

PROOVL TERMS AND CONDITIONS

2Way OU • Reg. Nr: 11914364 • Narva mnt 5, Tallinn 10117 Estonia

Effective Date: 2015/03/11

RECITALS

WHEREAS, Customer desires to access Proovl distribution infrastructure for worldwide sending and receiving of short messages containing personalized or specialized content, or other information, directly to/from cellular phones, pagers, or other mobile devices.

THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties hereby agree as follows:

DEFINITIONS

"Advertising" means any advertising and sponsorship displayed on the Messages. "Brands" means the Proovl Brand and the Customer Brand.

"Customer Brand" means Customer's corporate identity elements, including without limitation its name and logo and such other trademarks, trade names, trade dress, service marks, and service names that Customer uses from time to time.

"Customer Content" means all information, graphics, Advertising, artwork, editorial, and other content created by Customer, its employees, contractors or agents for use on the pages. Customer Content excludes any messages, data or other information provided by Customer Users or any third parties in connection with the Proovl Services.

"Customer Site" means Customer's Web site, currently located on the World Wide Web.

"Customer User" means any third party who provides message content to the Customer for distribution via the Proovl service.

"Effective Date" means the date set forth in the initial paragraph of this Agreement. "HLR" means Home Location Register lookup and query services.

"Fees" means the fees paid for the Services as detailed at clause 5 below.

"Proovl Brand" means Proovl corporate identity elements, including without limitation its name and logo and such other trademarks, trade names, trade dress, logos, domain names, service marks and service names that 2Way OU owns from time to time.

"Proovl Content" means all information, graphics, artwork, and other content created by 2Way OU, its employees, contractors or agents for use on the Proovl Web Site. Proovl Content excludes

Customer Content and any messages, data or other information provided by Customer Users or any third parties in connection with the Proovl Services.

"Services" means products, software, services, websites, telecommunications, plans, sms numbers, HLR and messaging services as provided to the Customer by 2Way OU through Proovl.

"Proovl SMS Console" means Customers Control Panel located at www.proovl.com/console

"SMS" and "Messages" means short message service, i.e. concise messages containing personalized or specialized content, or other information, sent directly to/from cellular phones, pagers, or other mobile devices using the Proovl Service.

"Software" means Proovl software and services as supplied to the Customer to facilitate the provision of the Services.

1. YOUR RELATIONSHIP WITH PROOVL

- 1.1. Your use of Proovl products, software, services and web sites (referred to collectively as the "Services" in this document and excluding any services provided to you by Proovl under a separate written agreement) is subject to the terms of a legal agreement between you and Proovl. "Proovl" means 2Way OU (Reg. Nr.: 11914364), whose principal place of business is at Narva mnt 5, Tallinn 10117 Estonia. This document explains how the agreement is made up, and sets out some of the terms of that agreement.
- 1.2. These Terms of Service form a legally binding agreement between you and Proovl in relation to your use of the Services. It is important that you take the time to read them carefully. Collectively, this legal agreement is referred to below as the "Terms".

2. ACCEPTING THE TERMS

- 2.1. In order to use the Services, you must firstly agree to the Terms. You may not use the Services if you do not accept the Terms.
- 2.2. You can accept the Terms by:
 - 2.2.1. clicking to accept or agree to the Terms, where this option is made available to you by Proovl in the user interface for any Service; or
 - 2.2.2. by actually using the Services. In this case, you understand and agree that Proovl will treat your use of the Services as acceptance of the Terms from that point onwards.
 - 2.2.3. You may not use the Services and may not accept the Terms if (a) you are not of legal age to form a binding contract with Proovl, or (b) you are a person barred from receiving the Services under the laws of any of EU member countries or other countries including the country in which you are resident or from which you use the Services.

