

General terms and conditions of sale and use

March 25, 2025

CAUTION : This English translation of the Terms and Conditions is for information purposes only. The French version of the Terms and Conditions shall prevail in all legal proceedings.

CALADE TECHNOLOGIES provides mobile messaging communication services to business customers via the 'smsmode®' platform on the terms and conditions set out below.

YOU ACKNOWLEDGE THAT THESE TERMS AND CONDITIONS ARE BINDING AND THAT YOU ACCEPT THEM. OTHERWISE YOU ARE NOT ENTITLED TO USE THE SMSMODE® SERVICES.

1. Definitions

- ✔ **Customer:** any natural or legal person who orders the right to use the Services for professional purposes and who agrees to be bound by these General Conditions, including natural users who use the Services in the name and on behalf of the Customer.
- ✔ **Order:** any request by the Customer for the right to use the Services, which is accepted by smsmode® and which appears on an order form or in the Customer's personal space on the Platform. The Order may be placed online on the Platform or directly with smsmode® by exchanging e-mails, on paper or using an electronic signature tool, depending on the case.
- ✔ **General Conditions or Contract:** the present General Conditions of Sale and Use of the Services and any document attached to or referred to in the present General Conditions, in particular the Order and the applicable Special Conditions.
- ✔ **Special Conditions:** the special conditions applicable to the Services ordered and annexed to these General Conditions.
- ✔ **Recipients:** persons to whom the Customer sends a message when using the Services.
- ✔ **Data:** data or information used or created by the Customer in connection with the use of the Services, including Personal Data.
- ✔ **Personal Data:** data of a personal nature that allows a natural person to be identified, directly or indirectly, within the meaning of the applicable regulations.
- ✔ **Messages:** messages or electronic communications, including SMS/TTS/RCS/Time2chat, that may be sent by the Customer via the Services provided by smsmode®, as described in the applicable Specific Conditions.
- ✔ **Platform:** platform accessible via the address www.smsmode.com.
- ✔ **Services:** the services provided by smsmode® to the Customer to make the Platform available and to send messages, as described in these General Conditions and in the Specific Conditions in force.
- ✔ **smsmode®:** the company Calade Technologies, a limited liability company whose head office is located at 4 rue DUVERGER, 13002 Marseille, registered in the Marseille Trade and Companies Register under number 478 715 766, represented by Ludovic POGNON.

2. Purpose and application of the general conditions

Unless special conditions are expressly accepted in writing by smsmode®, the purpose of these General Conditions is to define the terms and conditions of use of the Services by the Customer.

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Use of the Services implies acceptance of and compliance with these General Conditions (including any applicable Special Conditions).

Acceptance of the Order and the General Terms and Conditions (including any applicable Special Terms and Conditions) by an agent or employee of the Customer shall be deemed to have been made in the name and on behalf of the Customer by a duly authorised person.

3. Description of the Services

The Services allow the Customer to send messages (SMS/TTS/Time2chat/RCS) to the mobile phone of the correspondent(s) of his choice, the Recipient(s), by sending them immediately or at a later time, once or in numbers.

✓ Sending messages and platform functionalities

Depending on the type of SMS/TTS/Time2chat/RCS used and the Customer's wishes, the sender can be personalised according to the destinations and a report on the receipt of the SMS/TTS/Time2chat/RCS sent can be obtained.

The Platform also provides an address book system for managing lists of contacts (recipients) that can be used when programming the messages to be sent, a red list for storing the numbers of recipients who do not wish to receive messages from the Customer and a system for managing sub-accounts of the Customer's main account.

The Platform includes a tool to manage opt-out blacklists. If the Customer chooses to manage these lists himself, he assumes full responsibility for their management and maintenance, as well as compliance with the regulations in force. The Customer must inform smsmode® of this decision in writing.

Duplicate numbers can be processed on the basis of the address book. In addition, when a message is sent, any duplicates are systematically identified in order to send only one message per recipient.

Messages are considered to have been sent to the recipient's mobile phone when they are transmitted to the mobile operator. smsmode® does not guarantee delivery by the mobile operator.

Each message sent has a validity period of 24 hours from the date of sending. At the end of this period, if the message has not been considered as received, it will be considered as undeliverable and no new delivery attempt will be made.

The description of the services subscribed to by the Customer is specified in the specific terms and conditions applicable to the services used in addition to these provisions.

✓ Prerequisites

In order to use the Services, the Customer must:

- Have access to the Internet (broadband Internet access is recommended);
- Have ordered the relevant Services;
- Fulfil any other conditions specified in the Specific Conditions or communicated by smsmode®.

