



The Customer hereby confirms reading, understanding and accepting the Terms & Conditions of this Agreement and the Code of Conduct; and that all information provided by the Customer in the DHIRAAGU Bulk SMS Request Form are accurate and valid.

## 1. ENTIRE AGREEMENT:

1.1 The Terms and Conditions of this Agreement, the Code of Conduct (Schedule 1 attached herein) and the DHIRAAGU Bulk SMS Request Form represent the entire Agreement between DHIRAAGU and the Customer (hereinafter individually referred to as the "Party" and collectively referred to as the "Parties") with respect to the subject matter hereof.

1.2 The clause headings are included in this Agreement for ease of reference only and are not to be taken into account in the interpretation of this Agreement. Thus, clause headings are not to be considered as an integral part of this Agreement.

1.3 This Agreement supersedes and merges any and all prior agreements, promises, understandings, statements, representations, warranties, indemnities and inducements to the making of this Agreement relied upon by either Party, whether written or oral, explicit or implied.

1.4 Should any provision of this Agreement prove to be unenforceable, illegal, invalid or otherwise void for whatever reason; the offending provision shall be deemed deleted and the remaining provisions shall continue in full force and effect. The invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable provision, which, being valid, legal and enforceable comes closest to the intention of the Parties with respect to the invalid, illegal, or unenforceable provision.

## 2. ACCEPTANCE

2.1 DHIRAAGU shall permit use of the Service (as defined below) subject to the Terms and Conditions of this Agreement. By continuing to use the Service in any way, it is agreed herein that the Customer has read, understood and accepted all the Terms and Conditions of this Agreement and the Code of Conduct unconditionally. The Customer must not continue to use the Service if the Customer does not understand or agree to the Terms and Conditions of this Agreement.

2.2 The Customer agrees to abide by all applicable laws, regulations and network operator or service provider requirements. Any complaint from a network operator or service provider will be regarded in a very serious light and the Customer's use of the Service may be terminated or suspended accordingly.

## 3. DURATION

3.1 This Agreement between the Parties shall commence on the Effective Date and shall continue in force thereafter unless terminated earlier in accordance with Clauses 12 and 13 of this Agreement.

## CONDITIONS OF USE

### 4. REGISTRATION

4.1 The Service will be available via the Internet and/or through means mutually agreed upon by both Parties. The Customer must provide all equipment necessary to make such connection, including a computer and modem or other access devices. Such equipment shall not be considered as part of DHIRAAGU deliverables under this Agreement.

4.2 The Customer interested in the Service will be required to review and accept the Terms and Conditions of this Agreement and the Code of Conduct, select a username and password, complete (or provide DHIRAAGU Sales and Marketing staff with) the required fields in the DHIRAAGU Bulk SMS Request Form by providing current, complete and accurate information. Dhiraagu customers must include the Customer's Commercial Registration (CR). Inaccurate details will result in suspension.

4.3 Once the username and password have been assigned and activated, the Customer will be notified through SMS and/or e-mail.

4.4 DHIRAAGU reserves the right of accepting or rejecting any DHIRAAGU Bulk SMS registration request at its own consent without justification.

## 5. SERVICE USAGE

5.1 In order to use the Service after activation, the Customer should access the provided account through the DHIRAAGU Bulk SMS Website ("the Service Website") or pre-assigned servers.

5.2 The Customer must provide the username and password whenever the Customer subsequently wishes to use the Service.

5.3 The Customer shall generate and provide the list of Recipients' numbers. The Customer is not permitted to send SMS messages to recipients who have made clear that they do not wish to receive SMS messages or advertisements via SMS. Detailed guidelines for using the Service are available on the Service Website.

5.4 The Customer shall accept all liabilities arising from all transactions which are conducted by means of the Service where the password was provided. DHIRAAGU will not be required to enquire into the authority of any person who uses the password and will assume that the Customer has authorized all transactions that are conducted through the use of the password and these transactions will be deemed to have been performed by the Customer himself.

