



DEVELOPER terms for RCS Business Messaging

(hereinafter "RBM Developer Terms")

1. Preamble

Exchanging messages based on the protocols for rich-communication suite (i.e. RCS messages) has grown popular among subscribers to the mobile network of A1 Telekom Austria Aktiengesellschaft (hereinafter "A1"). A1's subscribers who use RCS will hereinafter be referred to as SUBSCRIBERS.

DEVELOPER wishes to communicate with SUBSCRIBERS using business features of RCS messages (like a branded banner and a sender name instead of a sender number). These messages will hereinafter be referred to as RCS Business Messages or as RBM.

A1 provides a service which allows DEVELOPER to communicate to SUBSCRIBERS (as of March 2024: only SUBSCRIBERS of A1's brands "A1" and "bob", but A1 is free to extend the SERVICE to SUBSCRIBERS of other brands of its mobile telecommunication services) by RBM and receive their replies (if any). This service, including all details thereon as set out below will be referred to as "SERVICE".

2. The SERVICE

The SERVICE is based on features which are implemented from time to time by Jibe, Inc. ("JIBE") and its affiliates and described on <https://developers.google.com/business-communications/rcs-business-messaging>; If JIBE and/or any of its affiliates change (or worst case: stop providing) the basis for the SERVICE, this may bring about a change (or worst case: an end) to the SERVICE. DEVELOPER understands that any such change is beyond A1's influence. DEVELOPER will therefore keep himself informed on any such changes.

3. Prerequisites to the SERVICE

3.1. DEVELOPER requests activation of at least one AGENT

As a prerequisite to the SERVICE, DEVELOPER will need to ...

- create one or more branded endpoints (each such endpoint of DEVELOPER will hereinafter be referred to as AGENT) for using the SERVICE and
- ask A1 to activate at least one AGENT for the SERVICE.

As of March 2024 this can only be done by those entities who created a developer account with Google at <https://developers.google.com/business-communications/rcs-business-messaging/guides/get-started/register-partner> and used this developer account to log into Google's RBM partner console to create AGENTS and submit activation requests to A1.

3.2. Verification of DEVELOPER

As a prerequisite to the SERVICE, DEVELOPER will provide A1 with documentary evidence of its existence (e.g. certificate of good standing, excerpt of register of companies, registered company address, VAT number, ...) before A1 will screen and activate any of the AGENTS which DEVELOPER asks to have activated.

3.3. Activation of AGENT(s)

As soon as A1 activates an AGENT, DEVELOPER may use this AGENT to enjoy the SERVICE. A1 will not activate any of the DEVELOPER's AGENTS unless upon the DEVELOPER's request. DEVELOPER may at any time request activation of additional AGENTS.

DEVELOPER ensures that AGENTS will only be created and used if (and no longer than) brand owners approve of having their brand used for an AGENT and all particulars of the AGENT stated prior to its launch of (including the description of the AGENT) are complete and correct: DEVELOPER will only use an AGENT as stated in the AGENT's description. Also, DEVELOPER will not use an AGENT unless as ordered/requested by the owner of the brand that is used for the AGENT.

DEVELOPER will email to A1's contact rbm-support@a1.at documentary evidence of the brand owner's consent to having the respective brand used for the AGENT. A1 may contact DEVELOPER's brand contact to verify DEVELOPER's right to use the brand. A1 will not activate an AGENT, if data

asked in the setting up procedure for that AGENT seems to be missing (e.g. missing email for brand contact and AGENT contact), inconsistent or implausible or if the contact phone number is a value added service number.

4. DEVELOPER's operational duties

4.1. Compliance with RCS Business Messaging Terms of Service ("TOS")

DEVELOPER will comply with (and will refrain from any action or omission that could reasonably be understood as a breach of) the *Terms of Service for RCS Business Messaging* of JIBE as set out at <http://developers.google.com/business-communications/rcs-business-messaging/carriers/tos> (name and URL may be updated from time to time by JIBE).

