

General Business Conditions of IN-telegence GmbH

1. Introduction

- 1.1. The following provisions govern the contractual relationship between IN-telegence GmbH, hereinafter “IN-telegence”, and the contractual partner, hereinafter “Customer” or “Partner”, with regard to all services rendered by IN-telegence.
- 1.2. IN-telegence is a provider of telecommunications services and operates its own Germany-wide telecommunications network to this end. This network is interconnected with the telecommunications networks of other operators, in particular Telekom Deutschland (Telekom). IN-telegence operates as both a core network operator (German: Verbindungsnetzbetreiber (VNB)) in the area of value-added services numbers and as a local exchange operator (German: Teilnehmernetzbetreiber (TNB)). IN-telegence supplies telecommunications (TK) services and other associated services to its customers.
- 1.3. As a core network operator, IN-telegence provides both telephone numbers for “online-billed (value-added) services” (“online billing”, in particular 0180, 0800, 0137) and telephone numbers for “offline-billed (value-added) services” (“offline billing”, e.g. 0900, 118xy) to customers that wish to be accessible to their own end customers via telephone numbers connected to IN-telegence’s network. The callers’ local exchange operator shall bill in accordance with the applicable regulatory general conditions for any connection charges incurred for the use of call numbers and this shall be collected from the end customer together with the local exchange operator’s own charges. Connection charges, which also include any supplier fee chargeable, are charged to the end customer by the local exchange operator, either in its own name as its own receivable (online billing) or on behalf of IN-telegence in the telephone bill (offline billing). The availability and criteria against which invoices are issuable of offline-billed telecommunications traffic from the networks of alternative local exchange operators (alternative TNBs), i.e. networks other than Telekom are, however, dependent on whether an interconnection agreement and specifically a billing and collection agreement has been concluded between IN-telegence and the alternative local exchange operator. General availability and criteria against which invoices are issuable of offline-billed services from the networks of all alternative local exchange operators cannot be guaranteed at present for regulatory reasons. A list of the alternative local exchange operators that are currently signatories to a billing and collection agreement with IN-telegence will be supplied by IN-telegence to the customer on request. If an alternative local exchange operator is not a signatory to a billing and collection agreement with IN-telegence, it is not authorised in accordance with applicable regulatory conditions to route telecommunications traffic to IN-telegence. There is no obligation to block access on the part of IN-telegence; the local exchange operator alone has this obligation. A customer is not eligible to demand that IN-telegence conclude a contractual agreement for the purpose of routing and/or accepting telecommunications traffic from specific alternative local exchange operator networks.
- 1.4. The implementation of this contract is greatly influenced by the general regulatory conditions of the German Telecommunications Act (Telekommunikationsgesetz (TKG)), the statutory regulations issued on the basis of this act (e.g. TNV, TKÜV), the rulings enacted for the telecommunications industry by the German Federal Network Agency (BNetzA), the administrative courts and, where applicable, other authorities and courts as well as of the interconnection agreement applicable between IN-telegence and Telekom (“IC agreement” or “interconnection agreement”), and of the ap-

plicable billing and collection agreements. The contracting parties are in full agreement in this respect and also agree that risk associated with changes to these general conditions shall be shared between the parties. Changes to general conditions may therefore lead to contract modification.

- 1.5. IN-telegence agrees to render all services in accordance with these General Business Conditions as well as any additional published Special Business Conditions for each product, the respective order forms, any separate specifications of service (if applicable), any separate service level agreements (SLAs) (if applicable) and the agreed prices (price lists). Any business condition imposed by a partner that deviates from the conditions set forth in this document shall not apply, even if IN-telegence has not expressly objected to this condition. These General Business Conditions shall apply to both the existing contractual relationship with the contracting partner, and future agreements governing services rendered by IN-telegence.
- 1.6. Where provisions set forth in individual Special Business Conditions of IN-telegence differ from these General Business Conditions, the more specific Special Business Conditions shall take precedence.
- 1.7. IN-telegence shall inform partners of changes to these General Business Conditions in writing (usually by e-mail or fax). This entitlement to modify contractual provisions shall also apply to Special Business Conditions and any tariffs or specifications of service/service level agreements contained therein. The partner shall be entitled to terminate this agreement within 1 month of receiving notification of contract modification (if applicable, without observation of the notice period) at any time up to the day before the modification comes into effect, provided the changes made to conditions are to the detriment of the partner. If changes relate to specific services only, the partner shall be entitled to such extraordinary termination with regard to these services only. IN-telegence shall inform the partner of its avenues with regard to termination and that its approval will be deemed effective upon expiration of the term. If the partner does not exercise its right to termination, the change shall come into effect on the date indicated in the notification of change.

