

# Vodafone Bulk SMS - Terms and Conditions

These terms and conditions, together with the Bulk SMS Privacy Supplement available at <https://www.vodafone.ie/privacy>, govern your use of the Vodafone Bulk SMS service (the "Service").

These service specific terms and conditions apply in addition to and form part of the Vodafone terms and conditions of the use of mobile telecommunications services, including but not limited to the General Terms and Conditions of service for Vodafone Business Customers (the "General Terms") which are available on <https://www.vodafone.ie/terms>, our Privacy Policy which is available on <https://www.vodafone.ie/privacy> and any additional service conditions you have signed up to. By continuing to register and/or use the Service you agree to be bound by these Terms and Conditions.

In the event of any inconsistency between these Terms and the General Terms, these Terms shall prevail in respect of the Service.

## 1. Definitions

Capitalised terms have the meaning given in the General Terms save where defined otherwise below:

"ComReg" means the Commission for Communications Regulation;

"Customer" means the Vodafone Business customer to whom Vodafone has agreed to provide the Service;

"Data Protection Legislation" means Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the GDPR), the Data Protection Acts 1988 and 2018, any other relevant data protection and privacy law and any amendment, replacement or supplement thereto, from time to time.

"Fees" means the fees published by or on behalf of Vodafone from time to time on the Website or agreed in writing with the Customer and payable in euros;

"Intellectual Property Rights" means all intellectual property rights, including without limitation all trademarks, logos, get-up of brand(s), designs, symbols, emblems, insignia, fascia, slogans, copyrights, know how, information, drawings, plans and models, and other

identifying materials, any and all rights pertaining to discoveries, concepts, ideas and improvements to existing technology whether or not written down or otherwise converted into tangible form, patents, rights in any domain names, database rights, goodwill, reputation, computer programs and analogous property, literary, dramatic, musical and artistic works and all other forms of industrial or intellectual property (in each case in any part of the world and whether or not registered or registerable and to the fullest extent thereof and for the full period thereof and all extensions and renewals thereof) and all applications for registration thereof and all rights and interest, present and future, thereto and therein.

“Order” means the Customer’s request for the Service;

“Order Form” means the Customer sign-up pages as displayed by or on behalf of Vodafone on the Website;

“Platform” means Vodafone bulk text platform which Vodafone grants Customer access to as part of the Service;

“SMS Sender ID” means an alphanumeric originating address to indicate the sender of an Application-to-Person (A2P) SMS text message;

“Website” means the website owned and operated by Vodafone through which a Customer can access the Service and accessible via the internet.

## **2. Application of Terms and Conditions**

**2.1.** These Terms and Conditions together with any Order Form or agreement specifically entered into between the Customer and Vodafone relating to the Service govern the relationship between Vodafone and the Customer. Vodafone may from time to time amend these Conditions in accordance with the General Terms.

## **3. Eligible Customers**

**3.1.** This Service is available to registered Vodafone Business Customers only.

## **4. Obligations of the Customer**

- 4.1. The Customer must use the Service in compliance with Vodafone's acceptable use policy set out at [www.vodafone.com/business/AcceptableUsePolicy](http://www.vodafone.com/business/AcceptableUsePolicy) and incorporated into these Terms.
- 4.2. The Customer shall not:
  - 4.2.1. use the Service for any illegal, immoral or improper purpose or in any manner which contravenes Applicable Law;
  - 4.2.2. submit to Vodafone any Order that it knows or should (after reasonable enquiry) have discovered, infringes or might reasonably be considered to infringe the Intellectual Property Rights of any third party;
  - 4.2.3. use the Service in any way that might reasonably be considered to infringe the rights of any third party, including but not limited to trademark infringement, copyright infringement, passing off and defamation;
  - 4.2.4. reverse engineer, de-code or in any way disassemble any software provided by Vodafone or its agents in relation to the provision of the Service;
  - 4.2.5. use the Service to send SMS text messages or any other form of messaging, promotional materials, junk mail, spam, chain letters or other form of solicitation to any number unless that number has been obtained and the message sent in accordance with Data Protection Legislation;
  - 4.2.6. use the Service to communicate, reproduce, transmit, store or knowingly receive any material that is offensive, abusive, indecent, defamatory, obscene, menacing or in breach of confidence;
  - 4.2.7. enter any incorrect or incomplete name, business name, address, email address, telephone number or any other false information on any Order Form or otherwise enter information intended to conceal the Customer's identity. The Customer further acknowledges that it is its responsibility to notify Vodafone of any changes to its details and to ensure that those details provided are kept up to date.
- 4.3. In the event of any breach of the provisions of clause 4.1 and 4.2 by the Customer, Vodafone reserves the right forthwith to withdraw, suspend or cancel the Service.