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In general, all the technical means and telecommunication costs that allow access to and use of the Services are the exclusive responsibility of the Customer. The Customer must have the equipment and telecommunications resources necessary for their use. Unless otherwise agreed in writing, the Services do not include installation, configuration, adaptation, customisation or adaptation of the Services to the Customer's specific needs, or training services.

✔ Creation of an account and identifiers

The Customer's access to the Services via the Platform is through the creation of an account to which unique identifiers are assigned. The Customer undertakes not to divulge these identifiers, which are strictly personal.

The Customer is solely responsible for the use of these identifiers by third parties and in this respect guarantees smsmode[®] against any request and/or action based on the use of these identifiers, fraudulent or otherwise. In order to avoid fraudulent use of the identifiers, the Customer undertakes to choose a password that provides a high level of security in accordance with the standards and recommendations currently in force.

The Customer undertakes to provide all the information requested when creating an account. This information must be accurate and up to date. The Customer undertakes to modify the information on his account in the event of any change. smsmode[®] reserves the right to ask the Customer for proof and to suspend the creation of or access to the account if the Customer does not respond to such a request.

✔ Support

For non-subscribing customers, the Services include access to smsmode[®] email support, subject to reasonable requests and within the limit of 5 tickets per month.

For subscribing customers, the Services include access to email and telephone support during smsmode[®]'s working hours (Monday to Friday from 9am to 12pm and from 2pm to 5pm, excluding public holidays), subject to reasonable requests and within the limit of 30 tickets per month.

✔ Evolution

smsmode[®] reserves the right to evolve the Services, in particular by making available new functionalities, by modifying or eliminating certain functionalities or by modifying the applicable tariffs, after informing the Customer. smsmode[®] will communicate to the Customer, with a delay of one month, the summary description of the main evolutions.

Any other service that may be provided to the Customer must be the subject of a specific written agreement.

The use of the services is not accompanied by any guarantees other than those expressly granted herein.

4. Financial conditions

In order to be able to use the Services, the Customer must have topped up his account by purchasing credits in the case of non-subscribing Customers or by taking out a subscription in the case of subscribing Customers.

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✔ Subscription

The Customer subscribes to a subscription on the terms and conditions set out in the Order, which specifies in particular the price of the subscription and the rate applicable to the sending of Messages.

The subscription fee is payable whether or not the Customer has used the Services during the month in question.

In the case of a subscription, the Customer undertakes to pay to smsmode® the amount due for the subscription and the messages consumed during the expired period, as indicated in the invoice issued by smsmode®.

✔ Purchase and use of credits (non-subscribing customers)

The Customer must purchase credits from smsmode® before using the Services, which entitle the Customer to access the Services and to send a certain number of messages (SMS/TTS/Time2chat/RCS), hereinafter referred to as "Credits".

Details of the current tariffs are available on the Site. The Customer undertakes to pay the amount due to smsmode® when ordering Credits by credit card, bank transfer, cheque or direct debit.

The credits are valid and usable only after the effective collection of the price by smsmode®.

Any purchase of Credits is definitive and the Customer may not, under any circumstances, request a partial or total refund.

Credits are valid for 12 months from the date of the order. If they are not used within this period, they will be lost and the Customer will not be entitled to any refund for unused Credits.

Credits entitle the Customer to a certain number of messages based on the current price of messages. Changes in the price of Messages may affect the number of Messages associated with the number of Credits purchased if the price of Messages increases or decreases during the period of validity of the Credits.

✔ Pricing and consumption of Messages

By default, smsmode® offers single tariffs per destination.

However, if the Customer sends a disproportionate volume of traffic to a single given operator in a given country, i.e. if the recipients of a grouped sending do not represent the usual distribution of numbers between local operators, smsmode® reserves the right to suspend the sending of messages and/or to readjust the tariffs for the said destination.

All messages sent to the platform will be considered as consumed and billed, including those sent to invalid numbers or detected as erroneous or invalid after submission. Messages shall be deemed to have been sent as soon as they are transmitted on the Platform for sending, regardless of the final status of the message (delivered, undelivered, wrong number).

✔ Billing and payment

Services are billed either when credits are purchased (cash payment on invoicing) or monthly for subscriptions. The payment period for subscriptions is specified in the order or contract. Unless otherwise stated, payment must be made in cash at the time of invoicing.

Any dispute regarding an invoice must be made in writing with supporting evidence within 15 days of receipt of the invoice. Failure to do so shall constitute acceptance of the invoice by the Customer.

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Any delay in payment in relation to the agreed due date will give rise to the application of penalties at a rate of 15% per annum and the reimbursement of collection costs with a minimum fixed amount of 40 euros, without the need for prior formal notice and without this clause precluding any action to collect the debt. All costs incurred as a result of this failure shall be or remain payable by the defaulting debtor.

