

PROVISION OF BULK MESSAGING

This BULK Messaging Agreement (“Contract”) is between:
Reach-Data Limited (Company Number 04602161), (“We”, “Us”, “Our”) whose correspondence address and registered office is at Unit 1, 5 Beaumont Gate, Radlett, Hertfordshire,WD7 7AR
AND
You.

CLIENT NAME (“You”, “Your”, “Content Provider”)	
REGISTERED OFFICE:	
START DATE:	
SERVICE CHARGE:	Annex 1
NB: All Fees above are exclusive of VAT or other taxes.	
DESIGNATED CONTACT AT YOU:	Name: Title: Contact details:

You acknowledge and agree that You have read and agree to the attached terms and conditions for the BULK MESSAGING AGREEMENT which form the Contract (to the exclusion of all other terms and conditions, including any terms or conditions which You purport to apply under any purchase order, confirmation of order, specification or other document).

SIGNED for and on behalf of You	SIGNED for and on behalf of Reach-Data Limited
Name:	Name:
Title:	Title:
Date:	Date:

1. Definitions

“Bulk Messaging Services” means the services provided to You by Reach-Data

“Set-up Fee” means the one-off fee paid by the Content Provider to Reach-Data for the connection of their land to mobile link.

“Services” means SMS mobile telephony services to be provided by You to Service Users.

“Service Request” the services request set out at the front of this Agreement.

“Service Users” means users of the Services.

“Service User Data” means the mobile telephone numbers and any other personal data of all Service Users.

“Short Messages” means (Short Message Service) as a form of text messaging communication on phones and mobile phones.

“SMS Facility” means any hardware and or software that is used to transmit text messages

“Network Operators” means any organisation that provides a mobile telephony communications network in the Territory.

“Territory” means the United Kingdom.

“Pre-payment term” means monies paid in advance for short messages

1. Terms for the provision of the Bulk Messaging Service

1.1 The provision of the Bulk Messaging Service to the Content Provider is dependent upon:

- a) the Content Provider connecting to us via the internet or a fixed link or other methods (connection) as agreed by us and where the Content Provider offers Services to Customers, maintaining such connection throughout the period during which any Services are offered;
- b) the Content Provider disclosing any information to us necessary to enable us to configure the Bulk Messaging Service;
- c) the Content Provider paying the Charges as set out in Annex 1 to this Schedule.

1.2 Content Provider agrees not to use the connection to carry data other than data relating to the Bulk Messaging Services unless otherwise agreed in writing by Reach-Data.

1.3 Your conduct under this Contract and Your use of the SMS Facility and involvement with Short Messages under this Contract (and any of Your associated Services) (and the Short Messages themselves) shall:

- a) be suitable for use of the SMS Facility (and it is at our exclusive reasonable discretion as to whether anything you send complies with this);
- b) be in strict accordance with: i) any applicable legislation, law or code of practice regulating the provision of services contemplated by this Contract; ii) the licence granted to the Network Operators by governmental or other authority; iii) any direction of any Network Operator or other competent authority; and any licence granted which governs the running of a telecommunications system by You; iv) reasonable conditions as we may notify in writing to you from time to time; and v) all codes of practice, rules of procedure, guidelines, directions, policies, and other requirements made or adopted or issued by us or any Network Operator from time to time (“Codes of Practice”).

- c) be of a quality and kind likely to promote our value added network services and be of such a nature that they are not likely to bring such services or Us into disrepute and which contains nothing which is likely in the light of generally prevailing standards of decency and propriety to cause offence (and for this, it is at our exclusive reasonable discretion as to whether anything complies with this) or which is or may be prejudicial to Our commercial interests;
 - d) not be a criminal offence or tort or be otherwise than providing a bona fide service to Service Users; and
 - e) not infringe any third-party intellectual property rights or be otherwise unlawful.
- 1.4 Either party may request changes to the Bulk Messaging Services, which shall be submitted in writing and be of sufficient detail to enable the other party to assess the impact of the proposed change. Unless such change is agreed by both parties in writing, the applicable Services Request and the terms of this Agreement shall continue as if no change had been proposed.

