

MobiMarketing Terms and Conditions of Use

The following are the terms and conditions for use of the MobiMarketing Service (MobiMarketing Service or the Service) by the User (hereinafter referred to as the User or The Client). Please read them carefully.

IMPORTANT: BY PLACING MOBIMARKETING PRODUCTS ON A WEBSITE AND/OR ACCESSING ANY PART OF THE MOBIMARKETING SERVICE THE USER IS AGREEING TO ALL THE TERMS AND CONDITIONS OF THIS SERVICE AGREEMENT, AND CONSENT TO BE BOUND BY AND BECOME A PARTY TO THIS SERVICE AGREEMENT. SHOULD THE USER NOT AGREE TO ALL THE TERMS AND CONDITIONS OF THIS SERVICE AGREEMENT, OR CANNOT COMPLY WITH THESE TERMS AND CONDITIONS, HE/SHE/ IT SHOULD CLOSE THE BROWSER WINDOW; THEREFORE TERMINATING THE REGISTRATION PROCESS WILL, AND AGREEING TO STOP ALL USE OF THE SERVICE AND SURRENDERING ANY AND ALL AUTHORITY TO USE THE SERVICE.

IF THE USER IS DEEMED TO HAVE ORDERED THE SERVICE, THE ACCEPTANCE OF MOBIMARKETING IS EXPRESSLY CONDITIONED UPON ASSENT TO ALL THE TERMS AND CONDITIONS OF THIS SERVICE AGREEMENT, TO THE EXCLUSION OF ALL OTHER TERMS; IF THESE TERMS ARE CONSIDERED AN OFFER BY MOBIMARKETING, ACCEPTANCE IS EXPRESSLY LIMITED TO THESE TERMS.

THE USER AGREES THAT ALL TERMS AND CONDITIONS HEREWITH PUBLISHED SHALL BE BINDING AND THAT SHOULD THERE BE A CONTRADICTION BETWEEN PRODUCT-SPECIFIC TERMS AND CONDITIONS, AND GENERAL TERMS AND CONDITIONS, THE PRODUCT-SPECIFIC TERMS AND CONDITIONS SHALL APPLY.

1. THE SERVICE

The Service consists of an application interface, a mobile phone management application, message application, SMS gateway access, e-mail facility, data encryption, data transmission, data access, data storage and, if applicable, synchronisation software. The User is responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access the Service, and for paying all access charges (e.g., ISP, telecommunications) incurred while using the Service. These costs will be displayed in the MobiMarketing Price Book which is accessible on the MobiMarketing Website. All fees are payable upfront, prior to the delivery of product or the activation of SMS credits.

MobiMarketing makes no guarantees as to the continuous availability of the Service or any specific feature(s) of the Service. MobiMarketing reserves the right to change or terminate the Service and/or alter the terms and conditions of this Agreement at any time without notice and with immediate effect. All fees paid to MobiMarketing when such termination occurs are addressed in the sections below.

Messages shall be deemed to have been delivered when MobiMarketing has delivered/sent the messages to the immediate destination that MobiMarketing software is programmed to do, including SMTP servers, Mobile telephone networks, or any other intermediary server or API that is deemed to be the point of dispatch of the message. MobiMarketing does not guarantee delivery on behalf of Mobile telephone networks or mail servers.

MobiMarketing lays no claims to its network coverage. Although MobiMarketing focuses on providing extensive coverage aggregation services, mobile networks may choose from time to time to not be part of MobiMarketing or its service provider network. This may result in messages not being delivered.

2. USE OF PROPRIETARY SOFTWARE

Subject to the terms and conditions of this Service Agreement and the law of the State of Queensland, MobiMarketing grants the User an individual, personal, non-sub licensable, non-exclusive and non-transferable license (the License) to use its proprietary software and/or application service, in object code form only, and only in accordance with the applicable end user documentation, if any, and only in conjunction with the MobiMarketing Service Agreement. The User will not, directly or indirectly, reverse engineer, de-compile, disassemble or otherwise attempt to establish the source code or underlying ideas or algorithms of the software; modify, translate, or create derivative works based on the software/ application; or copy (except for archival purposes), rent, lease, distribute, assign, or otherwise transfer rights to the

software/application; use the software/application for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels with regard to MobiMarketing products and/or services. As between the parties, the User acknowledges that MobiMarketing, and its licensors retain ownership of all propriety applications, software, intellectual property IP (Intellectual Property) and any portions or copies thereof, and all rights therein. Upon termination of this Service Agreement for any reason, this License will terminate and the User shall destroy and cease to use all software and applications.