2. Services of IN-telegence

- 2.1. IN-telegence provides its telecommunications services and other services to partners in line with its technical and operational capacities. There is no obligation **on the part of IN-telegence** to implement the very latest technology in the rendering of its services.
- 2.2. IN-telegence shall be entitled to modify at any time the technical, operational or contractual conditions underpinning the services agreed, provided such modifications improve the services agreed and that the provision of services is not affected. The partner shall be promptly informed in writing of any such modification.
- 2.3. The services of IN-telegence as a core network operator comprise the establishment and operational provision of assigned call numbers (value-added service call numbers and geographic call numbers) within the network on IN-telegence as well as the establishment of connections via the signalling channel and the interconnection and maintenance of the bearer channel (connection). In the case of packet-switched services, IN-telegence establishes the connection via a signalling protocol. Inbound calls to telephone numbers are automatically routed to their destination based on a routing plan defined in writing by the partner, e.g. to a audiotex platform, to the partner's call centre or to other destinations assigned in writing by the partner or configured by the partner itself via the IN-service point. IN-telegence undertakes to provide access switching services only and to bill for these services in relation to the end customer (end user). It does not

undertake to render the value-added service in question itself, nor supply this as its own or third-party content. The provision to customers by IN-telegence of call numbers assigned by the German Federal Network Agency is not a necessary object of the contractual services, and shall occur only where possible in accordance with legislation and regulations and agreed in writing between the contracting parties. The telecommunications services of IN-telegence generally comprise the establishment and operational provision of an assigned call number, the establishment and modification of the required intelligent routing, the establishment and modification of tariff information, the establishment of connections and the routing of connections from the fixed Telekom network or other fixed networks interconnected with IN-telegence or from mobile phone networks. Routing from mobile phone networks is not guaranteed for all call number prefixes, and must be ordered separately by the customer.

- 2.4. IN-telegence also provides telecommunications services to end customers directly, as a local exchange operator (e.g. IN-virTel).
- 2.5. Over and above the provision of telecommunications services in a stricter sense, IN-telegence also provides to partners other associated special services (e.g. connection to the billing interfaces of mobile phone network operators, ACD, IN-service point, server hosting, telephone end device rental).
- 2.6. Full particulars regarding IN-telegence services can be found in the respective Special Business Conditions or, if applicable, separate specifications of service or SLAs comprised in the contract.
- 2.7. IN-telegence shall be entitled to employ third parties in the provision of services owed under this contract.

3. Assignment of individual services and conclusion of contract / security deposit

- 3.1. For the approval and provision of individual services under this contract, a written order is required for each service using the order form provided separately in addition to transmittal of signed price lists for the services ordered and transmittal of a completed and signed service agreement form (master agreement). The partner shall be bound to the order placed with IN-telegence 4 weeks from receipt. The acceptance of orders shall remain at IN-telegence's discretion. The agreement governing the provision of individual services shall come into effect upon confirmation in writing of the order by IN-telegence (e.g. by e-mail or fax) or upon clearing or execution of the requested service by IN-telegence.
- 3.2. A separate agreement between the parties shall come into effect for each service ordered (e.g. the setting up of a service call number), even if the customer has simultaneously ordered several services of the same variety using the same order form.
- 3.3. IN-telegence shall be entitled to review the partner's credit rating before contract conclusion. In doing so, IN-telegence may source suitable information from credit inquiry agencies. The partner hereby consents to this. IN-telegence undertakes to disclose to the partner upon request the names and addresses of any credit inquiry agencies consulted.
- 3.4. To cover any default of payment on the part of the customer, IN-telegence shall also be entitled to make the provision of its services conditional on the payment at an appropriate rate of a security deposit by the customer. The payment of a security deposit by the customer may also be demanded during the term of the contract. The security deposit is to be paid by the partner either

by depositing a monetary sum in the account of IN-telegence or by providing an indefinite, declaration of suretyship from an approved credit institute in the European Economic Area. A security deposit shall be payable and utilised by IN-telegence once a customer's liabilities exceed receivables for provider fees and the partner fails to pay IN-telegence despite payment being due and reminders being sent. IN-telegence undertakes to pay back the security deposit to the partner upon termination of the service for which the security deposit was paid, once no further expenses from the service are owed by the partner to IN-telegence, provided the security deposit has not already been used by IN-telegence.

4. Provision of call numbers assigned by IN-telegence

- 4.1. The provision of call numbers originally assigned to IN-telegence by the German Federal Network Agency as well as the derived assignment of such call numbers are performed solely in accordance with Clause 2.3 of these General Business Conditions. The customer shall have no right to the allocation of such call numbers.
- 4.2. The customer undertakes not to supply these call numbers to third parties, but to remain their exclusive user (chain agreements prohibited). The sole exception in this regard is the call number prefix (0)137.

