

# Non-Disclosure Agreement & Service Level Agreement

This Agreement is hereby entered into on Date :

Between:

**SMSGATEWAYHUB Technologies Resources Pvt Ltd.** whose principal place of business is at Office 201, Royal Ratan Building 7-MG Road, INDORE (452001) India with Company Registration No: **U74900MP2013PTC030218** and who is incorporated under the laws of India (hereinafter referred to as 'Provider');

&

----- whose principal place of business is at ----- and who is incorporated under the laws of -----, with correspondence address at (hereinafter referred to as 'Client).

## **Whereas:**

Provider is providing a Mobile Messaging Platform that delivers SMS messages to mobile handsets, Telecom Infrastructure solutions, Digital Marketing Solutions and Managed Services.

**Both parties agree to the following Clauses:**

## **1 DEFINITIONS**

As used in this Agreement (including, for the avoidance of doubt, documents incorporated into this Agreement), the following terms shall have the meanings specified below. Except where the context requires otherwise, words in the singular shall include the plural and vice versa.

**"Addendum"** shall mean any addendum attached to, or which states that it is entered into under, this Agreement;

**"Accessible Mobile Operators"** shall mean the digital cellular networks accessible from Provider's Platform, as specified by Provider from time to time;

**"Chargeable Event"** means SMS or Voice Call sent by Client to Provider platform, which is subject to Successful Submission by Provider to Destination Operator.

**"Effective Date"** shall be the date this Agreement is entered into.

**"Long Number"** shall mean an MSISDN allocated by Provider;

**"Mobile Subscriber"** shall mean a person who, or (where the context requires) the MSISDN or IMSI associated with a person or mobile device which, uses an Operator's network;

**"MNO" or "Mobile Operator" or "Operator"** shall mean an entity which operates a mobile telecommunications system or network;

**"Party"** shall mean Provider or Client, as the context required

**“Query” or “Queries”** shall mean a Query submitted by the Provider Platform to retrieve network information;

**“Regulator”** shall mean any regulator or other legally empowered body or person having relevant powers or remit including, without limitation, any body charged with implementing or enforcing the Data Protection Directive. or any successor or supplement to that Directive or national implementation.

**OBD** : Out Bound Dialer

**IVR** : Interactive Voice Response

**VOIP** : Voice Over Internet Protocol

**Platform** : A mix of Software, Hardware, Connectivity, Services in particular context; all of them or few

**Call Forward** : Forwarding a call from one DID to another number

**DID (Direct Inward Dialing)** : A feature offered by telephone companies for use with their customers' PBX system

**Digital Marketing** : Marketing done using digital channels viz. Email, Voice, Video and SMS. It is also extended to WAP Site, Web Site, AD Network, Mobile APPs, SEO services and Social Media

**“Working Day”** shall mean a day other than Saturday or Sunday.

**“Spamming”** shall mean (i) a situation where SMS / Email / Voice are sent to the Subscribers without their prior consent and/or (ii) a situation where SMS / Email / Voice are sent to the Subscribers encouraging them to call or send a SMS / Email / Voice to a premium rate number and/or (iii) a situation where the Subscribers are charged for the receipt of a SMS / Email / Voice by the Operator and those Subscribers have not requested the SMS / Email / Voice and/or (iv) any unlawful or fraudulent SMS / Email / Voice.

## **2 Charges and Payment**

- 1) Client will be Invoiced as per decided commercials on “Net to Provider” basis excluding taxes, money transfer charges, currency conversion or whatsoever
- 2) All Charges under this agreement shall be paid by the Client, in **Pre Paid** manner against the Invoice in the **INR** Currency
- 3) Price is subjected to change with prior intimation of 15 days in case our base price increases **(As per TRAI GUIDELINES)**

In addition, if any sum due to Provider are not paid within the due date for payment, then Provider shall be entitled (a) to charge interest on the unpaid amount at the rate of 5% per annum above the then-current base rate of IDBI BANK ; and, if such amount remains unpaid for 30 days following the due date, thereafter (b) to recover interest on such amount at the statutory interest rate pursuant to the Late Payment of Commercial Debts as per Indian LAW ., whether before or after any judgment; and the Client shall pay the interest immediately on demand.

\*If Client has any doubt over the bills raised by Provider then Client shall revert back to Provider within the credit period allowed and such invoices shall not be deemed past due until such discrepancy has been resolved.