5.5 Should the Customer misuse the Service and/or send unsolicited SMS messages to recipients (whether intentionally or not), the Customer agrees to be held liable for any defense or negotiated settlement, as decided upon by DHIRAAGU.

## 6. SMS COST

6.1 The cost of each message consists of the message cost (local and/or overseas network operator), database, customer care and handling cost. DHIRAAGU preserves the right to modify, increase, or decrease the cost per message, for a specific network(s) with notice.

## 7. SMS DELIVERY

7.1 DHIRAAGU will use all reasonable endeavors to ensure the successful delivery of all messages.

7.2 Delivery of messages to international Recipients may be provided as part of the Service subject to availability and specific agreements with the overseas network provider. Such agreements are subject to change and may affect SMS delivery to certain international Recipients. DHIRAAGU shall not be held liable for any such changes. Notwithstanding clause 7.2, the Customer shall bear any additional international charges of SMS messages relating to the overseas network providers.

## 8. UNAUTHORIZED INTERFERENCE

8.1 Notwithstanding the other liabilities defined in this Agreement, the Customer will not interfere with or jeopardize the functionality or the operation of any part of the Service or attempt to interfere with or jeopardize the functionality or operation of any part of the Service. This includes, but is not limited to, attempting, permitting or assisting any person to gain unauthorized access to the Service, other accounts, computer systems or networks connected to the Service, through password mining or any other means, copy; tamper with; reverse engineer; de-compile; disassemble; re-write and/or re-engineer any part of the Service, the DHIRAAGU Website or any application used in, or provided as part of the Service.

## 9. PAYMENT

9.1 The Customer shall pay a once-off registration fee and the monthly charges thereafter as in Request Form.

9.2 DHIRAAGU will calculate the monthly charges due based on the Customer's usage of the Service (activities performed using the Customer's username and password) on a monthly basis starting on the Effective Date.

