

RED FISH MEDIA, LLC (RFM)

SERVICE LEVEL ADDENDUM

1. Definitions

- 1.1. "Aggregator" means mBlox USA, Inc. or other facilitator used by RFM to interconnect with Network Operator Mobile Networks and bill and collect Premium Rate Messages from Network Operators.
- 1.2. "Aggregated Mobile Networks" means all of the networks of Network Operators to which RFM has two-way Messaging capability.
- 1.3. "Available" means capable of being accessed substantially in accordance with the Service Specification.
- 1.4. "Client" means the party for which RFM provides the Services.
- 1.5. "Client Agreement" means the written specification for the Services contained in a proposal or agreement with the Client.
- 1.6. "Content" has the same meaning set forth in the Client Agreement.
- 1.7. "Excluded Time" has the meaning attributed to it in Section 2.3 of this SLA.
- 1.8. "Excusable Circumstances" means network outages and failures of the Network Operators or the Aggregator, Internet latency or failure resulting from disruptions of transport by any major Internet backbone, and similar circumstances beyond the control of RFM significantly affecting RFM's ability to provide the Services as contemplated herein except for such circumstances occurring at the location where the Platform is hosted.
- 1.9. "Failure" means any failure of the Services to operate in accordance with the Service Specification, except where the failure arises during or as a result of any Excluded Time.
- 1.10. "Message" means a single text message using Short Message Service ("SMS") offered by the Network Operators and includes the following subsets of Messages:
 - 1.10.1. "MT" means a Message Terminated on the mobile end-user's mobile device.
 - 1.10.2. "MO" means a Message Originated on the mobile end-user's mobile device.
 - 1.10.3. "PSMS" means a Message for which the Mobile Network Operator makes a charge to the end-user in excess of the standard plan rate.
- 1.11. "Messaging" means the sending and receiving of Messages.
- 1.12. "Network Operator" means the operator or a mobile telecommunications network that supports two-way messaging with mobile devices including Verizon Wireless, AT&T Wireless, Sprint, t-Mobile and others.
- 1.13. "Network Operator Mobile Network" means the network of a Network Operator in an applicable country.
- 1.14. "Notionally Available Time" means the total amount of time in a given period, minus all Excluded Time.
- 1.15. "Planned Maintenance" means maintenance for which RFM provides to the Client at least 48 hours advance notice.

- 1.16. "Platform" means the servers, associated software, and communications facilities maintained by RFM to interconnect with the Aggregator and/or Mobile Network Operators and to provide the Services.
- 1.17. "Platform Availability" means the proportion, expressed as a percentage, of the Notionally Available Time during which the Platform is Available.
- 1.18. "Premium Rate Message" means a MO Premium Rate Message and/or a MT Premium Rate Message, as defined in the PSMS Terms and Conditions, attached hereto as Service Addendum 1;
- 1.19. "RFM" means Red Fish Media, LLC.
- 1.20. "Services" means the Messaging including the delivery of Content contemplated by the Client Agreement.
- 1.21. "Short Code" means the Network Operators' short code provided for the receipt of text messages by the Platform..
- 1.22. "Throughput" means the average number of messages per second the Platform is able to receive from Client (for MT messages) or pass to Client (for MO messages).