THE SOFTWARE IS PROVIDED AND APPLICATIONS ARE OFFERED, AS IS AND SUBJECT TO THE WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY FOUND IN THIS SERVICE AGREEMENT AND SUBJECT TO TESTING BY THE CLIENT OR USER PRIOR TO ENTERING INTO THIS AGREEMENT.

3. MEMBER ACCOUNT, PASSWORD, AND SECURITY

To open an account for usage of the Service, the User must complete the registration process by providing us with current, complete and accurate information as prompted by the Membership/registration Form. Inaccurate details will result in suspension. The User will also choose a password and an account name will be assigned. The User is entirely responsible for maintaining confidentiality with regard to its password and account information. Furthermore, the User is entirely responsible for any and all activities that occur under its account. MobiMarketing will not be held liable to any third party claims and or actions taken with respect to services offered.

The User agrees to notify MobiMarketing immediately of any unauthorised use of its account or any other breach of security.

4. MEMBER PRIVACY

It is the policy of MobiMarketing to respect the privacy of the User. MobiMarketing will not monitor, edit, or disclose any personal information about the User or his/her MobiMarketing account, including its contents, without the Users prior permission unless MobiMarketing has a good faith belief that such action is necessary to: (1) conform to legal requirements or comply with legal process; (2) protect and defend the rights or property of MobiMarketing; (3) enforce this Service Agreement or protect MobiMarketing's business or reputation, including without limitation upon termination, cancellation or suspension of this Agreement by MobiMarketing; (4) respond to request for identification in connection with claim of copyright or trademark infringement by the User or a claim by a third party that the User is using the Service in connection with an infringing, illegal or improper activity; or (5) act to protect the interests of the User or others. MobiMarketing's service transmits the Senders name (From field) and/or email address with each message that the end-user sends. For more information, refer to the MobiMarketing Privacy Policy.

The User agrees that MobiMarketing may access its account, including its contents, as stated above or to respond to service or technical issues.

5. MESSAGE AND OTHER LIMITATIONS

MobiMarketing assumes no responsibility for the deletion or failure to store information. MobiMarketing has set no fixed upper limit on the number of messages the User may send through the Service apart from how many units are left in his/her account; however, MobiMarketing reserves the right, at its sole discretion, to determine whether or not the Users conduct is consistent with the letter and spirit of the Service Agreement and may terminate the Service if the Users conduct is found to be inconsistent with the Agreement. Please see POINT 17 below for more information on our procedure for terminating the service. MobiMarketing may, in the future, with prior notification, limit the amount of storage space available to each Member.

The sender ID that may be sent as part of mobile text messages is not a guaranteed feature and may not be sent without any notification.

Although MobiMarketing prides itself on speedy delivery of messages, messages may be delivered late due to queuing or network traffic. This will still result in the message being stated as delivered.

6. MEMBER CONDUCT

Any unauthorised commercial use of the Service is expressly prohibited. The User agrees to abide by all applicable local, national and international laws and regulations and is solely responsible for all acts or omissions that occur under its account or password, including the content of any transmissions through the Service. By way of example, and not as a limitation, the User agrees not to:

- (i) Use the Service in connection with chain letters, junk email, junk SMS messages, spamming or any unsolicited messages (commercial or otherwise);
- (ii) Harvest or otherwise collect information about others, including email addresses, without their consent;
- (iii) Create a false identity or forged email identity or mobile phone address or header, or otherwise attempt to mislead others as to the identity of the sender or the origin of the message;
- (iv) Transmit through the Service, associate with the Service or publishing with the Service unlawful, harassing, libellous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature;
- (v) Transmit any material that may infringe the intellectual property rights or other rights of third parties, including trademark, copyright or right of publicity;
- (vi) Libel, defame or slander any person, or infringe upon any persons privacy rights;
- (vii) Transmit any material that contains viruses, Trojan horses, worms, time bombs, cancel bots, or any other harmful or deleterious programs;
- (viii) Interfere with or disrupt networks connected to the Service or violate the regulations, policies or procedures of such networks;
- (ix) Attempt to gain unauthorised access to the Service, other accounts, computer systems or networks connected to the Service, through password mining or any other means;
- (x) Interfere with another Users use and enjoyment of the Service or another entities use and enjoyment of similar services; or
- (xi) Engage in any other activity that MobiMarketing believes could subject it to criminal liability or civil penalty or judgment.

