

SERVICE SPECIFIC TERMS

CAPTURE MOBILE SERVICES FOR WECHAT/WECOM

These Capture Mobile Service Specific Terms for WeChat (including all exhibits, as “Service Specific Terms”) shall govern the Client’s use of the Capture Mobile Services for WeChat/WeCom covered herein. Unless expressly stated otherwise, capitalized terms contained in these Service Specific Terms shall have the meaning given them in the Agreement executed between Smarsh and the Client. For the sake of clarity, these Service Specific Terms do not cover the use of the Mobile Capture Services for any other platform other than WeChat/WeCom. For the use of the Mobile Capture Services to capture communications from other mobile platforms, separate and additional terms will apply.

Client hereby agrees to comply with the following terms:

1) **WeChat Capture Services.** The WeChat Capture Mobile Services provided by Smarsh (or one of its affiliates) to Client enables Client to capture electronic communications and other content types from Client’s WeCom Application (such service as “**WeChat Capture Services**” or “**Capture Mobile Services**”) using a WeCom (WeChat Work) App (“**WeChat App**”) installed on Client’s corporate devices, or to the extent authorized, on Client’s employees’ personal mobile devices (all such captured content, as Client Data).¹

2) **Client Responsibilities.**

A) CLIENT, AND NOT SMARSH, IS RESPONSIBLE FOR (I) OWNING AND OPERATING CLIENT’S OWN WECOM COMPANY ENTERPRISE ADMIN ACCOUNT.

B) Client, and not Smarsh, is responsible for (i) paying any and all fees directly to Tencent Inc. (“Tencent”), with respect to Client’s WeCom account and ensuring that Client’s account with Tencent/ WeCom remains active; and (ii) fully complying with the following service terms of Tencent and/or WeCom (including all their updated versions as may be implemented by Tencent), as applicable, which are between Client and Tencent:

- TenCent WeCom Software License and Service Agreement (Wechat Consumer App) - <https://work.weixin.qq.com/nl/eula;>
- WeCom (WeChat Work) Service Agreement - https://work.weixin.qq.com/nl/service_agreement;

C) Client acknowledges and agrees that it had read and understands and will comply with Tencent WeCom’s Privacy Policy (including all its updated version as may be implemented by Tencent) - <https://work.weixin.qq.com/nl/privacy.>

¹ Client acknowledges and agrees to Smarsh’s use of a sub-processor located within mainland China, TeleMessage Information Technology (Shanghai) Co., Ltd., to perform certain services on behalf of Smarsh in connection with providing the WeChat App Services on behalf of the Client.

- D) Client acknowledges and agrees that the operation of the Mobile Capture Service for Wechat is contingent on (i) Client compliance with the obligations in this Section 2, including compliance with all Tencent requirements placed on Client and its end device users, and (ii) Tencent's provision of the WeCom/WeChat service(s).
- E) Smarsh is not responsible for Client's failure to comply with its own compliance obligations or those obligations with respect to Tencent, or any changes to Tencent's services, each of which may impact the capture of data by the Capture Mobile Services for WeChat.

3) **Personal Information & Chinese Privacy Laws.**

A. Client's use of the WeChat App and WeChat Capture Services may collect personal information subject to Chinese data privacy and data security laws, rules, and regulations ("Chinese Privacy Laws"). Client is solely responsible for complying with all applicable Chinese Privacy Laws in connection with the Client Data captured by the WeChat App and WeChat Capture Services, including ensuring that any and all applicable notices, consents, or disclosures required to be obtained prior to collecting, then transferring (including cross border transfer), such Client Data from Client to Smarsh for entrusted processing pursuant to the provision of services under this Agreement. Client is responsible for ensuring that Client's collection and use of all Client Data do not violate any Chinese Privacy Laws or infringe on the rights of any third party.

B. Accordingly, Client agrees that:

1. Client, and not Smarsh, before transferring any Client Data overseas, shall be responsible for fulfilling all statutory requirements provided by Chinese Privacy Laws applicable to personal information handlers.

2. Client is the personal information handler defined by Chinese Privacy Laws, and Client has the obligation to meet all the necessary requirements for the processing of personal information, including notifying the data subjects of the entrusted processing of Client Data by Smarsh and sub-processors of Smarsh as listed in below Exhibit 2, and obtaining necessary consent (including separate consent prior to collecting sensitive personal information and to transferring personal information overseas) from the data subjects. Upon Smarsh's request, Client shall provide the documentation for securing data subjects' consent to Smarsh.

