SUBSCRIPTION SERVICE TERMS

Master Subscription Agreement

Source: https://textus.com/subscription-service-terms (retrieved November 5, 2026)

IMPORTANT – READ THIS CAREFULLY BEFORE USING OR ACCESSING THESE PROPRIETARY SERVICES.

BY AGREEING TO AN ORDER, CLICKING "I AGREE" TO AN ORDER, SUBMITTING PAYMENT, OR BY OTHERWISE ACCESSING OR USING THE PLATFORM OR THE SUBSCRIPTION SERVICES, CUSTOMER AGREES TO BE BOUND BY THIS AGREEMENT.

These Subscription Terms ("Terms"), along with any Order Forms (defined below) and other documents incorporated by reference (collectively, "Agreement") create an agreement between Text Us Services, Inc. ("TextUs"), a Delaware corporation and the business entity or person identified on the Order for whom you ("You") are acting ("Customer"). Customer desires to use the TextUs Subscription Services (defined below) pursuant to the terms and conditions of this Agreement. This Agreement governs Customer's access to and use of the Subscription Services. You are entering into this Agreement for Customer's access and use of the Subscription Services in accordance with this Agreement. You represent and warrant that You are entering into this Agreement on behalf of Customer and that You have the authority to bind Customer to this Agreement.

The Order Form is considered an offer and TextUs is willing to provide the Subscription Services to Customer only on condition that You accept all the terms in this Agreement on behalf of Customer. Any different or additional terms and conditions set forth in any purchase order, confirmation, statement of work, order form or similar ordering document, written or verbal, are rejected and shall have no force or effect on the Agreement unless it is an amendment or addendum to the Agreement signed by authorized representatives of both parties.

If Customer has entered into a separately negotiated master subscription agreement with TextUs for the Subscription Services that is signed by both parties (a "Written MSA"), and that Written MSA is attached to, or expressly identified by name and effective date in, the applicable Order Form, then the Written MSA shall govern that Order Form and shall supersede and take precedence over these Terms. Otherwise, these Terms govern. If Customer has entered into an online agreement with TextUs for the Subscription Services, including an earlier version of these Terms, prior to this Agreement, then this Agreement shall supersede and take precedence over that earlier agreement, and any such earlier online agreement is hereby terminated. Subject to the foregoing, this Agreement shall be the entire agreement between the parties regarding the Subscription Services.

The parties agree as follows:

1. Scope

1.1. TextUs shall make available to Customer the TextUs business texting software applications, analytics, tools, and platforms that Customer has subscribed to under an Order Form (defined below) or that TextUs otherwise make available to Customer, and are developed, operated, and maintained by TextUs, accessible via http://textus.com or another designated URL ("Platform"), and any ancillary products and services, including text messaging delivery services, that TextUs provides to Customer including any and all updates, upgrades, modifications, improvements and derivatives to the Platform or such services made available to Customer (collectively, the "Subscription Services").

1.2. An "Order Form" means any agreed upon order or online subscription process by which Customer agrees to subscribe to the Subscription Service setting forth the terms and conditions relating to the Subscription Services. These Terms are incorporated by reference into the Order Form which together form the "Agreement" that governs Customer's use of and access to the Subscription Services. Customer is purchasing the right to access and use the Subscription Services set forth in the Order Form for the time period provided in the Order Form ("Order Form Term"). To the extent of any conflict between the provisions of this Subscription Services Agreement and the provisions of any Order Form, the provisions of the Order Form shall take precedence and govern.

2. Rights to Subscription Services

Subject to the terms and conditions of this Agreement, TextUs hereby grants to Customer a non-exclusive, limited, non-sublicensable, non-transferable right, during the Term (defined below), to allow Customer's employees or contractors ("Permitted Users") to access and use the Subscription Services solely in connection with the facilitation of certain messages and communications to intended recipients of Customer's business.

