Terms of Service

Effective Date: 3 February 2026

These terms of service ("**Terms of Service**") govern the use by you of the products, websites, and services listed at the end of these Terms of Service and your relationship with The Messaging Company Pty Ltd (ACN 669 674 382) and its related entities.

When you accept these Terms of Service, you are entering into an agreement to purchase goods and services from us or to create an Account with us on the basis of these Terms of Service.

Please read these Terms of Service carefully as, together with our Privacy Notice located at https://themessaging.co/privacy on our website, they form your agreement with us.

1. Definitions

Some of the words and phrases in these Terms of Service have special meanings. Those words are explained below. Words in the singular include the plural and vice versa, unless the context requires otherwise.

1.1 Definitions

In these Terms of Service, the following terms have the following meanings:

(a) **Account** refers to the billing account controlled by the Account Holder via a designated primary Email ID, which is used to manage the Services (including User management if this option is available), settle payments, agree to these Terms of Service, and ensure each associated User complies with these Terms of Service.

(b) **Account Holder** means the person who is the primary account holder for the Services and is authorised to operate the Account.

(c) **Agreement** means the legally binding agreement between you and us for the Services which are made up of the following:

(i) these Terms of Service;

(ii) our pricing, services, and online support guides published by us from time to time on our Website which detail the Services and their pricing and related support;

(iii) our latest Privacy Notice; and

(iv) the latest version of any other policy we tell you about, such as acceptable use policies or support policies.

(d) **Consumer Law** means any applicable law, regulation, or statutory guarantee relating to consumer protection or the supply of goods or services to consumers in the jurisdiction where the customer is located, including (without limitation) any laws relating to consumer rights, unfair contract terms, and statutory guarantees.

(e) **Billing Period** means any initial or additional period you have agreed to for the Services, as shown in your Order Confirmation.

(f) **Business Customer** means a customer that uses the Services for commercial, organisational, or professional purposes, including any entity or individual representing a business.

(g) **Charges** means the fees you pay for the Services and any Service Features and anything else you agreed to pay in line with the Agreement.

(h) **Confidential Information** refers to any non-public information that is disclosed by us to you, or by you to us, in connection with the use of the Services, and is identified as confidential or that should reasonably be understood to be confidential given its nature or the circumstances of its disclosure. This may include, but is not limited to, business plans, financial data, technical details, trade secrets, Personal Data or any other sensitive information. Confidential Information does not include information that:

(i) is or becomes publicly available through no fault or breach by the receiving party;

(ii) was known to the receiving party before being disclosed by the disclosing party;

(iii) is lawfully provided to the receiving party by a third party without confidentiality restrictions; or

(iv) is independently developed by the receiving party without reference to the disclosing party's Confidential Information.

(i) **Content** means any data, information, communications, or materials created, stored, received, or transmitted by you or your Users through the Services, including without limitation:

(i) emails (sent, received, or stored),

(ii) contacts and address book entries,

(iii) calendar entries,

(iv) tasks and notes,

(v) message attachments and metadata, and

(vi) any other data that forms part of your use of the Services.

You (and your Users, as applicable) retain all ownership rights in your Content. We arrange for your Content to be processed and stored by our technology providers solely for the purpose of providing the Services to you, in accordance with our Privacy Notice and applicable data protection laws.

(j) **Critical Information Summary** means the document outlining key details of our service offerings located at https://themessaging.co/cis

(k) **Customer Data** means information that you provide to us to create and manage your Account and use the Services, including Personal Data relating to you or your representatives, billing details, payment information, account configuration, and any related administrative or support data that we collect in connection with providing the Services to you (excluding your Content).

We use Customer Data to create, administer, bill for, and support your Account. Customer Data is handled in accordance with our Privacy Notice and applicable data protection laws.

(l) **Data Controller** means the person or entity which determines the purposes and means of processing Personal Data, as defined in Article 4(7) of the GDPR and equivalent terms under applicable data protection laws.

(m) **Data Processor** means the person or entity which processes Personal Data on behalf of the Data Controller, as defined in Article 4(8) of the GDPR and equivalent terms under applicable data protection laws.

(n) **Email ID** means the username that is provided to you in the form of an email address, and a password that you choose for using the Services.

(o) **Excessive or Unusual Use** means a high volume of use for the Services outside of normal use patterns, or other use which suggests irregularity (for example, where an unusual pattern of messages are sent in a short period of time or an unusually large volume of messages are sent, received, or stored).

(p) **Force Majeure Event** means an act of God, earthquake, flood, fire or explosions, strike, industrial action, lock-out stoppage, restraint of labour, riot, civil commotion, terrorism, war, revolution, state of emergency, epidemic or pandemic, an act of government, in each case which is not reasonably within the control of the party seeking to rely on the Force Majeure Event to excuse its obligations under this Agreement.

(q) **Order Confirmation** means the confirmation we email you after we accept your order for the Services, which confirms the description of the Services, the Billing Period, and any applicable Charges.

(r) **Our Content** means the content of any communications created by us (or third parties acting on our behalf), including any content on our Website.

(s) **Our Data** means (a) any data that we supply to you as part of the Services; and (b) any data derived or generated by us from Customer Data or Content that has been de-identified or anonymised so that it no longer contains Personal Data or identifies you or any User.

(t) **Personal Data** means information or an opinion about an identified individual or reasonably identifiable individual, consistent with applicable privacy and data protection laws (such as the EU General Data Protection Regulation (GDPR), UK Data Protection Act, or the Australian Privacy Act 1988 (Cth)).

(u) **Privacy Notice** means the document that explains the use of Personal Data that is located at https://themessaging.co/privacy

(v) **Sales Tax** means any goods and services tax (GST), value added tax (VAT), sales tax, use tax, consumption tax, or similar tax imposed by any governmental authority in connection with the supply of goods or services under these Terms of Service, including any related penalties, fines, interest or other statutory charges.

(w) **Services** means the email services that we provide to you and any other services offered by us on our website from time to time.

(x) **Service Features** means any products, features, benefits, add-ons, or extra services we provide on top of or as part of the Services, such as, but not limited to, personal calendars, address books, task lists, storage limits, or email pre-scanning.

(y) **Service Start Date** means the date the Service starts, as shown in your Order Confirmation (unless we tell you another date).

(z) **Terms of Service** means these terms of service as amended from time to time.

(aa) **Third-Party Apps and Services** means products, services, websites, links, content, material, games, skills, integrations, bots, or applications from third parties which we may provide to you as part of the Services and these will be subject to separate terms and conditions set by those third parties and agreed with you before you use them.

(bb) **User** means the person(s) using the Services.