2.2.4. Before you continue, you should print off or save a local copy of the Terms of Service for your records.

3. OBLIGATIONS OF PROOVL

- 3.1. Service. Proovl shall operate the Infrastructure for use by the Customer subject to the terms and conditions of this Agreement.
- 3.2. Service Level. Proovl will terminate messages to mobile terminals as fast as commercially possible as soon as the Handsets of such Users are ready to receive the Messages. However, due to factors beyond its control, Proovl does not guarantee latency nor final delivery to the mobile terminal. If messages sent by the Customer cannot be delivered to the intended Users they will be stored for a maximum of 24 hours after which time they may be deleted.
- 3.3. No Warranty. Proovl Services ("Services") are provided "as is" and Proovl and its suppliers expressly disclaim any representation or warranty regarding the performance, availability, functionality or any other aspect of said services. Proovl and its suppliers make no warranty that the use of services will be uninterrupted, timely, secure, or error-free; nor do Proovl or its suppliers make any warranty as to the results that may be obtained from use of the services.
- 3.4. Support Services. Any service interruption/ breakdown in Customers connectivity to the Proovl SMSC shall be reported immediately to Proovl by phone, email or internal messaging system to enable Proovl to take reasonable steps to assist and co-operate with Customer, wherever possible, in restoring such technical faults. Technical breakdowns will be analysed jointly by Proovl and Customer. Proovl will be responsible only for elements that are in its direct control and will try to solve the problem and restore service as quickly as possible.
- 3.5. Support. Proovl shall provide Customer with support via email, internal messaging system and telephone. Proovl shall respond to all email requests within Forty Eight (48) hours.
- 3.6. Orders. Proovl shall provide to Customer any ordered and paid service, except messaging, within ten (10) working days.
- 3.7. Network Reach. Proovl maintains at all times a current list of mobile operators being covered. Proovl reserves the right to alter the list adding or deleting operators, as appropriate. While Proovl will cover as many mobile operators as commercially practicable, Proovl does not undertake, represent or warrant that any particular mobile operator will continue to be reachable by Proovl at any time in the future. The current list of mobile operators is available for inspection from Proovl official website on request.
- 3.8. Details. Proovl shall provide to Customer any ordered service in according with Technical Details, Service Description or Specification only.
- 3.9. Numbers circulation. Proovl reserves the right to limit the quantity of numbers which could be allocated under customer's account at the same time.

4. OBLIGATIONS OF CUSTOMER

- 4.1. **Message Content.** Customer shall be solely responsible for the content of the Messages (including any applicable Advertising content), scheduling and management of all Messages, and Proovl shall have no liability or responsibility with respect thereto. Customer undertakes to do everything necessary so that the content of the messages do not harm the image of Proovl. In this regard, Customer undertakes notably to avoid any risk of confusion between itself, Proovl, and mobile operators. Customer undertakes to identify itself within the content or alphanumeric sender of each SMS message. Customer shall indemnify Proovl against all losses, claims, costs, expenses and liabilities which Proovl may suffer as a result of the content of any Messages or the use of the Proovl services by Customer for any unlawful or abusive purpose.
- 4.2. **Spam Prevention.** Customer will use reasonable commercial efforts to prevent spam (as such term is commonly understood) and abusive or illegal content from reaching mobile device users. In the event one of the Parties receives complaints regarding usage of the Service for the purpose of sending spam, illegal or abusive content, the Party shall immediately notify the other Party and both Parties will work diligently and in good faith to identify the source of such activity and to stop such activity as soon as practicable. Both Parties shall cooperate in identifying, and bringing appropriate legal action against such activity. The Parties shall coordinate all other lawful action reasonably requested to stop such activity and prevent the shutdown of the Service. Proovl reserves the right to filter and refuse messages from Customer Users that contain objectionable content, and to refuse to deliver messages intended for receipt by mobile users who have requested Proovl not to send any messages to their mobile device. The Customer acknowledges that third party content may be displayed, duplicated, distributed or made available through the Proovl Services, and that Proovl does not control such content nor makes any warranty whatsoever regarding such content. Proovl specifically disclaims any warranty that such content will not infringe or misappropriate any intellectual property right of a third party, constitute false, deceptive or unfair advertising or disparagement under applicable law, or fail to comply with applicable laws or regulations. Under no circumstances will Proovl be liable for, or will any indemnification rights arise out of or in connection with, (a) such third party content or (b) the use of the Proovl Services by any Customer User, including any claim that such use constitutes unsolicited messages or violates anti-spam or privacy laws or regulations.
- 4.3. **Payment Verification.** Proovl reserves the right to ask from the Customer and Customer shall provide proof of payment such as copy of credit card with hidden sensitive information for manual validation with only goal to prevent any kind of credit card misuse and fraud. Such or similar payment verification process may be performed on behalf of Proovl by its trusted and designated cooperation partner. Any order selected for payment verification cannot be completed and service cannot be provided before payment will be verified.
- 4.4. **Acceptable Use Policy.** Customer shall comply with the Acceptable Use Policy provisions.