3. Fees and Payment

3.1. Customer shall pay the fees for the rights to access and use the Subscription Services as set forth in the Order Form ("Fees"). Unless otherwise expressly indicated in the Order Form, all payments of Fees shall be due and payable within 30 days after the date of the applicable invoice. Except as otherwise expressly set forth in this Agreement, all Fees are non-refundable. If Customer fails to pay any undisputed Fees when due as set forth in the Order Form, TextUs may charge a late fee on such undisputed Fees calculated at the lesser of (a) rate of one and one-half percent (1.5%) per month of the total outstanding amount and (b) the maximum rate permitted by applicable law. Customer is responsible for all collection costs (including without limitation reasonable attorney's fees) arising from TextUs' efforts to collect past due Fees.

3.2. Customer may add products and services to their account at any time and TextUs will charge Customer at the then current rate, or agreed upon rate, and prorate, where applicable, to align with the existing term and billing cycle associated with the applicable Order Form. TextUs may provide Customer with a maximum number of SMS Messages for a given period, in which case, if Customer exceeds the stated maximum number of SMS Messages for a given period, then each SMS Message above the maximum for that respective period will be billed separately to the Customer at the per SMS Message rate calculated, or included, on the then current Order Form. SMS Messages are defined as one SMS Message equals 1,120 bits or less (for example, one alpha-numeric character equals 7 bits) and one MMS message is equal to three (3) SMS Messages. A single SMS Message consists of 1,120 bits or less; any message exceeding 1,120 bits is divided into, and counted and billed as, the number of whole SMS Messages required to transmit it, with each such increment counted separately as an SMS Message. The terms "SMS Message" and "SMS Segment" are synonymous and used interchangeably throughout this Agreement, on any Order Form, in any invoice, and within the Subscription Services (including any usage counters, dashboards, reports, or analytics, which may reference either term), and each has the same meaning; any reference to one shall be deemed a reference to the other. For all purposes under this Agreement, including measuring usage against any maximum and calculating any overage or per-message charge, an "SMS Message" (or "SMS Segment") includes each SMS Message both sent and received through the Subscription Services, and each SMS Message sent and each SMS Message received is counted separately as an SMS Message. TextUs's records and measurements of SMS Messages sent and received shall be the authoritative basis for determining usage and calculating charges, notwithstanding any counter, estimate, or display within the Subscription Services. An SMS Message is deemed "sent" for purposes of this Agreement when TextUs submits it to a mobile carrier, aggregator, or other messaging provider or intermediary for transmission, regardless of whether it is ultimately delivered to the recipient's device. TextUs may, in its sole discretion, exclude from Customer's usage any inbound SMS Messages that TextUs identifies as spam, fraudulent, or otherwise unsolicited traffic.

3.3. Unless charged as a separate item by TextUs on an accompanying invoice, all Fees are exclusive of any sales, use, services, Internet tax or other tax or governmental assessment applicable thereto, and, as between Customer and TextUs, Customer is responsible for all taxes and governmental assessments applicable to this Agreement and Services.

3.4 TextUs may, upon notice, suspend or limit Customer's and its Permitted Users' access to or use of the Subscription Services, in whole or in part, if: (a) Customer fails to pay any undisputed Fees when due and does not cure such non-payment within ten (10) days after TextUs's notice; (b) Customer's use violates the Acceptable Use terms or Customer Obligations of this Agreement or applicable law, or poses a security, legal, or carrier-compliance risk to TextUs, its network, or its other customers; or (c) suspension is required by a mobile carrier, aggregator, or regulatory or governmental authority. TextUs will use commercially reasonable efforts to limit the scope and duration of any suspension to what is reasonably necessary, and will restore access promptly after the condition giving rise to the suspension is cured or resolved. Any suspension under clause (b) or (c) may be effected immediately where the circumstances present an imminent risk. Suspension does not relieve Customer of its payment obligations, is in addition to (and not in lieu of) TextUs's other rights and remedies including termination for cause, and TextUs shall have no liability for any suspension undertaken in good faith in accordance with this section.

4. Term and Termination

4.1. This Agreement commences on the Start Date and continues until the Order Form has expired or until this Agreement has been terminated ("Term").