Furthermore, in the event of late payment, smsmode® may immediately suspend the services or terminate the contract.

5. Duration and termination of the Contract

The Contract is concluded when the account is created for an indefinite period.

✔ If you take out a subscription

The subscription is valid for one year from the date of subscription. At the end of this period, the subscription is tacitly renewed for a period equal to that of the initial subscription, unless it is cancelled.

Either party may unilaterally terminate the subscription without giving any reason by sending a letter with acknowledgement of receipt at least one month before the end of the current period. The termination shall take effect on the date of expiry of the subscription.

At any time during the subscription period, the Customer may request a change in the type of subscription, in particular to access other services provided by smsmode®. The modification of the subscription must be made by registered letter with acknowledgement of receipt, sent to smsmode® at least one month before the date of entry into force of the modification and subject to the agreement of smsmode®.

In the event of termination of the subscription, the contract will continue according to the provisions applicable to non-subscribing customers, unless a new subscription is taken out.

✔ Non-subscribing Customers

Either party may unilaterally terminate the contract without giving any reason by giving one month's notice in writing with acknowledgement of receipt.

✔ Early termination

In the event of a breach by either party of the provisions of the General Conditions and/or the Specific Conditions, the other party may terminate the contract automatically, by right and without any formality, 30 (thirty) days after formal notice by registered letter with acknowledgement of receipt has remained without effect or, where applicable, immediately if the breach alleged is unlikely to be remedied.

✔ Inactivity

In the event of inactivity for a period of 24 consecutive months, the Account may be cancelled (and the Contract terminated) after giving the Customer 15 days' notice.

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✔ Suspension

smsmode® reserves the right, by operation of law, to suspend the Customer's right of access to the Services, without prior notice or compensation, in the following cases

- A breach by the Customer (or one of the Users) of these General Conditions;
- Any illegal act or attempted illegal act caused by or originating from the Customer's account;
- The information concerning the Customer provided at the time of his registration does not correspond to reality or the Customer refuses to provide the supporting documents reasonably requested by smsmode®;
- The non-payment, after the due date, of all or part of the sums owed by the Customer to smsmode®;
- The application of an injunction or legal or regulatory provision applicable to smsmode® or one of its suppliers;
- The need for maintenance or security reasons (of which smsmode® will endeavour, if possible, to inform the Customer and to limit the duration);
- The suspension of the supply of services by smsmode®'s supplier(s), without any fault on the part of smsmode®.

In general, the contract can be suspended or terminated (for whatever reason) in its entirety or only for one type of service, at the discretion of the party terminating the contract.

Termination of the Contract, for whatever reason, whether prematurely or at the end of its term, will result in the termination of the right to use the Services affected by the termination and, in the case of termination for all the Services, in the termination of the Customer's right to access the Services and the deletion of the Customer's account. Without prejudice to the provisions set out in the Appendix regarding the processing of personal data, the Customer shall be personally responsible for the recovery of the data, it being specified that such data shall be automatically deleted 3 months after the termination of the contract, unless otherwise required by law.

6. Customer obligations

The services are intended for professional use.

The Customer must be of legal age and be able to provide smsmode® with proof of his professional activity.

✔ Conformity of the use of the services

When using the Services, the Customer undertakes to comply with all applicable national and international laws and regulations, and in particular (without limitation) not to use them to display, send or transmit any content that is violent in nature or likely to cause harm:

- Of a violent nature or likely to undermine respect for human dignity, equality between men and women or the protection of children and adolescents, in particular by producing, transmitting or distributing messages of a violent or pornographic nature or likely to undermine human dignity;
- Inciting the commission of crimes and offences;
- Which encourages the use of prohibited substances;
- Which provokes or may provoke discrimination, hatred or violence on the grounds of race, ethnicity or nationality;
- Which is unlawful, harmful, threatening, abusive, harassing, defamatory, libellous, vulgar, obscene, invasive of another's privacy or likely to offend the sensibilities of certain persons;

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- Infringe the rights of third parties such as, but not limited to, trade secrets, professional secrets, confidential information, trademarks, patents and, in general, any industrial or intellectual property right or other right relating to protected information or content;
- Include, but not limited to, computer viruses or any other code or programmes designed to interrupt, destroy or limit the functionality of any software, computer or telecommunications equipment, or constitute spam.

In general, the Customer undertakes to respect the General and Specific Conditions in force, as well as the specific obligations communicated by smsmode® on the Platform, not to infringe in any way the rights of third parties, not to use or distribute content prohibited by law and not to hinder or disrupt the operation of the Services.

The Customer acknowledges and accepts that he/she is responsible for the data and content created, stored or disseminated as part of the use of the Services, to the exclusion of any liability on the part of smsmode® or its suppliers.