7. FEES, PAYMENT AND YOUR RIGHT TO CANCEL

Fees. In consideration for the use of the MobiMarketing services, the User shall pay to MobiMarketing a transaction or subscription fee (as appropriate) for messages delivered or partially delivered using any available delivery method, at the applicable rate then in effect. MobiMarketing may from time to time offer limited time Free Trial or similar promotions during which no transaction fees or reduced transaction fees shall apply. Such promotions are intended for Users to test the capabilities of the Service and/or for casual, personal use only. During such promotions, all provisions of this Agreement shall remain in full force and effect.

All fees are payable upfront. Failure to purchase credits upfront will result in suspension of the services. Upfront payment refers to payment that is made within a reasonable time so as to allow MobiMarketing to email the client a credit voucher for SMS credits to be activated in their account.

Payment. Transaction fees are due and payable at the time of or before MobiMarketing delivers a message to the recipients of the User recipients via every method of delivery based upon the billing plan selected by MobiMarketing. Payment shall be deemed to have been made as soon as the fee is available in the MobiMarketing bank account.

Credit Card Payment. If the User has elected to pay for the Service by credit card, and MobiMarketing does not receive payment from the credit card issuer, the User agrees to pay all amounts due, immediately upon demand by MobiMarketing. All amounts are pre-paid and the User agrees to payment and the Terms and Conditions of such payment when such payment is made. MobiMarketing reserves the right to come to other payment arrangements on a case-by-

case basis. (Agreements with the credit card issuer govern use of the Users credit card, and the User must refer to that agreement to ascertain its rights and liabilities as a cardholder.) Conversion rates are calculated against the Australian Dollar. This may change the sales price due to currency fluctuations. The final purchase amount is the amount reflected on the Credit Card holders statement.

Termination or Cancellation by the User. The User is free to terminate or cancel this Agreement at any time, and for any reason; provided, however, for such termination or cancellation to be effective the User must carry out such termination in accordance with the policies and procedures established by MobiMarketing, which will be posted in the Billing Information section or similar location within the MobiMarketing web site. Any questions concerning the appropriate method by which to cancel this Agreement, should be addressed to sales@mobimarketing.com

Should there be a cost increase AFTER the client has purchased message units from MobiMarketing, MobiMarketing will give the client 14 days notice of such an increase which will be applicable to such credits that are still in the clients message unit account. Within this notification period the client may decide to continue with the service and the said increase, or to suspend the service upon which MobiMarketing will refund the client to the value of any message unit credits that may be left over in the clients account.

The client acknowledges that MobiMarketing is dependant on various telecommunications networks and institutions for the delivery of its messages and that MobiMarketing may adjust its prices and offering, should the prices be adjusted due to reasons that are not under the control of MobiMarketing. MobiMarketing undertakes to notify the client of such adjustments in writing, prior to implementing such adjustments. Should there be a cost increase AFTER the client has purchased message units from MobiMarketing, MobiMarketing will give the client 14 days notice of such an increase which will be applicable to such credits that are still in the clients message unit account. Within this notification period the client may decide to continue with the service and the said increase, or to suspend the service upon which MobiMarketing will refund the client to the value of any message unit credits that may be left over in the clients account. Should the client account not have any credits left, the said account will automatically expire. The account will be re-activated upon payment for new message units.

The client can request a refund of monies paid to MobiMarketing within 7 days of making any purchase from MobiMarketing, provided that the amount requested for refund is the same amount as message units are left in the clients account, i.e. all messages sent will be subtracted from the Clients account. Further to that the client will receive back the amount, which fits in with the corresponding volume-option - i.e. on the cost-scale equivalent to the amount of message units sent. There is a 10% charge on all refunds.