(cc) **"Website"** or **"Site**" means our website located at:
https://themessaging.co
https://login.themessaging.co
https://webmail.themessaging.co
https://webmail.themessagingco.com.au
https://account.themessaging.co
https://support.themessaging.co
https://msgco.au

2. Our Services and your Accounts

2.1 Account creation, Account Holder, and linked email addresses

(a) In order to use our Services, you must apply to create an Account with us or elect to transfer an existing Account to us.

(b) You can apply to create or transfer an Account by signing up with us online via our website and agreeing to be the Account Holder.

(c) You agree not to give us any false, inaccurate or misleading information when signing up for your Account or afterwards. If you create an Account with us on behalf of an entity who is the Account Holder (such as your business or employer, or your family members), you represent that you have the legal authority to agree to these Terms of Service on behalf of that other entity or those other people.

(d) You may not transfer your Account or Account Holder credentials to any other User or entity. You are responsible for maintaining the security of your Account Holder credentials and must keep your Account and Email ID confidential. However, in exceptional circumstances, such as the death or incapacity of the Account Holder, or other comparable situations, we may, at our sole discretion, consider a request for account transfer. Any such request must be supported by appropriate documentation and evidence, as determined by us. Our decision on such matters shall be final and binding.

(e) You are responsible for all User activity that occurs under your Account, and per clauses 17.3 and 17.4, your Account and/or associated Email IDs may be suspended or terminated due to actions of a User under your account.

(f) We reserve the right to remove, reclaim, or change a username which we provide to you as an Email ID if we reasonably determine that it is inappropriate, obscene, or otherwise objectionable or infringing of any other person's rights or applicable law.

(g) You will need to meet our requirements before we accept your application for Services, being:

(i) You must be a consumer customer or small business customer (without a dedicated domain) who is eligible for that Service; and

(ii) The Service must be available for us to provide to you;

(h) You will need an Email ID to manage your email through your Account.

(i) If an Account Holder is able to create email addresses for themselves or another User in their Account, the Account Holder can at any time elect to delink an Email ID they have created for another User from their Account. The delinked User will be required to create their own Account, if we offer an option to do so.

2.2 When the Service starts and for how long

(a) The Service starts at the beginning of the Billing Period shown in your Order Confirmation.

(b) The Service will last for at least the Billing Period and will carry on after then unless you or we end the Services in a way set out in these Terms of Service.

(c) During or after your initial Billing Period we may agree to a different Billing Period with you upon your election to do so.

(d) If you set up an Email ID for someone else, the Service will start for that User when their Email ID is created. The Account Holder will be responsible for the Email ID and must comply with these Terms of Service and ensure the User also complies with these Terms of Service.

(e) Our minimum terms are listed in our Critical Information Summary.

2.3 Minimum age requirement

(a) Our email service is available only to customers aged eighteen (18) years or older. This minimum age requirement is in place to help protect minors and promote responsible use of our services.

(b) By creating an Account with us or continuing to use the Services, you agree to comply with these Terms of Service and you represent that you are at least 18 years of age.

(c) If we choose to offer the ability to create additional email addresses under your Account, we may impose a limit on the number of such addresses. If this capability is available to you, we will specify any applicable limits on our website, in your Account, in an email to you, or in the Order Confirmation. Each additional email address will have its own unique Email ID, and the Account Holder will not have access to emails associated with these addresses.

2.4 Small business accounts

If you are a small business customer or organisation accessing the Services through an account created for your use, the terms in this section apply.

(a) You may be able to access and use the Services through a work or business email address or Account that your organisation has created with us as an Account Holder. If you do, you acknowledge that the Account Holder of your email address may be notified of the activities occurring under your Email ID, and may control and administer your email address, and access and process your Customer Data and

Content, including the contents of your communications and files, and that we may communicate with the Account Holder of your Account instead of you relating to matters concerning your and their Account.

(b) You acknowledge that your use of the Services may be subject to and conditional on external agreements we have with you or your organisation and those terms may have the effect that all or part of these Terms of Services may not apply to you.

(c) We may impose a limit on the number of additional email addresses that you can set up for your organisation. Each User will have their own Email ID.

(d) A User must be made aware by the Account Holder that the Account Holder may have an agreement with us which provides the Account Holder with access to the email of each User.

2.5 What you must provide in order to access the Services

(a) In order to use some of the Services, you will need access to the internet and/or access to a telecommunications network (i.e. a mobile or telephone plan). You may also need equipment depending on the specific Service you are using, including but not limited to computers, mobile devices, headsets, cameras, microphones and external storage devices.

(b) You are responsible for providing all your own connections, plans and equipment needed to use the Services and for paying the fees charged by the provider(s) of your connections, plans and equipment. Those fees are in addition to any fees you pay us for the Services and we will not reimburse you for such fees. Check with your provider(s) to determine if there are any such fees that may apply to you.

(c) To access and use the Services, you may be required to operate software that is actively supported by its vendor. It is your responsibility to ensure your software is current and maintained at your own cost, including any necessary upgrades to meet compatibility or security requirements.

(d) We create backups of your Customer Data and your Content to ensure availability of the Services only. You alone are responsible for making your own regular backup of your Customer Data and your Content as our backups are unavailable to you for your own purposes except where we must provide you with the data under applicable law.

2.6 Our customer support services

(a) We provide customer support for some Services, as set out on our Website.

(b) Certain Services may offer separate or additional customer support, subject to the terms of any agreements between you and us outside of these Terms of Service (for example, in relation to a specific additional Service or Service Features which may attract additional Charges).

(c) Some support may not be made available from us for trial or beta versions or features of the Services.

(d) The Services might not be compatible with your hardware, equipment or devices or third-party software or services. You are responsible for checking if the Services are compatible with your other such assets before using the Services.

(e) If you require customer support in relation to any supported Services, please visit https://support.themessaging.co

2.7 Closing your Account and ending the Services

(a) When you end a Service with us, your email address(es) and any Email ID set up on your Account will remain active up until the end of your Billing Period, unless you specifically request your Account cancellation to take immediate effect. After that we may take any of the steps set out below in clause 2.8;

(b) For a paid Service, you will be charged upfront and not entitled to a refund for any term already paid, except as provided for under Consumer Law as set out in clause 12 below.

(c) Failure to make the necessary payments when due will result in your Account and your email address(es) being suspended and be considered an act by you to terminate your Service. After your Services end, we will delete or anonymise your Customer Data and Content within a reasonable period, generally not exceeding one-hundred and twenty (120) days, unless we are required by law to retain it for longer.

2.8 Effects of the Services ending

In addition to the provisions of clauses 17.2 and 17.5 (which deal with cancellations of the Services and the effects of termination of this Agreement):

(a) If any of your email addresses are deleted:

(i) you cannot send emails from that email address;

(ii) you cannot recover any information held within your email address and linked Services; and

(iii) all emails sent to your email address will be rejected and the sender may be sent a notice that the email address is invalid.