For the purposes of these RBM Developer Terms the term "*Terms of Service for RCS Business Messaging*" (hereinafter "TOS") includes all documents, which are directly or indirectly included in it by reference (e.g. the acceptable use policy), whatever way the TOS may be changed from time to time. A1 will inform the DEVELOPER of any significant change to the TOS.

4.2. SUBSCRIBERS prior consent is essential

DEVELOPER may not use the SERVICE to contact any SUBSCRIBERS, unless the respective SUBSCRIBER gave prior consent to be contacted via the SERVICE by the respective AGENT.

4.3. Restrictions on CONTENT

DEVELOPER is solely responsible for content and legal admissibility of all content (hereinafter "CONTENT") that DEVELOPER presents to SUBSCRIBERS via the SERVICE: The CONTENT does not just include the payload of the RBM sent from an AGENT, but also the details on each AGENT that will be presented to a SUBSCRIBER who checks the information on an AGENT (e.g. logo, banner image, name and description of the AGENT as well as email, url and phone number given as part of the information on the AGENT).

DEVELOPER must not (and must not give the impression to) use the SERVICE to send/present CONTENT, which is illegal under the TOS oder under applicable law. Applicable law includes (inter alia) competition law, criminal law, the Digital Services Act (EU Regulation 2022/2065), the provisions on pornography, drugs, forbidden organizations (e.g. "Verbotsgesetz 1947" - the Austrian act on prohibition of the Nazi party, their symbols and other similar organizations/groups) and the provisions on the protection of children.

DEVELOPER must not (and must not give the impression to) use the SERVICE in a way which might endanger public order, safety, or morality or which might harass SUBSCRIBERS or incite them to harass others, or which qualifies as unsolicited communication in the sense of the §174 of the Austrian Telecommunications Law 2021 ("TKG 2021").

DEVELOPER must not (and must not give the impression to) use the SERVICE to send/present CONTENT which breaches any right of a third party (including copyright and intellectual property rights) or puts the standing of A1, JIBE or any of JIBE's affiliates (including Google, Inc) at risk or which would reasonably be understood as (or as part of)

- a phishing attack,
- a step to facilitate or encourage breaches of law,
- initiating, spreading or fostering politically extremist ideas,
- harming the integrity of persons or spreading fear, or
- discriminating against someone for reasons of gender, sexual orientation, religion, personal characteristics (e.g. body shaming), political opinions, or race, or
- illegal or deceptive trade practice.

When using the SERVICE DEVELOPER must not redirect a SUBSCRIBER away from, block access to, frame, modify, or change the look or feel of any web page or web site accessed via Google's messages app, or place anything on or near any web site page that in any way implies that JIBE or A1 is responsible for the contents of such page.

4.4. Dealing with SUBSCRIBER complaints

DEVELOPER will provide a qualified, helpful and complete response within 3 working days to any inquiry or complaint regarding a RBM (or an AGENT) that a SUBSCRIBER or A1 may from time to time send to the DEVELOPER (or to the DEVELOPER's contact given on the information page of an AGENT).

5. Abuse and suspension

DEVELOPER will employ effective measures to avoid presenting illegal CONTENT via the SERVICE.

To spot any forbidden activities of the DEVELOPER in connection with the SERVICE and to ensure timely payment A1 may use human review to monitor (a) complaints regarding DEVELOPER's use of the SERVICE and (b) DEVELOPER's performance under clause 4.4 and 8.

A1 may suspend the SERVICE to the DEVELOPER (either fully or just with respect to the involved AGENT, depending on whether the forbidden activity was set using one or all AGENTS) if A1 reasonably believes (e.g. after having received information from a SUBSCRIBER, from JIBE or any JIBE affiliate or of any public authority) that DEVELOPER failed to comply with any of its contractual obligations (especially those under clauses 4.3 and 4.4) or a security, technical, or other incident (including spam or abuse of the SERVICE) may pose or is posing adverse impact to the SERVICE and/or SUBSCRIBERS. In its decision to suspend or not to suspend A1 will also take into consideration if DEVELOPER's reply under clause 4.4 (if any), if such reply affirms the suspected forbidden activities of the DEVELOPER and/or if it indicates the DEVELOPER's forbidden activity is likely to continue or be repeated.