- 4.5. Minimum usage. Each allocated phone number must have at least two inbound and two outbound messages, associated with two different real recipients that are not from Proovl network in order to renew or release the number. The count of messages will be reset with each renewal. The phone number without an appropriate minimum usage may be released from the user account automatically. The renewal fee may apply.

5. FINANCIAL ARRANGEMENT

- 5.1. Fees. In full consideration for the Services provided by Proovl hereunder, Customer shall pay Proovl a fee as specified in appendix A for each Plan, SMS Number and SMS Message sent or received by Proovl. Proovl reserves the right to adjust Fees at any time after the Effective Date. The adjusted Fee will be applicable immediately without any notice to the Customer. Details of Fees can be accessed by the Customer in appendix A.
- 5.2. Prepayment. Customer agrees to pre-pay Proovl for services and acknowledges and agrees that Proovl shall only be obliged to provide services under this Agreement to the extent that it has been paid in advance. Proovl shall provide Customer with said services upon receipt of funds via bank transfer, or other agreed payment method. The Prepaid Amount will constitute a credit to Customer and shall be applied against all Fees.
- 5.3. Auto-renew. Some purchased Plans or SMS Numbers are subject to auto-renew policy, which means that the purchased Proovl services will be automatically re-purchased against the Prepaid Amount at the expiration date to allow further usage of Proovl services by Customer. Customer is able at any time to cancel the Plans and SMS numbers with auto-renew policy at the Proovl Customer account area in "Proovl SMS Console". No refund will be offered upon such cancellation.
- 5.4. Expiration. Any Prepaid Credit as well as purchased Plan or SMS Number will be valid only till the date of expiration indicated on Customer account in "Proovl SMS Console". If not otherwise stated the expiration period is 6 months from the purchase. The purchasing of new Prepaid Credit before the date of expiration can extend expiration date, otherwise any expired Prepaid Credit will be charged-off and Plan or SMS Number will be reversed and removed from the customer account without any refund. Credits can be purchased only in batches.
- 5.5. Currency. All payments hereunder are stated in Euros and should be remitted in Euros.
- 5.6. Any charges incurred from banks and other intermediaries in receiving funds will be deducted and the balance applied as prepaid credit to the Customer's account.

6. NON DISCLOSURE

- 6.1. Public disclosure. Neither Party will issue any other release or otherwise publicise the terms of this Agreement without the prior written consent of the other Party.

7. INTELLECTUAL PROPERTY AND TECHNOLOGY

- 7.1. Proovl's Intellectual Property. Customer acknowledges and agrees that Proovl owns all rights, titles and interests in and to all intellectual property associated with the Proovl Services, including without limitation the Proovl Site, the Proovl Brand and the Proovl Content and each underlying source code and object code. Nothing in this Agreement shall be construed as giving Customer any title to, or ownership rights in, any intellectual property associated with the Proovl Services or such underlying source code or object code. Under no circumstances shall any part of the Proovl Services technology be physically transferred to Customer.
- 7.2. Customer's Intellectual Property. Proovl acknowledges and agrees that Customer owns all right, title and interest in and to all intellectual property associated with the Customer Site, including, without limitation the Customer Brand and the Customer Content and all underlying source code and object code. Except as provided elsewhere in the Agreement, nothing in this Agreement shall be construed as giving Proovl any title to, or ownership rights in, any intellectual property associated with the Customer Site or underlying source code or object code.