3. Smarsh is entrusted by Client to process Client Data strictly subject to the processing purposes and methods defined in these Service Specific Terms as well as Client's written instructions. Smarsh is entitled to re-entrust the sub-processors listed in below Exhibit 2 subject to the same processing purposes and methods defined in the as well as Client's instructions.

4. Client shall only disclose Client Data to Smarsh which has been legally obtained according to relevant Chinese Privacy Laws and shall limit the scope of Client Data transferred to Smarsh to that necessary to fulfil the services that Client requires Smarsh to provide under the Agreement for which scope Smarsh is entitled to unilaterally decide. Smarsh shall be entitled to reject, refuse to process or delete any data provided by Client that is beyond such scope for which Smarsh shall not be held liable.

5. Client shall notify each data subject with whom Client and Client's employees interact via the WeChat App that Client may obtain and use their personal information, which must be done according to applicable Chinese Privacy Laws and the service terms of Tencent. Client acknowledges and agrees that Client shall process (and shall ensure that Client's employees shall process) Client Data (including personal information) in accordance with all applicable data protection laws.

6. Client shall take all necessary measures as required by Chinese Privacy Laws to protect Client Data and agrees to implement and maintain internal data protection policies and protocols to ensure compliance with Chinese Privacy Laws.

7. Client shall ensure that its processing of Client Data in relation to the use of WeChat Capture Services are strictly in compliance with Chinese Privacy Laws.

8. Smarsh is not responsible for, and shall not be liable for, Client's failure to comply or violation of applicable Chinese Privacy Laws and the service terms of Tencent, in which case Client shall indemnify and hold Smarsh harmless of any damages, claims, penalties, liabilities arising therefrom.

9. Client will conduct internal training with Client's employees focusing on Chinese Privacy Laws, Client's privacy policies with respect to Chinese Privacy Laws, and the processing of Client Data when using the WeChat App and WeChat Capture Service, which may include instructing them to use a standard entry text, disclosing the privacy policy/processing rules, and obtain consent of concerned data subjects prior to any processing activity.

10. Client shall upload a personal information processing disclaimer to the extent permitted by Chinese Privacy Laws and other applicable laws in Client's WeCom or WeChat account, to be displayed to concerned data subjects prior to any communications or the processing of their data through Client's WeCom or WeChat account.

11. Smarsh shall be entitled to suspend WeChat Capture Services if Client breaches any of the above clauses and Smarsh shall not be liable for such suspension. Smarsh shall be further entitled to unilaterally terminate the WeChat Capture Services by sending a written notice with immediate effect if Client fails to rectify its breach within the rectification period designated by Smarsh.

4) **Temporary Data Retention.** The WeChat Capture Services are designed to retain Client Data for temporary retention periods of ("Temporary Retention Period") up to 30 days, as configured by the Client.

5) **Data Location.** The WeChat Capture Services stores Client Data within a Smarsh-managed service environment located within the United States.

6) **UNIQUE PHONE NUMBERS².**

- A. **Phone Numbers.** The Capture Mobile Services may require Client to use a unique phone number in connection with the Capture Mobile Services in order to send and receive messages and other data using the applicable mobile device application on a Client user's device (generally "Mobile App" and included as part of the "Capture Mobile Services"). Upon written request, Smarsh can provide Client and Client's users with unique phone numbers which will be allocated to the applicable Client user's account ("Smarsh Numbers"). Provision of Smarsh Numbers is subject to applicable numbering rules and regulatory practices, which may change or be amended from time to time, as well as additional fees associated with the provisioning of such lines. Smarsh reserves the right to change the terms related to Smarsh Numbers accordingly, including without limitation to impose or amend local residency requirements and/or to require the provision of further user information for continued access to defined Smarsh Numbers.
- B. **Smarsh Number Restrictions.** The Mobile Apps and Smarsh Numbers do not support any type of emergency calling, nor does it support activation of SMS. Client cannot use Smarsh Numbers to receive messages for the purpose of identity verification, such as activation via SMS or activation calls, and the like.
- C. **Compliance.** Client may purchase and allocate Smarsh Numbers to User accounts subject to compliance with the allocation requirements displayed upon subscription to receive a Smarsh Number. Client, and not Smarsh, is responsible for compliance with any requirements related to the residence and/or the location of Client's Users.