The client also undertakes to comply with the recommendations of the Autorité de Régulation Professionnelle de la Publicité (ARPP) regarding the rules governing advertising campaigns. In particular, the Customer must provide clear, unambiguous, legible and/or audible information enabling the advertising and the advertiser to be identified (this list is not exhaustive).

The Customer is informed that the telecommunication operators may block messages that do not comply with the rules defined by the ARPP and/or when fraudulent messages (identity theft, phishing, smishing, etc.) are detected. smsmode® cannot be held responsible for such blockings that the telecommunication operators may implement without prior consultation with smsmode® or the Customer.

The Customer also undertakes to respect the applicable recommendations concerning personal data of the Commission Nationale Informatique et Libertés (CNIL) and the European Committee for Data Protection (CEPD). In particular, the Customer undertakes to use the Services only with respect to the personal data of Recipients that it is authorised to process, in compliance with the regulations in force, in particular with respect to personal data, the collection of telephone numbers and the sending of messages and, where applicable, with the consent of the Recipient.

The Customer also undertakes to use, on a mandatory basis, mechanisms that allow the recipient to refuse to receive promotional messages or, where applicable, to refuse the processing of their personal data. In particular, the Customer is informed that the STOP SMS or, in certain countries, a short link, is a tool that allows the recipients of the canvassing messages sent by the Customer to unsubscribe from the mailing list. Its use is compulsory for any canvassing, commercial or promotional campaign in accordance with the French Consumer Code and the French Postal and Electronic Communications Code. The Customer must remove the recipients from the mailing list if they object to receiving messages or to the processing of their data.

In some countries, an unsubscribe confirmation message is mandatory for 'marketing' type mailings. It is sent automatically by the account that sent the marketing message, at the Customer's expense.

The Customer undertakes to comply with the obligations relating to the sender, known as the OADC or SenderID, and more generally with the Business Messaging Services Charter of the AF2M Ethics Commission dedicated to Business Messaging (BM) services.

In particular, in France, the SenderID is limited to 11 alphanumeric characters, with no special characters or digits alone (except for short numbers), and messages may be blocked if the SenderID does not comply.

An evolving list drawn up by AF2M may prohibit or restrict certain SenderIDs called:

- ISA (Interdict Sauf Autorisation) (requiring a signed authorisation from the brand),
- ISI (Strictly forbidden).

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Sending a message with a non-compliant sender ID may result in a fine from the operators, which will be passed on in full to the customer.

Certain countries require prior registration, prohibit the modification of shortcodes or only allow long numbers. smsmode® reserves the right to overwrite or adapt the sender ID according to the legal obligations in each country, without being held responsible for the use of a non-compliant sender ID by the Customer.

If the Customer is aware of a probable or proven violation of this article or the applicable Specific Conditions, the Customer undertakes to inform smsmode® in writing. Likewise, the Customer undertakes to inform smsmode® in writing of any request or communication from the competent authorities relating directly or indirectly to the supply or use of the Services, by sending a copy of the said request or communication and/or any information relating to it.

✔ Fight against fraud: smishing

Within the framework of the use of the services provided by smsmode®, the Customer acknowledges and accepts that smsmode® may carry out an automatic check of the SenderIDs and URLs used in the messages sent via the Platform in order to prevent and combat any smishing or other fraudulent activity, in accordance with the French and European regulations on the security of electronic communications. In the event of suspicion of fraud, smsmode® may suspend or block the sending of the Messages concerned, without this giving rise to any right to compensation on the part of the Customer. Any attempt to circumvent these measures may lead to the immediate termination of the contract in accordance with the general terms and conditions.

✔ Use of the services and limitations

The Customer undertakes to use the Services only for his own needs and in particular not to resell all or part of the Services, alone or with other services, for the benefit of third parties, except with the express agreement of smsmode®.

✔ Guarantee

The Customer undertakes to guarantee smsmode® and its suppliers against any direct or indirect damage, loss, condemnation or payment resulting from any claim or action that could be brought against them by a third party, or any complaint that could be brought against them, as a result of the use of the Services by the Customer, or under the control of its identifier, in conditions that do not comply with the General Conditions, the Specific Conditions in force or the regulations in force. This guarantee covers any amount that smsmode® (or its suppliers) would have to pay for any reason whatsoever, including legal fees and court costs.

In particular, any fine or sanction imposed by an operator or public authority as a result of a breach of the rules relating to smishing or, more generally, of any legal or regulatory provision, will be passed on in full to the Customer, without prejudice to any damages that smsmode® may claim.

7. Obligations of smsmode®

smsmode® undertakes to provide and supply the Services in accordance with the French and European legal and regulatory provisions in force and with the practices and rules of the IT services profession.