8. PROPRIETARY RIGHTS

- 8.1. You acknowledge and agree that Proovl owns all legal right, title and interest in and to the Services, including any intellectual property rights which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Services may contain information which is designated confidential by Proovl and that you shall not disclose such information without Proovl's prior written consent.
- 8.2. Unless you have agreed otherwise in writing with Proovl, nothing in the Terms gives you a right to use any of Proovl's trade names, trade marks, service marks, logos, domain names, and other distinctive brand features.
- 8.3. If you have been given an explicit right to use any of these brand features in a separate written agreement with Proovl, then you agree that your use of such features shall be in compliance with that agreement, any applicable provisions of the Terms.
- 8.4. Other than the limited license set forth in Clause 11, Proovl acknowledges and agrees that it obtains no right, title or interest from you (or your licensors) under these Terms in or to any Content that you submit, post, transmit or display on, or through, the Services, including any intellectual property rights which subsist in that Content (whether those rights happen to be registered or not, and wherever in the world those rights may exist). Unless you have agreed otherwise in writing with Proovl, you agree that you are responsible for protecting and enforcing those rights and that Proovl has no obligation to do so on your behalf.
- 8.5. You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) which may be affixed to or contained within the Services.
- 8.6. Unless you have been expressly authorised to do so in writing by Proovl, you agree that in using the Services, you will not use any trade mark, service mark, trade name,

logo of any company or organisation in a way that is likely or intended to cause confusion about the owner or authorised user of such marks, names or logos.

9. LICENCE FROM PROOVL

- 9.1. Proovl gives you a personal, worldwide, royalty-free, non-assignable and non-exclusive licence to use the software provided to you by Proovl as part of the Services as provided to you by Proovl (referred to as the "Software" below). This licence is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by Proovl, in the manner permitted by the Terms.
- 9.2. You may not (and you may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the Software or any part thereof, unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by Proovl, in writing.
- 9.3. Unless Proovl has given you specific written permission to do so, you may not assign (or grant a sub-licence of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software.

10. CONTENT LICENCE FROM YOU

- 10.1. You retain copyright and any other rights you already hold in Content which you submit, post or display on or through, the Services. By submitting, posting or displaying the content you give Proovl a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive licence to reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute any Content which you submit, post or display on or through, the Services. This licence is for the sole purpose of enabling Proovl to display, distribute and promote the Services and may be revoked for certain Services as defined in the Additional Terms of those Services.
- 10.2. You agree that this licence includes a right for Proovl to make such Content available to other companies, organisations or individuals with whom Proovl has relationships for the provision of syndicated services, and to use such Content in connection with the provision of those services.
- 10.3. You understand that Proovl, in performing the required technical steps to provide the Services to our users, may (a) transmit or distribute your Content over various public networks and in various media; and (b) make such changes to your Content as are necessary to conform and adapt that Content to the technical requirements of connecting networks, devices, services or media. You agree that this licence shall permit Proovl to take these actions.
- 10.4. You confirm and warrant to Proovl that you have all the rights, power and authority necessary to grant the above licence.

11. SOFTWARE UPDATES

11.1. The Software which you use may automatically download and install updates from time to time from Proovl. These updates are designed to improve, enhance and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules and completely new versions. You agree to receive such updates (and permit Proovl to deliver these to you) as part of your use of the Services.

12. ENDING YOUR RELATIONSHIP WITH PROOVL

12.1. The Terms will continue to apply until terminated by either you or Proovl as set out below.

12.2. If you want to terminate your legal agreement with Proovl, you may do so by (a) notifying Proovl at any time and (b) closing your accounts for all of the Services which you use, where Proovl has made this option available to you. Your notice should be sent, in writing, to Proovl's address which is set out at the beginning of these Terms.