2. General

- 2.1. RFM will make the Platform available to the Client and will pass messages to and accept messages from the Client, provided they are submitted and received in accordance with RFM's Application Programming Interface(s) or as specified in the Client Agreement
- 2.2. RFM will use reasonable efforts to ensure that, during each month:
 - 2.2.1. the Platform has Platform Availability of 99.9%; and
 - 2.2.2. Throughput averages 75% or more of the targeted levels specified in the relevant Addendum or 10 messages per second at a minimum, in the calculation of which Excluded Time shall not be counted.
- 2.3. For the purposes of Section 2.2.1, the Platform will be deemed not available during time other than Excluded Time when the Platform has either a lower average throughput than the level specified in 2.2.2 above.
- 2.4. In this Service Level Agreement, Excluded Time means any time during which:
 - 2.4.1. the Platform is not Available, or access thereto is inhibited, as a result of :
 - 2.4.1.1.Planned Maintenance;
 - 2.4.1.2.Excusable Circumstances;
 - 2.4.1.3.failure of, or other problem encountered in relation to, a Client application;
 - 2.4.1.4.suspension of service by RFM pursuant to the terms of the Client Agreement; or
 - 2.4.1.5.a substantially equivalent alternative platform is made available by RFM to the Client..
- 2.5. Unless Premium Rate Messages, PSMS or other services in which an end-user is charged are specified in the Client Agreement or Service Addendum 1 is annexed hereto and specifies such services, references to Premium Rate Messages or PSMS in this Addendum are informational and of no force and effect.

3. Failure Classifications

- 3.1. All Failures shall be reported by the Client to RFM in accordance with Section 4 of this Service Level Agreement, stating the nature of the Failure and information

required for its resolution. For the purposes of this Service Level Agreement, a Failure will be deemed to have been reported at the earlier of (a) when RFM's Service Desk receives a report of it, either through e-mail or by telephone, or (b) when RFM opens a ticket in the RFM system to track the Failure.

3.2. RFM will classify Failures as follows:-

3.2.1. **Severity I.** Services are totally unavailable across all of the Network Operator Mobile Networks covered by the RFM Services (the 'Aggregated Mobile Networks') as follows:

3.2.1.1. MO messages not received by Platform from the Aggregated Mobile Networks; or

3.2.1.2. Platform unable to send messages to the Aggregated Mobile Networks; or

3.2.1.3. Client is completely unable to connect to Platform by reason of a breach by RFM of the Client Agreement; or

3.2.1.4. Platform corrupts all messages such that the Services are unusable through the Aggregated Mobile Networks; or

3.2.1.5. Other critical faults affecting all messages sent by the Client using the Services.

3.2.2. **Severity II** applies only in relation to Premium SMS Services; there are no Severity II Failures of any other RFM Services. Services are totally unavailable on at least one Network Operator Mobile Network, as specified in Severity I above, except that references to Aggregated Mobile Networks there shall be interpreted as references to such Mobile Network(s) for this purpose.

3.2.3. **Severity III.** Services are usable, but either:

3.2.3.1. MT or MO messages are not delivered in accordance with the Service Specification; or

3.2.3.2. Services are unusable by a substantial proportion of End-Users on a Network Operator Mobile Network, as specified in Severity I above, except that references to Aggregated Mobile Networks there shall be interpreted as references to that substantial proportion of End-Users of such Network Operator Mobile Network for this purpose.

3.2.4. **Severity IV.** All Failures, other than those referred to in Severity I-III above, which result solely from any act or omission on the part of RFM.

3.3. Failures will be closed when RFM reasonably determines that closure of the Failure has occurred.

4. Failure Reporting

4.1. Client shall report Failures to RFM using the following methods:

4.1.1. by email to support@redfishmedia.com

4.1.2. by telephone to 305 538 2731 (mobile and after hours number to be provided)

4.2. RFM will use reasonable efforts to respond to the Target Response Time and Target Maximum Fix Time set out in Section 5 of this Service Level Agreement, by reference to the hours 06.00 to 22.00 Eastern Standard Time, Monday to Friday, excluding US public holidays.

5. Target Response & Fix Times

Failure Severity	Target Response Time	Target Maximum Fix Time	Progress Reports
I	30 minutes	4 hours	Every 60 minutes until resolution
II	30 minutes	4 hours	Every 4 hours until resolution
III	4 hours	1 day	At resolution or as agreed for specific Failure
IV	1 day	5 days	At resolution

5.1 Target Maximum Fix Time applies only to Failures within the exclusive direct control of RFM; no Target Maximum Fix Time shall be deemed to apply to any other types of Failure.