4.2. A party may terminate this Agreement for cause upon written notice to the other party if the other party breaches any material provision of this Agreement and fails to cure such breach within 30 days after the breaching party's receipt of written notice from the non-breaching party.

4.3. The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one (1) year

(whichever is shorter), unless either party gives the other written notice at least 30 days before the end of the relevant subscription term (60 days before the end of the relevant subscription term if short codes are included in the Customer's purchased products). Notwithstanding anything to the contrary, any renewal in which subscription volume or subscription length for any Subscription Services has decreased from the prior term may result in re-pricing at renewal without regard to the prior term's per-unit pricing.

4.4. Upon the termination or expiration of this Agreement for any reason, except as otherwise expressly set forth hereunder, all rights to access and use the Subscription Services shall automatically terminate as of the termination date, and Customer shall cease all use of the Subscription Services. Customer shall pay all Fees owed to TextUs prior to the effective date of termination or expiration. Upon written request, TextUs shall maintain an archive of Customer Data for 30 days for retrieval in .csv format. Following such requested 30-day period, TextUs shall have no responsibility to store, maintain, or archive any Customer Data following termination, or any liability for deletion or removal of Customer Data. Sections 4.4, 5, 6, 7, 12, 13, and 14, and all payment obligations shall survive termination of this Agreement.

5. Proprietary Rights

5.1. As between the parties, TextUs is the owner of all rights, title, and interest, including without limitation any and all associated intellectual property rights, in and to the Services (including the Platform), all logs and records created by TextUs or its providers and systems as a result of the registration, access and use of the Subscription Services, and any ideas, concepts, know-how, documentation, techniques, work product, or other proprietary materials that TextUs provides, discloses, or makes available under this Agreement, and any updates, enhancements, customizations, modifications, and developments thereto or derivative works thereof. Nothing in this Agreement shall constitute or be construed as any sale, assignment, or other transfer of any proprietary interest in or to the Subscription Services, and TextUs hereby reserves all rights in the Subscription Services not expressly granted herein.

5.2. As part of Customer's access to and use of the Subscription Services, Customer may access tools, components, modules, sites, links, or other materials from third parties (collectively, "Third Party Property"). TextUs has no ownership or control over the content, characteristics, or specifications of Third Party Property, and TextUs hereby expressly disclaims all responsibility or liability therefor. Use of or access to Third Party Property may be subject to additional legal terms and conditions effective between Customer and the third party proprietors, administrators, or licensors of such Third Party Property. TextUs shall have no responsibility or liability in connection with such terms.

5.3. If, in the course of the use of the Subscription Services under this Agreement, Customer or any Permitted User provides remarks, suggestions, requests, recommendations, improvements, or comments regarding the Subscription Services, or other of TextUs' business activities or proprietary materials (collectively, "Feedback"), TextUs may use, disclose, and otherwise exploit all such Feedback for any and all internal, public, commercial, and non-commercial purposes. Feedback is not Customer Confidential Information.

6. Data.

In the course of Customer's permitted access to and use of the Subscription Services, Customer and Permitted Users may make available to TextUs certain data, including, but not limited to, contact information that may be submitted or uploaded to the Subscription Services in connection with messaging sent through the use of the Subscription Services, as well as information provided in connection with Customer's account and login to the Subscription Services ("Customer Data"). Customer hereby grants to TextUs a non-exclusive, non-sublicensable right and license to use the Customer Data to the limited extent necessary for TextUs to provide the Subscription Services to Customer and allows TextUs to use such Customer Data in an anonymized, aggregated, de-identified format for any business purpose including without limitation for purposes of analytics, research, and benchmarking of the Subscription Services.

7. Confidentiality

7.1. In connection with its performance of its respective obligations hereunder, each party ("Disclosing Party") may disclose or make available to the other Party ("Receiving Party") its Confidential Information. "Confidential Information" means information in any form or medium (whether oral, written, electronic, or other) disclosed to Receiving Party that is confidential or proprietary to Disclosing Party, including, but not limited to, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which Disclosing Party has contractual or other confidentiality obligations that: (a) is marked or labeled as "confidential" or "proprietary;" (b) identified at the time of disclosure as confidential, or (c) Receiving Party knows or should reasonably know to be confidential or proprietary to Disclosing Party under the circumstances of disclosure.