- 4.4. The Customer acknowledges that it is solely responsible for maintaining adequate insurance cover in respect of any loss or damage relating to its use of the Service.
- 4.5. The Customer acknowledges that the internet is not a completely secure medium of communication and acknowledges that Vodafone shall have no liability for any damage or loss the Customer may suffer as a result of the loss of confidentiality of any information that the Customer inputs on the Website or sends to Vodafone on the Website.
- 4.6. The Customer warrants, represents and undertakes that it will obtain and will maintain all necessary licenses, permissions and consents required under Applicable Law (including without limitation Data Protection legislation, ePrivacy and electronic communications laws) in respect of any material transmitted or stored using the Service prior to posting such material. The Customer shall retain appropriate records evidencing such consents and shall, upon reasonable request, provide Vodafone with information sufficient to demonstrate compliance. The Customer is solely responsible for the content of messages sent using the Service and for ensuring that any required opt-out or unsubscribe mechanisms are implemented and honoured.
- 4.7. The Customer warrants, represents and undertakes that any material transmitted or stored using the Service and any material linked to or referred to by way of the Service is not offensive, abusive, indecent, defamatory, obscene, menacing, in breach of confidence, and/or does not infringe the Intellectual Property Rights of any third party or contain a virus or other hostile code or constitute or encourage a criminal offence.
- 4.8. The Customer warrants, represents and undertakes that it will not nor will it permit or authorise any other party to use the Service in breach of Applicable Law.
- 4.9. The Customer warrants, represents and undertakes that it will not nor will it permit or authorise any other party to use the Service in any way which is or may be detrimental to Vodafone or its agents.
- 4.10. The Customer warrants, represents and undertakes to abide by any limitations imposed by Vodafone and to keep secure any confidential information provided by Vodafone including any passwords.
- 4.11. The Customer warrants, represents and undertakes to abide by all Data Protection Legislation provisions including (but not limited to ) providing an opt-out short code on all Direct Marketing Communications that may be disseminated by the Customer through the use of this Service.

4.12. The Customer acknowledges that it is solely responsible for registering its SMS Sender ID with ComReg. SMS messages from unregistered SMS Sender IDs will be blocked and will not reach End Users. The Customer further acknowledges that the Customer's SMS Sender ID will not be activated until it is fully approved by ComReg. Vodafone will endeavour to activate the SMS Sender ID within five Working Days of receipt of written confirmation from ComReg that the Customer's SMS Sender ID has been approved.

## **5. Obligations and Rights of Vodafone**

5.1. In the event that the Customer submits any Order or uses any or all of the Service in such a way as may in Vodafone's opinion expose Vodafone to the risk of legal or other proceedings or expose Vodafone to loss or damage of any kind, Vodafone reserves the right to refuse to process or continue processing any Order or to withdraw, suspend or cancel the Service where Vodafone reasonably determines that such use exposes Vodafone to legal, regulatory, reputational or financial risk.

5.2. Vodafone will comply with all applicable Data Protection Legislation. All information provided by the Customer to Vodafone for the purposes of the Service will be dealt with in accordance with Vodafone's Privacy Policy and the Bulk SMS Privacy Supplement available on <https://www.vodafone.ie/privacy>. For the purposes of Data Protection Legislation, the Customer acts as data controller in respect of all Personal Data relating to message recipients uploaded to or processed via the Service. Vodafone acts as a data processor on behalf of the Customer in respect of such Personal Data, except where required by Applicable Law to process such data as a data controller or to the extent expressly set out in the Bulk SMS Privacy Supplement. Nothing in these Terms shall be construed as Vodafone determining the purposes for which recipient Personal Data is processed, which purposes are solely determined by the Customer.

5.3. The Customer acknowledges that Vodafone is under no obligation to edit, review or modify information provided by or on behalf of the Customer. The Customer further acknowledges that Vodafone does not review, approve or validate message content or campaigns for legal compliance and that any failure by Vodafone to block or suspend the Service shall not constitute approval of such content or campaigns.

5.4. The Customer acknowledges that access by the Customer to the Service is limited to authorised users named by the Customer. Vodafone will provide each authorised user with a user name, password or other access information ("User Details"). The Customer is

responsible for: (a) the security of the User Details; (b) providing the Vodafone with the identity of the authorized users and keeping that information current; and (c) authorised users' compliance with these Terms and Conditions. Vodafone accepts no liability for any unauthorised or improper use or disclosure of any User Details. The Customer is liable for all acts and omissions conducted using the User Details up until the time that it informs Vodafone that they are being used without authority or may be compromised.

- 5.5. The Customer acknowledges and agrees that direct card payments are not an accepted form of payment for this Service. This Service will show as a charge on your monthly Vodafone Business invoice.
- 5.6. Vodafone may suspend, restrict or terminate the Service where reasonably required to comply with Applicable Law, regulatory obligations, network integrity requirements or to mitigate legal or regulatory risk, without incurring any liability to the Customer.
- 5.7. In order to maintain the integrity of the service, Vodafone reserves the right to forward contact details to law enforcement or other regulatory authorities where requested to do so, Vodafone may also forward contact details where a complaint arises concerning the Customer's use of the Service and where that use is deemed by Vodafone to be inconsistent with these Terms.