5. Duties and obligations of the customer

- 5.1. The customer undertakes to strictly observe any legal conditions applicable within the contractual relationship. Specifically, the customer undertakes not to use the services provided by IN-telegence to conduct illegal activities or for other misuse.
- 5.2. The customer affirms that the owners of the assigned routing destination to which inbound calls are directed consent to the routing of connections. The customer shall provide IN-telegence with a business e-mail address that IN-telegence can use to send fundamental contractual declarations and contract documents, e.g. relating to the creation and modification of business conditions, specifications of service and SLAs.
- 5.3. The customer undertakes to inform IN-telegence immediately in writing of any change to its company, including to its legal form, its legal representatives, its address, its billing address and e-mail address (for contract notifications from IN-telegence) and to submit to IN-telegence appropriate evidential documentation (e.g. modified entries in the Commercial Register) – if issued – without being prompted to do so. If the partner culpably violates this obligation and if as a result the customer is not reachable for IN-telegence, the customer shall be held accountable. Changes to bank account details must only be disclosed to IN-telegence by letter or fax. The partner shall allow for a lead time of three working days.

6. Responsibilities and specific duties of the customer as a provider of value-added services

- 6.1. The partner has sole responsibility for the marketed product and content of the value-added services. The partner affirms that the marketed product and content of the value-added services comply with all applicable legal regulations and do not violate any third-party rights. In particular, the partner undertakes to respect the applicable consumer-protection regulations of the German Telecommunications Act [TKG], at present Articles 66a ff. and any successive provisions on its own responsibility. The partner shall also ensure that the use of value-added service call numbers complies with the provisions of the German Federal Network Agency (e.g. regulations in the official

journal of the German Federal Network Agency, specifically conditions of use in the form of number plans or similar) or, in the case of value-added service numbers abroad, the appropriate legal and regulatory conditions of the country in question. The marketed product and provision of value-added services using German value-added service call numbers must also comply with the provisions of the code of conduct of the German "Freiwillige Selbstkontrolle Telefonmehrwertdienste [Voluntary Rating Scheme for Value-Added Telephone Services] e.V." association (FST e.V.) in its applicable version. The partner undertakes to recognise these provisions as binding. The partner shall be required to procure the respective code of conduct from FST e.V. at its own expense.

- 6.2. The partner pledges to ensure that it continues to abide by its contractual obligations where it provides content from other providers on its value-added services platform or where it admits other sub-customers. In such cases, the partner undertakes to bind each sub-customer in turn to the obligations set forth in these General Business Conditions, and shall be deemed responsible for ensuring their observance.
- 6.3. The partner must make it clear to end customers by suitable means in the application as well as the styling of the service that the content advertised is the partner's own exclusive content or third-party content sourced by the partner as an advance service. Since the service rendered by IN-telegence is limited exclusively to access switching, there must be no suggestion that IN-telegence is supplying this content as its own.
- 6.4. Together with the order to connect the customer's own, individual call numbers (see Clause 6.10, final paragraph), the partner undertakes to send to IN-telegence a copy of the assignment decree for the call number in question. The partner undertakes to inform IN-telegence immediately of any changes to the authorisation of use for its call number(s) connected within the network of IN-telegence, e.g. due to the revocation of assigned numbers by the German Federal Network Agency or the restoration of call numbers.
- 6.5. IN-telegence may obligate the customer to present a written description of service as part of the ordering process for individual services in the value-added service call number service area and shall be entitled to make the approval of any such service and/or call number conditional on the presentation of this description of service. IN-telegence shall determine the requirements with regard to the form and necessary content of this description of service. If the customer intends thereafter to provide additional services using the same connected value-added service call number, it shall be required to present to IN-telegence a modified description of service immediately. The customer also makes sure to supply to IN-telegence without delay information regarding the services rendered via a value-added service call number if prompted to do so; this shall also apply to past periods of service provision.
- 6.6. The period of availability of the services provided by the partner must amount to 24 hours a day, 365 days a year, unless the nature of the service dictates otherwise.
- 6.7. The partner is prohibited from communicating to the end customer any price other than that either specified in legislation or by the German Federal Network Agency or that agreed with IN-telegence.
- 6.8. In the event that a call number is used by the customer of the partner (sub-customer), the partner undertakes to disclose to IN-telegence the name and summonable address of the sub-customer immediately and without being prompted to do so, to ensure IN-telegence is able to comply with its duties of disclosure to the German Federal Network Agency (cf. 7.2 of these General Business Conditions).

- 6.9. The customer shall provide IN-telegence with an address for complaints in addition to a complaint hotline number reachable at standard business hours, and shall ensure that the information held in this regard by IN-telegence is kept up to date at all times.
- 6.10. If the partner, acting as a reseller, connects a call number assigned to its customer (sub-customer) by the German Federal Network Agency in the network of IN-telegence, it shall ensure that the customer has ordered it to do so and given it the authorisation to bill in the partner's own name for any supplier charges with IN-telegence. Where reference is given in these General Business Conditions to call numbers of partners, this also refers to the call numbers assigned to the partner's customers.

7. Provision of customer data in the event of complaints or official requests for information

- 7.1. IN-telegence shall be authorised to provide details of the names and addresses of customers in the event of an enquiry or complaint that indicates a legitimate interest and, if applicable, to refer the party instigating the enquiry or complaint to the customer directly. To this end, IN-telegence will refer to the data provided by the customer in accordance with Clause 5.3 of these General Business Conditions.
- 7.2. Notwithstanding the above, IN-telegence will provide details (name, summonable address and, if applicable, complaint hotline number) of customers or, if applicable, their sub-customers, where required to do so in compliance with its legal obligations, e.g. pursuant to the German Telecommunications Act [*TKG*] (currently Articles 66h and 111 ff.)