- 7) **NOTICE & CONSENT.** Client is only authorized use the Capture Mobile Services to capture electronic communications (both incoming and outgoing) from mobile devices or corporate mobile accounts linked to Client's current employees and independent contractors (each a "Client Individual"). Prior to capturing electronic communications of the Client Individual, Client shall (i) provide each Client Individual with clear and conspicuous notice of Client's policies regarding Client's receipt, transmission, capture, use and storage of such Client Individual's, and generally Client's employees and independent contractor's electronic communications, (ii) obtain such Client Individual's consent for such capture of their electronic communications, and (iii) ensure that such Client Individual has been made aware of, and understands that, they have no reasonable expectation of privacy with respect to their electronic communications connected to such devices and accounts. To the extent required by applicable law, Client is responsible for ensuring that all Client Individuals using mobile devices or mobile account lines subject to the Capture Mobile Services inform any third parties that such Client Individual's electronic communications are being captured and retained by Client. Client shall process all any Personal Data or Personal Information in accordance with all applicable data protection and privacy laws.

8) **DISCLAIMER; LIMITATION OF LIABILITY**

² For clarity, the Mobile Device App does not require a unique Phoner Number and uses Client's corporate device mobile carrier line.

A. THE CAPTURE MOBILE SERVICES ARE NOT DESIGNED TO BE USED FOR LONG-TERM STORAGE OR AS A DATA ARCHIVE SERVICE. THE CAPTURE MOBILE SERVICE IS NOT DESIGNED TO PERFORM AS AN ARCHIVE OF RECORD ON BEHALF OF THE CLIENT OR TO MEET CLIENT'S RECORD RETENTION REQUIREMENTS. WITH RESPECT TO THE CAPTURE MOBILE SERVICES ONLY, SMARSH EXPRESSLY DISCLAIMS ANY RESPONSIBILITY OR OBLIGATION IMPOSED ON THIRD- PARTY RECORD HOLDERS (AS A SERVICE PROVIDER TO THE APPLICABLE REGULATED ENTITY) BY STATUTE OR BY RULE, REGULATION OR OPINION OF ANY GOVERNMENTAL AGENCY, REGULATORY ORGANIZATION OR SIMILAR INSTITUTION, INCLUDING WITHOUT LIMITATION, THE U.S. SECURITIES AND EXCHANGE COMMISSION, THE FINANCIAL INDUSTRY REGULATORY AUTHORITY, OR ANY SECURITIES EXCHANGE.

B. **GENERAL.** CLIENT EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE CAPTURE MOBILE SERVICE AND THE INTERNET GENERALLY IS AT CLIENT'S OWN RISK AND, EXCEPT AS SPECIFICALLY PROVIDED FOR HEREIN, THAT THE CAPTURE MOBILE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTIES OR CONDITIONS WHATSOEVER, EXPRESS OR IMPLIED. SMARSH WILL USE COMMERCIALY REASONABLE EFFORTS TO MAKE ACCESS TO THE CAPTURE MOBILE SERVICE AVAILABLE TO CLIENT THROUGH THE REQUIRED ACCESS PROTOCOLS, BUT MAKES NO WARRANTY OR GUARANTEE THAT CLIENT WILL BE ABLE TO ACCESS THE SERVICE OR ANY PART THEREOF AT ANY PARTICULAR TIME OR ANY PARTICULAR LOCATION.