(b) If your Services are cancelled or your Account with us is closed (whether by you or us):

(i) your right to access and use the Services stops immediately and you must immediately stop using the Services;

(ii) we will delete or anonymise your Customer Data or Content associated with your Services, unless we are required by applicable law to keep it; and

(iii) you may lose access to our other products or Services which are connected or dependent on the cancelled Services or your Account with us.

3. Your obligations

3.1 Acceptable use

(a) We may monitor your use of the Services for Excessive or Unusual Use and may implement immediate restrictions on a User if we deem necessary. You agree to cooperate with us as reasonably necessary for any review, including giving us information and explanations about your use within a reasonable time.

(b) If we reasonably believe that your use:

(i) is unlawful;

(ii) is Excessive or Unusual Use;

(iii) will or may damage our equipment, how our Services operate or lessen their quality or reliability;

(iv) will or may cause significant congestion on our equipment or reduce our ability to provide quality services to other users;

(v) is detrimental to our other customers;

(vi) attempts to manipulate or bypass any Service limitations;

(vii) is to resupply or resell any part of a Service without our written consent;

(viii) is to provide services to another carriage service provider;

(ix) is determined to be that of a carrier or carriage service provider;

(x) is not ordinary personal use or internal business use;

(xi) constitutes a breach or contravention of applicable laws or regulations relating to online safety or the protection of individuals;

then we may with or without notice, slow, suspend, cancel, or limit your use of the Services or one or more features of your Services, and/or remove or delete material from the Services or limit access to it.

(c) If we reasonably believe that your use of the Services violates the terms outlined in clause 3.1(b), we may choose to provide you with a period of up to a maximum of thirty (**30**) days to modify your use to ensure compliance and resolve any issues in order to have any restrictions lifted that were applied in accordance with clause 3.1(a). Failure to make the necessary changes within this timeframe may result in the suspension, cancellation, or limitation of your rights to access and use the affected Services.

(d) If you reasonably believe that you have received an email originating from our systems that constitutes a breach or contravention of applicable laws or regulations relating to online safety or the protection of individuals, and therefore breaches our Terms of Service, you can submit a report to the relevant authorities in your jurisdiction.

(e) Legitimate and lawful use of the Services for their intended purposes will not be a breach of this Agreement.

3.2 Other User restrictions

(a) You must not, and no User may, when using the Services:

(i) do anything illegal or in breach of applicable law;

(ii) engage in any activity that exploits, harms, or threatens to harm another customer or user of the Services or any other person (including transmitting viruses, stalking, communicating hate speech, advocating violence against others, and/or soliciting, accessing, distributing or storing material that contravenes applicable laws or regulations relating to online safety or the protection of individuals - including, but not limited to, child sexual exploitation material, pro-terror material, and extreme crime or violence material);

(iii) send spam or engage in phishing activities;

(iv) use the Services in connection with any commercial endeavours except those that are specifically endorsed or approved by us;

(v) publicly display or use the Services to solicit, access, distribute, or store unlawful content or material (involving, but not limited to, for example, unlawful nudity, pornography, offensive language, violence, harassment, threatening or stalking conduct, child sexual abuse material, pro-terror material, extreme crime and violence material, or criminal activity);

(vi) engage in activity that is fraudulent, false or misleading;

(vii) circumvent any of our restrictions on access to or availability of the Services;

(viii) infringe our rights or the rights of others (such as unauthorised sharing of copyrighted music or other copyrighted material);

(ix) engage in activity that violates the privacy or data protection rights of others or is in breach of applicable privacy laws;

(x) assist others in doing any unlawful activity or any of the prohibited conduct set out in this clause 3.2(a);

(xi) engage in conduct (including, but not limited to, the transmission, storage, or publication of material) that constitutes a breach or contravention of applicable laws or regulations relating to online safety or the protection of individuals; or

(xii) contact a person under the age of 18 (if you are aged 18 years of age or older), without the consent of the child's parent or carer.

(b) If we reasonably believe or establish that you as Account Holder or any User under your Account have breached this clause 3.2(a), we may review your activities under the Services or your Account in order to resolve the issue or to decide to terminate or suspend your Account or your Services.

(c) If our investigations show that you have breached clause 3.2(a), we may, in our sole discretion, stop providing a part of or all of the Services or close your Account with us or take any other action which we need to under applicable law to comply with such law.

(d) If we reasonably believe that your Account or Email ID is being, or at risk of being, used fraudulently by a third party, we may suspend your Account or Email ID whilst we investigate this matter, or until it is established that it is no longer being, or at risk of being, used in such a manner. If our investigations show that there is no legitimate use of the Services, we may, in our sole discretion, stop providing a part of or all of the Services, or close your Account with us, and/or take any other action which we need to under applicable law to comply with such law.

(e) To ensure the stability and performance of the Services, certain operational limits may apply. These include, but are not limited to, restrictions on the rate of sending emails, the volume of network traffic, the number of concurrent logins, and other usage parameters. These restrictions are designed to maintain service quality for all users and may vary depending on the specific Service, Account entitlements, or configuration. We reserve the right to enforce these limits and take appropriate action if they are exceeded, including throttling, temporary suspension, or other measures to prevent service degradation.

(f) You must:

(i) implement and maintain adequate security measures for your devices, networks, and credentials;

(ii) regularly update passwords and act on our recommendation to use multi-factor authentication (where available);

(iii) notify us immediately if you suspect unauthorised access to your Account or Customer Data.

3.3 Abusive or non-compliant behaviour

(a) We reserve the right to suspend, terminate, or limit your Account or Services if you or any User under your Account:

(i) Engage in abusive, threatening, or harassing behaviour towards our staff, representatives, or other users;

(ii) Repeatedly fail to comply with our directions, support instructions, or reasonable requests relating to the use of the Services; or

(iii) Act in a manner that is disruptive, causes unnecessary support demands, or otherwise impedes the proper functioning of our Services.

We will notify you of such issues and may, at our sole discretion, give you a reasonable opportunity to address them. If the behaviour continues, we may take immediate action without further notice.

4. Content

4.1 Third-party content displayed via the Services

(a) The Services may display third-party content that is not created or owned by us. This third-party content is the responsibility of the entity or person that makes it available to you via the Services and displaying it via the Services is not an endorsement of it by us.

(b) We do not assume responsibility for the unlawful conduct of third parties using our Services, except where we have intentionally or recklessly contributed to that conduct.

(c) By using or accessing the Services you may be exposed to offensive, indecent, or objectionable content provided by third parties which are displayed via the Services without our endorsement or knowledge.

(d) If you believe third-party content displayed within the Service constitutes a breach or contravention of applicable laws or regulations relating to online safety or the protection of individuals, you can submit a report to the relevant authorities in your jurisdiction.