8. Billing, settlement and collection of provider fee, bad debt risk

- 8.1. In principle, the customer is entitled to a provider fee where a value-added service is provided (e.g. calls to 0180, 0137, 0900 numbers). The rate of the provider fee is based on the conditions agreed in accordance with the respective current, agreed price lists of IN-telegence.
- 8.2. In the case of services invoiced by way of online billing (cf. 1.3 of these General Business Conditions), IN-telegence shall collect the provider fee from the local exchange operators via its IC contracting partner in its own name, but for account of the customer (analogous collection authorisation by customer pursuant to Art. 185 German Civil Code [*BGB*]). Each local exchange operator shall in turn bill the end customer for the service rendered in its own name (known as "pre-service regulation" or "pre-product regulation").
- 8.3. In the case of services invoiced by way of offline-billing (cf. 1.3 of these General Business Conditions), IN-telegence shall collect the provider fee from those local exchange operators party to the billing and collection agreement in its own name, but for account of the customer (analogous collection authorisation by customer in accordance with Art. 185 German Civil Code (*BGB*)). The partner agrees to this billing method (as detailed in 1.3 of these General Business Conditions).
- 8.4. IN-telegence shall invoice the connection charges and/or provider fees to the customer monthly at the end of the connection month.
- 8.5. The contracting parties agree that backcharges and arrears payments on the part of the respective local exchange operator in offline-billing shall continue to be billed to the customer at the full rate, even beyond the expiration of the contract. The balances resulting from these separate invoices (likewise issued monthly) shall, where possible, be cleared during the subsequent month's pay run.

- 8.6. The standard services of IN-telegence with regard to provider fees settled by way of offline billing comprise the billing of services as well as the implementation of collection measures including court-ordered collection; in this respect the collection authorisation issued on the part of the customer pursuant to Art. 185 of the German Civil Code [*BGB*] shall also apply mutatis mutandis to the provider fee for collection. Full particulars in this respect are regulated in the Special Business Conditions of the services in question.
- 8.7. Notwithstanding the foregoing, the customer may arrange with IN-telegence for collection to be managed by the customer itself or by a collection agency commissioned by the customer (customer self-collection). In such cases, the customer or the collection agency commissioned by the customer shall receive the appropriate traffic and inventory data via a defined interface, over which secure data transfer is guaranteed, once IN-telegence has received notification of backcharges with regard to the corresponding provider fees of the customer. IN-telegence shall pass the inventory data to the end customer in the format it was received from the respective local exchange operator. IN-telegence shall not be held liable to the customer for the up-to-dateness of the inventory data received.
- 8.8. IN-telegence shall be under no obligation to pay to the partner the provider fee if such payment is not covered by the receipt of a corresponding fee on the part of IN-telegence. The partner shall bear all risk of loss of receivables, backcharging and collection. This shall apply regardless of whether the non-collectability of a receivable is due to its invalidity, a lack of willingness to pay, a lack of capacity to pay or other reasons, such as fraudulent activity. The partner shall also bear all risk associated with the imposition of billing and collection bans by the German Federal Network Agency.
- 8.9. To cover any risk of loss of receivables, IN-telegence shall be entitled to initially pay a part-payment only of the provider fee and retain the remainder as a security deposit to offset potential backcharges. Full particulars can be found in the respective Special Business Conditions of the individual services.

9. Fees for IN-telegence services and associated invoicing

- 9.1. IN-telegence shall receive from the customer fees for the services agreed. Fees are based on the current price lists agreed. The price lists shall be applicable for all conceivable services that can be arranged in the current situation. This does not imply that these services have actually been arranged. The decisive factor with regard to the fees chargeable to the customer by IN-telegence is the question of which services have in fact been ordered by the customer or which services in particular have been agreed, for which the prices listed in the agreed price list shall then take effect provided no conflicting agreement has been reached.
- 9.2. IN-telegence shall invoice the partner monthly for the fees chargeable for the services agreed. Prices listed in the agreed price lists do not include value-added tax at the legally applicable rate.
- 9.3. Fees owed to IN-telegence for services rendered under contract as well as any other receivables (e.g. default interest) shall be offset by IN-telegence, where possible, using any provider fees payable to the partner from value-added services.
- 9.4. IN-telegence's entitlement to fees owed by the partner under contract is not conditional on the existence of claims against an end customer, i.e. IN-telegence remains entitled to fees in the event that the partner has no or invalid claims against the end customer, e.g. due to illegal content or for

other reasons. Furthermore, IN-telegence's entitlement to fees shall not be affected by the blocking of provider fees due to suspicion of malpractice (see 12.2 of these General Business Conditions).