7.2. Receiving Party shall not use Confidential Information for any purpose not expressly permitted by this Agreement and shall not disclose Confidential Information to any third party other than Receiving Party's employees, officers, executives, directors, agents, consultants and professional advisors who have a need to know such Confidential Information and who are under confidentiality obligations no less restrictive than Receiving Party's obligations under this Section. Receiving Party will exercise at least the same degree of care, but in any event no less than a reasonable degree of care, to prevent unauthorized disclosure or use of Confidential Information as it employs with respect to its own information of a like nature. Receiving Party shall be responsible for any unauthorized use or disclosure of Confidential Information by such employees, officers, executives, directors, agents, consultants, and professional advisors.

7.3. Receiving Party shall not have any confidentiality obligations with regard to information disclosed to it that it can show: (a) was rightfully known to Receiving Party without restriction on use or disclosure prior to receipt of such information from Disclosing Party; (b) becomes generally known by the public without breach, negligence, or other wrongdoing of Receiving Party; (c) is rightfully received by Receiving Party by a third party which is under no obligation of confidentiality with respect to such information; or (d) was independently developed by Receiving Party without reference to or use of any portion of Confidential Information, as demonstrated by Receiving Party's written records. If Receiving Party is ordered, as part of an administrative or judicial proceeding or other operation of applicable law, to disclose any Confidential Information, Receiving Party will, to the extent permitted by law: (i) notify the Disclosing Party of such request in writing as promptly as practicable; (ii) cooperate with the Disclosing Party, at the Disclosing Party's expense, in seeking a protective order or similar confidential treatment for such Confidential Information; and (iii) disclose only those portions of Confidential Information strictly required for compliance with said order or law.

7.4. As promptly as practicable upon the written request of Disclosing Party, Receiving Party shall either: (a) return all Confidential Information in its possession or control in any medium, including any copies or reproductions thereof, to Disclosing Party, or (b) destroy all Confidential Information in its possession or control in any medium, including any copies or reproductions thereof, and deliver a written certification of such destruction to the Disclosing Party if requested. The return and destruction obligations of this paragraph shall not apply to TextUs' retention, return, and/or deletion of Customer Data, which is governed by the procedure set forth in Section 4.4. Notwithstanding the foregoing, Receiving Party may retain Confidential Information (a) to comply with applicable law or regulation, professional standards, or internal document retention policy, and (b) as part of its automatic electronic archiving and back-up procedures; in either case provided that such Confidential Information so retained may be used solely for nonpublic, non-commercial internal archival and/or compliance purposes and for no other purpose, and shall otherwise remain subject to all of Receiving Party's confidentiality obligations under this Section.

8. Account Administration

8.1. Customer shall take all actions reasonably necessary in order to maintain the confidentiality of, and prevent the unauthorized access to and use of, all passwords and login information provided by TextUs or created by Customer or Permitted Users, using the same standard of care that Customer uses to protect its own passwords and login information for its systems, but in any event no less than a reasonable standard of care. Customer will promptly notify TextUs in writing (email sufficient for this purpose) if Customer becomes aware, or has reason to believe, that an unauthorized party has gained access to a password or login to the Subscription Services.

8.2. TextUs shall be entitled to rely upon any information and/or instructions set forth in any data transmission sent or received using the Subscription Services, without making further investigation or inquiry, and regardless of the actual identity of the individual transmitting the same. Moreover, Customer shall be responsible for any use of the Subscription Services occurring through Customer's TextUs accounts or through the passwords or logins provided to or created by Customer or Permitted Users, as well as for any liability that arises from Customer's or Permitted Users' failure to protect the security of or maintain the confidentiality of the passwords or logins.