### **3 Term and Termination**

The term of this Agreement is a period of one (1) year from the Effective Date (“Initial; Term”, after this Initial Term this Agreement shall be automatically renewed every year for subsequent one year terms (each a “Renewal Term”) unless terminated by either Party with a written notice no less than thirty (30) days.

### **4 Notices**

Unless otherwise specified herein, any and all notices served hereunder shall be deemed to be served only if any such notice is served via registered post, or confirmed fax

### **5 Confidential Information**

The Parties - each (the “Confidee”) - undertake on behalf of themselves and their employees, agents and permitted subcontractors that they will keep confidential and will not use for their own purposes (other than fulfilling their obligations under this Agreement) nor without the prior written consent of the other disclose to any third party any information of a confidential nature relating to the other (the “Confidor”), including (without limitation) any trade secrets, confidential or proprietary technical information, trading and financial details and any other information of commercial value, which may become known to the Confidee under or in connection with this Agreement (“Confidential information”).

### **6 Assignment and Third Party Rights**

Neither party shall be permitted to assign this Agreement and its obligations to any third party without first obtaining the other party’s written consent and within the following context;

### **7 Amendments & Addendum**

Any amendments to this Agreement shall be in writing and shall have no effect unless they are signed by the duly authorized representatives of both Parties.

All the Addendums will be in effect additional to this agreement with proper date and sign of both the parties, limited to the given time period of this agreement.

### **8 Indemnity**

Client shall indemnify Provider against all costs, claims, expenses and liabilities arising out of any claim, action, demand, allegation or proceeding made or brought by any person or entity (including, without limitation, any Regulator, Operator or Government) based on an allegation that any SMS / Voice / Email or Transaction pursuant to an Addendum, or Client’s use of the Services, infringes this agreement, relations, laws, Data Protection act, Ecommerce act, direct Selling Directives and anything within the jurisdiction.

### **9 Intellectual Property**

Intellectual property rights in all software, information, technology or data whatsoever supplied by either Party under the Agreement shall remain the property of that Party or its licensors. Any intellectual property rights to any developments shall be the property of the developing party

### **10 Force Majeure**

Neither party shall be responsible to the other for any delay or non-performance of its obligations hereunder in the event and to the extent that such delay or non-performance is due to an event of force majeure. Events of force majeure include, but are not limited to, war, acts or terrorism, acts of government, natural disasters, fire, acts of God. If an event of force majeure results in delay or non-performance by a party for a period of thirty (30) days or more, either party shall be entitled to terminate this Agreement with immediate effect.

**11 Governing Law & Jurisdiction**

We adhere to the governing Laws of India and the jurisdiction shall be Indore(Madhya Pradesh), India

**For and on behalf of Provider**

**SIGNED:**.....

PRINTED NAME: Mr. Gulpreet Singh Arora

POSITION: Managing Director

DATE: \_\_\_\_\_

**For and on behalf of Client**

**SIGNED:**.....

PRINTED NAME: POSITION:

DATE:.....

# Service Level Agreement (SLA)

## Availability of the Service

The commitment of availability of the Services is restricted to the Provider Platform and does not support any Technical Problems with either Mobile network Operators, International Gateway Providers or Internet Data Centers and ISP Routing.

Provider will use best endeavors to provide timely information any problems that occur further down the technology pipe and will always attempt to minimize any 3<sup>rd</sup> party disruption by using multiple providers that are dynamically switched as required.

Provider cannot guarantee the total reliability in message routing and storing, which can be subject to, in addition to cases of Force Majeure as commonly understood, interruptions in the service of one or more Operators due, for example and not limited to, radiotelephone interference caused by atmospheric conditions or any other conditions, interferences in wave propagations, the addressee of the message being outside of the operator's coverage area, operator maintenance and technical interruptions, or SIM card memory overload.

## **Notifications**

Provider all the time notify the Client with prior information on any potential 3<sup>rd</sup> party issues or disruptions in Service.

## **Delivery**

The average time taken is less than few seconds! However sometimes congestion in networks may cause an unavoidable delay as per Mobile Operator.

## **Instantaneous and Dynamic Delivery Reports**

SMSGATEWAYHUB offers **instantaneous** and **dynamic delivery reports** (also known as CDRs) to let you know the status of the SMS Text messages you have sent out, in a very easily understandable format. In addition, you can also download the reports into a Microsoft Excel worksheet for greater analysis.

