banking organizations or other providers of payment and analytical services, customer support, or hosting services. TeleMessage will always require these third parties to

take appropriate organizational and technical measures to protect your personal data and traffic data and to observe the relevant legislation. TeleMessage will never share your address book information with any third party, except as may be required by law (see below).

Third party companies, such as mobile providers, are used in order to send you an authentication SMS when you register with TeleMessage and for any message that is designated as an SMS/MMS message. In order to send you the SMS/MMS, we share with these third party companies your phone number and/or email address when delivering email messages.

We may disclose information about you if we determine that for national security, law enforcement, or other issues of public importance that disclosure of information is necessary. We may from time to time ask you to provide information about your experiences which will be used to measure and improve quality. You are at no time under any obligation to provide any of such data. Any and all information which is voluntarily submitted in feedback forms on the Site or any survey that you accept to take part in is used for the purposes of reviewing this feedback and improving the TeleMessage software, products and websites.

We may contact you to send you messages about faults and service issues. Furthermore, we reserve the right to use email, the TeleMessage software or SMS to notify you of any eventual claims related to your use of our software, websites and/or products, including without limitation claims of violation of third party rights.

We may send you alerts via the TeleMessage software to notify you when someone has tried to contact you. We may also use the TeleMessage software to keep you up to date with news about our software and products that you have purchased and/or to inform you about other TeleMessage products and related information.

### 3. GDPR Data Protection Agreement and U.S. Privacy Shield Framework

TeleMessage has self-certified to the EU-U.S. Privacy Shield with respect to Customer Data and to the European Monetary System (EMS) General Data Protection Regulation (GDPR) Data Protection Agreement. For more information, see our [GDPR Compliance Statement](#), [Data Processing Agreement](#) and [Privacy Shield Notice](#).

Note that the WeChat Archiver is using the Microsoft Azure services in China. This is related to Tencent and Chinese regulations which require the messages to be stored in China before being sent outside using an official Chinese ICP (Internet Content Provider).

### 4. California Consumer Access and Deletion Rights (CCPA)

TeleMessage will support customers that would like more information about our use of Customer Account Data or Customer Usage Data, and you can contact our support and request us to :

- Provide you with details about the categories of personal information that we collect about you, including how we collect and share it;
- Provide you with information about the personal information we collect about you; and
- Delete the personal information we have about you.

Please be aware that when you ask us for these things, we will take steps to verify that you are authorized to make such requests request.

Note that if you are signed up under a company account, you should contact your company administrator and ask him to file such requests on your behalf.

## 5. Children's Privacy

TeleMessage websites and software clients are not intended for or designed to attract anyone under the age of 13 and we do not intentionally or knowingly collect Personal Information on our sites from anyone under the age of 13 (or older in some jurisdictions). We encourage parents to be involved in the online activities of their children to ensure that no information is collected from a child without parental permission.

## 6. Security

We take reasonable precaution to protect Personal Information from misuse, loss and unauthorized access. Although we cannot guarantee that Personal Information will not be subject to unauthorized access, we have physical, electronic, and procedural safeguards in place to protect Personal Information. Personal Information is stored on our servers and protected by secured networks to which access is limited to a few authorized employees and personnel. All employees are made aware of our security procedures as part of our training process. We review our web security procedures on a monthly basis. However, no method of transmission over the Internet, or method of electronic storage, is 100% secure.

## 7. Business Transitions

In the event that we go through a business transition, such as a merger, acquisition by another company, or sale of all or a portion of our assets, Personal Information will likely be among the assets transferred. As part of such a transaction the new entity will be required to commit to the same level of protection of your Personal Information as described in this Privacy Policy. If we cannot obtain such a commitment, we will not perform the business transition.

We will post a notice on this Site of any such change in ownership or control of the Personal Information we may have prior to such transfer.

## 8. Changes to Policy

From time to time, we may revise this Policy. We reserve the right to update or modify this Policy, or any other of our policies or practices, at any time with or without notice. However, we will not use your Personal Information in a way that is materially different than the uses described in this Policy without giving you an opportunity to opt-out of such differing uses. We will post the revised Policy on the Site, so that users can always be aware of what information we collect, how the information is used and under what circumstances such information may be disclosed. You agree to review the Policy periodically so that you are aware of any modifications. Your continued use of the Site indicates your assent to any changes and signifies your agreement to the terms of our Policy. If you do not agree with these terms, you should not use the Site, the TeleMessage App, or any other Service.

## 9. Hosting of Site and Service

Please note that the Service and the Site are hosted in the United States and are intended for and directed to users in the United States. If you are an international user, please be advised that through your use of the Service or the Site, you expressly consent to your personal data being transferred to the United States and to the application of the United States federal laws and the laws of the State of Massachusetts (as applicable) to such transfer.

## 10. Change or Removal of Information

If you provided your e-mail address to us and wish to update it, you may do so by sending an e-mail to [support@TeleMessage.com](mailto:support@TeleMessage.com).

If you no longer wish to receive e-mail communication from us, such as updates and newsletters, you may opt-out of receiving such communications by following the instructions included in each newsletter or communication. In addition, you can remove your e-mail address at any time by sending an e-mail with the subject line of UNSUBSCRIBE to [support@TeleMessage.com](mailto:support@TeleMessage.com).

## 11. Contact Information

Please direct all questions in connection with this Policy via e-mail to [support@TeleMessage.com](mailto:support@TeleMessage.com) or by writing to TeleMessage Ltd., Attention: Privacy Policy Administrator, 468 Great Road, Acton, MA 01720, U.S.A, Tel: +1 (978) 2631015, Fax: +1 (978) 2636467 .