9. Restrictions.

Customer shall not, and shall not permit any person or third party to: (a) copy the Platform or any component thereof; (b) modify, translate, or otherwise create derivative works of the Subscription Services; (c) disassemble, decompile, or reverse engineer the Subscription Services, or any component thereof, including without limitation in object code or source code format; (d) attempt to bypass or breach any security device or protection used by the Subscription Services, or access the Subscription Services using any methods other than those permitted under this Agreement; (e) use or access the Subscription Services in any way or for any purpose which violates any applicable law or regulation; (f) damage, destroy, disrupt, disable, interfere with, or otherwise impede or harm the Subscription Services or any databases, systems or, network infrastructure

involved in the hosting and provision thereof; (g) access (or attempt to access) the Subscription Services through any automated means (including use of any scripts, web crawlers, spiders, robots, or site/search retrieval application), including, but not limited to, during the creation of accounts or logins to the Subscription Services; (h) remove, delete, alter, or obscure any trademarks, specifications, documentation, warranties, disclaimers, or intellectual property or proprietary rights notices from the Subscription Services; or (i) upload or otherwise introduce into the Subscription any virus, disabling device, or other harmful or malicious software code, tool, or application.

10. Customer Obligations

10.1. Customer and Permitted Users shall strictly comply with (a) the TextUs Acceptable Use Policy available at http://TextUs.com/acceptable-use-policy, as may be updated from time to time, and any other terms or materials specifically referred to in that document, and (b) all Federal Communications Commission ("FCC"), Federal Trade Commission ("FTC"), Mobile Marketing Association ("MMA"), and CTIA rules, regulations, laws, policies, and best practices relating to text messaging, including the Telephone Consumer Protection Act, and any other applicable federal, state, and local calling and/or text messaging laws and regulations.

10.2. Customer and Permitted Users may receive access to TextUs' proprietary mobile application which integrates with and/or references the Subscription Services (the "TextUs App"), as may further be described in the Order Form. In such event, references herein to the "Platform" shall be deemed to include the TextUs App.

10.3. Customer and Permitted Users shall not (a) harass or advocate harassment of another person or entity, (b) impersonate any person or entity or misrepresent in any way any affiliation with a person or entity, and (c) send text messages to unknown mobile numbers or to mass text unsolicited persons. Verbal, physical, written, or other abuse (including threats of abuse or retribution) of any TextUs employee or member will result in immediate account termination.

10.4. Customer and Permitted Users shall strictly comply with any registration process for 10-digit long code ("10DLC") messaging services or any other messaging service which the Customer plans to use in conjunction with the Subscription Services.

10.5. TextUs will invoice the Customer for any fees or fines received by TextUs in connection with Customer's non-compliance with any of the Customer Obligations in this section that are levied by any mobile carrier, telecommunications provider, or other entity involved in message delivery for the Subscription Services.

11. Warranties; Disclaimers

11.1. If TextUs provides alpha or beta access to some or all of the Subscription Services (collectively, the "Alpha/Beta Program") available to Customer (i) the Alpha/Beta Program is provided "as is" and without warranty of any kind, (ii) TextUs may suspend, limit, or terminate the Alpha/Beta Program for any reason at any time without notice, and (iii) TextUs will not be liable to Customer for damages of any kind related to its use of the Alpha/Beta Program. TextUs might require Customer's participation to be confidential, and it might also require Customer to provide feedback about its use of the Alpha/Beta Program. Customer agrees that TextUs owns all rights to use and incorporate the feedback into the Subscription Services, without payment or attribution to Customer.