4.2 Your Content

(a) Many of the Services enable you to submit Content or Customer Data. You are solely responsible for any Content or Customer Data that you upload, post, email, transmit, or otherwise make available via the Services.

(b) We may delete or refuse to display Content or Customer Data that breaches these Terms of Service or applicable laws when we become aware of it.

(c) We reserve the right to report any Content or Customer Data, along with your identifying information, to the appropriate authorities if we believe it contravenes any applicable law, regulation, or statute, regardless of whether we are legally required to do so.

(d) We do not routinely access or review your Content. Our access is limited to what is necessary to operate, maintain, secure, and provide the Services, or as required by law.

5. Service availability

5.1 Service availability and outages

(a) All Services that we offer may not be available or eligible to be purchased by you, or may be offered on a limited basis or may vary in functions or Service Features or specifications which may depend on your region or device.

(b) We will use reasonable endeavours to keep the Services up and running.

(c) We aim to provide a continuous service using reasonable care and skill however we cannot guarantee that all of our Services or any specific Service Features will be available all the time.

(d) You acknowledge that the Services may suffer disruptions and outages outside of our reasonable control and may not be available at all times.

(e) We rely on third-party service providers, such as telecommunication, hosting, and Internet providers, to keep operations running and these may not always be available or they may be unreliable or defective from time to time.

(f) We might have to interrupt, change or temporarily suspend some or all of the Service to maintain, upgrade, or repair the networks and/or related services.

(g) Where the Services are going to be unavailable and the circumstances are within our knowledge, we will use reasonable endeavours to provide you with prior warning of the unavailability when it is reasonable to do so.

(h) We strive to use effective software and other security measures to identify and address threats posed by viruses, spam, and other malicious content. While we take reasonable steps to ensure such threats are appropriately categorised and managed, we do not guarantee the effectiveness of these measures at all times.

(i) You alone are responsible for making backup copies of your Content and Customer Data and other data in case the originals are lost or corrupted or unavailable.

6. Updates to Services

6.1 Updates to Services and their impact on you

(a) We may update the Services or Service Features from time to time (for example, to mitigate security threats and concerns, perform investigations, to perform maintenance, change, improve, update, add to or withdraw, replace, or remove all or part of the Services or Service Features) or change the way we provide the Services or Service Features.

(b) You may need to update your software in order to continue using the Services or exercise its functionality or access to the Service Features.

(c) You agree that we do not guarantee that the version of any of your own purchased or licensed software, apps, content or other products will be compatible now or in the future with:

(i) the Services (offered by us currently or in the future);

(ii) Third-Party Apps and Services; or

(iii) other software or services provided by third parties.

(d) We will inform you by publishing any such changes on our Website, or emailing you, or including the information on or with your invoice, with not less than thirty (**30**) days' notice before the change, unless we cannot reasonably do so.

(e) Where we update the Services or change any part of the Services used or purchased by you in a way that significantly disadvantages you during a term for which you have already paid, you may terminate this Agreement by electing to do so within the Services, by using our automated tools to do so, or in writing to us at support@themessaging.co if:

(i) a material Service Feature of the Services is changed, discontinued or removed (whether as a result of bug fixes, patches, upgrades, additional or enhanced functions, plug-ins, or new versions) from the Services;

(ii) you can demonstrate that this change had a major detrimental impact on you;

(iii) you are able to complete the necessary identity verification process (which may incur a cost to you) to confirm you have the rights to cancel the Service; and

(iv) the update or change occurs or is scheduled to occur during the Billing Period.

If this clause applies to you, then you may end the Service and request a pro-rata refund for the unused portion of the Billing Period. Any refund, and the amount of any refund, will be determined at our sole discretion

6.2 Our right to make corrections

(a) There may be information on the Services that contains typographical errors, inaccuracies, or omissions. We may correct any errors, inaccuracies, or omissions and change or update the information on the Services at any time.

7. Third-Party Apps and Services

7.1 Third-Party Apps and Services

(a) The Services may allow you to access or acquire Third-Party Apps and Services and these may be subject to separate terms and conditions set by those third parties and agreed with you.

(b) You should review the third-party terms and conditions before acquiring, using, requesting, or linking your Account or Email ID to any Third-Party Apps and Services.

(c) Any third-party terms do not modify these Terms of Service between you and us.

(d) Your acquiring, using, requesting, or linking your Account or Email ID to any Third-Party Apps and Services is at your risk and we are not responsible for any issues arising out of your use of them or for information or services provided by any of them.

8. Payment for Services

8.1 Payment terms

(a) Subject to any other agreement between you and us governing any purchased Services, if you purchase a Service from us, then the payment terms in this clause 8 will apply to that purchase.

(b) We will normally bill you regularly and in advance (for the period ahead).

(c) If we need to charge you for anything extra, we may choose to bill you upfront or add those Charges to a later bill.

(d) You must pay any bills and due payments on or before the payment due date, unless we agree otherwise with you.

(e) We may bill you:

(i) in advance;

(ii) at the time of you purchasing or subscribing to the Services;

(iii) shortly after the time of you purchasing or subscribing to the Services; or

(iv) on a recurring basis for subscription-based Services, as we agree with you at the time you choose the Services.

8.2 Charges

(a) You must pay all applicable Charges on your Account.

(b) We will issue you with a valid tax invoice upon payment.

(c) Unless specified otherwise in an invoice from us, you must pay the Charges for the Services:

(i) in the currency stated on the invoice; and

(ii) on or before the payment due date.

(d) All bills, payment requests, and invoices are emailed. Paper copies are not issued.

(e) If you genuinely think we have made a mistake on your bill, we require you to notify us promptly. You must still pay by the due date any undisputed amounts that you agree you owe.

(f) If we have not received your payment within seven (**7**) days of your payment due date (including if your payment failed), we may suspend your Service and a reactivation service cost may apply.

(g) Failure to pay all applicable charges on your Account will result in your Account being terminated in accordance with clause 2.7(c).

8.3 Billing Account

(a) To pay the Charges for the Services, we may require you to provide a payment method and pay us at the time you sign up for the Services or open an Account with us ("**Billing Details**").

(b) You must ensure that your Billing Details are correct and up to date so that we can complete your transactions and contact you as needed in connection with your transactions.

(c) By providing us with your Billing Details, you:

(i) represent that you are authorised to use the payment method you provided and that any payment information you provide is true and accurate;

(ii) authorise us to charge you for the Services using your payment method in accordance with the fees agreed by you; and

(iii) authorise us to charge you for any paid features of the Services you choose in accordance with the fees agreed by you.

(d) If the Account is associated with a business, the billing obligations fall under the Account Holder representing that business.

(e) You authorise us to continue billing the payment method on file, including after expiration, using any updated payment information provided by your bank or card network.