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In particular, smsmode® undertakes to:

- ✔ Respect the legal obligations specific to the secrecy of correspondence sent by telecommunication, the violation of which is sanctioned by the provisions of articles L.226-15 and 432-9 of the Penal Code, subject in particular to the provisions of law no. 91-646 of 10 July 1991;
- ✔ Guarantee the security, confidentiality and integrity of the messages and personal data relating to the recipients communicated by the Customer, in accordance with the conditions set out in the "Personal Data" appendix and, where applicable, in the specific conditions in force;
- ✔ Provide and make available the Services 24 hours a day, 7 days a week, except in the event of scheduled or unscheduled interruptions for security or maintenance purposes or in the event of force majeure.

The Customer declares that he is aware of the specific characteristics and delivery times of the various services offered by smsmode®.

8. Personal Data

The provisions applicable to the processing of the personal data of the Recipients by the Customer (data controller) and by smsmode® (subcontractor) are set out in the "Personal data" annex at the end of these general conditions.

The provisions applicable to the processing by smsmode® (data controller) of the personal data supplied by the Customer for the purposes of implementing these General Conditions are set out in the smsmode® Privacy Policy available on the Site.

9. Confidentiality and intellectual property

In addition to the provisions applicable to Personal Data, the Parties undertake to keep confidential and not to use for their own benefit any information of a confidential nature, including but not limited to any trade secrets, proprietary information, commercial and financial details and any other information of commercial value (hereinafter "Confidential Information").

This clause shall not apply to any Confidential Information which the receiving party can prove is in the public domain or was already known to the receiving party at the time of disclosure, subsequently becomes public other than through breach of this clause, or is lawfully in the receiving party's possession from a third party.

If any governmental or judicial authority requests Confidential Information, the parties will contact each other and cooperate to minimise the potential adverse effects of such disclosure.

The Customer acknowledges that if an authority or a court requires smsmode® or one of its suppliers to disclose information relating to the Customer or the use of the Service, smsmode® or the supplier will be obliged to comply and provide this information.

The receiving party will return to the disclosing party all confidential information in its possession in any form upon termination or expiration of the agreement.

The provisions of this clause shall survive the expiration or early termination of the Contract as long as the Confidential Information has not become public knowledge.

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10. Intellectual Property Rights

In general, the intellectual property rights to any software, information, technology or data of any kind whatsoever supplied by either party under the Contract shall remain the property of that party.

The Customer acknowledges that copyrights and other rights, in particular those relating to intellectual and industrial property, patents, trademarks, trade secrets, know-how, ideas, concepts and inventions, any interest, covered or not by the applicable law, relating to the Solution, including but not limited to all modifications, translations, adaptations, improvements, corrections, updates or new versions, derivative works, compilations, technical know-how, are and shall remain at all times reserved to smsmode®. smsmode® grants the Customer a right of access and use of the Platform, in its executable form, for the duration of the Contract. This right of use is personal, limited, temporary, non-transferable and non-exclusive to the Customer and may not be transferred or loaned to other persons. The rights granted in this Agreement shall not have the effect of transferring to the Customer or to Users any rights other than those expressly granted herein.

Any use not provided for herein is prohibited and, in particular, but without limitation, the Customer (including Users) undertakes not to (and not to authorise any third party to) (i) use the Platform for purposes other than those provided for in the Agreement, (ii) copy, reproduce, alter, adapt, modify in any way, translate in any way, integrate into another product, all or part of the Solution, create derivative works from the Platform, disassemble or reverse engineer, nor attempt to discover the source codes (considered strictly confidential), including for the purpose of correcting errors, smsmode® reserving the right to do so alone, (iii) violate in any way the rights of smsmode® or the security and protection measures of the Platform; (iv) distribute, sublicense, transfer, assign, rent, lend, lease or otherwise transfer for commercial purposes, even free of charge, all or part of the rights conferred by the present, by any means whatsoever, to whomsoever it may be, except with the express prior consent of smsmode®.

In accordance with the provisions of article L122-6-1 IV of the French Intellectual Property Code, the Customer is not authorised to carry out acts of decompilation in order to make the Platform interoperable with hardware or other software, without having informed smsmode® directly and in advance in writing, and as long as the information necessary for interoperability is available or as long as smsmode® makes reasonable efforts to provide it.

The present contract constitutes a right of access to the platform for the use of the services and the customer does not benefit from the right to make a single backup copy of the latter.

In the event of a definitive ban on the use of the Platform, the Parties may terminate the Contract without further compensation.

11. Responsibilities

✔ Responsibilities of the Customer

The Customer uses the Services under its sole and exclusive responsibility. In particular, the Customer is solely responsible for the use he makes of the Services and for the data he uses or communicates via the Services.