8. MODIFICATION OF TERMS; TERMINATION, CANCELLATION, AND SUSPENSION

Modification of Terms. MobiMarketing frequently updates, modifies, and otherwise continually seeks to improve the MobiMarketing services and products. Such changes often dictate that we simultaneously modify our Terms and Conditions of Use. As such, MobiMarketing shall have the right to modify the terms of this Agreement and to change or discontinue any aspect or feature of the MobiMarketing service, in either case, as it deems reasonably necessary. Such changes shall be effective immediately upon posting of such addition, change, or deletion. Any use by the User of the Service after any such change has been posted shall constitute the acceptance of any such changes. If the User does not agree with any such changes, the Service may be cancelled in accordance with the procedures for cancellation set forth in this Agreement. The User acknowledges its responsibility to review this Agreement from time to time and to be aware of any such changes.

Termination, Cancellation and/or Suspension by MobiMarketing; Disclosure of Information. This Agreement and the license granted here under may be terminated, cancelled and/or suspended by MobiMarketing at any time if, in the discretion of MobiMarketing, the User breaches these Terms of Service. Such termination, cancellation and/or suspension by MobiMarketing shall be effective immediately upon notification by MobiMarketing to the User in any reasonable manner, including but not limited to, notification by e-mail. Upon, during, and/or after any such breach, MobiMarketing may elect to suspend, terminate and/or cancel this Agreement and/or recover any and all damages from the User arising from or relating to the event(s) giving rise to the suspension, termination or cancellation. MobiMarketing reserves the right to suspend the clients service at any stage for any reason it may deem necessary to continue to provide any of its services in a way that may be hindered by the Clients status as being a MobiMarketing Client, financial status of the client or the content of the messages originating from the client.

In the event that MobiMarketing receives complaints from recipients or third parties with respect to the use of the Service, MobiMarketing additionally reserves the right, in its sole discretion, to disclose any and all information to the recipient, applicable authorities or any other party with regard to its clients and application Users.

Termination or Cancellation by the User. The User is free to terminate or cancel this Agreement at any time, in accordance with Section 7(E).

Obligations Upon Termination and/or Cancellation. Upon any termination, cancellation and/or suspension of this Service Agreement, the User is responsible for any obligations then accrued including, but not limited to, payment of any costs or charges that may arise in connection with such termination, cancellation and/or suspension, and payment of all outstanding transaction fees for use prior to said termination, cancellation and/or suspension occurs. Payment and other obligations under this Service Agreement are not suspended, stayed, or otherwise affected by a suspension of access to / or use of MobiMarketing (in whole or in part) where said suspension arises from the Users failure to comply with, or violation of, the terms of this Service Agreement or of any law or legal obligation. Upon termination and/or cancellation, for any reason, the User agrees to immediately cease using MobiMarketing and remove all MobiMarketing software and applications on any computer, database, server (local or remote) in your possession or under its control. MobiMarketing shall have no obligation to the User after any termination or cancellation of this Service Agreement, excepting point F below.

Financial obligations of MobiMarketing upon Termination and/or Cancellation. Should the termination of services result in a situation where the client still has credits (or messages that are pre-paid) at any stage, the client shall receive back the monetary value of such credits in full, save any expenses that may be incurred by MobiMarketing to facilitate this remuneration, including but not limited to payment commissions, transfer duties, legal costs, third-party involvement.

9. NO WARRANTIES OR LIABILITIES

GENERALLY. THE User EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE SERVICE AND THE INTERNET GENERALLY IS AT ITS OWN RISK AND THAT MOBIMARKETING IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTIES OR CONDITIONS WHATSOEVER, EXPRESS OR IMPLIED. MOBIMARKETING WILL USE COMMERCIAL REASONABLE EFFORTS TO MAKE ACCESS TO MOBIMARKETING AVAILABLE TO THE User THROUGH THE REQUIRED ACCESS PROTOCOLS, BUT MAKES NO WARRANTY OR GUARANTEE THAT THE User WILL BE ABLE TO ACCESS MOBIMARKETING AT ANY PARTICULAR TIME OR ANY PARTICULAR LOCATION.