11.2. Only in regard to the Subscription Services that are not considered a part of an Alpha/Beta Program, TextUs warrants that: (i) the Subscription Services will materially conform to the specifications set forth in the Order Form, and (ii) TextUs shall not knowingly introduce any viruses or other forms of malicious code into the Subscription Services. TextUs shall use commercially reasonable efforts to correct any reproducible error in the Subscription Services that is a breach of the warranty in subsection (i) above reported to TextUs by Customer within 30 days after provision of the applicable Subscription Services. If TextUs is unable to correct any such properly reported error within 30 days, Customer may terminate this Agreement upon notice to TextUs and, TextUs shall refund all unused and previously paid Fees for the Subscription Services that were to be provided after the effective date of termination. TextUs shall have no obligation to undertake any action for any error caused by Customer or the combination of the Subscription Services with any third party products or materials, except to the limited extent outlined in the Agreement, Order Form, or specifications. The remedies set forth in this paragraph are Customer's sole and exclusive remedies for any breach of the performance warranty set forth in subsection (i) in this Section.

11.3. Customer represents and warrants that (a) it has the right to use Customer Data as contemplated by this Agreement, (b) grant TextUs the license rights in Section 6; (c) the collection, use, and transfer or sharing of such Customer Data and the processing of such data by TextUs and its affiliates and contractors under this Agreement does not contravene any agreement, terms of use, or privacy policies by Customer or with any third party; and (d) Customer has obtained all permissions, consents, releases or other rights necessary to collect, use, transfer to or share the Customer Data with TextUs.

11.4. In order to improve the Subscription Services, TextUs may stop providing any features within the Subscription Services at TextUs' sole discretion, without prior notice. If TextUs materially decreases the performance of the Subscription Services so that it does not materially conform to the specifications set forth in the Order Form, Textus shall give Customer 30 days' prior written notice and Customer may terminate this Agreement upon written notice to TextUs at any time prior to the expiration of said 30-day notice period. Customer's continued use of the Platform and/or receipt of Subscription Services following the expiration of said notice period shall constitute Customer's consent to any such change.

11.5. The Subscription Services act only as a platform for users to send text messages to a contact's mobile phone and TextUs does not itself verify the content of any messages sent by users or messages received by users. TextUs cannot and does not assume responsibility for the accuracy, completeness, safety, reliability, timeliness, legality, or applicability of any text message sent to a mobile number or received by any user. Text messages are created and sent at Customer's and Permitted Users' own risk.

11.6. TextUs has no control over third party telephone networks, intermediary service providers, API vendors, or carriers ("Third Party Service Providers"). Although TextUs does encrypt Customer Data in transit and at rest, technical processing and transmission of Customer Data and messages through Third Party Service Providers' systems may be transferred unencrypted and involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices to such Third Party Providers' systems. TextUs is not making any promises, warranties, or guarantees regarding any Third Party Providers' and their systems.

11.7. Messages shall be deemed to have been delivered when TextUs delivers the messages to the immediate destination, including mobile telephone networks, or any other intermediary server/API that is designated as the point of delivery for the message. TextUs does not guarantee delivery on behalf of mobile carriers. Although TextUs provides extensive text messaging coverage, including all major U.S. mobile carriers, TextUs makes no guarantees to its network coverage or the carrier's ability to deliver messages to all recipients.

11.8. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, TEXTUS MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WHETHER ARISING FROM STATUTE, CUSTOM, COURSE OF DEALING OR TRADE USAGE, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, TEXTUS SPECIFICALLY DISCLAIMS ANY AND ALL STATUTORY OR IMPLIED WARRANTIES OR CONDITIONS REGARDING THE SUBSCRIPTION SERVICES, THEIR FEATURES AND FUNCTIONALITY, THEIR SECURITY, AND ANY CONTENT OR OTHER MATERIAL MADE AVAILABLE THEREIN OR THEREBY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. TEXTUS DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICES WILL MEET CUSTOMER'S EXPECTATIONS, SPECIFICATIONS, OR REQUIREMENTS; THAT THE SUBSCRIPTION SERVICES WILL BE FREE OF VIRUSES, MALWARE, OR ERRORS; OR THAT THE PLATFORM WOULD NOT BE FOUND TO CONSTITUTE AN "AUTOMATIC TELEPHONE DIALING SYSTEM" OR SIMILAR IF CHALLENGED UNDER THE FEDERAL TELEPHONE CONSUMER PROTECTION ACT OR SIMILAR STATE LAW. TEXTUS FURTHER EXPRESSLY DISCLAIMS ANY WARRANTY REGARDING THE LOSS OR CORRUPTION OF DATA UPLOADED TO, STORED BY, OR TRANSMITTED BY THE SUBSCRIPTION SERVICES.