A1 will notify the DEVELOPER of any suspension of an AGENT via Google's RBM partner console. The information will include the reason(s) for the suspension. If suspension is triggered by an order under the Digital Services Act, A1 will provide the public authority's reason(s) which led to the suspension, the possibilities for redress, and a description of the territorial scope of the order.

6. Term and termination

Each PARTY may terminate the contract governed by these RBM Developer Terms for convenience at the expiry of any calendar month by serving its termination notice in text form (e.g., by email with an attached scan of the signed termination notice or by letter) to the other PARTY. Termination notice needs to be served at least 2 months prior to the intended end of the contract.

If DEVELOPER breaches DEVELOPER's obligations under clause 4.3, A1 may terminate this AGREEMENT with immediate effect. The same applies when a significant change in circumstances (as caused by a decision of the Austrian regulatory authority or changes in regulatory framework or changes made by JIBE) significantly affects the SERVICE or the economic or legal basis for A1 to provide the SERVICE.

7. Charges

7.1. Net amounts and currency

All amounts in money are expressed in Euro and exclusive of any VAT or any other tax. A1 shall invoice all amounts in Euro and DEVELOPER shall settle all invoices in Euro.

7.2. Unilateral change of charges

While this clause 7 describes the type of charges that A1 will invoice for its SERVICE, the figures of these charges are set out in separately (e.g. in the agreed service order).

A1 may unilaterally change the charges: Any increase of charges will only become effective at the start of any calendar month, and only if A1 gave at least four weeks prior notice. A1 may, however, reduce charges at any time and even by giving shorter notice. If A1 increases any of these charges, DEVELOPER may terminate the agreement on the SERVICE on the day before the increased charges come into effect. To do so, DEVELOPER will just have to send the termination notice to A1 before the increase comes into effect and mention in the termination notice that the agreement on the SERVICE should be terminated on the day before the increased charges come into effect.

7.3. Usage charges

DEVELOPER shall pay the agreed usage charges.

A1 will charge based on the delivered RBM which were sent from the DEVELOPER's AGENTS. These usage charges depend on the number and type of RBM, and whether or not the DEVELOPER sent the billed RBM from an AGENT that was set up having the billing category *conversational* (hereinafter "CONVERSATIONAL AGENT").

There are two types of RBM: Basic messages and single messages.

Basic messages are those RBM, which contain plain text only and are no longer than 160 characters. A basic message includes no media. It has no RBM feature apart from delivery and read receipts. Single messages are all other RBM.

When a SUBSCRIBER replies to an RBM, an AGENT may exchange several RBM with the SUBSCRIBER during the chat. To save on the price for these RBM, the DEVELOPER may prefer to use a CONVERSATIONAL AGENT:

Instead of individually charging all RBM sent by this AGENT, A1 will charge for each CONVERSATION such an AGENT had with a SUBSCRIBER, no matter how many RBM were sent during the CONVERSATION. For the avoidance of doubt: RBM sent outside of a CONVERSATION will still be charged per RBM. Please find all details on basic messages, single messages and CONVERSATIONS online at <https://developers.google.com/business-communications/rcs-business-messaging/carriers/reports>. As of March 2024 details on CONVERSATIONS are as follows:

A2P CONVERSATION: If no CONVERSATION is active between an AGENT and a specific SUBSCRIBER, it will be initiated if this SUBSCRIBER replies to an RBM within 24 hours. If a SUBSCRIBER's reply is delivered within 24 hours of multiple RBM, only the RBM that immediately preceded the SUBSCRIBER's reply is used as a start of the CONVERSATION. This RBM, along with any (of that AGENT's) RBM which are delivered to that SUBSCRIBER until the end of the CONVERSATION, are part of the CONVERSATION. The CONVERSATION will end 24 hours after the P2A which turned the A2P message into a conversation.