10. Price modifications

- 10.1. The partner is aware that the applicable price structure as set forth in the general business conditions of IC partners, in particular Telekom, or in the case of services rendered as a local exchange operator the regulated price structure of Telekom for TAL forms the basis of the conditions and price structure of IN-telegence for its services as a core network operator.
- 10.2. IN-telegence shall be entitled to modify its price structure for fees payable to IN-telegence or for payment sums conditioned by IC contracts and resulting after the offsetting of fees payable to IN-telegence proportional to future price modifications in the event of corresponding modifications to regulated pre-service prices (e.g. interconnection prices, TAL charges). In cases of doubt, fees payable to IN-telegence should remain unchanged in relation to the partner where price modifications are implemented for IC or other upstream services. IN-telegence shall inform the partner of any modifications to price structures and validity periods with updated price lists. Notification of price structure modifications must be made by e-mail or fax using the partner's recorded contact data at least 4 weeks before the modified prices come into effect. The continued use by the partner of IN-telegence services after the price modifications disclosed have come into effect indicates the partner's acceptance of the price changes by conduct. This must be pointed out to the partner when notification of a price modification is given.
- 10.3. If the regulated fees on which IN-telegence's price structure is based (e.g. interconnection prices, TAL fees) are conditional on these not being retrospectively modified or approved at a rate other than that requested by the German Federal Network Agency or a court, and these events occur, IN-telegence shall also be entitled to modify its price structure retrospectively and commensurately.

11. Due dates, payment terms, objections

- 11.1. Fees for IN-telegence's services shall be payable immediately upon receipt of the invoice. An invoice lodged electronically in IN-service point shall also be deemed to have been received. As a rule, the fees payable to IN-telegence and the provider fee shall be billed for in a single invoice in order to be able to list the client's liabilities and credit items. In the event of a balance payable to IN-telegence, the due date stipulated in paragraph 1 of this provision shall apply.
- 11.2. The invoices of IN-telegence shall be raised exclusively on the basis of traffic data logged by IN-telegence. Statistical information disclosed by the customer itself or by IN-telegence for information purposes is not relevant to invoicing.
- 11.3. IN-telegence undertakes to pay to the customer as a rule approx. 6 weeks after the end of the invoicing month and at the latest on the 15th of the month after next, any credit balance payable to the customer from provider fees after the offsetting of fees payable to IN-telegence, provided these are covered by a commensurate payment to IN-telegence by the respective local exchange operator, once payment has been received from the respective local exchange operator.
- 11.4. Complaints or objections against invoices issued by IN-telegence must be made to IN-telegence in writing within 8 weeks of receipt. If no complaint or objection is made within this period, invoices shall be deemed to be approved. IN-telegence shall inform the customer of this separately as part of the invoicing process. The date of dispatch shall be used to determine timeframes.

12. Revocation, retention, offsetting and assignment

- 12.1. IN-telegence reserves the right to recall any invoices (credit items) issued should it become subsequently and justifiably suspicious that the customer or a third party colluding with the customer has generated call volumes in service areas with a provider fee in violation of statutory regulations, in particular German Criminal Code (*Strafgesetzbuch*) regulations.
- 12.2. In such cases, IN-telegence shall also have the right to withhold payment of provider fees already collected by the local exchange operator. IN-telegence shall be entitled to block payment of the provider fee in part or in full if the partner or its sub-customers come under preliminary investigation by the police or public prosecution service, or if there is sufficient suspicion of criminal activity in relation to the generation of call volumes to the value-added service call numbers of the partner and/or its sub-customers. The withheld payment sum shall be held in trust during the period of blocked payment (if payment to IN-telegence has already been made). IN-telegence shall pay to the partner the provider fee withheld immediately upon conclusion of the investigation or criminal procedure if the case is dropped or the partner acquitted. IN-telegence shall be entitled to offset the accounts payable to it by the customer against any receivables on the part of the customer for credit from provider fees (credit items) (see 9.3 of these General Business Conditions), without this necessitating a separate set-off statement.
- 12.3. The customer may offset its accounts payable to IN-telegence or exercise a right of retention only if the customer's receivables on which offsetting or retention is based, is uncontested, established as final and absolute or recognised by IN-telegence. The customer shall not be entitled to transfer receivables against IN-telegence to a third party without IN-telegence's written approval to do so.

13. Default of payment

- 13.1. The customer shall be deemed to be in default of payment of fees or other monies payable to IN-telegence, without separate reminder, if payment is not made to IN-telegence within 30 days of receipt of invoice and due date. The customer shall be deemed to be in default of payment before expiration of the 30-day period if, after the due date, it fails to respond to a payment reminder (with deadline set) issued by IN-telegence within the period specified.
- 13.2. If the customer is in default of payment, IN-telegence shall be entitled to charge default interest at a rate of 8% above the base rate from the date the customer is first in default of payment. Both contracting parties shall be at liberty to evidence a higher or lower loss.
- 13.3. IN-telegence reserves the right to assert further claims or pursue other rights in accordance with the German Telecommunications Act (e.g. blocking of the connection) in the event of default of payment.