C. **ADDITIONAL LIMITATIONS.** WITHOUT LIMITING THE GENERALITY OF THE TERMS SET FORTH IN HEREIN, SMARSH 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 THE SERVICE GENERALLY, AND ANY CONTENT OR SERVICES CONTAINED THEREIN, AS WELL AS ALL EXPRESS AND IMPLIED WARRANTIES THAT THE OPERATION OF THE CAPTURE MOBILE SERVICE GENERALLY AND ANY CONTENT OR SERVICES CONTAINED THEREIN WILL BE UNINTERRUPTED OR ERROR-FREE;
- ii. SHALL IN NO EVENT BE LIABLE TO CLIENT 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 IN THE CAPTURE MOBILE SERVICE, OR INSTALLATION AND COMPUTER, MOBILE PHONE OR TABLET DISRUPTIONS RELATED TO THE SERVICE, AND ANY CONTENT OR SERVICES CONTAINED THEREIN. SMARSH SHALL IN NO EVENT BE LIABLE TO CLIENT OR ANYONE ELSE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES ARISING OUT OF, RESULTING FROM, OR RELATING IN ANY MANNER TO THE USE OR INABILITY TO USE THE CAPTURE MOBILE SERVICE, AND ANY CONTENT OR SERVICES CONTAINED THEREIN. WITHOUT IN ANY WAY LIMITING THE FOREGOING, SMARSH SHALL IN NO EVENT HAVE (IN THE AGGREGATE) ANY LIABILITY WHATSOEVER IN CONNECTION WITH THIS AGREEMENT IN EXCESS OF AN AMOUNT EQUAL THE TOTAL FEES PAID BY CLIENT TO SMARSH FOR THE CAPTURE MOBILE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE INCIDENT FROM WHICH THE DAMAGES AROSE.

iii. DELIVERY METHODS OF ELECTRONIC COMMUNICATIONS TO VARIOUS COMMUNICATION DEVICES IS SUBJECT TO A COMBINATION OF NETWORK PROVIDERS' AND SERVICE PROVIDERS' TERMS AND CONDITIONS AND NETWORK STATUS OVER WHICH SMARSH HAS NO CONTROL. SMARSH SHALL IN NO EVENT BE LIABLE TO REIMBURSE MESSAGE CREDITS, REIMBURSE PAYMENTS OR HAVE ANY OTHER LIABILITY FOR MESSAGES THAT WERE SENT BUT NOT DELIVERED, NOT RECEIVED OR NOT ACCURATELY DISPLAYED, HEARD OR REPRESENTED ON ANY SUCH COMMUNICATION DEVICE DUE TO THE FAILURE OF SUCH THIRD PARTIES.

iv. SMARSH ALSO SPECIFICALLY DISCLAIMS ANY LIABILITY OF ANY KIND FOR COSTS OR DAMAGES ARISING OUT OF PRIVATE OR GOVERNMENTAL LEGAL ACTIONS RELATED TO CLIENT'S USE OF ANY OF THE CAPTURE MOBILE SERVICES IN ANY COUNTRY.

D. HIGH RISK ACTIVITIES. THE CAPTURE MOBILE SERVICES ARE NOT FAULT-TOLERANT AND ARE 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 SERVICE 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 THESE TERMS, SMARSH 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 TO CLIENT. IN SUCH JURISDICTIONS, SMARSH'S LIABILITY (AND THE LIABILITY OF ITS AFFILIATES, AGENTS, CONTENT PROVIDERS AND SERVICE PROVIDERS) SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW.

- 9) **Security Controls & Sub-Processors.** For the avoidance of doubt, the security controls and requirements set forth in the Agreement are not applicable to the WeChat Capture Services. The security controls and requirements applicable to the WeChat Capture Services are those set forth in Exhibit 1 to these Service Specific Terms.
- 10) **CONFLICT.** To the extent that any language contained in the Agreement conflicts with any language contained in these Service Specific Terms, these Service Specific Terms shall control in connection with the WeChat Capture Services.
- 11) **AGREEMENT:** Except as expressly provided by these Service Specific Terms, the parties acknowledge and agree that the Agreement shall remain in full force and effect.

EXHIBIT 1

WeChat Capture Services

1. **Security Controls.** The WeChat Capture Services set forth in these Service Specific Terms shall be governed by (a) technical, organizational, and administrative controls substantially similar to those set forth in Smarsh’s standard information security controls found at <https://www.smarsh.com/legal/InfoSec>, and (b) the security controls set forth in the WeChat Capture Services SOC II report provided by Smarsh to Client.

2. **Sub-Processor(s).** With respect to the WeChat Capture Services, the following entities are sub-processors:

Name	Location	Role
TeleMessage Ltd.	Israel	Support, Implementation
Microsoft Azure	USA	Infrastructure as a Service
TeleMessage Information Technology (Shanghai) Co., Ltd.	China	Provision of Services within mainland China.