P2A CONVERSATION: If no CONVERSATION is active between an AGENT and a specific SUBSCRIBER, a 24 hour lasting CONVERSATION will be initiated if and as soon as the AGENT replies by RBM to that SUBSCRIBER within 24 hours after having received a message from that SUBSCRIBER.

7.4. Activation fee per AGENT

DEVELOPER will pay to A1 the activation fee for having each AGENT screened, that A1 activates hereunder.

7.5. Monthly minimum commitment per AGENT

DEVELOPER does not have to use the SERVICE.

Yet, the Parties expect that each calendar month each AGENT will trigger a certain minimum amount of charges: If in any calendar month the accumulated charges for RBM sent by any of the DEVELOPER's AGENTS fail to reach the agreed monthly minimum commitment per AGENT, then DEVELOPER will pay to A1 at least this monthly minimum commitment per AGENT for the respective AGENT.

Whenever an AGENT is activated after the first day of the billed calendar month, the minimum commitment per AGENT for that AGENT in that calendar month shall be reduced on a pro rata basis to the time period starting on the activation date and ending at the end of that calendar month.

Whenever an AGENT is de-activated or removed prior to the last day of the billed calendar month, this will not have an impact on the minimum commitment per AGENT for that AGENT.

8. Billing and payment

After the end of each calendar month A1 will issue an invoice covering the SERVICE rendered in the expired calendar month.

The invoice will detail the number and type of billable events.

On the day after A1 issues an invoice hereunder, A1 emails it to DEVELOPER's contact.

DEVELOPER shall pay the invoiced amount to A1's bank account (as stated on A1's invoice) no later than on the 21st day after the invoice date. This will hereinafter be referred to as DUE DATE.

If DEVELOPER fails to pay in time, late payment interest at a rate of 6% per annum will accrue during the period starting on the day following the DUE DATE until and including the day payment is received at A1's bank account.

9. Invoice disputes

Disputes about an invoice may only be raised until the DUE DATE of the invoice the dispute refers to. A dispute against an invoice shall be deemed not raised,

- if such dispute is received after the DUE DATE of the invoice to which the dispute refers to, or
- if the amount of money (which is subject to the dispute) is less than 3 % of money invoiced in the disputed invoice.

A dispute shall be sent by email to A1's contact for billing matters. The dispute shall include all information needed to understand why a dispute is raised and to which traffic and amount the dispute refers to.

Presentation of the dispute shall not release the disputing PARTY from paying the undisputed parts of an invoice until the DUE DATE.

If the dispute is justified, A1 shall make all relevant corrections in a subsequent invoice or issue a credit note indicating the corrected amount – if applicable.

10. Taxes

DEVELOPER shall be responsible for the payment of any taxes, duties and governmental fees, including state, federal and local personal and business income taxes, sales and use taxes, other business taxes and license fees arising out of DEVELOPER's activities.

If DEVELOPER is required by law to deduct or withhold any taxes or fees from any amounts due, such amounts shall be increased as necessary so that A1 receives an amount equal to the sum it would have received if no such deduction or withholding had been made.

A1 is a registered provider for telephone and telecommunication services in Austria, DEVELOPER acknowledges that all payments to A1 will be made without the need of receiving further documents or confirmations.

All SERVICES hereunder are considered to be telecommunication services under EU VAT law. Therefore the reverse charge procedure is applicable: No Austrian VAT shall be charged to DEVELOPER if DEVELOPER fulfils the respective legal preconditions (essentially: DEVELOPER conducts its business hereunder outside of Austria and DEVELOPER provides A1 with a certificate confirming the legal preconditions).

If a subsequent tax audit identifies, that A1 should have charged VAT in accordance with the respective VAT law, such A1 will issue appropriate tax invoices for the previously uncharged VAT and the other PARTY will pay these invoices.