14. Value-added tax

The contracting parties shall adopt an approach built around the value-added tax legislation industry solution pursuant to Art. 45h par. 4 German Telecommunications Act as regards the issue of the provision of services within the service chain of value-added services in terms of value-added tax legislation. Should billing partners, however, be refused the input tax deduction with regard to the invoicing of IN-telegence, or IN-telegence be refused the same with regard to the invoicing of provider fees to the customer, the customer shall be obligated to refund to IN-telegence the value-added tax sums paid to it plus interest at a rate of 6% p.a. (Art. 238 German Tax Code [AO]).

15. Misuse prevention, instruction pursuant to Art. 45o German Telecommunications Act [TKG], blocking of call numbers

- 15.1. The partner undertakes not to offer or otherwise supply unlawful content (e.g. unethical, punishable or otherwise illicit) and to advertise the content provided lawfully. Specifically, the partner undertakes to ensure that users or potential users do not receive any form of unsolicited advertisement or telephone advertising in violation of the obligations of call number forwarding (cf. Art. 102 par. 2 German Telecommunications Act [TKG]). The partner shall also be required to adhere to the code of conduct of FST e.V. in its applicable version in addition to all legal regulations and ordinances. The partner shall also be responsible for ensuring that its sub-providers do not violate the obligations specified above, and that no content is provided that could harm the reputation of IN-telegence.
- 15.2. IN-telegence undertakes to inform the partner pursuant to Art. 45o German Telecommunications Act that the forwarding and transmission of information, materials or other services is legally prohibited under certain circumstances. Should IN-telegence become aware that a call number connected to its telecommunications network is being used in violation of paragraph 1 of this provision, it shall be obligated to take immediate and suitable measures to prevent a reoccurrence. In the event of serious or repeated violations of statutory bans, IN-telegence shall be required to block the call number if a warning with a short deadline to respond is ignored.
- 15.3. Furthermore, if there are sufficient grounds to suspect a serious violation of statutory provisions or of the FST code of conduct, IN-telegence shall be entitled to block the call numbers in question immediately, without waiting for the customer's response. The customer is to be informed of the situation without delay. Grounds for suspicion in this respect shall be deemed sufficient if IN-telegence becomes aware of repeated complaints regarding a call number or other circumstances suggestive of a serious violation of applicable law in connection with the use of a call number. Examples of serious violations in this respect include false information regarding prices in advertising material or a lack of information regarding price, the sending of unsolicited advertising material by fax, e-mail or SMS, or unsolicited telephone advertising, or probable cause for the use of call numbers for illegal activity. IN-telegence shall not be liable to the customer for compensation if a call number is blocked for these reasons. This exclusion of liability also applies as regards the personal liability of employees, other staff, legal representatives and agents of IN-telegence.

16. Costs of legal prosecution and defence

- 16.1. If the partner violates any one of its contractual obligations and, if as a result IN-telegence is engaged by a third party, including state bodies, for omission, loss compensation or to any other end, the partner undertakes to indemnify IN-telegence in their internal relationship and at first request from any such claims during and after the contract period.
- 16.2. This exemption by the partner shall also encompass court and legal fees incurred by IN-telegence in the pursuit of legal prosecution and defence action, and, in the case of the latter, legal advice.
- 16.3. This partner shall also be liable for its subcustomers in this respect.

17. Quality of service and fault clearance

- 17.1. IN-telegence undertakes to provide its services to the partner as quickly as possible. Terms for the provision of services and deadlines for supply shall be deemed binding only where these have been confirmed as binding by the partner in writing. The terms and deadlines agreed as binding shall be

deferrable by an appropriate period should a temporary and unforeseeable impediment of service occur beyond the control of IN-telegence.

- 17.2. IN-telegence undertakes to ensure its telecommunications network is operated accordingly in line with its operation and technical capacities. If the provision of services by IN-telegence is based on the availability of the networks of other network operators (local exchange operators or transmission paths provided by third parties), no influence can be exerted on the quality or availability of these networks, and as such no guarantee whatsoever can be assumed in this respect. IN-telegence's network has an average availability of 97.5% over 365 days. Availability is to be calculated on the basis of the average of all speech connections committed to the partner. Periods of maintenance, installation and retrofitting are not included in the calculation.
- 17.3. The Partner undertakes to report any faults that occur to IN-telegence immediately. During business hours (8:00 a.m. to 6:00 p.m.), the telephone number and e-mail address of IN-telegence's customer service department shall be available to the partner to report any such instances. IN-telegence will supply contact information for a technical call-out service contactable outside of business hours.
- 17.4. The response time for fault clearance activity to be initiated is max. 4 hours between the hours of 8:00 a.m. and 6:00 p.m. (weekdays) in the event of faults within the communications network of IN-telegence. The partner must comply with its duties of cooperation for fault clearance activity to be initiated. The partner shall be required to cooperate accordingly during fault analysis. Specifically, the partner must grant IN-telegence or its agents unrestricted access to facilities housing any potentially affected technical equipment. If the partner fails to meet its duties of cooperation or parts thereof, allowances with regard to resulting extended periods of downtime shall be made to the benefit of IN-telegence as regards connection availability and response times.
- 17.5. If the partner itself caused the fault reported, the partner shall be required to bear the costs of fault clearance. The duties of fault clearance involving end devices connected to IN-telegence's connections rest with the partner alone.
- 17.6. If IN-telegence falls behind with the provision of its services, the partner shall be entitled to withdraw from this contract if a suitable grace period with threat of cancellation set forth by the partner has similarly elapsed. The grace period must be at least 14 days. All other claims on the part of the partner in this regard are excluded, provided IN-telegence has not acted wilfully or with gross negligence or has not complied with its contractual obligations in respect of an assured characteristic.