✔ Responsibilities of smsmode®

The parties acknowledge that, due to the complex nature of telecommunications networks and services, the latter are likely to present undetected or unidentified malfunctions. The contract is concluded between the

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parties in full knowledge of the possible existence of such malfunctions. smsmode® is therefore only bound by an obligation of means and consequently can only be held liable if it is proven that it did not put all its means at the disposal of the Customer in order to provide and supply the Services in accordance with these General Conditions and the applicable Specific Conditions. As smsmode® is subject to an obligation of means, it cannot be held responsible for any damage, of whatever nature, resulting from the non-availability of the services, which is not due to a proven fault on the part of smsmode®.

Under no circumstances will smsmode® be liable to the Customer for any indirect damage, in particular, but not limited to, loss of earnings, loss of business, loss of profits, loss of data, recordings or content, interruption of activity or impossibility of access, except in the cases provided for in the applicable general and specific conditions.

The amount of damage for which smsmode® may be held liable under the above conditions shall be limited to the amount actually paid by the Customer for the provision of the Services in question during the twelve (12) month period preceding the event causing the damage.

Any claim relating to the execution, non-execution or defective execution of a service must be notified in writing by the Customer to smsmode® within a maximum period of one year from the execution of the said service or from the date of the event causing the damage.

✔ Force majeure

Neither party shall be liable for any failure to perform its obligations hereunder if such failure is due to any act, fact or event beyond its reasonable control, including, without limitation, force majeure, including, without limitation, events recognised as such by case law and, without limitation: strikes, wars, import or export embargoes, lock-outs, accidents, fires, blockades, natural disasters, pandemics, disturbances, interruptions and anomalies affecting transmissions on telecommunications networks, delays, suspensions or interruptions of the service by mobile telephone operators, orders by the Autorité de Régulation des Télécommunications imposing a total or partial suspension of public GSM radiotelephony, power cuts or any other technical difficulty or malfunction of the Internet network.

✔ Indemnification

In general, each party shall indemnify the other party against any claim made by a third party in connection with the provision or use of the Services under this Agreement, provided that the party seeking indemnification (i) promptly notifies the other party of such claim, (ii) allows the other party to control the defence of such claim, (iii) does not enter into any negotiations or settlement without the consent of the other party, and (iv) cooperates in all respects with the other party in the defence of the claim.

12. Law, disputes and jurisdiction

The formation, performance, termination and validity of this Contract shall be governed by French law. Only the French version of the Contract shall be considered authentic.

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In the event of any difficulty between the parties relating to the formation, interpretation, application or termination of the Contract, the parties shall attempt to resolve their dispute amicably (except in the case of summary proceedings or an emergency).

In the absence of an amicable settlement within one month of notification of the dispute by one party to the other, the dispute must be submitted to the Commercial Court (or Tribunal des Activités Economiques) of Marseille, to which jurisdiction is expressly conferred, even in the case of multiple defendants or the introduction of third parties, and within one year of the date on which the party bringing the action knew or should have known of the facts giving rise to the action.

13. Miscellaneous

In the event that any of the clauses of the Agreement is held to be null and void or inapplicable by virtue of any law or regulation or following an enforceable decision of a competent court or authority, the parties expressly agree that the Agreement shall not be affected by the nullity of the said clause.

The fact that one of the parties does not at any time require the other party to strictly comply with a provision or condition of these General Terms and Conditions shall not be deemed to be a final waiver of such provision or condition. Consequently, either party may at any time demand the strict and complete performance of the contract by the other party.

The Customer grants smsmode® the right to use, to reproduce the name, the company name, the logo of the Customer, for reference only, for any distribution or use, on the Internet site or on any commercial support of smsmode®.

Special terms and conditions of sale and use for SMS / TTS / Time2chat / RCS Services

Dated March 25, 2025

CAUTION : This English translation of the Special Terms and Conditions is for information purposes only. The French version of the Special Terms and Conditions shall prevail in all legal proceedings.

Les présentes Conditions spéciales sont applicables à l'utilisation du service des services d'envoi de Messages (SMS/ TTS/Time2Chat/RCS) en complément des Conditions Générales de vente et d'utilisation smsmode®.

1. Purpose and application of the Special Conditions

The purpose of these Special Terms and Conditions is to define, in addition to the General Terms and Conditions, the terms and conditions for the use of message services such as Short Message Service (SMS), Text To Speech (TTS), Time2Chat (T2C) and Rich Communication Services (RCS) provided by smsmode® to the Customer.

2. Special conditions for Time2Chat (T2C)

✓ Allocation of a 09 number

For the proper functioning of the Time2Chat service and to enable the return of all replies (MO), the Customer is allocated at least one 09 number for the duration of the service (and may be allocated to a third party after termination). This number serves as a collection point for all incoming messages (MO). It will be notified to the Operator, who will need to know the following information:

- Customer name
- Siret
- Use
- Details of the person responsible (name, first name, telephone number and e-mail address).