2. Payments & Invoicing

- 2.1 All Charges relating to the Bulk Messaging Service shall be billed as set out in ANNEX 1
- 2.2 Terms of Payment are as set out in ANNEX 1
- 2.3 Any discrepancies or disputes over our invoices to you shall be raised within seven days of receipt otherwise they will be deemed as accepted by you and payment will be made in accordance with ANNEX 1. Any undisputed amounts will be paid in accordance with ANNEX 1.
- 2.4 All short messages purchased on a pre-payment term must be used within 3 months from the date of purchase. If not used then the unused amount will be deducted from your account.
- 2.5 Payment shall be made in the Currency as defined in Annex 1 by means of bank-wire transfer into the account mentioned in the invoice. No other form of payment will be accepted without prior written agreement. Payment shall be considered as effected when we receive the funds for the full amount due in our account. You shall be responsible of its own levies or bank charges that are due or may become due on the payment.
- 2.6 In the event that any payment due under Clause 2.5 is not paid by the due date for payment then WE shall be entitled to charge interest thereon at the rate of eight percent per annum from the date payment becomes due until payment is made in full. Such interest shall accrue daily.
- 2.7 In the event that the credit terms set out in ANNEX 1 are exceeded by more than 7 days all and any invoices will become due for payment immediately.
- 2.8 We will apply a Credit Limit to your account: of [£]
- 2.9 When the usage of your account reaches 80% of the Credit Limit we shall inform you by written notice and issue an invoice. If the usage reaches 100% of the Credit Limit we shall inform you by written notice and will suspend the Services. We will re-establish the Services as soon as funds are received.
- 2.10 If at any time the total sum of the combined outstanding invoices which are due plus the non invoiced consumptions exceeds the Credit Limit then we shall have the right to suspend the services with immediate effect.

3. Service User Data

- 3.1 Each party warrants that it has and will maintain all necessary data protection registrations and that it will comply with all applicable data protection legislation.

- 3.2 Each party will at all times during the term of this Agreement have appropriate technical and organisational measures in place to protect and Service User Data processed or held by it against unauthorised or unlawful processing, accidental loss, destruction or damage.

4. CONFIDENTIALITY

- 4.1 Each party agrees to keep the terms of the Contract confidential.
- 4.2 the Customer agrees, during the continuance of the Contract and after its termination, to keep secret and confidential all Information of a confidential nature obtained from Reach-Data, whether pursuant to these terms of this Agreement or prior to it, and all other information that it may acquire from Reach-Data in the course of the Contract (“Confidential Information”), to use the Confidential Information exclusively for the purposes of the Contract and to disclose it only to those of its employees (or, where allowed, sub-licensees or sub contractors) to whom, and to the extent that, such disclosure is reasonably necessary for the purposes of the Contract. Any disclosure shall be under obligations of confidence at least equivalent to the obligations imposed on the Client under this Clause 4.
- 4.3 The provisions of sub-clause 4.2 shall not apply to Confidential Information obtained from Reach-Data which:
- 4.4 prior to receipt was in the possession of the Customer and at its free disposal; or
- 4.5 is subsequently disclosed to the Customer without any obligations of confidence by a third party who has not derived it directly or indirectly from Reach-Data or in breach of any obligation or duty of confidence; or
- 4.6 is or becomes generally available to the public in the Territory through no act or default of the Customer.
- 4.7 Without prejudice to the generality of the foregoing Reach-Data reserves the right to disclose to any person any information relating to the SMS Facility, any Bulk Message and associated services of the Customer in circumstances in which such disclosure is made for the purpose of assisting any civil or criminal investigations or proceedings or for the purpose of assisting or advising any Regulatory Body or as otherwise required by law.

The provisions of this Clause shall survive termination of the Contract for any reason.

5. Term and Termination

- 5.1 This Agreement shall commence on the Start Date and shall continue for 12 months and thereafter unless and until terminated in accordance with the provisions of this Agreement.
- 5.2 Either party may terminate this Agreement at any time with immediate effect by giving written notice if:
- a) the other party commits a material breach of this Agreement and, where such breach is capable of remedy, fails to remedy such within a reasonable time following notice; or
- b) the other party is or may be (in the reasonable opinion of the other party) unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator or similar appointed or calls a meeting of its creditors or ceases for any other reason to carry on business.
- c) For the avoidance of doubt, failure to pay any sums due under this Agreement is deemed to be a remedial material breach.
- 5.3 Either party may terminate this Agreement (including any Service Request) without penalty by giving at least 30 days written notice. In such case, You will pay Reach-Data all sums properly due in respect of all Bulk Messaging Services provided up to and including the termination date.

- 5.4 Termination does not affect the accrued rights, obligations or liabilities of the parties prior to termination.
- 5.5 Reach-Data will give (30 day's) written notice if the charges in Annex 1 change
- 5.6 You give Us 30 day's written notice of termination if the charges in Annex 1 change.

6. Intellectual Property Rights

- 6.1 Subject to clause 6.2, all rights in the Content, User database (or goodwill therein) shall at all times owned by You and Reach-Data will not acquire any title or other proprietary right to any intellectual property rights in respect of the same.
- 6.2 You hereby grant Reach-Data a non-exclusive, revocable licence, throughout the Territory during the Term to do all things necessary to transmit the Content to or/from Users under the terms of this Agreement.