12. Limitation of Liability.

IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, OR FOR ANY LOST DATA, LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID OR OWED BY CUSTOMER TO TEXTUS UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRIOR TO THE OCCURRENCE OF EVENTS GIVING RISE TO SUCH LIABILITY (THE "GENERAL CAP"). TEXTUS'S TOTAL CUMULATIVE LIABILITY ARISING FROM ANY UNAUTHORIZED ACCESS TO, OR USE, DISCLOSURE, LOSS, OR CORRUPTION OF, CUSTOMER DATA WHILE IN TEXTUS'S POSSESSION OR CONTROL, INCLUDING ANY BREACH OF SECTION 7 RELATING TO CUSTOMER DATA (A "DATA BREACH"), WILL NOT EXCEED TWO TIMES (2X) THE AMOUNT OF FEES PAID OR OWED BY CUSTOMER TO TEXTUS UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRIOR TO THE OCCURRENCE OF EVENTS GIVING RISE TO SUCH LIABILITY (THE "DATA BREACH CAP"). THE GENERAL CAP SHALL NOT APPLY TO (A) LIABILITY ARISING FROM A PARTY'S BREACH OF SECTION 7 (OTHER THAN TEXTUS'S LIABILITY FOR A DATA BREACH, WHICH SHALL BE SUBJECT TO THE DATA BREACH CAP), (B) LIABILITY ARISING FROM CUSTOMER'S BREACH OF SECTIONS 8, 9 OR 10, OR (C) A PARTY'S OBLIGATIONS UNDER SECTION 13.

13. Indemnification

13.1. Claims Against Customer. TextUs shall defend any claim, suit, or action against Customer brought by a third party to the extent based on an allegation that the Subscription Services infringe any intellectual property rights of such third party (each, a "Customer Claim"), and TextUs shall indemnify and hold Customer harmless, from and against damages, losses, liabilities, and expenses (including reasonable attorneys' fees and other legal expenses) (collectively, "Losses") that are specifically attributable to such Customer Claim or those costs and damages agreed to in a settlement of such Customer Claim. The foregoing obligations are conditioned on Customer: (a) promptly notifying TextUs in writing of such Customer Claim; (b) giving TextUs sole control of the defense thereof and any related settlement negotiations; and (c) cooperating and, at TextUs' request and expense, assisting in such defense. In the event that the use of the Subscription Services are enjoined, TextUs shall, at its option and at its own expense either (a) procure for Customer the right to continue using the Subscription Services, (b) replace the Subscription Services with a non-infringing but functionally equivalent product, (c) modify the Subscription Services so it becomes non-infringing or (d) terminate this Agreement and refund all unused and previously paid Fees for Subscription Services that were to be provided after the effective date of termination. Notwithstanding the foregoing, TextUs will have no obligation under this Section 13.1 with respect to any infringement claim based upon: (1) any use of the Subscription Services not in accordance with this Agreement; (2) any use of the Subscription Services in combination with products, equipment, software, or data that TextUs did not supply or approve of if such infringement would have been avoided without the combination with such other products, equipment, software or data; or (3) any modification of the Subscription Services by any person other than TextUs or its authorized agents or subcontractors. This Section 13.1 states TextUs' entire liability and Customer's sole and exclusive remedy for infringement claims or actions.

13.2. Claims Against TextUs. Customer shall defend any claim, suit, or action against TextUs brought by a third party to the extent that such claim, suit or action is based upon Customer's or TextUs' use of any Customer Data in accordance with this Agreement or Customer's violation of applicable law ("TextUs Claim") and Customer shall indemnify and hold TextUs harmless, from and against Losses that are specifically attributable to such TextUs Claim or those costs and damages agreed to in a settlement of such TextUs Claim. The foregoing obligations are conditioned on TextUs: (a) promptly notifying Customer in writing of such TextUs Claim; (b) giving Customer sole control of the defense thereof and any related settlement negotiations; and (c) cooperating and, at Customer's request and expense, assisting in such defense. Notwithstanding the foregoing, Customer will have no obligation under this Section 13.2 or otherwise with respect to any TextUs Claim to the extent based upon TextUs' use of the Customer Data in violation of this Agreement.