✓ Session size and billing

Time2chat is a service that only works on the 4 French MNOs (Free, Orange, SFR and Bouygues telecom). The first message (MT) sent is charged at the price of a T2C MT.

Sending a long MT T2C (more than 160 characters) does not trigger a session. It will be charged at the MT rate depending on the number of SMS characters represented by the long T2C MT.

A Time2Chat session is charged from:

- the first reply (MO) from the recipient;
- the receipt of a MO initiated by the recipient.

T2C MT messages sent as part of an open session (after an MO) will not be charged.

As long as there is no MO, no session is opened and MT messages are charged at the rate of the first MT.

Each MO message received triggers a Time2Chat session that is billed.

A Time2Chat session ends at midnight on the day of the first MO to open the session.

Special terms and conditions of sale and use for SMS / TTS / Time2chat / RCS Services

Dated March 25, 2025

3. Special conditions for Rich Communication Services (RCS)

The Services allow the Customer to use the 'RCS' (Rich Communication Services) channel, which allows enriched exchanges (interactive conversations with clickable buttons, images, etc.) via 24-hour communication sessions opened by an initial interaction.

In this context, the Customer undertakes to provide smsmode® with all the information necessary for the creation of the enriched content (in the formats and sizes requested by smsmode®, taking into account the restrictions imposed by its suppliers, which smsmode® may modify if necessary) and remains responsible for their validation and dispatch to the recipients.

The Customer undertakes not to leave messages sent by the Recipients unanswered for more than 72 hours.

✓ Availability

The Services enable the Customer to use the 'RCS' (Rich Communication Services) channel, which is based on the communications protocol developed by operators through the GSMA and provides an enhanced and improved messaging experience. RCS messages are delivered by operators offering RCS services.

RCS is available for Android and IOS devices. RCS is only enabled if all participants in the conversation have RCS enabled on their smartphones.

RCS can only be sent if the agent has been validated by the operators (even if a validated agent is changed). To this end, the Customer must provide his contact details and confirm that he authorises the Operators to send traffic on his behalf (if requested by smsmode®, the Customer undertakes to sign a mandate in the appropriate form). The Customer acknowledges and accepts that the Operators may modify the Agent validation procedures at any time. smsmode® may deactivate or delete the Agent if no campaign has been sent during the last six (6) months.

The Customer accepts that smsmode® may terminate the RCS with 15 days' notice in the event of termination of the contract with its suppliers or that the supplier may, at its sole discretion, temporarily or permanently block the sending of RCS which it deems to be in breach of the applicable conditions or suspend a TCS Agent.

✓ Billing

All Messages (RCS MT) sent during a session, whether delivered or not, will be billed according to current rates.

All messages that generate an interaction (click on the RCS) will be charged at the session rate.

APPENDIX

Processing of Personal Data by smsmode[®] as subcontractor

CAUTION : This English translation of the Processing of personal data is for information purposes only. The French version of the SProcessing of personal data shall prevail in all legal proceedings.

The purpose of the present annex is to define the conditions under which smsmode[®] undertakes to carry out, on behalf of the Customer, the processing operations of the personal data of the Recipients within the framework of the execution of the Services.

Within the framework of their contractual relations, the parties undertake to comply with the regulations in force relating to the processing of personal data, and in particular Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, in force from 25 May 2018 (hereinafter "GDPR").

smsmode[®] endeavours to take into account the principles of privacy by design and privacy by default when developing the Platform.

This appendix applies in addition to and without prejudice to the applicable General Terms and Conditions and Special Terms and Conditions. Capitalised terms are defined in the applicable General and Specific Conditions.

1. Description of the processing

In application of article 28.3 of the RGPD, the processing of personal data in the context of the use of the Services by the Customer is described below.

The use of the Services requires the processing of the personal data of the recipients of the messages, for which the Customer is the data controller and smsmode[®] is the subcontractor.

✓ Types of personal data

The Personal Data of the Recipients processed by smsmode[®] on behalf of the Customer are as follows:

- At least, in a mandatory way: the mobile phone number of the recipient and the message to be sent.
- If applicable, presence on a red list or on a list provided by the Customer.
- Optionally, at the Customer's discretion: first name, company, telephone number, e-mail address of the recipient, address, city, country.
- Categories of persons concerned: Recipients of the messages (customers, prospects or users of the Customer).

✓ Nature and purpose of the processing

Collection and management of the recipients' contact details and of the messages specified by the Customer in order to send the said messages to the recipients.

✓ Duration of the processing

The duration of the contract concluded between smsmode[®] and the Customer.