9.3 The monthly charges due, as per sub-clause 9.2, shall be charged to the Customer's monthly bill.



# TERMS AND CONDITIONS FOR BULK SMS SERVICE

- 9.4 All payments shall be made in the currency stated in the monthly bill through DHIRAAGU payment facilities (e.g. the Service Website, DHIRAAGU counters, hotline, etc. subject to availability). 13.3
- 9.5 All payments by the Customer are final and non-refundable. Should the Customer believe there have been improper charges for the Service, DHIRAAGU must be notified providing any information necessary in order to review and resolve the query. The query must be submitted as soon as reasonably possible but in any event within ten (10) calendar days of the date of the relevant Customer's monthly bill reflecting the charge. 13.4
- 9.6 Further details of the registration fee, monthly charges, and additional options charges can be found on the Service Website or by referring to DHIRAAGU Sales Department. 14.1
- 10. GENERAL TERMS**
- 10.1. PRIVACY POLICY**
- 10.1 The Customer is obliged to supply all information requested by DHIRAAGU. The aforesaid information shall be kept confidential, complete and accurate. In this regard, the Customer undertakes to notify DHIRAAGU at the earliest and in writing of any change relating to such information. 14.1
- 10.2 All information given by the Customer is for identification and verification purposes only unless otherwise agreed by the Parties. DHIRAAGU will not disclose or use any information submitted by the Customer for any purpose other than that for which the Customer is using the Service. 14.2
- 10.3 DHIRAAGU shall protect the Customer's information using the same standard of care that it applies to safeguard its own confidential information and the information shall be stored in such a way as to prevent any unauthorized disclosure thereof. 14.2
- 11. CONFIDENTIALITY**
- 11.1 Both Parties agree that neither party shall disclose to any third party any details whatsoever of this Agreement without the prior written consent of the other party except as may be provided in this Agreement or except as shall be required by a court of competent jurisdiction or regulatory authority, and that such obligation shall survive the expiry of this Agreement and shall endure for a period of five (5) years from the date of expiry or termination of this Agreement. 14.3
- 12. BREACH**
- 12.1 DHIRAAGU may terminate this Agreement immediately at its absolute discretion without written notice and shall retain all its rights to claim for payment of all accrued amounts and for any possible indemnities, if the Customer: 15.1
  - a. commits a material breach of this Agreement which cannot be remedied; or
  - b. is repeatedly in breach of this Agreement; or
  - c. commits any fraudulent or unlawful conduct related to the Customer's use of the Service; or
  - d. is the subjects of a bankruptcy order, or becomes insolvent, or goes into voluntary or compulsory liquidation or a receiver or administrator is appointed over its assets. 15.3
- 12.2 Termination of this Agreement under the provisions of Sub-Clause 12.1 will not entitle the Customer to a refund of all of or any part of the amounts paid. 15.2
- 12.3 Whenever DHIRAAGU is obliged to defend any action against DHIRAAGU as a consequence of the Customer's breach the Customer agrees to be responsible for all costs and expenses incurred by DHIRAAGU including its legal and professional costs on a full indemnity basis. 15.3
- 13. TERMINATION**
- 13.1 The Customer shall be entitled to terminate this Agreement at any time and shall be obliged to pay all amounts due up to the date of termination. 15.3
- 13.2 Notwithstanding Clause 12, DHIRAAGU may terminate, change, suspend, or discontinue this Agreement, the Service and/or the Customer's use of the Service, including the availability of any features of the Service, at any time. 15.3
- DHIRAAGU shall provide the Customer with a one (1) month prior written notice in the event of termination of the Service or of the Customer's use of the Service by DHIRAAGU for reasons other than those contained in Clause 12. 15.3
- DHIRAAGU may terminate or suspend this Agreement with immediate effect if required by a court order, regulator or any other relevant government authority. 15.3
- 14. NOTICES AND GRIEVANCE**
- Any notice required to be given under this Agreement must be in writing and delivered by hand or sent by post or by fax to the Sales Department, Dhivehi Raajjeyge Gulhun Plc at Dhiraagu Head Office, Ameenee Magu, P.O Box 2082, Male' Maldives, Fax: +960 3322800 and to Customer at the address provided in the Request Form. Unless expressly agreed otherwise, any Such notice shall be deemed to be served on the date delivered by hand, or if sent by fax the date on which a printed transmission report confirming receipt is received, or if sent by post, ten (10) days from the date of dispatch, whichever the case may be. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 8.00 am on the first Working Day following delivery). 15.3
- All payments by the Customer are final and non-refundable. Should the Customer believe there have been improper charges for the Service, DHIRAAGU must be notified providing any information necessary in order to review and resolve the query. The query must be submitted as soon as reasonably possible but in any event within ten (10) calendar days of the date of the relevant monthly bill reflecting the charge. 15.3
- Each Party shall promptly inform the other of any claims in respect of patent rights, copyrights, registered designs or other Intellectual Property rights and shall make no settlement thereof without giving to the other prior notice of the claim and a reasonable opportunity to deal with the same. 15.3
- 15. DISCLAIMER/ LIMITATION OF LIABILITY**
- The Service is provided as is. The Customer shall be responsible for maintaining the confidentiality of the password and shall notify DHIRAAGU immediately in writing if the confidentiality of the password has or may have been compromised. 15.3
- DHIRAAGU shall not be responsible for any injury, loss, liability, claim or damage of any kind suffered or incurred by the Customer or any user of the Service which results from or relates to the Service, the Terms and Conditions, the Customer's access to the Service Website, utilization of the Service or reliance on any information contained on the Service Website. 15.3
- Without limiting Sub-Clause 15.2 above, DHIRAAGU will not be responsible and its liability is excluded for the following: 15.3
  - e. All statements made by the Customer or users of the Customer's account;
  - f. Any Liability arising directly or indirectly out of not complying with the Terms and Conditions herein and/or the terms and conditions of the Code of Conduct;
  - g. The unavailability or the consequences of the unavailability of the Service Website or the Service for any reason; including but not limited to failure of, malfunction or defect of any nature in The Service Website or of the Internet network or a telecommunications network. However, if such incident occurs, DHIRAAGU will use its best endeavors to ensure successfully resuming its performance of its obligations as soon as reasonably possible;
  - h. Any act or failure to act by any other third party involved in delivering the Service, including but not limited to the failure of a financial institution to carry out in whole or in part any transaction which it has been requested to perform;