## 6. Fees

- 6.1. The Customer shall pay to Vodafone the Fees and any additional costs incurred by Vodafone in processing an Order (subject to clause 6.4 below).
- 6.2. The Fees shall be paid by the Customer, as detailed in the Order Form and any agreement specifically entered into between the Customer and Vodafone, without set off or counterclaim.
- 6.3. The Customer acknowledges that the provision of the Service is conditional on Vodafone receiving payment of the Fees in full and in the event of non payment of Fees or suspected fraudulent activity in relation to payment of Fees by the Customer, Vodafone reserves the right forthwith to withhold, suspend or cancel the Service.
- 6.4. The Customer acknowledges that occasionally unforeseen charges are incurred in processing Orders. Vodafone shall obtain the Customer's consent in writing or by email before incurring such charges.

- 6.5. Unless expressly stated otherwise in the Order, all Fees are exclusive of VAT and apply to SMS messages sent within the Republic of Ireland only, subject to a 160 character limit. Additional charges will apply to SMS message sent outside the Republic of Ireland or exceeding the 160-character limit.

## **7. Cancellation, Refunds and Credits**

- 7.1. The Customer shall not be entitled to any refund of Fees or a credit against any future Order.
- 7.2. In entering into an Order or agreement with Vodafone the Customer acknowledges that performance of the Order or agreement will begin immediately.
- 7.3. The Customer further acknowledges that the Service is provided on a business-to-business basis and that no statutory cooling-off or cancellation rights apply.

## **8. Indemnity**

- 8.1. The Customer shall indemnify and keep indemnified Vodafone and any of its employees, representatives, agents, suppliers and/or sub-contractors fully from and against all liability, claims, costs, losses, loss of profits, expenses, business interruption, and other pecuniary or consequential loss (including reasonable legal costs and expenses) suffered or incurred as a result of:-
- 8.1.1. access to and/or use of the Service by the Customer;
  - 8.1.2. any information, data or material produced, transmitted or downloaded by the Customer;
  - 8.1.3. any breach by the Customer of any of the provisions of these Terms or of Applicable Law including for the avoidance of doubt the Data Protection Legislation;
  - 8.1.4. any use of the Service that infringes Intellectual Property Rights or which causes a claim that Intellectual Property Rights have been infringed;
  - 8.1.5. any material delivered or displayed that infringes Intellectual Property Rights or which causes a claim that Intellectual Property Rights have been infringed.

8.2. The indemnities set out in these Terms shall apply without limitation and shall not be subject to any financial cap or limitation of liability.

## 9. Limitation of Liability

9.1. Except as set out expressly in these Terms, Vodafone excludes all conditions, terms, warranties and representations (other than fraudulent representations) in relation to the whole or part of the Service whether imposed by statute or operation of law or otherwise including but not limited to implied warranties or conditions of accuracy, completeness, satisfactory quality and fitness for a particular purpose.

9.2. Vodafone shall not be liable for any loss, damage or regulatory consequence arising from the use of the Service unless such loss is caused directly and solely by Vodafone's breach of these Terms.

9.3. In addition and without prejudice to the limitation of liability provisions in the General Terms, in no circumstances shall Vodafone be liable in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever, and whatever the cause thereof for:

- 9.3.1. any increased costs or expenses;
- 9.3.2. the consequences of the failure of the Customer to register its SMS Sender ID;
- 9.3.3. the consequences of any failed or undelivered SMS text messages;
- 9.3.4. any claims that the Customer infringed Intellectual Property Rights;
- 9.3.5. the consequences of any software bugs, errors or interruption in the Service;
- 9.3.6. any changes in any of Vodafone's facilities, operations, procedures, products or Service which render obsolete or require modification of or alteration to the Customer's equipment or software; or
- 9.3.7. any special indirect or consequential damage of any nature whatsoever, arising directly or indirectly out of the provision by Vodafone of the Service or the performance by Vodafone of its obligations under these Terms and

Conditions, any Order Form. or any agreement specifically entered into between Vodafone and the Customer.

- 9.3.8.** the consequences of any usage of the Service by a Customer that break or are suspected of breaking any ComReg codes of practice or other regulations, codes of practice, legislation or Applicable Law, including any regulatory or administrative fines, penalties or enforcement measures imposed on the Customer by any regulatory authority arising from the Customer's use of the Service.

## **10. Proprietary Rights**

- 10.1.** The Customer acknowledges that all title, rights and interest in the Service shall remain with Vodafone and/or its suppliers and that the Customer shall not under any circumstances obtain any proprietary rights in respect of the Service.