

SERVICE SPECIFIC TERMS - Mobile Archiving Terms

AT&T, Verizon and Rogers require Smarsh to pass through certain terms. The terms in this Mobile Archiving Service Terms document apply where Client purchases Archive Services for one of the foregoing telecommunication providers. These Mobile Archiving terms are available at www.smarsh.com/legal/MobileServices. These additional terms are subject to modification by the applicable third-party carrier and such modifications shall be incorporated into this Agreement upon notice to Client. These Mobile Archiving Service Terms are incorporated into the [Archiving Service Service Specific Terms](#).

EACH OF THESE ARE AGREEMENTS MADE BETWEEN CLIENT AND THE APPLICABLE TELECOMMUNICATION CARRIER DIRECTLY. SMARSH IS NOT A PARTY TO THESE TERMS.

I. AT&T Mobile Archiving Terms. These Terms are made between Client and AT&T Mobility.

This agreement is between you as our subscriber (“You”) and the affiliate of AT&T Mobility National Accounts, LLC providing wireless service to You (“AT&T”), and it sets forth the terms and conditions (“Terms and Conditions”) under which You agree to use and AT&T agrees to provide access to Archived Messages through the Archived Messages Service (as such terms are defined below). By using the Archived Messages Service, You accept these Terms and Conditions, which AT & T may modify from time to time.

1. DEFINITIONS.

- 1.1** Archived Messages means a Participating Employee’s Messages that AT&T has made available to SMARSH for retrieval through use of SMARSH’s Archived Messages Service.
- 1.2** Archived Messages Service means SMARSH’s service that provides You access to Archived Messages.
- 1.3** Customer Liable MDNs means a Mobile Directory Number (MDN) for AT & T wireless service that is established under Your corporate account and corporate name and for which You are financially responsible to AT&T for an AT&T service.
- 1.4** Employee Liable MDN means a MDN for AT&T wireless service that is established in the name of an individual employee of Your company or other authorized individual and for which such individual is financially responsible to AT&T for AT&T services.
- 1.5** Messages means messages sent or received by any Participating Employee via short message service (SMS), multimedia message service (MMS) and/or AT&T Business Messaging Service.
- 1.6** Participating Employee means Your employee or other authorized user of a mobile device with a Customer Liable MDN whose Customer Liable MDN(s) is subscribed to the Archived Messages Service.

2. ARCHIVED MESSAGES SERVICE.

- 2.1** You authorize AT&T to make the Messages available to Smarsh for use solely in connection with SMARSH’s Archived Messages Services.
- 2.2** You will only access, use, copy, store or disclose Archived Messages in accordance with these Terms and Conditions. You will not access, use, copy, store or disclose Archived Messages for any other purpose.
- 2.3** SMARSH. You will enter into an agreement with SMARSH Inc. (“SMARSH”) for the Archived Messages Service, and You will pay all of SMARSH’s charges for such Archived Messages Service in accordance with that agreement and these Terms and Conditions.
- 2.4** Customer Liable MDNs Only. You will enroll only Customer Liable MDNs in the Archived Messages Service. You may not enroll any Employee Liable MDNs in the Archived Messages Service.
- 2.5** Notice and Consent. Prior to enrolling any individual’s device in the Archived Messages Service and accessing, using, storing, copying or disclosing any Participating Employee’s Archived Messages, You will provide advance disclosure to each such individual containing clear and conspicuous notice of the terms and conditions of the Archived Messages Service, including how You and SMARSH will access, use, copy, retain, protect or disclose such individual’s Archived Messages, as well as the duration and purpose of such access, use, copying or retention. You will also obtain all lawfully required consents for those uses of such individual’s Messages. You agree to maintain the currency of

such consent at all times.