- i. Any circumstances for any indirect, contingent or consequential loss (including, but without being limited to, loss of revenue, loss of data, loss of business or loss of profits) sustained or incurred by the Customer, howsoever arising to the extent permitted by law.
- 15.4 The Customer indemnifies DHIRAAGU against any losses suffered in the event of not complying with the SMS Content as defined herein and in Clause 5 of the Code of Conduct.
- 15.5 Where applicable, DHIRAAGU shall not warranty the delivery and accuracy of non-English language sections/SMS Messages to Mobile devices which do not support non-English languages.
- 15.6 DHIRAAGU reserves the right to enhance, develop, and modify services and contents on its Website and/or systems at any time without prior notice.
- 15.7 The Customer is solely responsible for all acts or omissions that occur under its account or password, including the content of any transmissions through the Service.
- 15.8 DHIRAAGU will not be held liable to any third party claims and/or actions taken with respect to the Service offered. The Customer agrees to give DHIRAAGU all reasonably necessary assistance in handling a claim by a party against DHIRAAGU which is related to the Customer's use of the Service. Any defense or negotiated settlement, as decided upon by DHIRAAGU, will be binding on the Customer.
- 15.9 DHIRAAGU does not warrant or guarantee that SMS messages will reach the destination or recipient, or will be received in their entirety, or will be received or sent within a particular time period.
- 15.10 Without limitation to the exclusions set out above, any proven liability arising out of DHIRAAGU's negligence or conduct or that of its employees, Agents or Sub-Contractors involved in the provision of the Service, shall be limited to an amount not exceeding one (1) month's average payment by the Customer for the use of this Service.
- 16. INTELLECTUAL PROPERTY**
- 16.1 All information, right, title and interest relating to copyright, trade mark, patents and trade names, trade secrets and any other proprietary rights, whether registered or unregistered and however embodied, communication media, and systems associated with the Service and/or DHIRAAGU's Website and the underlying services ("the Intellectual Property") shall vest in DHIRAAGU and remain the sole property of DHIRAAGU. By using the services, the Customer does not obtain any rights in the infrastructure, content or software associated with the services.
- 16.2 The Customer agrees not to use, challenge, or exploit the Intellectual Property in any way unless the Customer has been given prior written consent by DHIRAAGU.
- 16.3 The Service may include material or content which is owned by third parties and/or the rights in which vest in third parties. The Customer may not use, copy, exploit or publish any aspect of the Service, without the prior written consent of the owner of the rights therein.
- 16.4 Each Party shall promptly inform the other of any claims in respect of patent rights, copyrights, registered designs or other Intellectual Property rights and shall make no settlement thereof without giving to the other prior notice of the claim and a reasonable opportunity to deal with the same.
- 17. GOVERNING LAW AND DISPUTES**
- 17.1 This Agreement shall be governed by and construed in accordance with the laws of the Republic of Maldives and the parties hereby submit to the jurisdiction of the Maldivian Courts.
- 18. FORCE MAJEURE (EVENTS BEYOND DHIRAAGU'S REASONABLE CONTROL)**