18. Force majeure

In cases of force majeure, IN-telegence shall be exempted from its performance obligation for the duration of the impediment. "Force majeure" is constituted by events that occur beyond the control of IN-telegence and unavoidably impede performance of individual or multiple contractual obligations, e.g. natural disasters, wars or uprisings. Force majeure shall also be deemed to have occurred in a situation in which IN-telegence is not provided with the telecommunications transmission channels required by third-party businesses, particularly interconnection partners, unless IN-telegence is to be held accountable for this. Labour disputes at such third-party businesses shall be equated to force majeure.

19. Warranty

- 19.1. IN-telegence guarantees provision of its services in accordance with the recognised and customary state of the art and in compliance with all applicable safety provisions for the proper operation of the telecommunications network. Any claims to price reduction or cancellation are hereby excluded, provided that IN-telegence has eliminated the fault within the working day following the fault report. Any other claims on account of delay, particularly for withdrawal from the contract, are excluded unless IN-telegence has acted deliberately or with gross negligence, or if no assurance was given as to the deadline or characteristic in question.
- 19.2. The partner is aware that performance of the services of IN-telegence depends on networks being provided and made available by subscriber network operators and/or transfer channels being provided by third parties. IN-telegence therefore does not provide any guarantee of the permanent availability of such telecommunications networks and transmission channels, and hence for the timely provision of its services. IN-telegence shall, however, transfer any warranty entitlements it may have against third parties in this respect to the partner, which shall accept such transfer.
- 19.3. IN-telegence does not give any guarantee or accept any liability for the smooth completion of incoming calls unless the “call rate restriction” service feature (within the “MABEZ” sphere) has been explicitly agreed in writing between the parties. IN-telegence does not provide any guarantee that the call number can be reached at all times in the event of a network overload.

20. Liability

- 20.1. IN-telegence shall have unlimited liability – except for the situations specified in Art. 44a of the German Telecommunications Act [TKG] or below – for asset or property damage caused deliberately or with gross negligence by one of its legal representatives or vicarious agents performing its obligations or carrying out work on its behalf, and for the absence of a warranted characteristic, and also for any deliberate or negligent injury to life, body or health. Liability under the German Product Liability Act [*Produkthaftungsgesetz*] is also unlimited.
- 20.2. IN-telegence shall have limited liability for property damage suffered by the partner in the context of provision of telecommunications services for the public through actions of IN-telegence or vicarious agents performing work on its behalf for up to the liability limits set in Art. 44a TKG – currently €12,500 – per claim. If several partners of IN-telegence are harmed by the same event, the total liability shall be limited to ten million euros. If the total amount of individual claims exceeds the upper limit, the compensation shall be reduced proportionately according to the ratio of the total compensation claims amount to the maximum amount. This liability limit shall not apply if the damage has been caused deliberately.
- 20.3. If the partner is held accountable by one of its own customers (sub-customers) for property damage, and IN-telegence is answerable for this within the internal relationship, IN-telegence shall be liable to the partner for an amount of up to €12,500 per claim event per third-party customer. The liability towards the entire body of the partner’s customers shall be limited to ten million euros per damage-causing event. If the amounts payable to multiple partners on the basis of the same damage-causing event exceed this upper limit, the compensation shall be reduced proportionately to the ratio of the total compensation claims amount to the maximum amount.
- 20.4. IN-telegence shall be liable for damage not relating to the provision of telecommunications services, for itself and for its vicarious agents in the performance of its obligations, on any legal basis

whatsoever, only where a fundamental contractual obligation (a “cardinal obligation”) has been breached culpably in a manner jeopardising the contractual purpose, or if the damage is attributable to deliberate action or gross negligence. If a culpable breach of a cardinal obligation is not deliberate or grossly negligent, the liability amount shall be limited to such typical contractual claims that could reasonably have been foreseen at the time of the signing of the contract. “Typical contractual claim” shall be deemed to mean an amount of €12,500. In cases of ordinary negligence, IN-telegence shall not be liable for consequential harm caused by defects, indirect damage or loss of income.