8.4 Subscriptions and recurring payments

(a) When you purchase or subscribe to the Services on a paid subscription basis, you acknowledge that you are authorising recurring payments and your payment method will be billed by us at the recurring intervals you have agreed to, until your subscription for that Service is cancelled or terminated.

(b) By authorising recurring payments, you are authorising us to process such payments to your designated payment method.

(c) You may cancel your subscription for Services at any time yourself within the billing controls of the Service. Your subscription for the Services will effectively be cancelled at the end of the then-current billing period.

(d) You must cancel your Services before the next billing date to stop being charged for your continued use of the Services for the following billing period.

(e) We will inform you in advance by giving at least thirty (**30**) days' advance notice of any changes in the amount to be charged for recurring subscription Services.

8.5 Refund policy

In certain circumstances, you may be entitled to refunds under Consumer Law as set out in clause 12 below.

8.6 Price changes

(a) We may change the price of the Charges of the Service or Service Features at any time and will publish these on our Website and in our Critical Information Summary.

If you have a recurring purchase, we will notify you (of price changes that affect you) by email, or other reasonable manner, at least thirty (**30**) days before your next renewal is due.

(b) If you do not agree to the price change, you may cancel and stop using the Services before the price change takes effect for your subscription without incurring any additional fee for doing so.

(c) By not cancelling the Services or by continuing to use the Services after the price change takes effect for your subscription, you acknowledge and agree to the notice period and price change to the Services used by you after the notice period.

(d) If there is a fixed term and price for your Billing Period, that price will remain in force for that fixed term or Billing Period.

8.7 Trial and promotional offers

(a) If you are taking part in any trial period offer, then, subject to any separate agreements or terms between you and us relating to that trial period offer, you may be required to cancel the trial Services within a specified timeframe communicated to you when you accepted the trial period offer in order to avoid being charged to continue the Service at the end of the trial period. If you do not cancel the trial Services within that specified timeframe, then you agree that you have purchased the full Services and that we may charge you for the full Charges for the Services from the end of the trial period in accordance with these Terms of Service.

(b) From time to time, we may offer Services for a discounted rate ("**Promotional Offer**" or "**Introductory Offer**") for a promotional period communicated to you before you accept the Promotional Offer. At the end of that promotional period, you agree that we may charge you the full or non-discounted rates for that Service in accordance with these Terms of Service.

9. Tax

9.1 Prices inclusive or exclusive of Sales Tax

(a) All prices and amounts payable under these Terms of Service are stated inclusive of Sales Tax, unless otherwise expressly stated.

(b) If any Sales Tax is imposed on any supply made under or in connection with these Terms of Service, the recipient must pay to the supplier an amount equal to the Sales Tax in addition to and at the same time as the consideration for that supply.

9.2 Tax calculation and compliance

(a) We will determine, collect and remit any applicable Sales Tax in accordance with the laws of the jurisdiction in which the customer is located, based on information provided by the customer (including billing address and other location data).

(b) Where required by law, we will issue tax invoices or equivalent documentation compliant with applicable tax legislation.

9.3 Adjustments

If an adjustment event or change occurs in relation to a taxable supply, the amount of Sales Tax payable will be recalculated, and any difference will be paid by the recipient to the supplier or refunded by the supplier to the recipient, as the case requires.

9.4 Customer responsibilities

The customer is responsible for providing accurate and complete information necessary for us to determine applicable Sales Tax obligations. We are not responsible for any penalties or interest arising from incorrect information provided by the customer.

9.5 Other taxes

Except as set out in this clause 9, you will be responsible for your own taxes, charges, fees, levies, customs, duties, insurance or other such costs or contributions which may be payable out of, or as a result of the receipt of any Charges or other monies paid or payable in respect of, the Services.

10. Our warranties

10.1 Disclaimer

NOTHING IN THESE TERMS OF SERVICE EXCLUDES, RESTRICTS OR MODIFIES WARRANTIES, GUARANTEES OR REMEDIES WHICH CANNOT BE EXCLUDED UNDER CONSUMER LAW OR OTHER APPLICABLE LAW.

YOUR SERVICES ARE SUPPLIED:

(A) ON THE TERMS AND CONDITIONS EXPRESSLY SET OUT IN THESE TERMS OF SERVICE; AND

(B) SUBJECT TO NON-EXCLUDABLE RIGHTS UNDER CONSUMER PROTECTION LAWS.

NO OTHER TERMS OR RIGHTS APPLY.

YOU USE THE SERVICES AT YOUR RISK. WE DO NOT WARRANT RESULTS YOU MAY OBTAIN BY USING THE SERVICES OR THAT THE SERVICES DO NOT INFRINGE ANY THIRD-PARTY RIGHTS OR ARE FIT FOR ANY PARTICULAR PURPOSE, SAVE FOR THE PURPOSES WHICH WE EXPRESSLY AGREED WITH YOU IN WRITING BEFORE YOU ENTERED INTO THESE TERMS OF SERVICE.

11. Limitation of liability

11.1 Consumer Law

Nothing in these Terms of Service excludes, restricts, or modifies remedies which cannot be excluded, restricted, or modified under Consumer Law or other applicable laws.

11.2 Mutual disclaimers

Save for your liability to us for the Charges payable by you for the Services,

(a) no party is liable to the other party for:

  (i) any indirect loss or damage;

  (ii) any other loss or damage which the parties did not reasonably expect, or which was not considered when entering into this Agreement;

(b) no party is liable for any loss or damage of the other party to the extent that it:

(i) is caused by the other party (for example, through the other party's negligence or breach of contract); or

(ii) results from the other party's failure to take reasonable steps to avoid or minimise its loss or damage; or

(iii) is caused by the first party failing to comply with its obligations under this Agreement where caused by a Force Majeure Event.

11.3 What we are not responsible for

We are not responsible for any of the following:

(a) Any loss or damage resulting from:

(i) **Cyberattacks** including hacking, phishing, denial of service attacks, or any unauthorised access to your Account, Customer Data or Content;

(ii) **Malware, viruses, or other malicious software** that may affect your devices, unless such malware originated from our systems due to our negligence;

(iii) **Data breaches or unauthorised disclosure** of your Customer Data or Content by third parties, except where such breaches are caused by our failure to take reasonable steps to secure your information;

(iv) **Third-party access to your Account** through methods outside our reasonable control, such as compromised passwords, unpatched software, or phishing schemes;

(v) **Loss or corruption of data** caused by factors outside our reasonable control, including your failure to maintain adequate backup copies of your Customer Data and Content;

(b) Any downtime or disruption of the Services caused by, including but not limited to:

(i) Security-related updates, patches, or preventative maintenance conducted by us;

(ii) Your failure to update, patch, or secure your software, hardware, or systems that interact with our Services;

(iii) Use of unauthorised third-party applications or plugins in connection with our Services.