- 18.1 DHIRAAGU shall not be liable to the Customer if it is unable to perform any obligation or provide the Service because of any factor outside DHIRAAGU's reasonable control, including (but not limited to) act of God, natural calamities, fire, extreme weather conditions, industrial action, default or failure of a third party, war, act of government or state, terrorist acts, civil commotion, insurrection or embargo.
- 19. MISCELLANEOUS**
- 19.1 The Gregorian calendar shall apply.
- 19.2 Notwithstanding Clause 1.4 above, DHIRAAGU reserves the right to amend this Agreement with notice.
- 19.3 The Customer may not alter the Terms and Conditions without the written consent of DHIRAAGU. DHIRAAGU will review any request for changes and shall reserve the right to agree on what DHIRAAGU deems fit.
- 19.4 No delay, neglect or forbearance on the part of either Party in enforcing against the other Party any term or condition of this Agreement shall either be, or be deemed to be, a waiver or in any way prejudice any right of that party under this Agreement.
- 19.5 The Parties acknowledge that this Agreement and its performance do not create a partnership or joint venture between any of the parties. The Parties agree that, for purposes of this Agreement, each Party shall be solely responsible for its own acts and omissions. Neither of the Parties shall be responsible for any loss or damage caused by the act or omission of the other Party or by virtue of this Agreement except as provided for in this Agreement.
- 20. INTERPRETATION**
- 20.1 In this Agreement, the following expressions shall, unless the context otherwise requires, have the following meanings:
- Agreement means the contract between DHIVEHI RAAJJEYGE GULHUN PLC, a incorporated and registered in the Maldives with company number C0024/1988, whose registered office is at Dhiraagu Head Office, Ameenee Magu, PO Box 2082, Male', Maldives ("DHIRAAGU") and the Customer for the provision of Dhiraagu Bulk SMS Service, comprising of the Request Form, these Terms and Conditions, and Code of Conduct
- "Customer" means Dhiraagu Customer identified in the Request Form and who forms the other party to this Agreement.
- Request Form means the application form requesting the Service which has been signed by the Customer, a copy of which is annexed hereto
- "SMS" means Short Message Service, which is the ability to send (or receive) a text message of about 160 characters to (or from) an SMS enabled device (e.g. SMS enabled mobile phone).
- "Service Provider" means a party which has entered into a commercial arrangement with DHIRAAGU for the delivery by DHIRAAGU of SMS Messages to phone users.
- "SMS Message" means a message sent via SMS by or on behalf of the Service Provider that is designed to promote the sale of or demand for goods or services whether or not it invites or solicits a response from the Recipient, unless otherwise specified.
- "DHIRAAGU Bulk SMS" means an SMS purchasing scheme whereby the Customer may purchase SMS messages in large quantities for use within internal and/or external environments.
- "SMS Content" means all contents sent via the DHIRAAGU Bulk SMS service, including but not limited to all data, information, characters, numbers, pictures, symbols, codes, and programs.
- "the Service" means DHIRAAGU Bulk SMS service, unless otherwise specified.
- "Code of Conduct" means the document provided by DHIRAAGU stating the general Terms and Conditions discouraging misuse of the Bulk SMS service.
- "Recipient" means person who receives an SMS message, either intentionally or unintentionally.
- "Sub-Contractors" means authorized third parties employees appointed by DHIRAAGU on contract bases for the purpose of maintaining DHIRAAGU's hardware and software.

