



TeleMessage Terms of Service – Mobile Archiver (China)

1. The Service

The Service (“Service”) consists of the TeleMessage Mobile Archiver Products. You will be able to send and receive push notifications (messages transmitted via the Internet), SMS and MMS messages (messages transmitted via your mobile carrier) and messages delivered to phone via other apps referred to as Content (“Content”). 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.

When conducting the Service within the territory of mainland China, TeleMessage Information Technology (Shanghai) Co., Ltd. may act on behalf of TeleMessage Inc and/or TeleMessage Ltd. All the activities engaged by TeleMessage Information Technology (Shanghai) Co., Ltd to perform the Service on behalf of TeleMessage Inc. and/or TeleMessage Ltd. are going to be conducted in strict compliance with relevant Chinese laws and regulations.

2. License and Restrictions

Subject to these Terms, TeleMessage grants you a non-sublicensable, non-exclusive and non-transferable license (“License”) to use the Service on any device that you own or control, in conjunction with these Terms. By using the Service, you agree to be bound by these Terms of Service, which constitute a legal and enforceable contract between you and TeleMessage. Therefore, you should read carefully these Terms of Service before installing and using the Service. If you do not agree with these Terms of Services, please do not install or use the Service.

Any information related to the Service, and particularly information related to new or improved functionalities and features contained therein, the performance or quality thereof, shall be deemed "Confidential Information" of TeleMessage.

You hereby agree that the Confidential Information is the sole property of TeleMessage, and includes valuable confidential information and trade secrets of TeleMessage. You agree to maintain the Confidential Information in strict confidence. You agree not to use it for any purpose other than as expressly permitted hereunder, and without the express prior written authorization of TeleMessage.

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 SUBJECT TO THE WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY FOUND IN THESE TERMS.

3. Ownership Rights

The Service, 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 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. You must also ensure that your content does not violate any applicable laws or regulations or infringe the rights of any person.

Third Party IP Rights. You agree not to 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.



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 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.

Any additional conditions and terms of responsibilities for the activities conducted while using the Account may not contradict these Terms.

If you are using the Service on behalf of a company, partnership, association, government, or other organization (your “Organization”), you warrant that you are authorized to do so and that you are authorized to bind your Organization to these Terms.

Minors under 14 may not use the Service. If a user is between the ages of 14 and 18, the users’ parent or guardian must agree to these Terms (both for themselves and on the users’ behalf) before the minor can use the Service, unless otherwise provided by relevant laws and regulations.

5.3. 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.



5.4. 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.

You shall (and shall ensure that your Users shall) take all 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 5.4.

5.5. 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. To the limit acceptable to Chinese laws and regulations, 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. You are responsible for compliance with any requirements related to the residence and/or the location of your Users.

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.

5.6. Personal and Traffic Data

You consent TeleMessage Inc or TeleMessage Ltd to outsource the processing of personal information to its group company TeleMessage Information Technology (Shanghai) Co., Ltd. to the extent necessary for achieving the purpose of processing



agreed by TeleMessage Inc. or TeleMessage Ltd and you. In such cases, TeleMessage Information Technology (Shanghai) Co., Ltd. may only process personal information under the scope of the purposes, period, methods, categories, protection measures, and rights and obligations of both parties, among others, agreed between the parties. TeleMessage Information Technology (Shanghai) Co., Ltd. will process personal information on your behalf in strict compliance with relevant China's data protection laws and regulations.

You understand and agree that TeleMessage, while acting on your behalf when transferring personal information overseas, is not responsible for meeting specific requirements provided by the relevant data protection laws addressed to personal information processors.

You understand and agree that, as the personal information processor, you have the obligation to meet all the necessary requirements for the processing of personal information, including notifying the individuals of the entrustment, and obtaining separate consent prior to collecting sensitive personal information and to transferring personal information overseas.

You understand and agree to only disclose personal information to TeleMessage which has been legally obtained according to relevant Chinese laws and regulations related to data protection and privacy and limited to the purposes of the services TeleMessage has been required to provide.

You shall notify each User that you and your Administrators may obtain and use their personal and traffic data, which must be done according to relevant laws and regulations related to data protection and privacy. You acknowledge and agree that you shall process (and shall ensure that your Administrators shall process) such data (including personal information) in accordance with all applicable data protection laws.

You represent and warrant to keep all data protected, and to keep your privacy policies and processing activities strictly in compliance with applicable data protection laws in China. You acknowledge and agree that TeleMessage is not responsible and may not be liable for any violation of Chinese data protection laws that occurs as part of your processing activities related to any type of data collected by TeleMessage on your behalf to provide the services required.