(c) Any incompatibility of your equipment with the Services, or your use of any equipment or hardware we have not supplied; or

(d) Any cause which is not due to:

(i) our fault or breach of this Agreement; or

(ii) our breach of applicable law.

12. Consumer Law

12.1 Application of Consumer Law

(a) Under Consumer Law, if you are a consumer customer or a small business customer, you have additional rights and remedies as set out below.

(b) Notwithstanding anything to the contrary in these Terms of Service, if you acquire goods and services from us as a consumer, those goods or services come with statutory guarantees under Consumer Law that cannot be excluded, restricted, or modified by these Terms of Service.

(c) The statutory guarantees include (without limitation) that services provided by us must:

(i) be provided with due care and skill or technical knowledge;

(ii) be fit for the purpose or deliver the results that have been agreed; and

(iii) be supplied within a reasonable time when there has been no agreed specific time frame.

(d) To the extent that we fail to comply with a consumer guarantee to which you are entitled to under Consumer Law, you are entitled to the remedies as set out in Consumer Law, which include:

(i) for major failures with the services provided by us, an entitlement to:

(A) cancel your service contract with us; and

(B) a refund for the unused portion, or to compensation for its reduced value.

13. Intellectual property

13.1 Background intellectual property

(a) You agree that we own all intellectual property in the Services and software or other services provided to you by us.

(b) "**THE MESSAGING COMPANY**", The Messaging Company and THE MESSAGING COMPANY, are proprietary materials of ours or our licensors and you may not copy, imitate, modify or use them or any other of our data, or website content or intellectual property without our prior written consent. In addition, all page headers, custom graphics, button icons, and scripts are our service marks, proprietary materials and/or trade dress and you may not copy, imitate, modify or use them without our prior written consent.

(c) You may use logos provided by us for the sole purpose as authorised by us in writing and you may not alter, modify or change these logos in any way, use them in a manner that mischaracterises us or our services or display them in any manner that implies our sponsorship or endorsement or in any way that is contrary to our written advice.

(d) All right, title and interest in and to our Website, any content thereon, the Services, the technology related to the Services, and any and all technology and any content created or derived from any of the foregoing is the exclusive property of us and our licensors.

(e) You agree that, except as expressly provided for in these Terms of Service or in any other agreement between you and us governing the provision of goods and/or services to you by us, nothing in these Terms of Service or that other agreement transfers or grants to you any right, title or interest in any of our intellectual property in respect of those goods and/or services provided to you.

(f) Subject to the terms of any other agreement between you and us, we grant to you a limited, personal, revocable, non-exclusive, non-sublicensable, non-transferable licence to use the Services during the Term of these Terms of Service to the extent necessary for you to use, access and enjoy them as provided by us and as contemplated under these Terms of Service or any other agreement between you and us.

(g) Except as expressly provided in these Terms, nothing in this Agreement transfers ownership of your Content to us. You retain all rights in your Content.

13.2 Your licence of your Customer Data and Content to us and our use of it

(a) We do not claim ownership of your Customer Data or your Content that you provide, upload, submit or send to us. When you provide your Customer Data or your Content to us or make public your Customer Data or your Content using our Services, you grant to us (and the third parties that we work with) a non-exclusive, irrevocable, royalty-free, transferable worldwide licence to use your Customer Data and your Content and associated intellectual property and publicity rights during and after the Term solely for the purpose of operating, maintaining, securing, and improving the Services, and developing new features that relate to the Services. We will not use your Content for marketing or promotional purposes without your consent. We will not compensate you for any of your Customer Data or Content. You represent to us that our use of your Customer Data or your Content will not infringe any intellectual property or publicity rights and that you own or otherwise control all of the rights of your Customer Data and your Content you provide to us, and you agree to waive your moral rights and promise not to assert such rights against us.

14. Privacy

14.1 Privacy and Personal Data

(a) Our Privacy Notice details how we collect, hold, use, disclose and otherwise process your Personal Data. For clarity:

(i) With respect to Content, you are the Data Controller and we are the Data Processor.

(ii) With respect to Customer Data, we are the Data Controller.

Our respective roles and responsibilities are described in our Privacy Notice and (where applicable) in any Data Processing Addendum.

(b) You must read and agree to our Privacy Notice prior to using our Services and the Privacy Notice is incorporated automatically by reference into these Terms of Service.

(c) By continuing to use our Services, you represent that you have read our Privacy Notice and agree to it.

(d) You may exercise any rights you have in relation to your Personal Data as described in our Privacy Notice.

14.2 Identity authentication

(a) You authorise us, directly or through third parties, to make any inquiries we consider necessary to verify your identity. This may include:

(i) asking you for further information;

(ii) requiring you to take steps to confirm ownership of your email address or financial instruments;

(iii) verifying your information against third-party databases or through other sources; or

(iv) requiring you to provide identifying documents.

(b) Anti-money laundering and counter-terrorism financing laws may require that we verify your identity and we have the right to close, suspend, or limit access to your account or the Services if, after reasonable enquiries, we are unable to obtain information about you required to verify your identity.

14.3 International data transfers

Where we transfer Personal Data to a country outside Australia or other regions with equivalent data protection laws, we will ensure that appropriate safeguards are in place in accordance with applicable data protection laws. These safeguards may include appropriate contractual, technical, and organisational measures, and other legally recognised data transfer mechanisms, as required by applicable data protection laws. By using the Services, you acknowledge and agree to such transfers, provided that they are carried out in compliance with applicable data protection laws.

14.4 Technology providers

We use specialist technology providers to operate and host the Services. These providers process data on our behalf under contractual obligations that require appropriate security, confidentiality, and compliance with applicable data protection laws.

15. Confidentiality

15.1 Your Confidential Information

(a) Subject to clause 15.1(b), we will:

(i) keep your Confidential Information confidential; and

(ii) not use or disclose your Confidential Information for purposes other than to perform our obligations or exercise our rights under these Terms of Service or any other agreement between you and us, or to provide our Services to you.

(b) We may disclose your Confidential Information to others where:

(i) you have consented to us disclosing your Confidential Information;

(ii) it is necessary for us to disclose your Confidential Information in order to provide you with our Services or comply with these Terms of Service;

(iii) it is to our personnel, employees, officers, service providers, subcontractors, professional advisers or our related bodies corporate who have a need to know in order to provide, or assist in providing, our Services to you and who are bound by similar obligations of confidentiality in respect of your Confidential Information; and

(iv) we are required to do so by a court, a governmental agency, regulatory body or other such authority or under applicable law.

15.2 Our Confidential Information

(a) You must:

(i) keep our Confidential Information confidential at all times; and

(ii) not use or disclose our Confidential Information except to the extent necessary to use, access and enjoy our Services as contemplated under these Terms of Service or any other relevant agreement between you and us.