S.No.	MESSAGE STATE	DESCRIPTION
1	SUBMITTED TO CARRIER	Your message has been submitted to the Carrier's SMSC (Short Message Service Center) and is waiting for the delivery status confirmation from the Carrier
2	DELIVERED	Your message has been delivered to the destination mobile number
34	EXPIRED	Your message validity period has expired. This happens when the destination mobile is either switched off or out of coverage area for a certain period of time. The SMSC failed to deliver even after its final attempt as per its retry scheme
4	UNDELIVERED	Your message was not delivered. This happens when the Carrier encounters <ul style="list-style-type: none"><li>inactive or unidentified or untraceable destination mobile number</li><li>mobile handset memory or inbox full</li><li>no credit balance available to receive the SMS Text message</li></ul>

(specifically for pre-paid or pay-as-you-go)

- not enabled to receive SMS Text message (typical for USA)

## 5 REJECTED

Your message was rejected at the SMSC of the Carrier. This happens when the destination network is not available or blocked to the Carrier

### **Important Points about Delivery Reports**

- Message States 1 "Submitted to Carrier" are only temporary states. They eventually would move to States 3, 4, 5 or 6 i.e. "Delivered" or "Expired" or "Undelivered" or "Rejected".

### **Usage of Service Levels**

- 1) Priority 1 & 2 faults can be reported by either Telephone or through the Customer Services online form.
- 2) Priority 3 & 4 faults to be reported during normal office hours by the Customer Services online form.
- 3) All faults will be allocated a call reference and confirmed by email to the Client.
- 4) 24 x 7 telephone contact number to only be used by an authorized company representative for reporting priority 1 and priority 2 type problems only.
- 5) Provider to advise Client immediately they are aware of any fault or issue that causes degraded functionality of the service and to allocate a priority level.

### **Performance Problems.**

Based on the description of Priority Levels provided below, the following Service Levels shall be delivered by the Provider.

<b>Priority Level</b>	<b>Error Type</b>	<b>Description</b>	<b>Response Time</b>	<b>Target Resolution</b>
1	Failure of Critical Function	No message connectivity or no message delivery.	24 x 7 Coverage	2 Hours
2	Severe Impact	Errors that result in a lack of application functionality or cause intermittent failure of the Service.	24 x 7 Coverage	4 Hours
3	Degraded Operations	Errors causing malfunction of non-critical functions.	Email notification acknowledged within 8 hours	24 hours
4	Minimal Impact	Attributes and/or options to utility programs do not operate as stated.	Email notification acknowledged within 8 hours	By mutual agreement

- 1) "Response time" means the elapsed time from the time from when the Error has been brought to the attention of the Provider and for the Provider to provide technical support.
- 2) "Target resolution" means the elapsed time from the time Provider's technical support receives notification from the Client of an error until Provider provides a fix or a workaround, provided it

has no adverse effect on the Service and a permanent fix is provided as soon as possible thereafter.

- 3) The Partner will notify Client of all errors promptly after being made aware of them (regardless of how this occurred), including any available information concerning fixes or workarounds.
- 4) The system shall be maintained to achieve an uptime of 99% per annum. Any planned downtime shall be the subject to written notice to the Client.

**Technical Support Management escalation matrix**

Escalation Level	Designation	Mail id /	Gtalk ID	contact Person	Contact number
1	Support	<a href="mailto:support@smsgatewayhub.com">mailto:support@smsgatewayhub.com</a>	smsgatewayhub	RajeshSharma	<a href="tel:+9107316450666">+91 0731 6450666</a>
2	BDM	<a href="mailto:abbas@stripl.in">mailto:abbas@stripl.in</a>	Skype : abby.ali786	Abbas Ali	+91-7024770247
3	MD	<a href="mailto:gulpreet@stripl.in">mailto:gulpreet@stripl.in</a>		Gulpreet Sing	<a href="tel:+917354912345">+91 7354912345</a>

The Provider will immediately block the Clients account upon prior written notice to Client if it provide to the satisfaction of the Client that the account is being used for SPAM or unsolicited bulk messaging. The Provider is bound to deliver a valued service and will NOT tolerate SPAM (sending of unsolicited message) of SMS / voice calls and/or ANY other kind of messages.

I hereby confirm that I have fully read and accepted the Providers Anti-Spam regulations.

**For and on behalf of Client**

**SIGNED:**.....

PRINTED NAME: xxxxxxxx

POSITION:

DATE:.....