6 Escalation Matrix

	Severity I	Severity II	Severity III	Severity IV
Service Desk	Immediate	Immediate	Immediate	Immediate
Level I	Immediate	8 hours	24 hours	5 days
Level II	4 hours	24 hours	2 days	2 weeks
Level III	8 hours	2 days	3 days	n/a

7 Contact Details and Escalation Paths

	Technical	Commercial
Level I	Client Services Manager	Account Manager
Level II	VP Operations	VP Account Management
Level III	CTO	VP Sales & Marketing

7.1 The above matrix is followed internally by RFM. If the Client wishes to escalate, the Client must inform the Service Desk or Account Manager who will escalate to the relevant person.

8 Conditions for Throughput

8.1 Throughput targets (whether specified in this SLA or any Addendum):

- 8.1.1 are conditional upon the Client sending and receiving messages at the relevant rate as set forth in the Service Addenda;
- 8.1.2 for MO Premium and MO non-Premium services, are conditional upon the relevant Network Operator(s) sending messages to RFM at the relevant rate;
- 8.1.3 for non-Premium MT SMS services to non-GSM networks and MT Premium Rate Messages to any network, Throughput is conditional upon the relevant Network Operator(s) being able to receive messages from RFM at this rate;
- 8.1.4 refer to the aggregate Throughput for all Services which are the subject of a specific Addendum;
- 8.1.5 are subject to such conditions as are applied under this SLA; and

- 8.1.6 apply discretely to the Services which are the subject of any given Addendum, and are independent of Throughput targets for the Services which are the subject of any other Addendum.

9 Non-PSMS MO messages

- 9.1 RFM will work with Network Operators with the object of arranging for sufficient capacity in the Network Operator Mobile Networks to meet any agreed MO traffic and message throughput forecasts.
- 9.2 If so requested by RFM in respect of MO applications expected by either the Client or RFM to exceed 10 messages per second, such forecast will be derived from a capacity model provided by Client and agreed in writing by RFM. At the Client's request, RFM will assist in development of such capacity model. If changes to an existing capacity model and/or forecast are agreed between RFM and the Client, then RFM will work with Network Operators to implement the changes which are required as a result as soon as is reasonably practicable.
- 9.3 RFM will use reasonable endeavors to work with Network Operators with the objective of fixing any problems encountered in the receipt of messages by the Platform.
- 9.4 RFM will use reasonable endeavors to ensure that there is sufficient network capacity for the Platform to receive messages at a Throughput defined in the relevant Service Addendum..

10 Maintenance

- 10.1 RFM may require short periods of unavailability of RFM Services for maintenance reasons and in order to implement changes and upgrades.
 - 10.1.1 RFM will use reasonable efforts to perform maintenance which may have an adverse effect upon the RFM Services between the hours of 00:00 to 06.00 Eastern Time on Wednesdays.
- 10.2 In the case of planned maintenance RFM shall provide 48 hours notice whenever reasonably practicable. In the case of unplanned maintenance RFM shall provide 24 hours notice whenever reasonably practicable, and in the case of emergency maintenance RFM shall provide as much advance notice to Client as is reasonably practicable.
- 10.3 RFM will use reasonable efforts to give the Client:
 - 10.3.1 at least 2 weeks advanced notice of any changes to the RFM Services which will require the Client to make modifications in how it connects to the Platform; and
 - 10.3.2 advance notice of planned maintenance on Network Operator Mobile Networks, the Client acknowledging that the provision of such notice is conditional upon RFM itself being provided with notice from the relevant Network Operator(s).
- 10.4 RFM shall use its reasonable efforts to conduct maintenance under this paragraph so as to minimize adverse impact on Clients.

11 Termination conditions

- 11.1 The following shall constitute events giving rise to a right of the Client to terminate this Agreement pursuant to the Client Agreement
- 11.2 more than 3 Severity I Failures are properly reported by the Client; or

11.3 more than 5 Severity II Failures are properly reported which adversely affect at least 25% of the Client's messages sent under the relevant Services.