14. Miscellaneous

14.1. Except for payment obligations hereunder, neither party will be deemed to be in breach of this Agreement for any failure or delay in performance caused by reasons beyond its reasonable control, including without limitation acts of God, restrictions, prohibitions, priorities or allocations imposed or actions taken by a governmental authority, embargoes, fires, floods, earthquakes, explosions, natural disasters, riots, wars, sabotage, terrorism, cyberattacks, court injunction or order, and failures or fluctuations in power, heat, light, air conditioning, or telecommunications equipment or services (each, a "Force Majeure Event").

14.2. Except as otherwise set forth herein, all notices required under this Agreement must be in (i) writing directed to the address for the corresponding party listed on the Order Form; or (ii) electronic form directed to the contact person of the corresponding party whose email address is stated on the Order Form (both a "Written Notice"). Written Notice will be deemed effective upon; (a) actual delivery to the other party, if delivered in person, or by national overnight courier with delivery confirmation; (b) receipt after being sent by certified mail, signature required, postage prepaid, or (c) successful delivery to the recipient's email inbox if sent electronically. If the recipient's email address no longer exists, it is the sender's responsibility to find a commercially reasonable alternative email address to which to send the Written Notice. A party may change its notice address, whether written or email, hereunder upon Written Notice to the other party regarding such change.

14.3. TextUs is an independent contractor, and nothing in this Agreement shall constitute or be construed as creating a joint venture, partnership, employment relationship, or agency relationship between the parties. This Agreement is for the benefit of the parties and is not intended to confer any rights or benefits on any third party. Section headings and captions in this Agreement are for reference purposes only and shall not in any way affect the construction or interpretation of this Agreement.

14.4. Neither party may assign or transfer this Agreement or any of its rights under this Agreement to any third party without the other party's prior written consent, which consent shall not be unreasonably withheld or delayed; except that a party may assign this Agreement without consent by operation of law or otherwise to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any attempted

assignment or transfer in violation of the foregoing will be null and void. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns and shall not confer any rights or remedies upon any person or entity not a party hereto.

14.5. Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Each party acknowledges and agrees that any actual or threatened breach of Sections 7 or 9 will constitute immediate, irreparable harm to the non-breaching party for which monetary damages would be an inadequate remedy, that injunctive relief is an appropriate remedy for such breach, and that if granted, the breaching party agrees to waive any bond that would otherwise be required. If any legal action is brought by a party to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other legal expenses, in addition to any other relief it may receive from the non-prevailing party.

14.6. No failure or delay by any party in exercising any right or remedy under this Agreement will operate or be deemed as a waiver of any such right or remedy. Any provision of this Agreement that is held to be unenforceable in any jurisdiction will be ineffective only as to that jurisdiction, and only to the extent of the unenforceability of such provision without invalidating the remaining provisions hereof.

14.7. This Agreement will be governed by and construed in accordance with the laws of the State of Colorado, without reference to its principles of conflict of laws. Any claim, suit, dispute, or other legal proceeding arising under this Agreement shall be brought exclusively before the state and federal courts of competent jurisdiction sitting in Denver, Colorado, and the parties hereby expressly and irrevocably submit to the jurisdiction thereof for the resolution of all such claims, suits, disputes, or proceedings.

14.8. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14.9. This Agreement, including the Order Form and any exhibits or attachments thereto, constitute the final and entire agreement between the parties regarding the subject hereof and supersedes all other agreements, whether written or oral, between the parties concerning such subject matter. No terms and conditions proposed by either party shall be binding on the other party unless accepted in writing by both parties, and each party hereby objects to and rejects all terms and conditions not so accepted.