- 2.6 Transferring a Mobile Device or Customer Liable MDN to Another Employee. Prior to transferring a mobile device or Customer Liable MDN that is enrolled in the Archived Messages Service to another person, you will disenroll or notify SMARSH to disenroll the then-current Participating Employee and the Customer Liable MDN on that mobile device from the Archived Messages Service.
3. Acknowledgement and Agreement. You acknowledge that AT&T will make the Archived Messages available to SMARSH for use in connection with the Archived Messages Service and that AT&T will have no further control for the Archived Messages after they are provided to SMARSH. You further agree that AT&T will have no responsibility or liability to You with respect to the Archived Messages after they are provided to SMARSH.
4. Limitations and Restrictions. You may access a Participating Employee's Archived Messages only with that Participating Employee's express knowledge and consent. You must maintain records of each Participating Employee's express, informed consent for You to collect and use his or her Archived Messages. If a Participating Employee revokes such consent at any time, then you must immediately cease initiating requests for that individual's Archived Messages.
5. Customer Business Records. You agree to maintain full, complete and accurate records related to Your performance under these Terms and Conditions, and You agree to preserve such records for five (5) years from the date of preparation; provided, however, that You agree to retain for at least five (5) years following Your latest access to Archived Messages Service records that are sufficient to demonstrate each Participating Employee's consent to Your access to and use of his or her Archived Messages. Such records shall be available for inspection and copying by AT&T during Your normal business hours, upon five (5) days' notice, but not more than once per quarter, unless otherwise required by applicable law, rule or regulation. If You fail to comply with the obligations set forth in this Section, or if AT&T's review of such records reveals that You are in violation of any of these Terms and Conditions, then, in addition to its other remedies under these Terms and Conditions, Your account agreement with AT&T or at law or in equity, AT&T may terminate your access to the Archived Messages.
6. Compliance with Laws, Policies and Practices. You agree to comply with all applicable laws, rules and regulations, including all applicable consumer protection, marketing, data security, export and privacy laws and Federal Trade Commission privacy initiatives. You are solely responsible for making any disclosures required by law, rule, regulation, or otherwise regarding the nature, accuracy, effectiveness, or limitations of the Archived Messages Service.
7. Indemnification. You agree to indemnify and hold AT&T, its officers, directors, employees and agents harmless from and against any claim, damage or loss that is related to or arising out of Your failure to comply with any of these Terms and Conditions, including reasonable attorney's fees.

II. Verizon Mobile Archiving Terms.

This agreement is between you as our subscriber and Verizon Wireless ("VZW") and it sets forth the terms and conditions under which you agree to use and we agree to provide access to Archived Messages through the Archived Messages Service (as such terms are defined below). By using the Archived Messages Service, you accept these Terms and Conditions, which may be modified by us from time to time.

1. Definitions.

- 1.1. **Archived Messages** means the Participating Employee's Messages available for retrieval by SMARSH from VZW.
- 1.2. **Archived Messages Service** means SMARSH's service that provides Archived Messages to you.

- 1.3. **Customer Liable MDNs** means a VZW Mobile Directory Number (MDN) that is established under your corporate account and corporate name for which you are financially responsible for the payment to VZW for VZW service.
 - 1.4. **Employee Liable MDN** means a VZW MDN that is established in the name of an individual employee of your company and such individual employee is financially responsible for the payment to V ZW for VZW services.
 - 1.5. **Messages** means messages sent or received by the Participating Employee via the short message service (SMS) or the multimedia message service (MMS).
 - 1.6. **Participating Employee** means your employee who has opted into the Archived Messages Service via your Customer Liable MDN.
- 2. Archived Messages Service.**
- 2.1. You will only access, use, copy, store or disclose Archived Messages in accordance with these Terms and Conditions. Customer will not access, use, copy, store or disclose Archived Messages for any other purpose.
 - 2.1.1. **SMARSH.** You will enter into an agreement with SMARSH Inc. ("**SMARSH**") for the Archived Messages Service and you will pay all of SMARSH's charges for such Archived Messages Service in accordance with such agreement and these Terms and Conditions.
 - 2.1.2. **Customer Liable MDNs Only.** You will enroll only Customer Liable MDNs in the Archived Messages Service. You will not enroll any Employee Liable MDNs in the Archived Messages Service.
 - 2.1.3. **Notice and Consent.** Prior to enrolling any employee in the Archived Messages Service and accessing, using, storing, copying or disclosing any Participating Employee's Archived Messages, you will provide advance disclosure to each employee containing clear and conspicuous notice of the terms and conditions of the Archived Messages Service, including how you and SMARSH will access, use, copy, retain, protect or disclose such employee's Archived Messages, as well as the duration and purpose of such access, use, copying or retention. Prior to enrolling any employee in the Archived Messages Service, VZW will send a free to end user text message, pre-approved by you, to each employee containing a notice to opt-in to the Archived Messages Service, and you will not access, use, store, copy or disclose any employee's Archived Messages until such consent has been obtained.
 - 2.1.4. **Revocation of Consent.** You will ensure that each Participating Employee may immediately revoke consent through readily available mechanisms to the Participating Employee. You will immediately notify SMARSH of any such revocation of consent so that SMARSH can notify VZW of such revocation. If consent is revoked, then you will not access, retrieve, use, store, copy or disclose such employee's Archived Messages dated after the revocation date. You may access, use, store, copy or disclose such employee's Archived Messages retrieved by you prior to such revocation date.
 - 2.1.5. **Transferring Mobile Device or Customer Liable MDN to Another Employee.** Prior to transferring a mobile device or Customer Liable MDN enrolled in the Archived Messages Service to another employee, you will disenroll or notify SMARSH to disenroll from the Archived Messages Service the Participating Employee and the Customer Liable MDN on that mobile device.
 - 2.1.6. **Periodic Reminders.** VZW will provide periodic reminders to each Participating Employee of its enrollment in the Archived Messages Service, if Company enables such option in SMARSH's portal.
 - 2.1.7. **Acknowledgement.** You acknowledge that VZW will make available to SMARSH the Archived Messages for use in connection with the Archived Messages Service and VZW will have no further control or responsibility for the Archived Messages once they are provided to SMARSH.
 - 2.1.8. **Limitations and Restrictions.** You may access the Participating Employee's Archived Messages only with that Participating Employee's express knowledge and consent. You must maintain records of each employee's express, informed consent for you to collect such Participating Employee's Archived Messages. If a Participating Employee revokes such consent at