- 20.5. Liability in other respects is hereby excluded, to the extent legally permitted.
- 20.6. To the extent that exclusion or limitation of the liability of IN-telegence is operative, the same shall also apply to the personal liability of employees, other staff, governance structures, representatives and vicarious agents of IN-telegence.
- 20.7. All liability claims, on any legal basis whatsoever, shall expire 12 months after the injured party has become aware of the circumstances giving rise to the claim. An exception shall apply in cases of deliberate damage, liability under the German Product Liability Act and tort. In this case, the legal expiry period shall apply.

21. Term and termination

- 21.1. The contract is for an indefinite term, and is subject to termination by either party with advance notice of four weeks to the end of a month. This termination option shall apply, unless specifically stated otherwise, to both individually commissioned services and the contractual relationship as a whole (master agreement). This is without prejudice to a right of extraordinary termination for cause for both parties.
- 21.2. Porting to other network operators during the term of contractual relationships shall be excluded.
- 21.3. Termination shall be given in written form in all cases.
- 21.4. Termination for cause is permitted in particular where the partner is two monthly payments in arrears in respect of fees payable to IN-telegence, or where an insolvency procedure has been opened against it or against IN-telegence or declined because of return unsatisfied, or in a situation of impending overindebtedness. IN-telegence shall also be entitled to immediate termination of the contractual relationship as a whole or individual services (Services) if the partner (or one of its customers) repeatedly breaches material contractual obligations in spite of relevant warnings (see especially Clauses 6 and 15 of these General Business Conditions).

22. Data protection and telephone confidentiality

- 22.1. During the performance of the contract, the contracting parties shall comply strictly with legal data protection provisions, in particular the German Federal Data Protection Act (BDSG), the German Telecommunications Act (TKG), also its provisions on telephone confidentiality, and where applicable the German Telemedia Act (TMG).
- 22.2. IN-telegence shall collect, process, use or disclose the partner's personal data to third parties to the extent required, legally ordered or permitted, or under relevant authorisation from the partner, for the performance of its contractual services.

- 22.3. IN-telegence shall collect, process, use or disclose end customers' personal data to third parties only where legally ordered or permitted – in particular by the TKG or BDSG – or where the end customer has given authorisation for this.
- 22.4. The parties shall make its staff entrusted with data processing functions aware of the legal aspects of data protection, and obtain a written undertaking to comply with data protection confidentiality (Art. 5 BDSG) and telephone confidentiality (Art. 88 TKG).

23. Statistics, use of IN-telegence online tools, personal access data

- 23.1. IN-telegence shall provide the partner monthly or at other regular intervals in accordance with data protection legislation with statistics on inbound and outbound connections. Statistics shall be anonymised in respect of the personal details of callers in accordance with the provisions of data protection legislation. The relevant legal data protection requirements apply in each case (in particular TKG, BDSG).
- 23.2. Statistics shall be retrieved, unless otherwise agreed, via the customer account in IN-service point provided for the partner on the Website of IN-telegence. The partner shall be able to retrieve the statistics compiled for it on that page by entering its access details (access ID and password).
- 23.3. The partner undertakes to keep its access details for IN-telegence online tools, e.g. its access ID and password for IN-service point, and its retrieved data, confidential and to not disclose them to unauthorised third parties. The partner shall comply with legal security and data protection provisions in this context. IN-telegence shall be entitled to open access to the customer account in IN-service point or to other customer accounts in IN-telegence online tools whenever the access ID and associated password have been input.
- 23.4. The partner shall be accountable to IN-telegence for any abuse or disclosure of its access details, and must notify IN-telegence accordingly without delay. IN-telegence does not accept any liability for damage to the partner or third parties from the improper or unauthorised use of access details. IN-telegence shall further not be liable for any settings or changes made by the customer or a third party commissioned by the partner or other third party in IN-service point or other IN-telegence online tools.
- 23.5. Access details may be stored only on a PC, USB stick or other storage medium in encrypted form.

24. Final provisions

- 24.1. All declarations regarding or in connection with this contract shall be made in writing. Any verbal agreements shall not apply. Any changes or additions to the contract, or cancellation of the contract, must also be in writing. This also applies to changes to the requirement for written form.
- 24.2. If one or more of the conditions of these General Business Conditions are inoperative on the basis of legal provisions, the operative status of the remaining conditions shall not be affected. The parties undertake to replace the conditions that have become inoperative with equivalent conditions in terms of the economic outcome.
- 24.3. IN-telegence may transfer the rights and obligations from the contract to an associated undertaking according to Art. 15 German Stock Corporation Act [*AktG*]. The partner may transfer rights and obligations from the contract, or merely its claim to individual services, to third parties only subject

to prior consent in writing from IN-telegence. This shall be without prejudice to Art. 354a German Commercial Code [*HGB*].

- 24.4. German law shall apply, as applicable between German parties. The UN Sales Convention shall not apply.
- 24.5. The place of jurisdiction shall be Cologne if the partner is classified as a “merchant” (*Kaufmann*), the contract forms part of the operation of its business, is a legal entity under public law or a special fund under public law, or does not have a general place of jurisdiction in Germany.