7. Warranties

- 7.1 Each party warrants and undertakes to the other party that:
 - a) it has full right and authority to enter into this Agreement and that entering into this Agreement does not breach any third party's rights or any other agreement to which it is a party;
 - b) it has the necessary licenses, consents, permissions or approvals to operate and to grant the other party to use the Content in accordance with the terms of this Agreement;
 - c) it shall use reasonable skill and care in carrying out its obligations and exercising its rights under this Agreement and that it shall do so in accordance with good industry practice; and
 - d) it shall at all times during the term of this Agreement act towards the other in good faith.

8. Liability

- 8.1 Nothing in this Agreement shall exclude or limit either party's liability in respect of death or personal injury caused by such party's negligence.
- 8.2 Except as set out in clause 8.1 You shall indemnify Us, all our members, officers, servants and agents against all claims, liabilities, proceedings, costs, damages, losses, or expenses whatsoever arising directly or indirectly out of or in consequence of the provision of any Short Message and/or Your associated services, the conveyance of any Short Message and/or such associated services over any public telecommunications system or arising directly or indirectly out of or in consequence of the use of any private dedicated telecommunications system provided between two or more specified points required for the purposes of the Contract.
- 8.3 The Parties shall not be liable one to the other and the providing Party shall not be liable to any customer of the purchasing Party or other third party in Agreement, tort or otherwise (including negligence) for any indirect, special, incidental, or consequential loss or damages, howsoever caused, including, without limitation, by such party's negligence or the negligence of its employees or otherwise, arising out of the provision of Services to the purchasing Party or to its customers whether such loss or damage was due to mistakes, omissions, interruptions, delays, errors or defects in the provision of such service by the providing Party or by any overseas correspondent or underlying carrier or arising in any other manner under this Agreement and the performance or non-performance of obligations hereunder or otherwise.
- 8.4 Apart from the obligation of the Parties to make payments pursuant to this Agreement, neither of the Parties is liable for not fulfilling its obligations arising from this Agreement if this is due to force majeure as defined in section 9.

- 8.5 The parties hereby agree that the express obligations set out in this Agreement are in lieu of and, to the fullest extent permitted by law, to the exclusion of any other warranty, condition, term, undertaking or representation of any kind, express or implied, statutory or otherwise relating to any materials supplied or services provided under or in connection with the Agreement including but not limited to the condition, quality, or fitness for purpose of the Services and any deliverables.

9. Force Majeure

- 9.1 If either Party ("Affected Party") is prevented, hindered or delayed from or in performing any of its obligations under this Agreement (other than an obligation to make payment) by a Force Majeure Event (as defined in clause 9.3 below):
- a) the Affected Party's obligations under this Agreement shall be suspended for so long as the Force Majeure Event continues;
 - b) the Affected Party shall forthwith notify the other Party ("Other Party") in writing of the occurrence of the Force Majeure Event, the date of commencement of the Force Majeure Event, the estimated duration of the Force Majeure Event (if known) and the effects of the Force Majeure Event on its ability to perform its obligations under this Agreement;
 - c) the Affected Party shall use all reasonable efforts to mitigate the effects of the Force Majeure Event upon the performance of its obligations under this Agreement in any other way that is reasonably practicable; and
 - d) as soon as reasonably possible after the cessation of the Force Majeure Event the Affected Party shall notify the Other Party in writing of the cessation of the Force Majeure Event and shall resume performance of its obligations under this Agreement.
- 9.2 If the Force Majeure Event shall continue for more than 90 days either Party may terminate this Agreement by giving not less than five Business Days' notice in writing to the other Party.
- 9.3 For the purposes of this clause, "Force Majeure Event" means any event beyond the reasonable control of a Party including strikes, lock-outs, labour disputes (not involving the workforce of the Affected Party), acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, fire, flood, storm.

10. Jurisdiction and Proper Law

This Agreement is governed by the law of England and Wales, and is subject to the exclusive jurisdiction of the courts of England and Wales.

ANNEX 1

CHARGES

The Charges for the Bulk Messaging Service consist of:

1. Charges per message sent to UK mainland:
2. Charges per message sent outside of UK mainland:
3. A Set-up Fee of:
4. Long-Numbers will be charged a full month's rental from the set up date irrespective of when the date may fall within a calendar month.

Terms of Payment

TO BE AGREED

Currency: *GBP*

Our bank details:

Sterling Account		Euro Account	
Bank:	National Westminster Bank, Radlett	Bank:	National Westminster Bank, Radlett
Account Name:	REACH-DATA LIMITED	Account Name:	REACH-DATA LIMITED
Account No.:	87098725	Account No.:	90009649
Sort Code:	60-17-14	Sort Code:	60-17-14
IBAN:	GB62NWBK60171487098725	IBAN:	GB20NWBK60720590009649
BIC:	NWBKGB2L	BIC:	NWBKGB2L

CLIENT INFORMATION
For Billing & Notices

Company Name	
VAT Registration Number	
Invoice Address	
Contact name & email authorised to receive invoices	
Contact Number	
Postal address for written notices	
Email address for notices	