any time, then you must immediately cease initiating requests for that employee's Archived Messages.

3. **Customer Business Records.** You will maintain full, complete and accurate records related to your performance under these Terms and Conditions, and shall preserve such records for five (5) years from the date of preparation; provided, however, that you will retain, for at least five (5) years following the latest access to Archived Messages, records sufficient to demonstrate each employee's consent to access and use its Archived Messages. Such records shall be available for inspection and copying by VZW during your normal business hours, upon five (5) days notice, but not more than once per quarter, unless otherwise required by applicable law, rule or regulation. If you refuse to comply with the obligations set forth in this Section or if VZW's review of such records reveals that you are in violation of any of these Terms and Conditions, then, in addition to its other remedies under these Terms and Conditions, your account agreement with VZW or at law or in equity, VZW may terminate your access to the Archived Messages.
4. **Compliance with Laws, Policies and Practices.** You will comply with all applicable laws, rules and regulations, including all applicable consumer protection, marketing, data security, export and privacy laws and Federal Trade Commission privacy initiatives. You are solely responsible for making any disclosures required by law, rule, regulation, or otherwise regarding the nature, accuracy, effectiveness, or limitations of the Archived Messages Service.

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III. Rogers Mobile Archiving Terms.

Where Client purchases Rogers Archiving Service, Client will be required to sign this Data Release Direction and Consent directly with Rogers Communications Canada Inc. This serves as notice of the foregoing requirement.

DATA RELEASE DIRECTION & CONSENT

WHEREAS Rogers Communications Canada Inc. ("**Rogers**") provides telecommunications services (including SMS/MMS messaging services), to _____ ("**Customer**");

AND WHEREAS the Customer has executed an agreement with Smarsh, Inc. ("**Smarsh**") for the archiving of the Customer's SMS/MMS messages associated with the listed Customer CTNs, as provided by Smarsh;

AND WHEREAS the Customer has directed Rogers to send copies of the SMS/MMS messages associated with the listed Customer CTNs to Smarsh in order to facilitate the archiving of those messages;

NOW, for valuable consideration, the receipt and sufficiency of which are acknowledged, Customer agrees as follows:

Customer hereby directs Rogers to send copies of all of the Customer's incoming and outgoing SMS/MMS messages for those corporate lines that the Customer has indicated, as communicated through Smarsh, and consents to the transmission/disclosure of such Customer data and confidential information (including personal information) from Rogers to Smarsh. The Customer acknowledges that the Customer data will be sent outside of Canada as part of this direction and consent.

Customer (which term includes its parent, predecessor, subsidiary, affiliated and related companies and organizations, associated and related partnerships, and each of the present and former directors, officers, employees, agents, representatives, and employees of each of them and their successors, heirs, executors, administrators and assigns) thereby, for itself, its administrators and agents releases and forever discharges Rogers (along with its affiliates, present and former directors, officers, and employees) from any action or cause of action in relation to: (i) the Customer's data that is sent to Smarsh; and, (ii) Smarsh's services to the Customer. The Customer accepts and assumes all of the risks of directing Rogers to send the Customer's data to Smarsh to enable Smarsh to provision the archiving services contracted for by the Customer directly with Smarsh and further

agrees not to make any claim, threaten to institute or take or continue any proceedings whatsoever against any person or corporation or entity with respect to the matters herein released, nor to make any claim, threaten to institute or take or continue any proceedings against any person or corporation or entity in respect of which any claim could arise against Rogers in relation thereof. In the event such proceedings are commenced, Customer agrees that this data release direction and consent may be raised as an estoppel and as a complete defence and reply to any such proceedings and may be submitted to the court as Customer's consent to an order dismissing such proceedings on a summary basis.