When processing personal information on your behalf as part of providing you the services required, TeleMessage will do so according to PRC relevant laws and regulations. Please refer to our Privacy Policy <https://www.telemessage.com/china-privacy-policy> to learn how we process data.

You understand and agree that you need to conduct internal training with your



employees focusing on China's data protection laws, your privacy policies, and the processing of personal information when using TeleMessage Service, which may include instructing them to use a standard entry text and obtain consent of third parties prior to any processing activity.

You understand and agree to upload a personal information processing disclaimer in your WeCom or WeChat account, to be displayed to third parties prior to the processing of their data through your WeCom or WeChat account.

If you are a Client operating a sub-division under TeleMessage's WeCom account, you acknowledge and agree to have TeleMessage's disclaimer uploaded, and to comply with any of TeleMessage's policies regarding the use of the sub-division account, which shall be in compliance with relevant Chinese laws and regulations.

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 uploading content to the archive.

5.7. 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.

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

TeleMessage may, in the future, change its pricing, usage limitations and the limit and amount of storage space available. 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. 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, (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, and (d) be responsible for ensuring that each employee has agreed to such policies and that each employee has been made aware that such an employee will have its mobile communication recorded and accessed by the Client and third parties, as described in TeleMessage's Privacy Policy, which can be accessed <https://www.telemessage.com/china-privacy-policy>.

Any unauthorized commercial use of the Service, or the resale of the Service, is expressly prohibited. You agree to abide by all applicable 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. By way of example, and not as a limitation, you agree not to:

- a) Create a false identity or forged email, SMS text and other mobile messages, 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.
- b) Transmit through the Service unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature.
- c) Transmit any material that is the intellectual property rights or other rights of third parties, including trademark, copyright or right of publicity.
- d) Libel, defame or slander any person, or infringe upon any person's privacy rights.
- e) Transmit any material that contains viruses, Trojan horses, worms, time bombs, cancelbots, or any other harmful or deleterious programs.
- f) Violate any applicable law regarding the transmission of technical data or software through the Service.
- g) Violate any applicable law with respect to child pornography or solicitation of minors for sex via the Internet.
- h) Interfere with or disrupt networks connected to the Service or violate the regulations, policies or procedures of such networks.



- i) 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.
- j) Interfere with another user's use and enjoyment of the Service or another entity's use and enjoyment of similar services.
- k) Telephone solicit funds utilizing computer automated voice.
- l) Engage in any other activity that could be subject to criminal liability or civil penalty or judgment.
- m) Attempt to impersonate another mobile number, user, person, company, or deliver content intended to impersonate other entities.

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 in your contract or as otherwise agreed in writing 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 in writing 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.

e) Termination or Cancellation. You are free to terminate or cancel your engagement with TeleMessage at any time, and for any reason. 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.

f) 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.

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

a) 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.

b) 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 device in your possession or under your control.

11. No Warranties or Liabilities

a) GENERAL. WE WARRANT THAT WE WILL PROVIDE THE SERVICE USING REASONABLE CARE AND SKILL. APART FROM THIS WARRANTY, TO THE EXTENT PERMITTED BY APPLICABLE LAWS AND REGULATIONS, 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), AND TO THE EXTENT PERMITTED BY APPLICABLE LAWS AND REGULATIONS, TELEMESAGE AND ITS AFFILIATES, AGENTS, CONTENT PROVIDERS, SERVICE PROVIDERS, AND LICENSORS:

(I) HEREBY DISCLAIM ALL EXPRESS AND IMPLIED WARRANTIES AS TO THE ACCURACY, COMPLETENESS, NON-INFRINGEMENT, 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;

(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 THE MONTHLY TRANSACTION FEES.

(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 WERE 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.

g) WHEN USING THE TELEMESAGE 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.

h) LIABILITY LIMITATION. NOTWITHSTANDING ANY DAMAGES THAT MIGHT INCUR FOR ANY REASON WHATSOEVER AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS AND REGULATIONS, THE ENTIRE LIABILITY OF TELEMESAGE AND ITS AFFILIATES, AGENTS, CONTENT PROVIDERS, SERVICE PROVIDERS, AND LICENSORS, UNDER ANY PROVISION OF THESE TERMS OF SERVICES’ EXCLUSIVE REMEDY FOR SUCH DAMAGES SHALL BE LIMITED, AND IN NO EVENT THE CUMULATIVE LIABILITY WILL



EXCEED THE AMOUNT EQUAL TO THE MONTHLY TRANSACTION FEES.

12. 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.

13. 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 Terms 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. 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. Unless otherwise provided by applicable laws, 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.