ADDITIONAL LIMITATIONS. Without limiting the generality of the terms set forth in Section 9(A), MobiMarketing and its affiliates, agents, content providers, service providers, and licensors:

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

(ii) SHALL IN NO EVENT BE LIABLE TO THE USER OR ANYONE ELSE FOR ANY INACCURACY, ERROR OR OMISSION IN, OR LOSS, INJURY OR DAMAGE CAUSED IN WHOLE OR IN PART BY FAILURES, DELAYS OR INTERRUPTIONS OF THE SERVICE GENERALLY, AND ANY ASPECT ANCILLARY THERETO; (THE USER AGREES TO INDEMNIFY MOBIMARKETING PURSUANT TO SECTION 11 HEREOF FOR ANY AND ALL THIRD PARTY CLAIMS ARISING FROM SUCH FAILURES, DELAYS OR INTERRUPTIONS IN CONNECTION WITH REGARD TO USE OF THE SERVICE);

WITHOUT IN ANY WAY LIMITING THE FOREGOING, MOBIMARKETING SHALL IN NO EVENT HAVE (IN THE AGGREGATE) ANY LIABILITY WHATSOEVER IN CONNECTION WITH THIS AGREEMENT IN EXCESS OF AN AMOUNT EQUAL TO TWO TIMES THE LOWEST MONTHLY TRANSACTION FEE APPLICABLE TO SUCH ACCOUNT AND /OR CLAIM IN EFFECT FOR THE MONTHLY PERIOD IMMEDIATELY PRECEDING THE DATE OF THE FIRST CLAIM MADE BY THE User AND/OR THE USER ALLEGING LIABILITY.

HIGH RISK ACTIVITIES. THE MOBIMARKETING SERVICE IS NOT FAULT-TOLERANT AND IS NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE OR RESALE AS ONLINE CONTROL

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

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

10. THIRD PARTY BENEFICIARIES

Notwithstanding anything to the contrary contained herein, the provisions for No Warranties and Liabilities set forth in Section 9 herein are for the benefit of MobiMarketing and its affiliates, agents, content providers and service providers and each shall have the right to assert and enforce such provisions directly on its own behalf.

11. INDEMNIFICATION

The User agrees to indemnify, hold harmless, and defend MobiMarketing and its affiliates, agents, content providers and service providers, against any and all claims, liabilities, damages, costs and expenses (including, but not limited to, consequential damages, incidental damages, special damages, legal fees and disbursements) arising from or relating to (i) the use of the Service in any manner which violates the terms of this Service Agreement or otherwise violates any law, rule, or regulation and (ii) any claims made by third parties arising from your use of the Service, including without limitation any and regulation all third party claims arising from or related to any failure, delay or interruption to the Service. The User agree to cooperate as fully as reasonably required in the defence of any claim. MobiMarketing reserves the right, at its own expense, to assume the exclusive defence and control of any matter otherwise subject to indemnification by the User.

12. MISCELLANEOUS

The failure of either party to exercise in any respect any right provided for herein will not be deemed a waiver of any further rights hereunder. If any provision of this Service Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Service Agreement will otherwise remain in full force and effect and enforceable. In this Agreement, any reference to the singular includes the plural and vice versa, any reference to natural persons includes legal persons and vice versa and any reference to a gender includes the other genders. This Agreement shall be governed by and construed and interpreted in accordance with the law of the Law of the State of Queensland. No agency, partnership, joint venture, or employment is created as a result of this Service Agreement and the User does not have any authority of any kind to bind MobiMarketing in any respect whatsoever. In any action or proceeding to enforce rights under this Service Agreement, the prevailing party will be entitled to recover costs and attorney fees. All notices under this Service Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognised overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. These terms and conditions constitute the whole agreement between MobiMarketing and the User and no party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein.

13 MOBIMARKETING CUSTOMISED SERVICES - SPECIFIC TERMS AND CONDITIONS

MobiMarketing offers customised solutions where the MobiMarketing interface may be altered within specific restrictions, directives and guidelines for client conduct. The following terms and conditions do not replace the foregoing terms and conditions, but apply in addition to these, specifically to the MobiMarketing custom product.

13.1 The customised MobiMarketing Interface will be hosted by MobiMarketing and accessed via the Client site.

13.2 The Client will disclose in full all HTML pages where this service can be accessed.

13.3 The Client abides by the decision of MobiMarketing about what graphics, text, images, advertisements or any other material, be it Meta tags or invisible elements may be present in the Interface AND THE LINK ON THE CLIENTS HTML PAGES FROM WHERE THE INTERFACE IS ACCESSED BY THE CLIENT OR THE CLIENTS VISITORS.