16. Audit

16.1 Audits

(a) We may, if we reasonably believe that you are in material breach of these Terms of Service, carry out an audit on you and your Account with us to investigate.

(b) You must provide us with all reasonable assistance reasonably requested by us or a third-party auditor engaged by us in carrying out the audit.

(c) Where the audit finds that you are in material breach of these Terms of Service, you must promptly rectify that breach at your cost.

17. Term, suspension, and termination

17.1 Term

(a) These Terms of Service commence on the Service Start Date and, except where earlier terminated in accordance with this Agreement, continue in full force and effect for as long as you are entitled to use our Services for the agreed fixed term or **Billing Period**.

17.2 Cancelling the Services

(a) You may cancel a Service at any time, with or without cause.

(b) Cancelling paid Services stops future charges to continue the Service as set out in these Terms of Service.

(c) You acknowledge and agree that, if we or you cancel a Service:

(i) clauses 2.8 and 17.5 apply and any other provisions which expressly or by implication survive; and

(ii) you may be required to pay cancellation Charges where you have agreed to such obligations under a separate agreement for the Services with us.

(d) If you cancel the Services, your access to the Services ends at the end of your current Billing Period, unless you specifically request immediate termination.

17.3 Suspension

(a) We may suspend the provision of our Services to you if:

(i) you have breached a material term of these Terms of Service;

(ii) your payment has not been received for the Charges for the Services when due in accordance with these Terms of Service;

(iii) we suffer a Force Majeure Event (as set out in clause 18 below); or

(iv) your behaviour, or the behaviour of a User under your Account, falls within the scope of abusive or non-compliant behaviour as described in clause 3.3.

(b) Where we have suspended our Services to you under clause 17.3(a)(i), 17.3(a)(ii), or 17.3(a)(iv), we may resume our provision of the Services to you after:

(i) we decide you have remedied any material breach;

(ii) we receive any outstanding Charges from you (including any reactivation service charge); and

(iii) we agree any issue concerning abusive or non-compliant behaviour described in clause 3.3 has been satisfactorily resolved.

17.4 Termination for material breach

Either party may terminate these Terms of Service upon written notice to the other party if the other party:

(a) breaches a material term of these Terms of Service and that breach is incapable of being remedied; or

(b) breaches a material term of these Terms of Service that is capable of remedy, and fails to remedy that material breach within thirty (**30**) days after being requested to do so.

17.5 Effects of termination

In addition to clause 2.8, on termination of your Account or the Services or this Agreement, all licences granted to you under these Terms of Service for the Term cease and your rights will cease (and you will no longer be able to use) any email address(es) issued to you for use in connection with our Services. All Customer Data and Content associated with your use of the Services will be handled in accordance with the Account closing process set out in clause 2.7.

18. Force Majeure Events

18.1 Force Majeure Events

(a) Except to the extent prohibited by Consumer Law, a party that suffers a Force Majeure Event may suspend the performance of its obligations under these Terms of Service or extend the time for performance of those obligations, in each case

only to the extent that those obligations are affected or inhibited by the Force Majeure Event.

(b) A party that suffers a Force Majeure Event must take all reasonable steps to mitigate the effects of the Force Majeure Event and cooperate in good faith with the other party to do so.

18.2 Termination for Force Majeure Event

(a) If after thirty (**30**) days from the commencement of the Force Majeure Event the party seeking relief is prevented from recommencing its performance of its obligations under these Terms of Service, the other party may terminate these Terms of Service immediately on written notice to the first party, subject to any rights or remedies available under Consumer Law or other applicable laws.

19. Notices

19.1 Notice to you

(a) We may send you notices:

(i) by email to your email address;

(ii) via SMS or MMS messages to your registered mobile number or device; or

(iii) by posting a letter to your mailing address (if you have provided us with those details).

(b) By accepting these Terms of Service, you consent to receiving SMS notifications from us regarding updates and important information related to your Account and the Services. These notifications may include, but are not limited to, service updates, security alerts, and Account-related communications. You may opt out of non-essential SMS notifications at any time by following the opt-out instructions provided in the messages or by contacting us. However, essential service notifications related to the security or operation of your Account may still be sent as required or as requested by you.

19.2 Notices to us

(a) You may send notices to us:

(i) by emailing us at notices@themessaging.co or

(ii) by posting a letter to our offices at:
The Messaging Company Pty Ltd
Suite 251, Level 18, 324 Queen Street
Brisbane QLD 4000
Australia

19.3 When notices are received

Notices sent by a party under this clause 19 are deemed to be received by the other party:

(a) if served by hand or in person, then on delivery of the notice;

(b) if by post, then three (**3**) business days after posting the notice (or six (6) business days if posting from outside of Australia);

(c) if by email, then upon receipt by the recipient's email system; or

(d) if by SMS or MMS, then upon receipt by the recipient's mobile number or device.

20. Changes to these Terms of Service, Charges, Services, or Service Features

Changes will not apply retroactively.

20.1 Changes to these Terms of Service or Charges

We may, with advance notice, at any time:

(a) make the agreement clearer or easier for you to understand, or change it in another way that does not adversely affect you;

(b) make material changes to these Terms of Service;

(c) mutually agree with you to change these Terms of Service;

(d) make changes to reflect a change to any applicable law that applies to us;

(e) introduce or vary a Charge to pass on a tax or levy imposed on us under applicable law;

(f) introduce or vary a Charge associated with a service where we rely on a third party for the service and the third party increases its price to us;

(g) withdraw any plans/packages (to take effect from the end of your current Term);

(h) change the way we structure our Charges; or

(i) reorganise the way we manage or run our business,

and we will inform you by publishing any such changes on our Website, or emailing you, or including the information on or with your invoice, with not less than thirty (**30**) days' notice before the change, unless we can't reasonably do that.

20.2 Changes to Services or Service Features

(a) We may change, update, add to, withdraw, replace, or remove all or part of a Service or Service Feature, or change the way we provide the Services, including where reasonably necessary to: (i) maintain security or integrity; (ii) improve performance; (iii) reflect changes to applicable law or regulatory requirements; or (iv) reorganise our business operations.

(b) We will provide notice of such changes in accordance with clause 6.1(d).

(c) If a change to a Service or Service Feature during a Billing Period results in the removal or discontinuation of a material Service Feature and causes you more than a minor detriment, you may end the affected Service in accordance with clause 6.1(e). Nothing in this clause limits any rights or remedies you may have under Consumer Law.

21. General provisions

21.1 Entire agreement

Except where expressly provided otherwise in these Terms of Service or any other agreement between you and us, or where you and us have previously agreed in writing that prior representations or discussions apply to these Terms of Service, these Terms of Service represent the entire agreement between you and us, and replace all previous representations, communications, negotiations, agreements and understandings between us and you relating to its subject matter.