12.3. Proovl may at any time, terminate its legal agreement with you if:

- (A) you have breached any provision of the Terms (or have acted in manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the Terms); or
- (B) Proovl is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); or
- (C) the partner with whom Proovl offered the Services to you has terminated its relationship with Proovl or ceased to offer the Services to you; or
- (D) Proovl is transitioning to no longer providing the Services to users in the country in which you are resident or from which you use the service; or
- (E) the provision of the Services to you by Proovl is, in Proovl's opinion, no longer commercially viable.

12.4. Nothing in this Section shall affect Proovl's rights regarding provision of Services under Section 4 of the Terms.

12.5. When these Terms come to an end, all of the legal rights, obligations and liabilities that you and Proovl have benefited from, been subject to (or which have accrued over time whilst the Terms have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of paragraph 9 shall continue to apply to such rights, obligations and liabilities indefinitely.

13. REFUNDS OF PREPAID CREDIT

13.1. Proovl cannot offer refunds of credit held on account with the exception that Proovl may at its discretion provide a refund to a Customer where the Customer provides written evidence to Proovl that messages have failed to terminate on a consistent basis.

14. LIMITATION OF LIABILITY

14.1. The Services are provided "as is" and Proovl, its Subsidiaries and Affiliates, and its licensors give you no warranty with respect to them.

- 14.2. In particular and so far as allowed by law, Proovl, its Subsidiaries, Affiliates, Authorized Retailers, and its licensors do not represent or warrant to you that:
- (A) your use of the Services will meet your requirements,
 - (B) your use of the Services will be uninterrupted, timely, secure or free from error,
 - (C) any information obtained by you as a result of your use of the Services will be accurate or reliable, and
 - (D) that defects in the operation or functionality of the Proovl Software provided to you as part of the Services will be corrected.
- 14.3. No conditions, warranties or other terms (including any implied terms as to satisfactory quality, fitness for purpose or conformance with description) apply to the Services except to the extent that they are expressly set out in the Terms.

15. MISCELLANEOUS

- 15.1. Entire Agreement. This Agreement, including all of its Appendices, Exhibits and Schedules, constitutes the entire agreement of the Parties with respect to the subject matter hereof, and supersedes any and all previous arrangements with respect to the subject matter hereof, whether oral or written.
- 15.2. Headings. The headings in this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.
- 15.3. Interpretation - Estonian Law. This Agreement shall be governed by and interpreted in accordance with Estonian law and the Parties submit to the non exclusive jurisdiction of the Estonian courts in connection with any dispute that may arise in relation to it.
- 15.4. Third-Party Beneficiaries. This Agreement shall not provide any person or entity not a party to this Agreement with any remedy, claim, liability, reimbursement, cause of action or other right. The Parties do not intend any term of this Agreement to be enforceable pursuant to the Contract (Rights of Third Parties).
- 15.5. Liability. Neither Party shall be responsible or liable to the other Party for, and shall not pay, any amount of special, incidental, consequential or other indirect damages whatsoever, including, but without limitation, damages based on lost revenue, loss of business profits, loss of business information, business interruption, loss of goodwill, loss of anticipated savings or otherwise, regardless of whether advised of the possibility of such losses in advance. Proovl's maximum aggregate liability under this Agreement shall not exceed the lesser of 10,000 Euros or the sum paid to Proovl by the Customer for the provision of the Services.
- 15.6. Notices. All notices, periodic updates, offers or other communications under or in connection with this Agreement shall be in writing and, unless otherwise stated, may be given in person, by post (delivered by courier), by facsimile, e-mail or any other electronic communication.

APPENDIX A - FEES

For Fees, full detailed pricing, technical details, refill options and coverage map please refer to: www.proovl.com The service used in prohibited manners will be rated in consideration of expenses for case settlement.