

11. **Disclaimer:** In no event (even should circumstances cause any or all of the exclusive remedies to fail their essential purpose, and even if Licensor has been advised of the possibility of such damages) shall Licensor, its officers, directors, managers, members employees or agents, be liable for any indirect, punitive, special, incidental or consequential damages of any nature (regardless of whether such damages are alleged to arise in contract, tort or otherwise), including, but not limited to, loss of anticipated profits or other economic loss in connection with or ensuing from the existence, furnishing, function, or Licensee's use of any item or products or services provided for in this Agreement. Licensee understands that the cumulative liability of Licensor for any and all claims relating to the Service provided by Licensor shall not exceed that total amount paid by Licensee for the most recent payment made by Licensee to Licensor. The Service is provided as-is, and Licensor disclaims all warranties, express or implied, and does not warrant for merchantability or fitness of a particular purpose. Licensee recognizes that once email and text messages have been released from Licensor's equipment, the ultimate delivery of the messages depends on the message recipient's local network. As a result Licensor cannot guarantee the delivery of email and text messages to a recipient.
12. **Appropriate Use of The Service:** To access the Service, Licensor will provide Licensee with unique user name(s) and password(s). Licensee agrees to maintain such user name(s) and password(s) as private and confidential information. Licensee agrees to use the Service in a way that conforms with all applicable laws and regulations. Licensee agrees not to initiate a call, such that the same call is to be delivered to two (2) or more lines of a business. Licensee specifically agrees not to make any attempt to gain unauthorized access to any of Licensor's systems or networks. Licensee agrees that Licensor shall not be responsible or liable for the content of the message(s) created by Licensee, or by those who access the Service using Licensee's codes, or otherwise delivered by the Service on behalf of Licensee. Licensee agrees to defend, indemnify and hold harmless Licensor and its affiliates, employees, officers, directors, managers, members and agents from any and all liabilities, costs, and expenses, including reasonable attorneys' fees, whether brought by a third party, arising from any violation of this Agreement by Licensee; from the content, placement, or transmission of any messages or materials sent or maintained through Licensee's accounts, or use of the Service through Licensee's account. Licensee shall be responsible for compliance with all applicable laws regarding outbound telemarketing, which may include, but are not limited to the Federal Telephone Consumer Protection Act of 1991, The Telemarketing and Consumer Fraud and Abuse Prevention Act of 1999 and the rules and regulations promulgated thereunder, as well as State and Local telemarketing laws and requirements. Licensee will be solely responsible and liable for any such violations and shall defend, indemnify and hold Licensor harmless from all lawsuits, demands, liabilities, damages, claims, losses, costs or expenses, including attorneys' fees (whether by salary, retainer or otherwise), arising out of or resulting from, in whole or in part, a violation of such laws.
13. **Confidentiality:** Licensor acknowledges the confidential nature of Licensee and user supplied data and files that it is to prepare, process or maintain under this Agreement, and agrees to perform its duties in such a manner as to prevent the disclosure to the public or to any persons not employed by Licensor, any confidential data and files. Data collected by Licensor will remain secured on Licensor's equipment and will only be released upon mutual agreement by both parties or a court order of sufficient jurisdiction. Licensee understands and agrees that private citizens and other persons in the Calling Area may voluntarily contribute their contact information to be used in the Service, and that Licensor shall develop and maintain a database of such information, along with other information privately developed by Licensor (the "Data"). Licensee acknowledges and agrees that Licensor desires to maintain the privacy of the Data, and that Licensee shall take no steps to compromise the privacy of the Data. Licensee further acknowledges that Licensor shall disclose to Licensee certain confidential, proprietary trade secret information of Licensor (along with the Data, "Confidential Information"). Confidential Information may include, but is not limited to, the Service, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, user data, Calling Area data, financial information or business plans. Licensee agrees that, at all times during and after the termination of this Agreement, Licensee will not, without the express prior written consent of Licensor, disclose any Confidential Information or any part thereof to any third party. Nothing in this Agreement will be deemed to require Licensor to disclose any Confidential Information to Licensee or to prohibit the disclosure of any information in response to a subpoena or other similar order by a court or agency. The Licensee will promptly notify the Licensor of the receipt of any subpoena or other similar order and of any request under the Public Information Act or any other similar law, and will assist Licensor in preventing the disclosure of the Confidential Information pursuant to same to the extent required by Licensor.