## **Schedule 1- DHIRAAGU BULK SMS CODE OF CONDUCT**

### **1. Application & Purpose**

- 1.1 The purpose of this Code of Conduct is to discourage the sending of intrusive and offensive SMS Messages and to encourage the responsible use of SMS as a marketing medium.
- 1.2 This Code of Conduct applies to all service provider customers of DHIRAAGU using DHIRAAGU's network to send Commercial SMS Messages to mobile phone users. By signing this Code of Conduct, the Customer agrees to be bound by, and to comply with, the terms of this Code of Conduct and the General Terms and Conditions available on the Service Website (DHIRAAGU Bulk SMS User Agreement).

### **2. Identification of Service Provider**

- 2.1 The Customer shall include in its Commercial SMS Messages information which reasonably enables the Recipient to identify and contact the Customer.

### **3. Recipient Consent**

- 3.1 The Customer shall not send Commercial SMS Messages to any Recipient unless:
  - (a) the Recipient has provided the Customer with prior consent to send Commercial SMS Messages; or
  - (b) the Recipient has a prior commercial relationship with the Customer and would reasonably expect to receive Commercial SMS Messages from the Customer.

### **4. Right To 'Opt-Out'**

- 4.1 The Customer shall provide the Recipient with an "opt-out" mechanism by which the Recipient can at any stage notify the Customer not to send further Commercial SMS Messages to the Recipient. Such mechanism must be both easy to use and inexpensive.

*For example, the Service Provider might include in its Commercial SMS Message an*

*Option for the Recipient to send the command "SENDER ID <space> OPT-OUT" to the number 250 whenever he/she wishes to 'opt out'.*

- 4.2 The Customer shall comply as soon as practicable with any notification it receives under section 4.1 and not send further Commercial SMS Messages to the Recipient unless and until the Recipient requests or consents to receiving further Commercial SMS Messages.

### **5. SMS Content**

- 5.1 The Customer must ensure possessing all necessary licenses, permits, and other forms of authority and permissions necessary for the delivery of content sent via the Service. Any unauthorized commercial use of the Service is expressly prohibited.
- 5.2 Any Commercial SMS Message inviting a response by means of calling a premium rate. Number shall include full details of the call charges.
- 5.3 The Customer may not use the Service for any of the following purposes or in any of the following manners:
  - (a) Could infringe a law or regulation.
  - (b) Could reasonably be regarded as offensive to public morals, decency or sensibilities
  - (c) Use the Service in connection with chain letters, junk SMS messages, spamming, or any unsolicited messages (commercial or otherwise);
  - (d) Transmit or publishing unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature. The content shall not contain any statements, or images which are or may amount to racial or gender discrimination nor any statements or images of a sexual nature and will not constitute or encourage violation;
  - (e) Transmit any material that may infringe the intellectual property rights or other rights of third parties, including trademark, trade secret, copyright or right of publicity;
  - (f) Defame, insult, or slander any person or entity;

- (g) Infringe upon any person's privacy rights; including but not limited to intercepting any communications not intended for the Customer;
- (h) Collect information about recipients without their consent;
- (i) Transmit any material that contains viruses, Trojan horses, worms, destructive materials or harmful computer code or any other harmful or deleterious programs;
- (j) Interfere with or disrupt networks (Internet, mobile, or otherwise) connected to the Service or violate the regulations, policies or procedures of such networks;
- (k) Create a false or forged identity, or otherwise attempt to mislead recipients as to the identity of the sender or the origin of the message;
- (l) Engage in any activity that DHIRAAGU believes could subject it to criminal liability or civil penalty or judgment;
- (m) Attempt to use the Service in connection with hacking, cracking, flaming or spoofing.

### **6. Breaches of Code of Conduct**

- 6.1 If the Customer breaches any clause of this Code of Conduct, DHIRAAGU has the absolute right in its sole discretion to immediately suspend or terminate, without compensation, part or all of its SMS service to the Customer forthwith.
- 6.2 Written reasons for such suspension or termination shall be provided promptly to the Customer.

### **7. Complaints**

- 7.1 Should DHIRAAGU receive a complaint from any person or body concerning any Commercial SMS Message sent by the Customer, the Customer shall fully co-operate with DHIRAAGU to investigate and resolve such complaint without delay.
- 7.2 Where DHIRAAGU believes it appropriate, the Customer shall take full responsibility for managing the response to the complaint. In such circumstances, the Customer shall provide regular updates to DHIRAAGU on the status of the complaint and provide such other information concerning the complaint as DHIRAAGU may from time to time request.

### **8. Changes to Code of Conduct**

- 8.1 DHIRAAGU reserves the right to revise this Code of Conduct from time to time and such revision will come into effect on the date that DHIRAAGU issues the Customer with a revised version.

### **9. Miscellaneous**

- 9.1 For the avoidance of doubt, DHIRAAGU shall not be monitoring the content of any Commercial SMS Messages sent by the Customer and DHIRAAGU shall not be responsible for the content of such messages.