13.4 Any changes that the Client may wish to have done to the interface will need to be implemented by the Client.

13.5 Reverse-engineering or altering of the code which links to the interface is strictly prohibited by MobiMarketing.

13.6 Set-up revisions will be charged on an hourly basis, should the client wish to have MobiMarketing change graphics etc. This will be part of a separate quote and Statement of Work.

13.7 Should the number of message units that the client has purchased run out, MobiMarketing reserves the right to either call up its standard interface or suspend the service. In this case it is the responsibility of the client to inform his users/visitors of the change.

13.8 The client is responsible for all messages sent from the interface by end-users who may have access to the link code, even though the link code may not be published on the Users site.

14 MOBIMARKETING MOBICOMMUNICATOR - SPECIFIC TERMS AND CONDITIONS

MobiMarketing MobiCommunicator allows Clients to deliver to MobiMarketing a list of recipients for the purpose of sending an SMS message.

14.1 MobiMarketing reserves the right to approve clients for Communicator at its sole discretion.

14.2 MobiMarketing reserves the right not to proceed with the service until the Client has signed the MobiMarketing Non-disclosure Agreement.

14.2 MobiMarketing encourages the use and publicity of anti-spam policies.

14.3 The Client is responsible for delivering by email to MobiMarketing the message that is to be despatched to recipients.

14.4 The client is responsible for the data structure and integrity of the data that is delivered to MobiMarketing. MobiMarketing is under no obligation whatsoever to ensure that the data remains on its servers. The Client must ensure that the data that is given to MobiMarketing is a copy of the data, and not the original data.

14.5 Time-delayed messaging is not guaranteed to result in exact specified time delivery, although MobiMarketing servers are programmed to deliver on the specified time.

15 MOBIMARKETING API SPECIFIC TERMS & CONDITIONS

MobiMarketing offers the facility for individuals or businesses to connect to its server in order to facilitate text messaging directly to the MobiMarketing SMS Gateway. These terms do not exclude the foregoing terms in this agreement.

15.1 MobiMarketing reserves the right to approve clients and API connections at its sole discretion.

15.2 MobiMarketing encourages the use and publicity of anti-spam policies.

15.3 The client will be supplied with a login and password and will need to specify what IP Address range the messages will be posted from. This will ensure that the connection is at all times secure. Security measures over and above this will be the responsibility of the client. Ensuring that the IP address security is implemented will be the responsibility of the User, who needs to e-mail the IP address to MobiMarketing and request that it be implemented and tested.

15.4 Although MobiMarketing will provide API connection specifications and will attempt to keep the specifications accurate and up to date, these specifications may be incomplete and may change from time to time without MobiMarketing informing the client that it has changed. It is the responsibility of the client to test the specifications thoroughly on a regular basis, as MobiMarketing will not accept responsibility for specifications that may be incorrect or incomplete.

16 MOBIMARKETING MOBIMANAGER - SPECIFIC TERMS AND CONDITIONS

MobiMarketing offers MobiManager as a turnkey management solution for Nokia phone users. The specific Terms and Conditions associated with the MobiManager license agreement can be viewed during the installation of MobiManager or on the MobiMarketing website at: <http://www.mobimarketing.com/terms.htm>

17 MOBIMARKETING MOBIMESSENGER - SPECIFIC TERMS AND CONDITIONS

MobiMarketing offers MobiMessenger as a solution for the sending of SMS messages. The specific Terms and Conditions associated with the MobiMessenger license agreement can be viewed during the installation of MobiMessenger or on the MobiMarketing website at: <http://www.mobimarketing.com/terms.htm>

18 MOBIMARKETING MOBISMS - SPECIFIC TERMS AND CONDITIONS

MobiMarketing offers MobiSMS for GPRS and MobiSMS for Browsers as solutions for the sending of SMS messages. The specific Terms and Conditions associated with the MobiSMS license agreement can be viewed during the installation of MobiMessenger or on the MobiMarketing website at: <http://www.mobimarketing.com/terms.htm>

19 APPLICABLE LAW

These Terms and Conditions of Service are governed by the laws in force in Queensland, Australia and the parties agree to be bound by the non-exclusive jurisdiction of the Courts of Queensland, Australia. In the event that any portion of this Agreement is deemed by a court to be invalid, the remaining provisions shall remain in full force and effect.