21.2 Relationships

Nothing in these Terms of Service is intended to or will operate to create a partnership, joint venture or employment relationship between the parties, or authorise either party to act as agent for the other, and neither party will have the authority to act in the name or on behalf of or otherwise to bind the other party in any way.

21.3 Waiver

No failure or delay by a party to exercise any right or remedy provided under these Terms of Service or by applicable law will constitute a waiver of that or any other right or remedy, or prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

21.4 Invalidity

Any part of these Terms of Service which is or becomes void or unenforceable will, to the extent of such invalidity, be severable and will not affect the other provisions or the remainder of the affected provision of these Terms of Service.

21.5 Assignment

(a) We may assign, novate, or transfer our rights, benefits, obligations and/or liabilities under these Terms of Service to another party (the **New Service Provider**) provided that:

(i) the New Service Provider is an entity that will assume those rights, benefits, obligations, and/or liabilities;

(ii) your rights and the Services provided to you under these Terms of Service will not be adversely impacted as a result of the assignment, novation, or transfer;

(iii) the assignment, novation, or transfer is occurring as part of a sale of our business or business restructure; and

(iv) we have given you thirty (**30**) days' advance notice of any novation, assignment, or transfer.

You must accept performance by the New Service Provider in place of performance by us and if you do not want to do so then you may terminate or cancel your contract with us in accordance with these Terms of Service.

(b) You cannot transfer your rights or obligations for your Service without our consent but we will not unreasonably withhold that consent.

21.6 Subcontracting

We may, from time to time, subcontract any part of our obligations under these Terms of Service or its provision of the Services to you, at our own expense.

21.7 No exclusivity

You acknowledge that these Terms of Service do not create any exclusive relationship between you and us, and that we are free to deal with third parties in respect of any of the Services.

21.8 Cumulative rights

The rights, powers, authorities, discretions, and remedies of a party under these Terms of Service do not exclude any other right, power, authority, discretion, or remedy of that party, whether under these Terms of Service or under applicable law.

21.9 Consent

Except to the extent the context requires otherwise, where an act, right, or obligation under these Terms of Service is subject to the consent of a party, that party may grant or withhold that consent in its sole discretion and is not required to provide a reason for that grant or withholding.

21.10 Further assurances

Each party must at its own expense take any action which the other party reasonably requests to carry out the intended purpose of these Terms of Service.

21.11 Governing law and jurisdiction

These Terms of Service (and any non-contractual obligations arising out of or in connection with it) will be governed by, and construed in accordance with the laws of Queensland, Australia, without regard to conflict of laws principles. Nothing in this clause affects any mandatory rights you have under the laws of your country of residence, including (where applicable) rights to bring claims in your local courts. If you are a consumer and the laws in your jurisdiction provide you with mandatory consumer protection rights, those rights will apply in addition to these Terms of Service.

You and we submit to the non-exclusive jurisdiction of the courts of Queensland, Australia, except where applicable law in your jurisdiction requires that disputes be brought in your local courts.

21.12 Export Control and Sanctions

You represent and warrant that you are not located in, under the control of, or a resident or national of any country subject to embargo or sanctions by the United Nations, European Union, United Kingdom, United States of America, or Australia, and that you are not on any applicable government list of prohibited or restricted parties. You must not use the Services in violation of any applicable export control or sanctions laws.

22. Survival

22.1 The following clauses shall survive the termination or expiration of this Agreement and continue in full force and effect:

(a) Clause 2.8 – Effects of the Services ending

(b) Clause 11 – Limitation of liability

(c) Clause 13 – Intellectual property

(d) Clause 14 – Privacy

(e) Clause 15 – Confidentiality

(f) Clause 16 – Audit

(g) Clause 17.5 – Effects of termination

(h) Clause 18 – Force Majeure Events

(i) Clause 21 – General provisions

These clauses contain obligations, rights, and provisions that, by their nature, are intended to survive termination or expiration to ensure the continued protection of the parties' interests, intellectual property, and confidential information.

All other provisions not explicitly listed herein shall terminate upon the cessation of this Agreement unless otherwise required by applicable law or related to outstanding payments, pending disputes, or obligations that by their nature extend beyond termination.

23. Indemnification

23.1 User indemnification obligations

You agree to defend, indemnify, and hold harmless The Messaging Company Pty Ltd (including our officers, directors, employees, agents, and affiliates) from and against any and all claims, liabilities, damages, losses, and expenses (including legal fees on a full indemnity basis) arising out of or in connection with:

(a) **Your use of the Services**

(i) Any violation by you (or any User under your Account) of these Terms of Service or applicable laws and regulations; or

(ii) Misuse of the Services, including but not limited to Excessive or Unusual Use; or

(iii) Breaches of third-party rights, including intellectual property, privacy, or proprietary rights, resulting from your use of the Services or Content.

(b) **Security incidents and unauthorised access**

(i) Any failure by you to maintain the confidentiality of your Account, passwords, or security credentials; or

(ii) Any unauthorised access to the Services through your Account, unless caused by our proven negligence or failure to apply reasonable security measures.

(c) **Third-party claims**

(i) Any claim by a third party that your Customer Data, Content, or use of the Services has caused harm or infringed their rights; or

(ii) Any disputes between you and other users, service providers, or third parties arising from interactions through the Services.

This clause does not apply to the extent prohibited by applicable Consumer Law.

23.2 Our right to assume control

We reserve the right, at our own expense, to assume the exclusive defence and control of any matter otherwise subject to indemnification by you. In such cases, you agree to cooperate with our defence of the claim. You may not settle any matter without our prior written consent unless the settlement releases us of all liability.

24. Accessibility and non-discrimination

24.1 Commitment to accessibility

We are committed to ensuring that our Services are accessible to all users, including individuals with disabilities. We strive to comply with applicable accessibility standards, including but not limited to:

(a) The Web Content Accessibility Guidelines (WCAG) 2.1 Level AA;

(b) Relevant accessibility laws in jurisdictions where our Services are provided.

24.2 Reasonable accommodations

If you have difficulty accessing any part of our Services or require accommodations, please contact us at accessibility@themessaging.co and we will make reasonable efforts to provide you with appropriate accommodations or alternative access.

24.3 Non-discrimination

We do not tolerate discrimination, harassment, or exclusion based on disability, race, ethnicity, national origin, religion, gender, sexual orientation, age, or any other characteristic protected by applicable law.

All users have equal rights to access and use our Services. Any violation of this policy by a user may result in the suspension or termination of their Account.

24.4 Feedback and improvements

We welcome feedback regarding the accessibility of our Services. If you encounter any barriers or have suggestions for improvement, please send your feedback to accessibility@themessaging.co as we are committed to continuous improvement to ensure our Services remain inclusive and accessible to all.

Our Terms of Service can be viewed online at https://themessaging.co/terms