11. Liability

A1 shall be liable for the fulfillment of its obligations under mandatory statutory provisions of the agreed law (see clause 14) only. For the avoidance of doubt, A1 shall not be liable for lost profit, indirect, incidental, consequential, punitive, special, and moral damages, or damages caused by no more than slight negligence. Also, A1 shall not be liable for open source software components contained within the SERVICES and for DEVELOPER's breach of these RBM Developer Terms (including the TOS).

However, A1's total liability under a contract governed by these RBM Developer Terms is limited to the total amount of charges which DEVELOPER agrees to pay to A1 under the contract governed by these RBM Developer Terms (see clause 7).

DEVELOPER shall indemnify, defend and hold harmless A1, JIBE and JIBE's affiliates against any cost and claims arising from:

- (a) a breach of DEVELOPER's representations and warranties;
- (b) DEVELOPER's improper or unauthorized use of the SERVICES (including the use of a brand for an AGENT when this use was not authorized by the brand owner), of Google's messages app, including claims based on representations, warranties, or misrepresentations made by DEVELOPER; or
- (c) any breach or claimed breach by DEVELOPER of its data protection obligations.

12. Confidentiality

The pricing of the SERVICE is confidential. DEVELOPER will only use it for the purposes of the Parties' contract on the SERVICE and not disclose it to any third party unless such third party (a) needs to know it for the purposes of the contract on the SERVICE and (b) has agreed in writing to keep it confidential.

13. Data privacy

Even though DEVELOPER may acquire knowledge of data of the SUBSCRIBERS (e.g. phone numbers), DEVELOPER must not use any such data in a way, which would breach applicable data protection provisions.

The PARTIES will comply with the applicable data protection provisions: They will treat personal data, which one PARTY brings to the other PARTY's attention as confidential and only store and process this data to fulfill their obligations hereunder.

14. Final provisions

Entire Agreement: These RBM Developer Terms including the TOS and the agreed service order represent the entire understanding between the PARTIES with respect to the subject matter of the agreed service order and supersedes all prior negotiations, discussions, written and oral agreements and representations with respect to the subject of the agreed service order.

Notices: All non-oral communication exchanged between the PARTIES shall be directed to the other PARTY's competent contact (e.g. as stated in the agreed service order and/or as stated in the contact details of the DEVELOPER or - as the case may be - the AGENT in the RBM partner console).

All notices of a PARTY which are sent to the (e.g. postal or email) address that the recipient PARTY stated as being the address of its competent contact shall be deemed to have been received by such PARTY. This shall apply, even if the recipient PARTY can no longer be reached there.

No partnership: Nothing in this RBM Developer Terms shall be deemed or construed to constitute a partnership or joint venture between the PARTIES. Neither PARTY shall be or represent itself to be an employee, agent, representative, partner or joint venturer of the other, and neither PARTY shall have the right or authority to assume or create any obligation on behalf of or in the name of the other or to otherwise act on behalf of the other.

No waiver: No waiver by any PARTY of any breach hereunder, or failure to enforce any term or condition of this RBM Developer Terms, shall be deemed and/or construed as a waiver or a waiver of any other breach or any subsequent breach of the same or any other term or condition of this RBM Developer Terms.

Severability: Should any provision of this RBM Developer Terms be held to be (or become) invalid, this shall not affect the validity of the remaining provisions. The Parties shall, in good faith, replace any invalid provisions by a valid provision which closest reflects the meaning and purpose of the invalid or unenforceable provision.

Assignment: A1 may assign its rights and obligations under this RBM Developer Terms to A1's singular successors, to universal legal successors of A1 and to a party which directly or indirectly controls A1, is controlled by A1, or is under common control with A1. All other cases of assignment of rights/obligations under this RBM Developer Terms shall be subject to the prior consent of the other PARTY.

Governing law: This RBM Developer Terms shall be construed under, governed by, and enforced in accordance with the laws of Austria, provided, however, that the PARTIES expressly waive the application of all (waivable) provisions of international private conflict law.

Dispute resolution: All disputes arising out of or in connection with this RBM Developer Terms – including those concerning its existence or non-existence – shall exclusively be decided by the court competent for commercial matters of the first district of Vienna, Austria.