Regarding the duration of the conservation of the history of the messages, the data will remain in the active base for 6 months. At the end of this period, the data will be archived for 12 months and then permanently deleted. The other data will be processed for the duration of the contract.

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Processing of Personal Data by smsmode[®] as subcontractor

2. Obligations of the Customer (data controller)

The Customer undertakes to comply with its obligations in respect of the Recipients in accordance with the regulations in force (in particular with regard to the protection of personal data, the collection of telephone numbers and the sending of messages).

The Customer undertakes to ensure the confidentiality of the identifiers allowing access to the Services and to implement the appropriate technical and organisational security measures for the use of the Services on the hardware, software and elements for which it is responsible.

More generally, the Customer's obligations regarding the use of the Services are set out in the General Terms and Conditions in force.

The Customer undertakes to provide smsmode[®] with the name and contact details of its Data Protection Officer (DPO) or, failing this, a contact person for questions relating to personal data.

3. Obligations of smsmode[®]

smsmode[®] is a subcontractor within the meaning of the applicable regulations. smsmode[®] has appointed a Data Protection Officer (DPO) whose address is dpo@smsmode.com.

In application of article 28.3 a) of the RGPD, smsmode[®] processes personal data only on documented instructions from the Customer, for the purposes set out in this Annex. The present Appendix and the actions of the Customer within the framework of the use of the Services constitute the Customer's instructions.

If smsmode[®] is obliged by European Union or French law to transfer data to a third country or an international organisation, smsmode[®] will inform the Customer, unless this is prohibited for important reasons of public interest.

In application of article 28.3 b) of the RGPD, smsmode[®] ensures that the persons authorised to process the personal data of the recipients undertake to respect the confidentiality of this personal data and are aware of the need to protect personal data.

In application of article 28.3 c) of the RGPD, smsmode[®] endeavours to take all appropriate technical and organisational measures to ensure a level of security appropriate to the processing of the Recipients' Personal Data. A description of the security measures will be provided by smsmode[®] upon request (see article 4 below).

In application of article 28.3 e) of the RGPD, smsmode[®] undertakes to cooperate as far as possible with the Customer to respond to any request from a Recipient whose Personal Data are used within the framework of the Services formulated in accordance with the regulations in force. In this respect, the Customer is informed that he can correct or delete the personal data of the Recipients in his account on the Platform. smsmode[®] will forward to the Customer any request from a Recipient sent directly to him.

In application of articles 28.3 f) and h) of the RGPD, the Customer may ask smsmode[®] for reasonable information or audit reports available to help him guarantee compliance by smsmode[®] with its obligations. The available technical documentation is available on the platform and on request.

APPENDIX

Processing of Personal Data by smsmode[®] as subcontractor

smsmode[®] will use its best endeavours to inform the Customer as soon as possible if smsmode[®] becomes aware of any instruction which in its opinion constitutes a breach of the applicable provisions. smsmode[®] will use its best endeavours to inform the Customer as soon as possible after becoming aware of any breach of the recipient's personal data.

Subject to compliance with the confidentiality obligations set out in the General Terms and Conditions, the Customer may request an on-site audit of the security measures relating to the protection of the Customer's Personal Data, which will be carried out by the Customer or an independent third party auditor appointed by the Customer (the appointment may be subject to a reasoned refusal by smsmode[®]). The Customer must inform smsmode[®] of the name of the third party auditor at the same time as the notification of the performance of the audit, and in any case at least 15 days in advance. The Customer must then contact smsmode[®] in order to agree on the conditions of this audit, i.e. the scope, timetable and duration of the audit. The Customer is responsible for all costs related to this audit. The Parties agree to a maximum of one (1) audit per year, limited to a maximum duration of two (2) working days.

In application of the article 28.3 g), smsmode[®] will be able to return and delete the personal data of the Recipients hosted in the framework of the use of the Services, at the end of the contractual relationship, within a maximum period of 3 months after the deletion of the account.

In application of articles 28.2, 28.3 d) and 28.4, the Customer authorises smsmode[®] to use subcontractors for the execution of the Services, for which smsmode[®] undertakes to require them to respect the obligations applicable to the Personal Data. smsmode[®] remains responsible to the Customer for the execution of the contract. The list of subcontractors is available to the Customer on simple request. smsmode[®] will inform the Customer in advance of any planned changes concerning the addition or replacement of other subcontractors, and the Customer will have the possibility to object to these changes within a period of 15 days, indicating the reasons for these objections. In this case, the client may terminate the contract.

4. Commitment to security

smsmode[®] is ISO 27001 and ISO 27701 certified, demonstrating its commitment to information security and privacy. As such, smsmode[®] has an IT Security Management System (SMSN) available upon request.